

Approved July 8, 1991
Date

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Representative Kathleen Sebelius at
Chairperson

1:00 ~~xxx~~/p.m. on Thursday, April 11, 1991 in room 526-S of the Capitol.

All members were present except:

Representative James Cates - Excused
Representative Arthur Douville - Excused
Representative Dick Edlund - Excused

Committee staff present:

Lynne Holt - Kansas Legislative Research Department
Mary Galligan - Kansas Legislative Research Department
Mary Torrence - Office of the Revisor
Connie Craig - Secretary to the Committee

Conferees appearing before the committee:

HB 2630 - Proponents

Representative Joan Adam, Atchison, Kansas
Phil Knapp, Superintendent, Youth Center at Atchison, Kansas
Harry Allen, Superintendent, Youth Center at Topeka, Kansas
Bob Hedberg, S.R.S., Kansas

SB 381 - Proponents

Ben Coates, Kansas Sentencing Commission
Helen Stephens, Kansas Peace Officers' Association

SB 375 - Proponents

Dana Nelson, Executive Director, Kansas Racing Commission
Debbie Schauf, Executive Director, Kansas Horsemen's Association
Karen Tolle, Executive Director, Kansas Quarter Horse Racing Association

SB 368 - Proponents

Sherman Parks, Legal Counsel, Secretary of State's Office, Kansas
Linda Fincham, Legislative Chair, Register of Deeds Association, Kansas
Jim Maag, Kansas Bankers Association

SB 370 - Proponent

William Q. Martin, General Counsel and Trust Officer, The Smith County State Bank &
Trust Company, Smith Center, Kansas

SB 377 - Proponents

Marilyn Bradt, Legislative Coordinator, Kansans for Improvement of Nursing Homes, Inc.
John Alquest, Acting Commissioner, Income Support/Medical Services, S.R.S., Kansas

Vice-Chair Krehbiel called the meeting to order. He explained that with the conflicts of overlapping committee meetings at the end of the Session, many of the Committee members, including the Chair, are attending other Committee meetings, but will return shortly. He added that at the last Committee meeting during the public hearing for HB 2517, written testimony from Carol Morgan, Deputy Secretary, Kansas Department of Commerce was requested by the Committee. Attachment #1 is the written testimony from Carol Morgan in regards to HB 2517. He then turned the Committee's attention to public hearings for HB 2630.

HB 2630

Representative Joan Adam, Atchison, Kansas, read from her written testimony, Attachment #2, in support of HB 2630, which would restrict the ability of judges to make direct placements of misdemeanants to the youth centers. Included with her testimony is a table and a chart showing admissions and length of stay for juvenile offenders. She also gave to each Committee member a balloon of HB 2630 with changes, Attachment #3. In response to a question from a Committee member, Representative Adam explained that placements at Youth Centers for misdemeanants is less and less appropriate as there are more and more violent youths there.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS,

room 526-S, Statehouse, at 1:00 ~~am~~ p.m. on Thursday, April 11, 1991.

Phil Knapp, Superintendent, Youth Center at Atchison, presented the Committee members with graphs on new admissions, releases, length of stay, and commitments by fiscal year for the Youth Center at Atchison, Attachment #4. He asked to go on record as being in support of this bill, particularly as it pertains to the limiting of the judiciary to make direct commitments of misdemeanor offenders. He added that because there have been no additional resources allocated to supply services to these juveniles, we have had to increase our release rate, which in effect creates more bed space. He pointed out that this state of affairs has been arrived at by virtue of the fact that we have endeavored to keep the front doors open to all admissions at any cost. He added that, as a result, we are attempting to serve an overwhelming and unfortunate mix of juveniles ranging from first time misdemeanors to serious felony violent offenders. He closed by saying that if the State of Kansas is serious about the rehabilitation of juvenile offenders and the preservation of public safety, we must get some sort of control over the front door admissions coming into the youth centers. He stated that HB 2630 takes a reasonable first step in that direction by limiting the direct admissions of misdemeanor offenders, who would probably be better off and more cost effectively provided for in the context of community based programs. He urged the Committee to support the bill. In response to questions from Committee members, Mr. Knapp gave the following information:

1. The average age of returnees all within a year of their release is 14.5 to 15.8 years.
2. The State of Kansas has not been able to have a good follow-up study that tracks over an extended length of time exactly what the recidivism rate happens to be. Nationally, the data for similar operations is that 14 to 15 year old offenders tracked for 7 years has about a 70% to 80% return rate.
3. Youth Center at Atchison has 120 $\frac{1}{2}$ FTE's presently employed.
4. The capacity at Youth Center at Atchison is 100, however, due to the lack of funding available, one 8-bed unit had to be shut down leaving us 92 beds for youths last year. That unit is to be opened again at the end of April, 1991.
5. Mr. Knapp holds a masters' degree in psychology and has 20 years of experience in the field of juvenile corrections, of which the last 10 years has been in administration.
6. The youth service specialists who man the cottages and provide the day to day counseling and supervision require a high school education. When they do become employed with Youth Center at Atchison, we provide them with 160 hours of training before they complete their probationary period to qualify as a full service specialist.

Harry Allen, Superintendent, Youth Center at Topeka, read from his written testimony, Attachment #5, urging the Committee to support HB 2630. He included with his written testimony, graphs that show admissions and number of students in relation to their crime.

Committee Discussion:

1. In response to a question from a Committee member as to why Topeka has a lower count of returnees when compared to Atchison Youth Center, Mr. Knapp explained that all of the 13, 14 and 15 year olds released from Youth Center at Atchison are returned to the Youth Centers, whereas Mr. Allen's older population return ends up in the Dept. of Corrections or some of them do graduate from the Youth Center at Topeka.

Bob Hedberg, S.R.S., Kansas, presented written testimony, Attachment #6, in support of HB 2630 from Robert C. Harder, Acting Secretary, S.R.S., Kansas. Mr. Hedberg added that he felt that fiscal impact will be limited because the foster-care system is full-capacity as it is.

SB 381

Ben Coates, Kansas Sentencing Commission, explained SB 381 as a bill to facilitate the implementation process and to secure authority to carry out the consolidation of field services study assigned by the Interim Judiciary Committee. His written testimony, Attachment #7, explained in more detail how SB 381 was expanded during the Senate hearings. He pointed out one technical problem with the bill on page 3, line 35, says "the Criminal Justice Coordinating Commission should consist of 13 members" should say 17 members. He added that this bill does integrate the duties of the Coordinating Council, which is set up by executive order, and the Sentencing Commission. The Coordinating Council would then cease to exist.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS,
room 526-S, Statehouse, at 1:00 ~~xxx~~/p.m. on Thursday, April 11, 19⁹¹.

Chair Sebelius explained that the Coordinating Council was created by executive order under Governor Mike Hayden's term prior to SB 50 passing. The following Session, SB 50 was passed which set up the Sentencing Commission, and the entities of both groups have almost identical members, except for the Secretary of Corrections is not on both, but they continue to operate as two separate bodies. Also the Coordinating Council has no staff.

Helen Stephens, representing the Kansas Peace Officers Association, urged the Committee to support SB 381. She presented written testimony which included her remarks, Attachment #8. She requested one amendment that would retain one sheriff and one person from the law enforcement community at large.

SB 375

Dana Nelson, Executive Director, Kansas Racing Commission, appeared before the Committee in support of SB 375, requested by the Kansas Racing Commission that will change the fine amount for violations and other areas related to tracks and racing. He gave to each Committee member an outline of the changes to the bill, Attachment #9, and read from his written testimony explaining those changes, Attachment #10. In response to questions from Committee members, Mr. Nelson explained that Kansas is the only state that has procedure that doesn't allow the judges or stewards considerable discretion to exercise administrative action at the track.

Debbie Schauf appeared before the Committee as a proponent of SB 375 and submitted written testimony for the Committee, Attachment #11. She added that the main part of the bill that the Kansas Horsemen's Association is interested in is the word changes in the last part of the bill that allows us to pay awards based on wins, place, or show finishes, which would spread the money around a little more. In regards to administrative action for careless jockeys, she pointed out that in the past, with the notice procedure that's required by KAPA, the jockey knows that he has done something wrong. Before that jockey gets the notice, the jockey will go to another state and ride for a period of time, and then when the heat has blown over, they come back to Kansas. She supported the idea of taking action on a careless jockey at the track at the time of the violation, and that problems should be taken care of as they occur.

Karen Tolle, Executive Director, Kansas Quarter Horse Racing Association, appeared before the Committee as a proponent of SB 375. She handed out to Committee members testimony stating that the Association is in full support of the bill, Attachment #12.

SB 368

Chair Sebelius turned the Committee's attention to public hearings on SB 368, and introduced Sherman Parks as the first conferee.

Sherman Parks, Legal Counsel for the Secretary of State, Kansas, appeared before the Committee as a proponent of SB 368. He also introduced Carol Beard, Deputy Assistant Secretary of State, UCC Division; and read from his prepared testimony, Attachment #13. He added that the Senate amendment on page 4, lines 37 through line 40, is unnecessary, and would prefer that it be removed.

Linda Fincham appeared before the Committee in support of SB 368. As a representative of the Register of Deeds Association, she requested the Committee pass the bill favorably, and read from her written testimony, Attachment #14.

Jim Maag stood before the Committee as a proponent of the bill, and urged the passage of SB 368, and recommended that the Senate amendment be removed, Attachment #15.

SB 370

The Chair asked the Committee to turn their attention to public hearings for SB 370, and introduced Bill Martin.

William Martin appeared before the Committee as a proponent of SB 370. He read from his written testimony, Attachment #16, explaining that this bill would allow for reforms under Kansas law to meet the full extent permitted by the Internal Revenue Code to preserve certain charitable estate tax deductions.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS,

room 526-S, Statehouse, at 1:00 ~~xxx~~/p.m. on Thursday, April 11, 1991.

SB 377

Chair Sebelius introduced Marilyn Bradt as the first conferee in the public hearings for SB 377.

Marilyn Bradt appeared before the Committee as a proponent of SB 377, which would create a long-term planning commission to study in-home care for the elderly. She read from her written testimony, Attachment #17. In response to a question from a Committee member, Ms. Bradt pointed out that there is no staff added for this commission. She added that it would be her intent that only the Secretaries, and not designees, be involved.

John Alquest, S.R.S., appeared before the Committee in support of SB 377. He read from his written testimony, Attachment #18.

Chair Sebelius adjourned the meeting.

GUEST LIST

FEDERAL & STATE AFFAIRS COMMITTEE

DATE 4-11-91

(PLEASE PRINT)

NAME	ADDRESS	WHO YOU REPRESENT
Philip D. Knapp	Box 459 Atchison, KS 66007	Youth Center of Atchison
Harry F. Allen	1440 N.W. 25TH ST ^{Topeka} _{KS}	Youth Center of Topeka
Linda Fincher	Marshall Co. Courthouse	Register of Deeds
Edw. Beard	Topeka	SOS
Sue F. Ullmann	Topeka	Reg. of Deeds
KAREN FRANCE	Topeka	KAR
Sherril Parks, Jr	Topeka	Sec of State
George Goebel	Topeka	AARP-SLC-CCTF
Marilyn Bradt	Lawrence	WINN-KCOA
BLAZUE N. CARTER	TOPEKA	KANSAS SENTENCING Comm.
Whitney Dameron	Topeka	Wichita Greyhound Park, Inc.
Jim Turner	Topeka	KNLSI
JEFF SONNICK	TOPEKA	KNLSI
Cheryl Shores	Topeka	KS Children's Service League
Sydney Kerr	Lawrence	KS Action for Children
Ann K. Orr	Topeka	Washburn University
Ann Sealey	Topeka	KDOC
Debbie Schauf	Topeka	KHA
Randy Tolle	Topeka	KQHRA
Jack Koon	Topeka	KPHL-
Janet Chubb	Topeka	KRC
Dana Nelson	Topeka	KRC
ROBERT B. HEDBERG	TOPEKA	SRS
Rev. Conner	Topeka	KSC
Helen Stephens		KPOA
Bill Martin	Smith Center	Smith County State Bank & LA



KANSAS

DEPARTMENT OF COMMERCE

Joan Finney
Governor

Laura E. Nicholl
Secretary

April 10, 1991

The Honorable Kathleen Sebelius, Chair
Federal and State Affairs Committee
House of Representatives
State Capitol, Room 280-W
Topeka, Kansas 66612

RE: House Bill No. 2517

Dear Representative Sebelius:

The Kansas Department of Commerce respectfully submits the following comments concerning House Bill No. 2517.

This legislation would establish in the state treasury a state housing trust fund to be administered by the Office of Housing of the Department of Commerce.

The National Affordable Housing Act (ACT) of 1990 has created a new planning document for use by States, as well as units of general local government - the Comprehensive Housing Affordability Strategy (CHAS). Instead of dealing with a specific funding source, the CHAS will allow a jurisdiction to examine its housing needs in a holistic manner, establish goals, and develop a plan for carrying out those activities.

The CHAS must be submitted by a jurisdiction to the Department of Housing and Urban Development (HUD) for approval. HUD will then have a sixty day approval period. The following is a time-line for the CHAS:

October 31, 1991 - State submits CHAS to HUD

approx. December 31, 1991 - HUD has 60 days after receipt of CHAS for approval

Congress has not passed legislation which would fund the housing programs. It is estimated that an appropriation bill will be passed on or before October 1, 1991.

HOUSE FEDERAL AND STATE AFFAIRS
April 11, 1991
Attachment #1 - Page 1

The Honorable Kathleen Sebelius, Chair
Federal and State Affairs Committee
April 10, 1991
Page 2

The major housing program included in the Act is HOME. The Act requires that, in order to receive funding under certain HUD programs, a state must have a CHAS that has been approved by HUD for a fiscal year. This money is distributed to states on a formula block grant basis. The following dates are based upon an October 1, 1991, appropriation.

February 15, 1992 - States submit Program Description (application) for HOME funds

March/April, 1992 - HUD makes awards to States

- Other programs not included in the HOME program will be on a competitive basis and the funding will be staggered.

The HOME funds for Kansas will be deposited in a U.S. Treasury Home Investment Trust Fund established by the federal government. Kansas will have a letter of Credit established in Washington, D.C.

Federal HOME funds have to be matched on the state level. The state does not have to be the sole match provider, local units of government may dedicate match also.

Matching funds must be available as the state draws down its federal money. Therefore, if Kansas receives federal HOME money in the spring of 1992 and spend 40% of that money on or before September 30, 1992, only that 40% spent has to be matched.

A state has two years to commit its funds and up to five years to expend the funds. A state must have a fund dedicated solely to the HOME program, repayments, and earnings on HOME money. The HOME funds and the resulting program income shall be placed in a separate account from all other funds and may never be commingled.

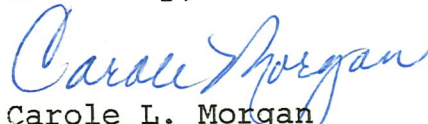
The Honorable Kathleen Sebelius, Chair
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Page 3

The Office of Housing will continue to seek funds which may later be used as a match for HOME funds. Aetna and other corporations have provided grants to other states to use as match funds. This past year, a private entity contacted the Office of Housing for the purpose of donating money for housing. We were not able to accept the money since we do not currently have the statutory authority to do so.

The Office of Housing will have as one of its missions this year, entrepreneurial activity in pursuit of funds that can be used as match for HOME funds in order to provide the maximum amount of benefit, as possible, from the new federal housing legislation.

The Kansas Department of Commerce, therefore, supports the creation of a State Housing Trust Fund as provided in House Bill No. 2517.

Sincerely,


Carole L. Morgan
Deputy Secretary

cc: Federal and State Affairs
Representative Tom Bishop

JOAN ADAM
 REPRESENTATIVE, FORTY-EIGHTH DISTRICT
 305 NORTH TERRACE
 ATCHISON, KANSAS 66002-2526



TOPEKA

HOUSE OF
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS
 CHAIRMAN: LEGISLATIVE JUDICIAL AND
 CONGRESSIONAL APPOINTMENT
 MEMBER: APPROPRIATIONS
 TAXATION
 COMMERCIAL & FINANCIAL INSTITUTIONS

TESTIMONY ON H.B. 2630

By Representative Joan Adam

Madam Chair, I wish to thank you and the members of the Federal and State Affairs Committee for allowing a hearing on H.B. 2630, a bill which restricts the rights of judges to commit misdemeanants to the youth centers of the state.

The impetus for H.B. 2630 comes from several sources. First the Appropriation Subcommittee that deals with the youth centers, which I Chair, recommended to the full Appropriation Committee at the time we presented the youth center budgets, that a bill such as this be introduced. Our recommendation noted that youth centers have been running at or over capacity for the past three Fiscal years, that admissions of felons is likely to continue to increase, and that the rehabilitative effect of the increasingly short stays is minimal - despite the best efforts of the Youth Centers staff.

Secondly my own involvement with the Atchison Youth Center has made me realize the need to reduce the numbers of admittees if we expect the Youth Centers to perform its lawful function.

As I have said, H.B. 2630 would restrict the ability of judges to make direct placements of misdemeanants to the youth centers. Direct placements by judges of youths that have committed acts that would be judged felonies if the juvenile were an adult would still be permitted. Furthermore the bill in no way restricts the right of SRS to place misdemeanants in the youth centers.

According to 1990 figures the courts admitted 55 male misdemeanants to

the youth centers and admitted 6 female misdemeanants to the youth centers for a total of 61 misdemeanants committed to the youth centers. At the same time SRS placed 66 male misdemeanants at the youth centers and 17 female misdemeanants at the youth centers for a total of 83. The total of both court committed and SRS committed youths is 144.

The results of the restriction by the courts to commit misdemeanants I believe would be the following:

1. A basic decrease in the number of misdemeanants going to youth centers. Without the option of youth center placement, I believe many judges will look to community based programs or placements as an alternative.

2. In some cases I believe custody will be placed with SRS and they may in fact place the misdemeanants at the youth center. However SRS has been making a concerted effort to reduce the number of misdemeanants going to the youth centers and I believe the indirect effect of 2630 will be a more careful evaluation of the placement of misdemeanants in our youth centers.

Of course all of the above has to be understood within the context of the tremendous increase of admissions to our youth centers in recent years. The admissions at the state's youth centers have gone from 400 in 1984 to approximately 860 in 1991.

During the same time period, length of stay has dropped from about 14 months to a little over six months. Average length of stay at the Youth Center at Atchison was 362 days in FY 1988; in FY 1990 it was 214 days. At the Youth Center at Beloit the average length of stay in FY 1988 was 332 days; but dropped in FY 1990 to 284 days. Average length of stay in 1988 at the Youth Center at Topeka was 345 days; and in FY 1990, 285 days.

A table showing developments in admissions and in length of stay is appended to this memorandum.

One can see a correlation between the increased number of admissions to the youth centers and the downward trend in terms of length to stay. Further downward pressure on length of stay, especially at the Youth

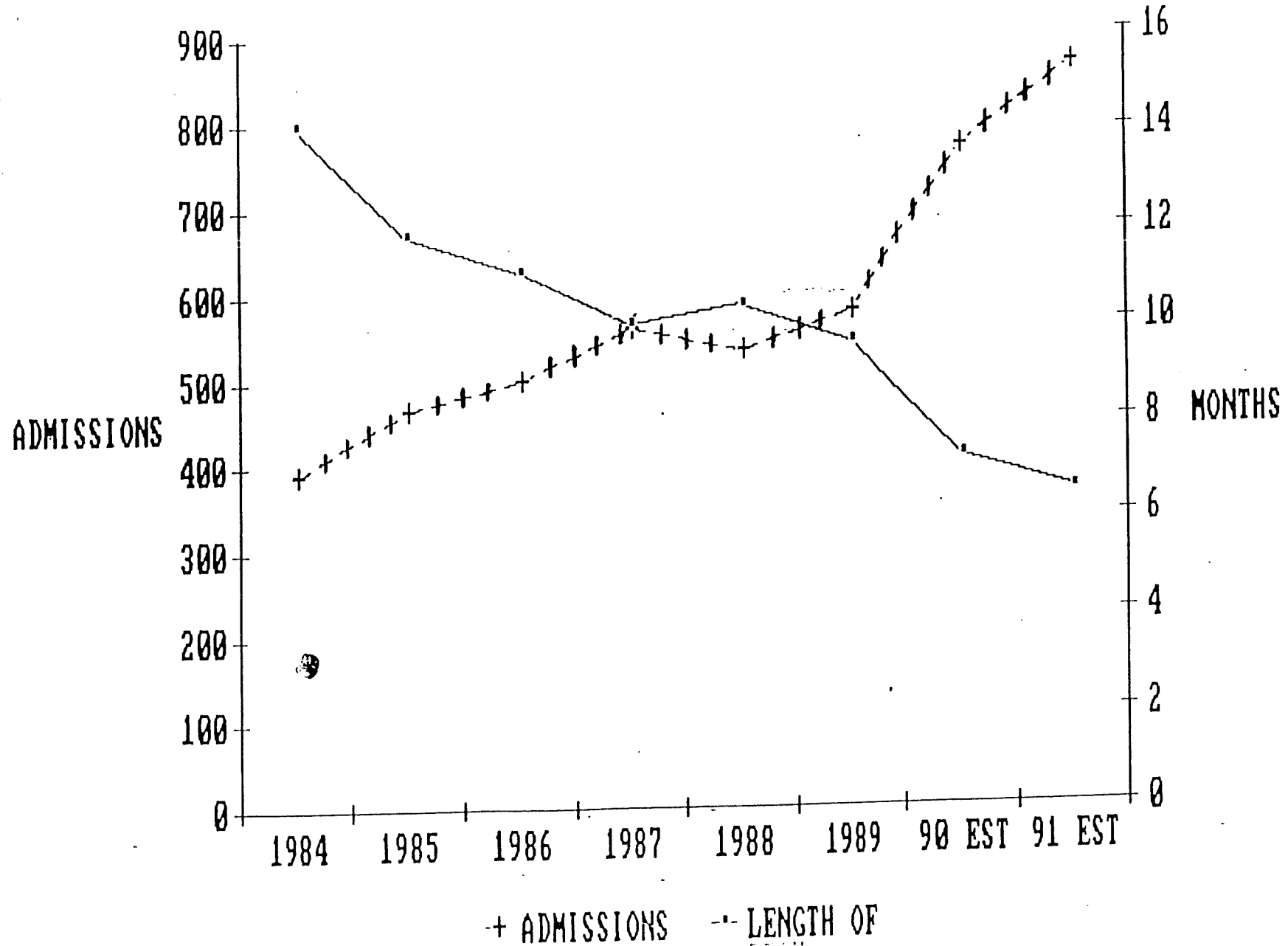
Center at Topeka, can be expected as more juvenile felons are committed to the facilities pursuant to 1990 H.B. 2666. The decreased length of stay will affect primarily the juvenile offenders who have committed less serious offenses. In order to achieve, an average length of stay of eight months, for every violent offender kept two years, for example 11 nonviolent offenders will have to be released after only five months.

During these years of tremendous increases in admissions the FTES at the Youth Centers has scarcely increased. Over the past 5 years the FTES at YCAA has increased by 2, at YCAB - by 0, and at YCAT by 14.

In FY 1990, there were 704 admissions to youth centers, reflecting a 24.2 percent rise over the previous fiscal year. Of the admissions, 440 (62.5 percent) were felony offenders; 264 (37.5 percent) were misdemeanants. Of the misdemeanants committed to the youth centers in FY 1990, 31.3 percent were committed by the courts. Court-committed misdemeanants represented 12.5 percent of all new youth center admissions in FY 1990.

Madam Chair and members of this committee, H.B. 2630 represents a small step toward helping youth centers fulfill their mandate. I urge this Committee to give H.B. 2630 favorable consideration.

YOUTH CENTERS ADMISSIONS AND AVERAGE LENGTH OF STAY



ATTACHMENT II

COMMITTING OFFENSE	YCAA	YCAB	YCAL	YCAT	TOTAL
FY88					
FELONIES					
A	0	1	0	6	7
B	2	2	3	3	10
C	7	3	6	24	40
D	19	9	24	70	122
E	62	16	12	45	135
MISDEMEANORS					
A	14	29	NA	NA	43
B	11	12	NA	NA	23
C	4	5	NA	NA	9
U	0	1	25	85	111
FY89					
FELONIES					
A	0	0	0	2	2
B	1	0	1	15	17
C	13	6	6	51	76
D	13	8	22	80	123
E	64	9	15	67	155
MISDEMEANORS					
A	18	28	NA	NA	46
B	14	16	NA	NA	30
C	4	4	NA	NA	8
U	0	0	27	83	110
FY90					
FELONIES					
A	0	0	0	6	6
B	2	0	5	18	25
C	15	10	8	53	86
D	28	11	26	74	139
E	86	11	20	67	184
MISDEMEANORS					
A	23	36	NA	NA	59
B	30	13	NA	NA	43
C	6	3	NA	NA	9
U	0	0	39	114	153
AVERAGE LENGTH OF STAY (DAYS)					
FY88	362	332	391	345	352
FY89	308	353	419	336	344
FY90	214	284	377	285	281



STATE OF KANSAS

DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

915 S.W. Harrison, Docking State Office Building, Topeka, Kansas 66612-1570

March 29, 1991
JOAN FINNEY, Governor

The Honorable Joan Adam
House of Representatives
State House
330-N
Topeka, Kansas

Dear Rep. Adam:

During the current fiscal year, 453 juvenile offenders have been placed at state youth centers as of March 28, 1991. Of that number, 144 (31.1%) were committed on the basis of having committed misdemeanor offenses.

The following table shows the distribution of those offenders by seriousness of offense, sex and whether they were committed by the courts or placed by SRS.

	Court Committed		SRS Placed		Total
	Boys	Girls	Boys	Girls	
A Misdemeanor					
Person	3	1	2	0	5
Property	35	2	39	12	88
B Misdemeanor					
Person	10	1	18	4	33
Property	3	2	4	0	9
C/Unclass. Misd.	5	0	3	1	9
	<u>55</u>	<u>6</u>	<u>66</u>	<u>17</u>	
Totals		61		83	144

During FY-90, the courts committed 31% of the misdemeanor offenders who were in youth centers. At the present rate, the number of misdemeanor youth center residents placed by the courts will remain constant while SRS reduces the number it places.

Sincerely,

Robert B. Hedberg,
Career Education/Institutional Specialist

RBH:wfb

cc: Karen DeViney
Carolyn Risley Hill
James P. Trast

HOUSE FEDERAL AND STATE AFFAIRS
April 11, 1991
Attachment #2 - Page 6

HOUSE BILL No. 2630

By Committee on Appropriations

4-4

Rep. Adam
House Floor

HOUSE FEDERAL AND STATE AFFAIRS
April 11, 1991
Attachment #3 - Page 1

8 AN ACT concerning juvenile offenders; relating to the placement of
9 such offender; amending K.S.A. 1990 Supp. 38-1663 and repealing
10 the existing section; also repealing K.S.A. 1990 Supp. 38-1663b.
11

12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. K.S.A. 1990 Supp. 38-1663 is hereby amended to read
14 as follows: 38-1663. (a) When a respondent has been adjudged to
15 be a juvenile offender, the judge may select from the following
16 alternatives:

17 (1) Place the juvenile offender on probation for a fixed period,
18 subject to the terms and conditions the court deems appropriate,
19 including a requirement of making restitution as required by sub-
20 section (c).

21 (2) Place the juvenile offender in the custody of a parent or other
22 suitable person, subject to the terms and conditions the court orders,
23 including a requirement of making restitution as required by sub-
24 section (c).

25 (3) Place the juvenile offender in the custody of a youth resi-
26 dential facility, subject to the terms and conditions the court orders.

27 (4) Place the juvenile offender in the custody of the secretary.

28 (5) Impose any appropriate combination of subsections (a)(1) and
29 (2), subsection (a)(3) or subsection (a)(4) and make other orders di-
30 rected to the juvenile offender as the court deems appropriate.

31 (6) Commit the juvenile offender, if 13 years of age or older, to
32 a state youth center ~~the youth center at Topeka or the youth center~~
33 ~~at Atchison~~ if the juvenile offender:

34 (A) ~~Has had a previous adjudication as a juvenile offender~~
35 ~~under this code or as a delinquent or miscreant under the~~
36 ~~Kansas juvenile code; or~~

37 (B) has been adjudicated a juvenile offender as a result of having
38 committed an act which, if done by a person 18 years of age or
39 over, would constitute a class A, B or C felony as defined by the
40 Kansas criminal code.

41 ~~(7) Commit the juvenile offender, if 13 years of age or older, to~~
42 ~~the youth center at Beloit if the juvenile offender:~~

43 (A) ~~Has had a previous adjudication as a juvenile offender under~~

a state youth center

1 *this code or as a delinquent or miscreant under the Kansas juvenile*
 2 *code; or*

3 *(B) has been adjudicated a juvenile offender as a result of having*
 4 *committed an act which, if done by a person 18 years of age or*
 5 *over, would constitute a class A, B or C felony as defined by the*
 6 *Kansas criminal code.*

7 *(8) Place the juvenile offender under a house arrest program*
 8 *administered by the court pursuant to K.S.A. 21-4603b, and amend-*
 9 *ments thereto.*

10 (b) (1) In addition to any other order authorized by this section,
 11 the court may order the juvenile offender and the parents of the
 12 juvenile offender to: (A) Attend counseling sessions as the court
 13 directs, or (B) participate in mediation as the court directs. Par-
 14 ticipants in such mediation may include, but shall not be limited to,
 15 the victim, the juvenile offender and the juvenile offender's parents.
 16 Mediation shall not be mandatory for the victim.

17 (2) Upon entering an order requiring a juvenile offender's parent
 18 to attend counseling sessions or mediation, the court shall give the
 19 parent notice of the order. The notice shall inform the parent of the
 20 parent's right to request a hearing within 10 days after entry of the
 21 order and the parent's right to employ an attorney to represent the
 22 parent at the hearing or, if the parent is financially unable to employ
 23 an attorney, the parent's right to request the court to appoint an
 24 attorney to represent the parent. If the parent does not request a
 25 hearing within 10 days after entry of the order, the order shall take
 26 effect at that time. If the parent requests a hearing, the court shall
 27 set the matter for hearing and, if requested, shall appoint an attorney
 28 to represent the parent. The expense and fees of the appointed
 29 attorney may be allowed and assessed as provided by K.S.A. 38-
 30 1606, and amendments thereto.

31 (3) The costs of any counseling or mediation may be assessed as
 32 expenses in the case. No mental health center shall charge a fee for
 33 court-ordered counseling greater than that the center would have
 34 charged the person receiving the counseling if the person had re-
 35 quested counseling on the person's own initiative. *No mediator shall*
 36 *charge a fee for court-ordered mediation greater than that the me-*
 37 *diator would have charged the person participating in the mediation*
 38 *if the person had requested mediation on the person's own initiative.*

39 (c) (1) In addition to any other order authorized by this section,
 40 if a respondent has been adjudged to be a juvenile offender by
 41 reason of an act involving possession, use or abuse of any alcoholic
 42 beverage or controlled substance, or both, the court may require
 43 the juvenile offender to surrender to the court any driver's license

1 in such offender's possession. The court shall transmit any such
2 license, together with a copy of the adjudication order, to the division
3 of vehicles of the department of revenue. Upon receipt thereof, the
4 division shall revoke the driving privileges of the juvenile offender.

5 (2) No Kansas driver's license shall be issued to a juvenile of-
6 fender whose driving privileges have been revoked under subsection
7 (c)(1) until such privileges have been restored. The juvenile offender
8 may petition the court to have such privileges restored: (A) At any
9 time if the offender is enrolled and actively participating in an alcohol
10 or drug education or training program certified by the administrative
11 judge of the judicial district or licensed by the secretary of social
12 and rehabilitation services, upon the first offense for which such
13 privileges have been revoked pursuant to subsection (c)(1), but res-
14 toration of such privileges shall be conditioned on the offender's
15 continued active participation in such program; (B) at any time after
16 90 days have elapsed since the offender's driving privileges have
17 been revoked, upon the first offense for which such privileges have
18 been revoked; or (C) at any time after one year has elapsed since
19 the offender's driving privileges have been revoked, upon the second
20 or a subsequent offense for which such privileges have been revoked.
21 Upon such petition and for good cause shown, the court, in its
22 discretion, may restore the offender's driving privileges, subject to
23 the completion of a driver's license examination as required for the
24 issuance of an original driver's license.

25 (d) Whenever a juvenile offender is placed pursuant to subsection
26 (a)(1) or (2), the court, unless it finds compelling circumstances which
27 would render a plan of restitution unworkable, shall order the ju-
28 venile offender to make restitution to persons who sustained loss by
29 reason of the offense. The restitution shall be made either by pay-
30 ment of an amount fixed by the court or by working for the persons
31 in order to compensate for the loss. If the court finds compelling
32 circumstances which would render a plan of restitution unworkable,
33 the court may order the juvenile offender to perform charitable or
34 social service for organizations performing services for the
35 community.

36 Nothing in this subsection shall be construed to limit a court's
37 authority to order a juvenile offender to make restitution or perform
38 charitable or social service under circumstances other than those
39 specified by this subsection or when placement is made pursuant to
40 subsection (a)(3) or (4).

41 (e) In addition to or in lieu of any other order authorized by this
42 section, the court may order a juvenile offender to pay a fine not
43 exceeding \$250 for each offense. In determining whether to impose

1 a fine and the amount to be imposed, the court shall consider the
2 following:

3 (1) Imposition of a fine is most appropriate in cases where the
4 juvenile offender has derived pecuniary gain from the offense.

5 (2) The amount of the fine should be directly related to the
6 seriousness of the juvenile offender's offense and the juvenile of-
7 fender's ability to pay.

8 (3) Payment of a fine may be required in a lump sum or
9 installments.

10 (4) Imposition of a restitution order is preferable to imposition
11 of a fine.

12 (5) The juvenile offender's duty of payment should be limited in
13 duration and in no event should the time necessary for payment
14 exceed the maximum term which would be authorized if the offense
15 had been committed by an adult.

16 (f) In addition to or in lieu of any other order authorized by this
17 section, if a juvenile is adjudged to be a juvenile offender by reason
18 of a violation of the uniform controlled substances act (K.S.A. 65-
19 4101 *et seq.* and amendments thereto) or K.S.A. 41-719, 41-727, 41-
20 804, 41-2719, 41-2720, 65-4152, 65-4153, 65-4154 or 65-4155, and
21 amendments thereto, the court shall order the juvenile offender to
22 submit to and complete an alcohol and drug evaluation by a com-
23 munity-based alcohol and drug safety action program certified pur-
24 suant to K.S.A. 8-1008 and amendments thereto and to pay a fee
25 not to exceed the fee established by that statute for such evaluation,
26 except that such evaluation may be waived by the court if the court
27 finds that the juvenile offender has successfully completed an alcohol
28 and drug evaluation, approved by the community-based alcohol and
29 drug safety action program, subsequent to the offender's arrest on
30 this offense. If the court finds that the juvenile offender and those
31 legally liable for the offender's support are indigent, the fee may be
32 waived. In no event shall the fee be assessed against the secretary
33 or the department of social and rehabilitation services.

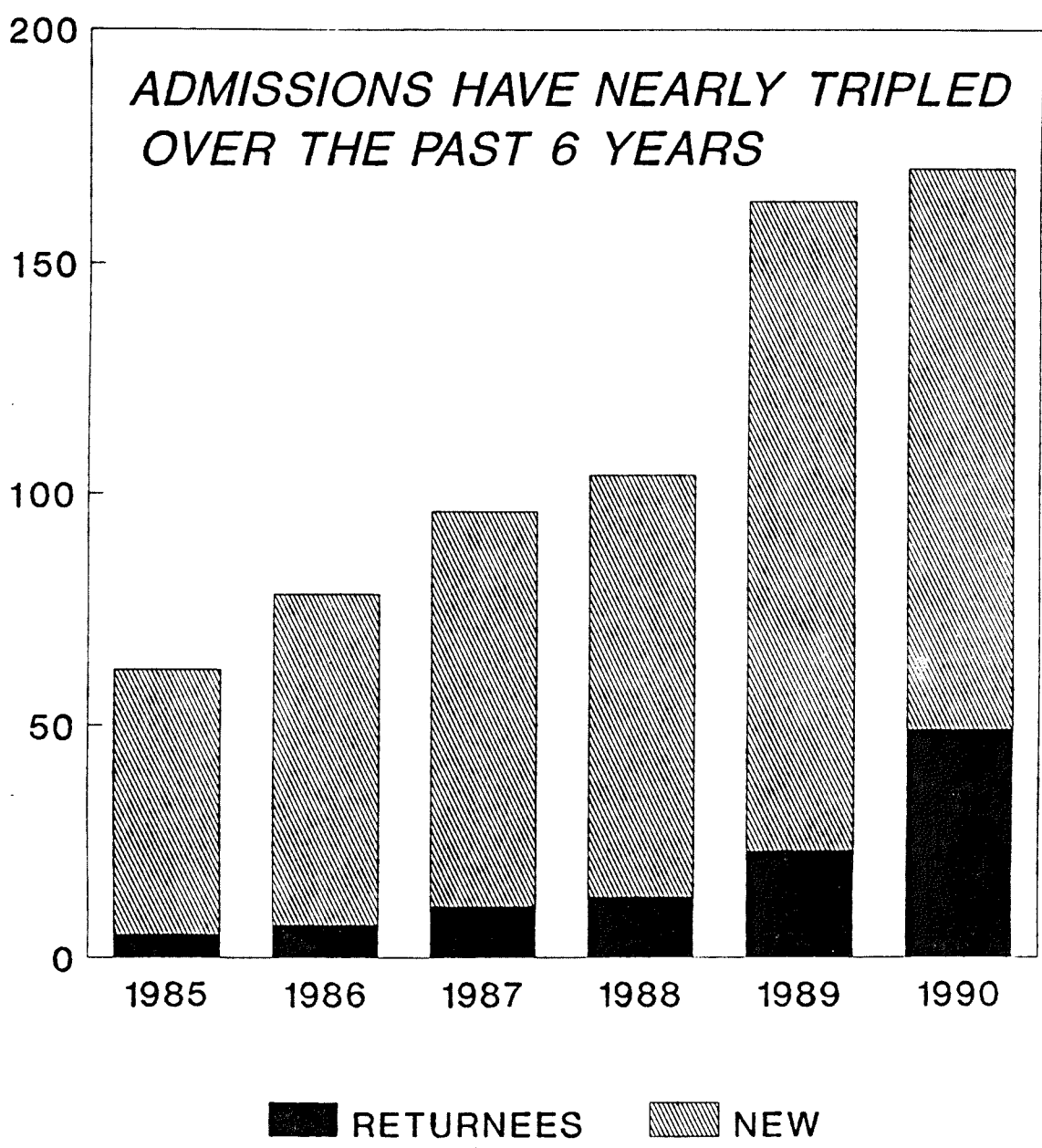
34 (g) *The board of county commissioners of a county may provide*
35 *by resolution that the parents or guardians of any juvenile offender*
36 *placed under a house arrest program, pursuant to paragraph (7) of*
37 *subsection (a), shall be required to pay to the county the cost of*
38 *such house arrest program. The board of county commissioners shall*
39 *further prepare a sliding financial scale based on the ability of the*
40 *parents to pay for such a program.*

41 Sec. 2. K.S.A. 1990 Supp. 38-1663 and 38-1663b are hereby
42 repealed.

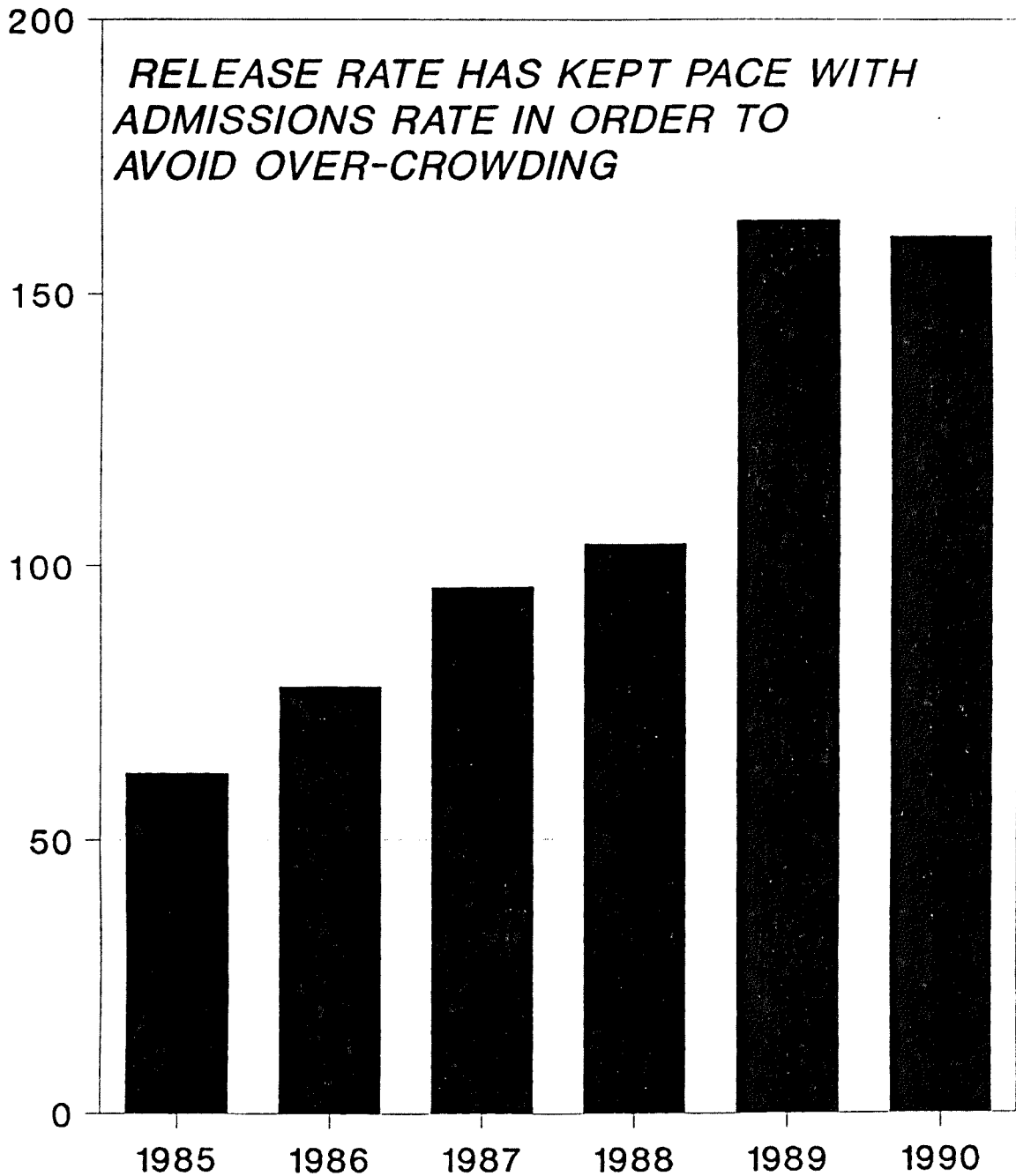
43

1 Sec. 3. This act shall take effect and be in force from and after
2 its publication in the statute book.

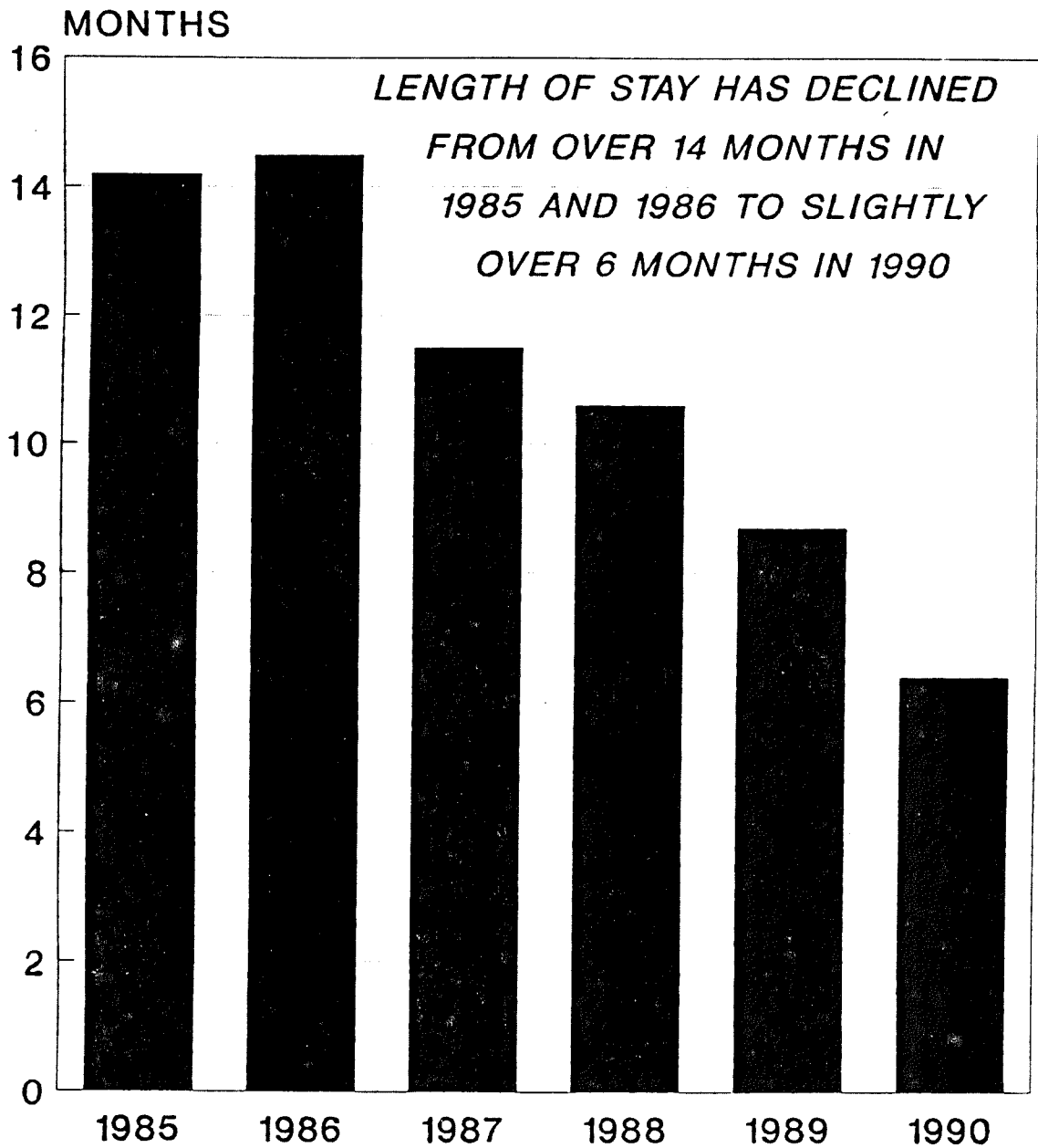
ADMISSIONS NEW AND RETURNEES



RELEASES



LENGTH OF STAY



Youth Center at Atchison
MISDEMEANOR OFFENDERS
COMMITMENTS BY FISCAL YEAR

	People Related	Property Related	No Prior Offenses
FY88	11	23	10
FY89	15	32	20
FY90	26	36	30
FY91 *	19	24	20

* Current Year To Date

The Youth Center at Topeka has experienced a dramatic increase in the number of admissions over the last several years. The attached graph entitled "YCAT Admissions New and Returnees" reflects this rate of growth. We anticipate continued high rates of admissions. A high student population strains our ability to maintain control and provide effective treatment for the students. Last November our population reached 245 students and our bed capacity is only 220.

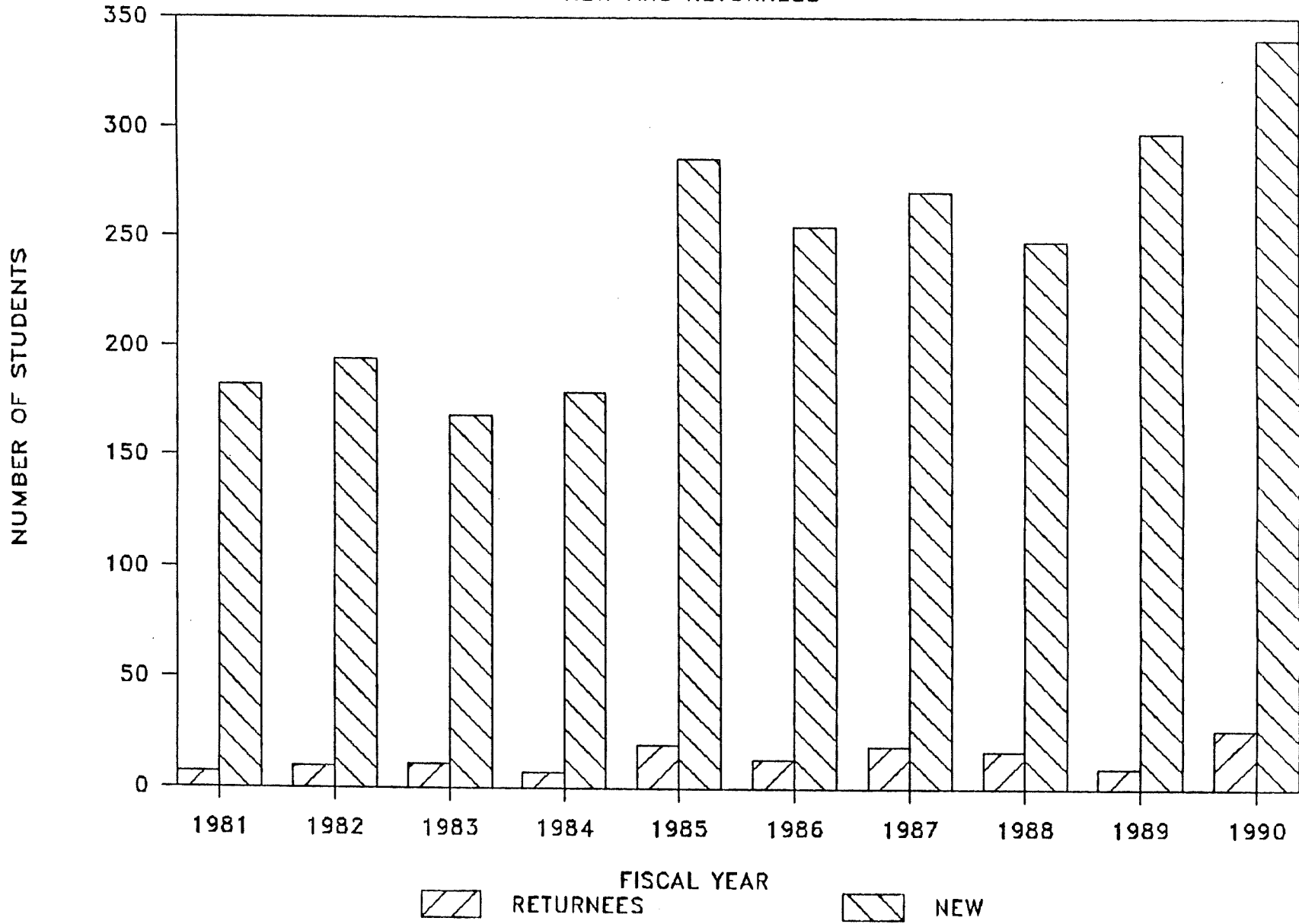
If you will look at the second graph entitled "YCAT Youthful Male Offenders" you will note that a very high number of admissions were misdemeanors. Indeed, they accounted for the largest group identified and represent approximately 33% of the number of youth admitted to the Youth Centers. Accommodating these minor offenders means less time and resources for dealing with the more serious offenders, and may be poor utilization of a structured facility. Many of these minor offenders may be better dealt with in their home communities.

It is anticipated with recent legislative changes (House Bill 2666) that the Youth Center will keep A, B, and C felons for a longer period of time than we have traditionally done in the past. In order to do this, it may be necessary to more closely scrutinize admissions to the Youth Centers for minor offenses. If not, the only recourse will be to dramatically shorten the length of stay and compromise the treatment afforded for all students at YCAT.

It may be in the best interest of the State to find alternative placements for minor offenders so that the Youth Center can focus its highly structured program on the more serious and violent offenders. Treatment in Level IV or V facilities or community programs may be a better option for the less serious offenders as well as the best utilization of State resources.

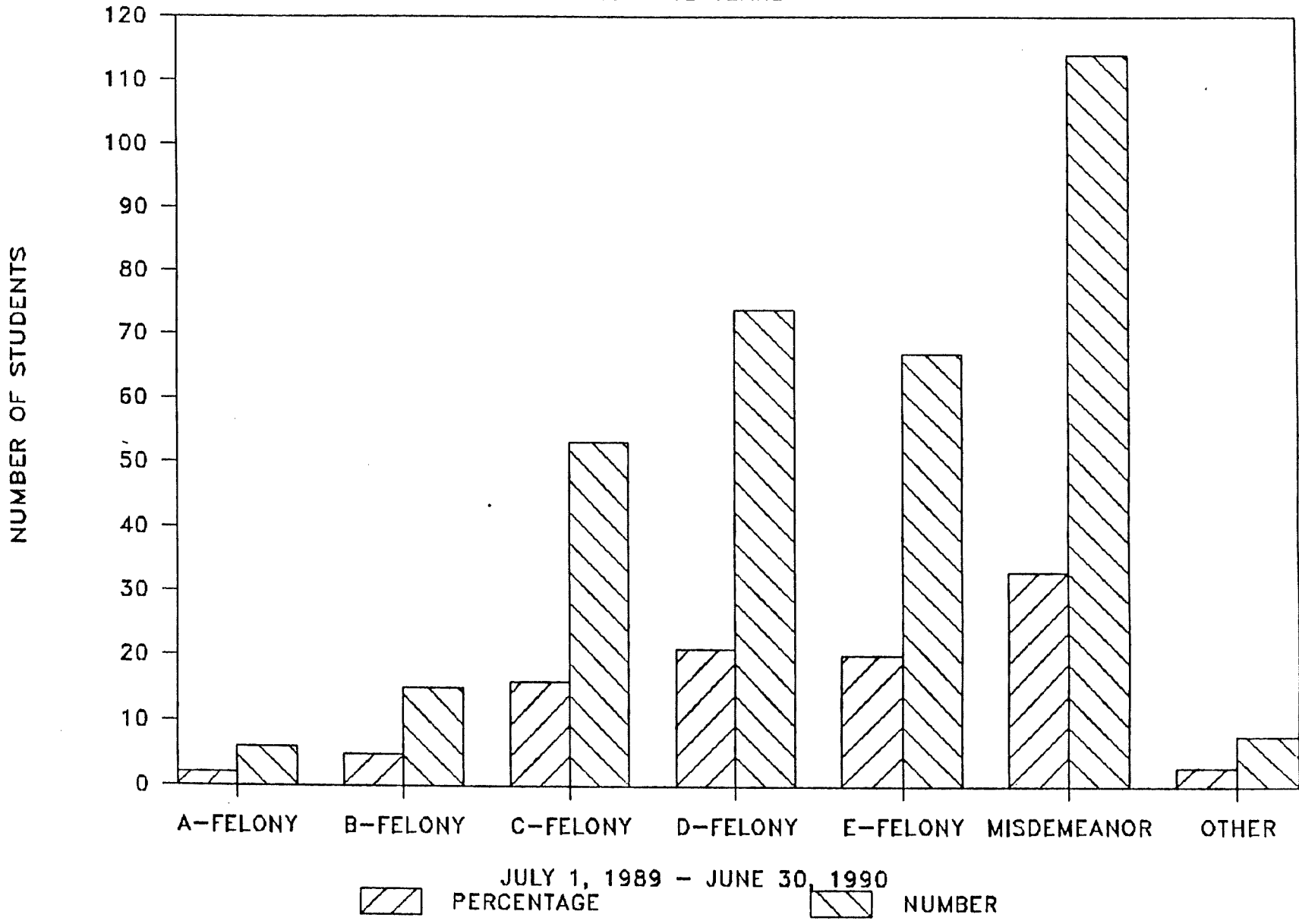
YCAT ADMISSIONS

NEW AND RETURNEES



YCAT YOUTHFUL MALE OFFENDERS

13 - 18 YEARS



Department of Social and Rehabilitation Services

Testimony before

Federal and State Affairs Committee

Regarding

House Bill 2630

April 11, 1991

Carolyn Risley Hill
Acting Commissioner of Youth Services
Kansas Department of Social and Rehabilitation Services
(913) 296-3284

HOUSE FEDERAL AND STATE AFFAIRS
April 11, 1991
Attachment #6 - Page 1

Department of Social and Rehabilitation Services
Robert C. Harder, Acting Secretary

Testimony in Support of H.B. 2630
(Mr. Chairman), Members of the Committee, I appear today in support of House Bill 2630.

Background: During the youth center budget subcommittee hearings, the youth centers presented population pressure as a major concern because of the impact on the habilitation process, i.e. treatment objectives are compromised and length of stays are reduced significantly. Superintendent Knapp of the Youth Center at Atchison will present details about these issues. The subcommittee developed the option of limiting direct commitments to felony-type juvenile offenders for the purpose of helping SRS management population pressures.

During FY-1990, a record 735 youth were admitted to the 463 youth centers' beds. Eighty-one (81) of those youth were directly committed by judges to state youth centers. This bill would limit judges' authority to directly commit.

SRS has been successful during the last year in reducing the number of agency-placed youth who are misdemeanor type offenders.

Discussion: This bill will provide longer stays to the youth centers because fewer youth would be admitted. Youth who are not admitted need to be addressed through community-based programs. Several other states have been successful in dealing with these populations in the community. The impact on admissions will be mitigated to some extent by charging and adjudicating some of these youth for felony-type offenses.

Action: This bill as printed has some problems which I believe Representative Adam will address. Your favorable consideration of this bill with Rep. Adam's amendments would enhance the agency's ability to address the needs of youth center youth and their communities.

Robert C. Harder,
Acting Secretary
Department of Social and Rehabilitation Services
(913) 296-3271

HOUSE FEDERAL AND STATE AFFAIRS
April 11, 1991
Attachment #6 - Page 2



KANSAS SENTENCING COMMISSION
Jayhawk Tower
700 Jackson Street - Suite 501
Topeka, Kansas 66603-3731
(913) 296-0923

Hon. Robert T. Stephan,
Attorney General,
Chairman

Hon. Gary Rulon,
Ks. Court of Appeals,
Vice Chairman

Hon. J. M. Macnish,
District Judge

Hon. Richard Walker,
District Judge

Hon. Frank Gaines,
Senator, 16th Dist.

Hon. Jerry Moran,
Senator, 37th Dist.

Hon. Martha Jenkins,
Representative, 42nd Dist.

Hon. Kathleen Sebelius,
Representative, 56th Dist.

Paul Morrison,
District Attorney

Dr. Steve Davies,
Secretary of Corrections

Carla Stovall,
Vice Chair, KS Parole Bd

Jillian Waesche,
Public Defender

Allen Flowers,
Chief of Police, Coffeyville

Dave Meneley,
Detective

Gary L. Marsh,
Court Services Officer

Shelley Bloomer,
Private Defense Counsel

John Burchill,
Community Corrections

Ben Coates,
Executive Director

SB 381

Testimony

April 11, 1991

The Sentencing Commission requested SB 381 in order to facilitate the implementation of sentencing guidelines. The original bill instructed the Commission to:

- 1) Keep the Legislature abreast of issues related to implementation;
- 2) Direct the implementation of the guidelines;
- 3) Provide training and technical assistance to criminal justice system personnel regarding guidelines;
- 4) Develop an implementation manual;
- 5) Develop monitoring procedures;
- 6) Perform other such studies or tasks as directed by the Governor, the Legislature, the Department of Corrections, the Chief Justice or the Attorney General.

The Commission's intent was to facilitate the implementation process and to secure authority to carry out the consolidation of field services study assigned by the Interim Judiciary Committee.

During the Senate hearings, the bill was expanded to:

- 1) Continue to address the current guidelines development process. Changes recommended by the Senate Judiciary Committee require the development of a method to make the guidelines retroactive, a population trigger, and some substantial changes to the drug grid. These changes will require substantial work.

Page 2

April 11, 1991

- 2) Expand the charge to potentially include other criminal justice topics, hence the name change.
- 3) Add four more members at large with a provision that there must be at least three minority representatives. This action was the result of a great deal of testimony from minority groups requesting additional representation. The Commission only has one non-white member.
- 4) Keep the current Commission members in place for two more years to insure continuity during implementation phase of guidelines.
- 5) Makes the Attorney General the Chairman in order to insure continuity during the implementation phase.
- 6) Assure the orderly transition of the staff from one agency to the other.

Ben Coates

April 11, 1991

296-0923

RICE, President
Chief of Police
Arkansas City, Kansas 67005

ED PAVEY, President-Elect
Ks. Law Enforcement Training Cen.
Hutchinson, Kansas 67504

CLIFF HACKER, Vice-President ALVIN THIMMESCH, Secretary-Tr.
Lyon County Sheriff
Emporia, Kansas 66801
Kansas Peace Officers' Assn.
Wichita, Kansas 67201

Kansas Peace Officers' Association

INCORPORATED

TELEPHONE 316-722-7030

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Kansas Highway Patrol
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DAVE SMALL
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Paola, KS 66071
JERRY R. WOLFSKILL
Johnson County Police Academy
Overland Park, KS 66210

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NATE SPARKS
Kansas Highway Patrol
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Hays, KS 67601
FRANK REESE
Ellis Co. Sheriff's Office
Hays, KS 67601

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LOWELL PARKER
Greenwood Co. Sheriff
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TINY WILNERD
Ks. Dept. Wildlife & Parks
Howard, KS 67349

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Newton, KS 67114
JIM DAILY
Barton Co. Sheriff's Office
Great Bend, KS 67530
DICK BURCH
Ks. Law Enforcement Training Cen.
Hutchinson, KS 67504

DISTRICT 6

KENT NEWPORT
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Holcomb, KS 67851
MARVIN CAIN
Santa Fe R.R. Police
Dodge City, KS 67801
RAY MORGAN
Kearny Co. Sheriff's Office
Lakin, KS 67860

DISTRICT 7

CHARLES RUMMERY
Wichita Police Dept.
Wichita, KS 67202
JOHN DAILY
Sedgwick Co. Sheriff's Office
Wichita, KS 67203
LARRY WELCH
Ks. Law Enforcement Training Cen.
Hutchinson, KS 67504

DISTRICT 8

DANA KYLE
Riley County Police Dept.
Manhattan, KS 66502
RANDALL THOMAS
Lyon Co. Sheriff's Office
Emporia, KS 66801
DOUGLAS PECK
Kansas Highway Patrol
Emporia, KS 66801
SERGEANT-AT-ARMS
LARRY MAHAN
Kansas Highway Patrol
Wichita, KS 67212



April 11, 1991
Senate Bill No. 381

Madam Chairman and Members of the Committee:

My name is Helen Stephens, representing the 3,000 members of the Kansas Peace Officers Association.

KPOA supports passage of Senate Bill 381. We believe the continuation of the Sentencing Commission and their monitoring of the sentencing guidelines; as well as their review and recommendations on philosophy and planning for the judicial system and the department of corrections will prove invaluable to the State of Kansas.

KPOA hopes that in the future the legislature would give this commission the task of reviewing the juvenile offender programs in Kansas. This, like the sentencing system, needs to be completely revamped.

We would ask for one amendment to SB 381; and that pertains to membership. Presently, law enforcement is represented on the Commission through the public member provision. We would ask that an amendment be made on Page 4, Subsection 9, that would designate that of the 6 public members, at least one should be a sheriff and one would be from the law enforcement community at large. This would continue the involvement of law enforcement after the present members' two-year term has expired.

A sheriff should have continued membership as many of the decisions made have a drastic impact on the county facilities; law enforcement in general should be included to review crime severity and sentencing.

We urge your support of SB 381 with the above amendment.

HOUSE FEDERAL AND STATE AFFAIRS
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Attachment #8 - Page 1

In Unity There Is Strength

SENATE BILL 375
KANSAS RACING COMMISSION
1991 LEGISLATIVE OUTLINE

- I. K.S.A. 74-8810(i)(5), housekeeping amendment changing "mechanical hare" to "mechanical lure."

Racetracks do not limit their mechanical lures to representations of rabbits, nor does the commission believe they should be required to do so.

- II. K.S.A. 74-8815(i), amendment allowing commission to fine a facility owner or facility manager licensee.

Compare provision cited above with organization licensee provision K.S.A. 74-8813(j) and (k).

While the section of the racing act applicable to organization licensees authorizes penalties in the form of a fine (to \$5,000), a suspension or a revocation, or both fine and suspension, the section of the racing act applicable to facility owner and manager licensees authorizes penalties only in the form of a suspension or revocation. The commission must be authorized to fine facility owner and manager licensees in order to effectively enforce the racing act. The closing of a racetrack by suspension or revocation is simply too serious a penalty for many violations.

- III. K.S.A. 74-8816, amendment of hearing procedures for stewards and racing judges, exempting them from certain KAPA requirements.

A racetrack is a small dynamic community. Each individual working in this community is issued an occupation license by the commission. Commission stewards and racing judges help ensure licensee compliance with racing law and regulations through the use of administrative hearings and penalties, K.S.A. 74-8816. Effective regulation depends to a large degree on quick resolution of problems so the racetrack community has a clear impression that violations of the law or regulations are not tolerated.

At present, violations by occupation licensees must be adjudicated by stewards or racing judges under the provision of the Kansas administrative procedure act (KAPA). Upon the conclusion of a KAPA formal hearing, the stewards or racing judges issue an initial order containing their ruling. Pursuant to KAPA the initial order does not become effective for 30 days. Therefore, any fine or license suspension is not enforceable for approximately one month. Within the confines of the ever-changing racetrack community, this period of delayed

adjudication and enforcement gives the impression that the commission takes no action regarding racing violations.

Proposed amendment: Grant stewards and racing judges original jurisdiction to conduct simplified administrative hearings regarding racing violations. This amendment should grant stewards and racing judges authority to assess a fine of no more than \$500 or to suspend an occupation license no more than 15 days, or both. Cases that deserve penalties greater than these, as with cases that are appealed, should be referred to the commission for a formal hearing in accordance with KAPA.

- IV. K.S.A. 74-8818, 74-8805(f), amendments defining the positions of steward and racing judge as unclassified employees of the commission.

At present, the commission appoints individuals to the positions of steward and racing judge for the duration of each race meeting, K.S.A. 1989 Supp. 74-8818. Kansas race meetings vary in length from 3 race days to approximately 300 race days. The parimutuel racing act does not define the employment relationship between the commission and stewards and racing judges. Attempting to define that relationship has created numerous problems for both the commission and the stewards and racing judges. Because steward and racing judge service is a highly specialized profession requiring serving in Kansas for irregular periods of time and is already tied the duration of each race meeting, these positions seem to be ideal for inclusion as unclassified employees serving at the pleasure of the commission.

- V. K.S.A. 74-8819(b), amendment allowing wagers on horses or greyhounds to finish in fourth place.

The commission has authorized racetracks to offer exotic wagers that include fourth place, e.g. superfecta and tri-superfecta. Only recently did it realize the wager on fourth place is not provided for in the racing act. The wager, or combination of wagers include it, is popular and one that should be offered for the more sophisticated Kansas player.

- VI. K.S.A. 74-8820(a), amendment clarifying whether the 4/18 and 6/18 minimum purse may be paid in a stakes race.

K.S.A. 74-8820(a) states:

"An organization licensee shall be required to pay a minimum purse equal to at least 4/18 of the total takeout on all parimutuel pools from greyhound races and 6/18 of the takeout on all parimutuel horse races, computed weekly. None

HOUSE FEDERAL AND STATE AFFAIRS

April 11, 1991

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of the minimum purse shall be withheld for stakes races or for any other reason."

Issue: What are the ingredients of the "minimum purse" (that must be equal to or greater than 4/18th or 6/18th of the takeout).

Background: Generally, there are two types of races--overnight races and stakes races--and the money won in those races is derived from the sources described below.

1. Overnight races--races for which entries are taken within 72 hours of the first race of the day when the race is to be run. There are no entry fees with this type of race.

Funding:

- a. Money from the track.
- b. Added money from race sponsors (advertisers).
- c. Breed purse supplements (Kansas horse or greyhound breeding development funds).

2. Stakes races--races for which a fee must be paid.

Funding:

- a. Nomination, subscription, entry or starting fees from the owners.
- b. Money from the track.
- c. Added money from race sponsors (advertisers).
- d. Stakes award supplements from state breed programs (Kansas horse or greyhound breeding development funds).
- e. Stakes award supplements from national breeders' programs (e.g. Breeder's Cup Program).

Note: It is not unusual for the owner of the winner of a stakes race to receive a check made up of funds from three or four of the sources listed above.

Some of the questions raised by K.S.A. 74-8820(a) include the following:

Does the last sentence preclude including stakes awards in calculating the minimum purse? If it does, are the preliminary trial heats and consolation races part of the

stakes race? If it does not, does the source of the purse award affect what is included in the minimum purse calculation? Finally, does the source of funds paid for overnight purses affect calculation of the minimum purse?

Inherent to the confusion created by the existing language of K.S.A. 74-8820(a) is the historic difference between methods of calculating purse payments at horse tracks and greyhound tracks. Racing greyhounds are awarded points based on their performance during a week at the track. At the end of the week the points are totaled and divided into 4/18 of the takeout from the parimutuel handle generated that week (a known figure). The purses are then paid to the greyhound owners. On the other hand, horse owners commit their horses to race at the horse tracks sometimes long before the race meeting commences. They make these decisions based on the "conditions" of the race, which include the value of the purse the horse will run for. When the purse amount is printed in the condition book the handle (and resulting takeout) for the week during which the race will occur is, of course, an unknown figure, and the track must constantly adjust payment of the minimum purse, week after week. It is believed that in trying to draft language that would be uniform for horses and greyhounds the drafters of the act overlooked the idiosyncrasies of calculating purses at horse tracks. For these reasons the commission believes payment of the minimum purse for horses should be calculated "for the entire race meeting."

- VII. K.S.A. 74-8829, amendment allowing horse breeders awards to be paid to owners of stallions or mares whose offspring finish in win or in win, place or show position--not just win position.

At the Woodlands alone the commission paid \$254,928.79 in breeder's awards for 1990. These awards were paid to breeders for the 92 wins secured by Kansas-bred horses. The KHA believes that (1) participation in the breeder's program will increase if awards are spread out over the membership and that (2) greater participation among breeders means enhancing the quality of Kansas-bred horses.

91JAC8-cd

TESTIMONY OF
DANA NELSON, EXECUTIVE DIRECTOR
KANSAS RACING COMMISSION
TO THE COMMITTEE OF FEDERAL AND STATE AFFAIRS
APRIL 11, 1991
SENATE BILL 375

Good morning Madam Chairman and members of the Federal and State Affairs Committee:

My name is Dana Nelson and I am appearing today on behalf of the Kansas Racing Commission in support of Senate Bill 375.

Senate Bill 375 was introduced at the request of and on behalf of the Kansas Racing Commission to amend the Kansas Pari-mutuel Racing Act as a result of having had practical experience in the regulation and administration of racing in the State of Kansas. As I know members of this committee are aware, legislation frequently needs fine tuning, and such is the case with the Kansas Pari-mutuel Act.

This bill is essentially a clean up item, which has little if any fiscal impact but does have some policy and procedural changes.

I call your attention to pages 7 and 8 where subdivisions (i) and (j) of KSA 74-8810 are written. If you wade your way through the original language, you will note that the commission was authorized to suspend or revoke a facility owner's license if it failed to follow the provisions for the construction or operation of the race track or if it violated any terms or conditions of the licensure. The commission is required to give thirty days to cure such error but if such error is not cured or could not be cured the commission could suspend or revoke the license. This provision does not allow the commission any discretion to fine a licensee for those same violations. Conceivably, even a minor violation of a term or condition of the license or any rule or regulation could bring about a license suspension or revocation. In other words the commission could shut the track down, but could do nothing less. Consequently, as a result of the Wichita Greyhound Park review, the commission seeks the authority to be able to fine the facility owner up to a maximum of \$10,000 per violation.

If you believe that that fine authority is excessive, I would call your attention to page 10, lines 27 through 37, where the commission is already able to suspend or revoke an individual occupational license and fine that individual up to \$5,000 for a violation. It seems ironic that an individual occupation licensee could be held to such a standard yet the owners and operators of the track could not be held to a similar kind of standard. The \$10,000 amount is not inconsistent with what other states do and is considered the standard in the industry. It would be a rare situation if the commission were to exercise

the \$10,000 limit on a licensee just as it would be a rare situation that the commission would exercise the \$5,000 limit on an occupational licensee.

Another area of interest is on page 11 lines 4 through 20 where the commission is proposing that the stewards or judges have the authority to impose a fine of not more than \$500 or suspend a licensee for a period not exceeding 15 days upon a finding that the licensee has violated the provisions of the act or a rule or regulation. This is very typical in the racing industry for the racing judges and stewards to exercise the authority of the commission in an administrative hearing at the track to deal with minor rule violations and infractions.

During the first year and one-half of operation of pari-mutuel racing in Kansas, the judges and stewards as well as the Kansas Racing Commission found the provisions of KAPA to be cumbersome, and not in the best interest of racing. Racing, as you are aware, is a highly regulated industry with extensive rules and regulations on how a race meet is conducted. Violations such as overweight or underweight of a greyhound require the scratching of a greyhound, and in the racing industry result in a fine being assessed against the trainer for failing to keep his greyhound on weight. Similarly in horse racing riding infractions by jockeys may result in fines and suspensions. Every state in the country guarantees those individuals due process with the right to a hearing, notice of hearing and a right to appeal. The Kansas Racing Commission is requesting that it be allowed to promulgate rules and regulations to set up such a hearing process so the judges and stewards can act in an expeditious and timely manner to properly regulate the racing industry.

Let me give you an example: A jockey who is found guilty of careless riding should be fined and/or suspended immediately. The timeliness of the process is critical. If that jockey is allowed to continue to ride without facing the administrative hearing, he continues to place the life and health of other jockeys and horses in jeopardy. Racing typically does not allow that, in fact only in Kansas is the process as cumbersome as KAPA and it does not work well for the racing industry. The commission and I feel strongly on this particular issue. Kansas is talked about in national meetings. I believe that the opportunity to promulgate rules to establish a process will be welcomed by the entire industry especially those being regulated. While you may find that ironic, one of the most highly regulated groups in the industry, the jockeys, are supportive of this process. Like the commission, they agree that administrative action must be taken in a timely manner to prevent further problems. This process would make Kansas like the rest of the racing world.

Continuing on page 11, I would draw your attention to lines 26 through 30, which specify that the stewards and racing judges

HOUSE FEDERAL AND STATE AFFAIRS

April 11, 1991

Attachment #10 - Page 2

shall become employees of the Kansas Racing Commission and serve at the pleasure of the commission, in the unclassified service of Kansas Civil Service Act. Currently our stewards and judges are working for the State of Kansas under a contractual arrangement. Under that arrangement they are paid on a performance basis, yet draw none of the benefits of typical employees. However, the typical employer/employee relationship exists as their days and hours are dictated by the State, there is direction given to the judges and stewards from the commission and executive director, these judges and stewards to a large degree supervise or monitor other commission staff such as the veterinarians, licensing clerks and security staff. They can not subcontract their work or work independently at their trade for other tracks at the same time. An employer/employee relationship does exist already, but none of the benefits accrue to those people.

I think the committee should be aware that this will have no fiscal impact on the State. The commission is allowed to require the organizational licensee to reimburse the commission for compensation paid to stewards and racing judges, and that practice will continue. I would also point out that stewards and judges will continue to be licensed even though they have become employees as a result of the Senate amendment on page 2 of the bill.

A new Section 5 was added to this bill by the Senate when we discovered that our pari-mutuel betting law limited the tracks to taking bets on only the first three places. Ironically, the commission authorized a superfecta bet in rule which both tracks use. A superfecta bet includes the fourth place finisher. The Senate amendment would correct this discrepancy.

On page 13, I would draw your attention to lines 8 through 17, where the purse requirements for greyhound and horse racing are established. Unfortunately when this section was drafted, nobody considered that purses are computed differently for greyhounds than they are for horses. Greyhounds calculate purses at the end of a week and therefore allocating 4/18ths to greyhound purses is easy, as the pari-mutuel handle is known. Horses on the other hand have purses established prior to the race. As a result, it is very difficult for the horses to comply with the law. For instance, if the track handled considerably more money than they had projected they would obviously underpay their purses for that particular weekend and conversely.

We have recommended that we compute purses at the end of the season for horses, and at that time determine whether or not a licensee complied with the 6/18th total for the season. Last year the Woodlands did overpay purses but there were several weeks that they underpaid them. We have also defined which monies would be considered for complying with 4/18ths or 6/18ths minimum purse. We determined that money paid for purses or

stakes from breakage or unclaimed tickets or fees paid by owners to enter their horses would not be used in determining whether or not the tracks had complied with the minimum purses required under the law. A Senate amendment further specified that the commission must approve the amount of minimum purse money which could be used for stakes races.

On the bottom of page 13, line 41 and on page 14, line 4 and 5, the Kansas Horsemen's Association has proposed language to spread the Kansas bred money around to horses other than winning horses. The Horsemen's Association is recommending language which would after the word "wins" on line 41 add "or wins, places or shows" and on page 14 line 4, after the word "wins" would insert "or wins, places and shows". In that way the Horsemen's Association can allocate money to the first three places in a race or still award only to the winner in the event that money in the Kansas Bred Fund is limited. We support that Senate amendment and believe that it will assist the horse industry in the State of Kansas.

One other clean up measure in the law is a change on page 3 where the word "hare" is replaced by the word "lure".

As I said at the out set of this testimony, this bill is introduced on behalf of and is strongly supported by the Kansas Racing Commission. It also has support from the industry and does not contain anything so controversial that this committee should have any serious reservations about moving this out to the floor. We appreciate your support for this legislation, and I would be pleased to answer any questions.

lkv

Kansas Horsemen's Association

TESTIMONY ON SENATE BILL 375
Presented to House Federal and State Affairs Committee
by Debbie Schauf, Executive Director
Kansas Horsemen's Association

Madam Chairman and members of the committee:

I appreciate the opportunity to appear before you today to convey the support of my directors for the areas of Senate Bill 375 on which they have taken a position.

The language in this bill which permits us to pay breeders awards to mare and stallion owners of horses which have finished either in the win, or the win/place/or show position will allow the money in the Kansas Horse Breeding Development Fund to be distributed to more Kansas owners and breeders if the size of the fund is sufficient in future years.

The provision you as legislators made in the original Parimutuel act to create a breed fund which will stimulate the horse industry in Kansas has been very successful. Funds collected from breakage and unclaimed tickets during the 1990 racing season were paid out upon recommendation of our association by the racing commission to owners of Kansas Bred Horses. A total of just over one half million dollars was collected and paid out. \$77,500 went to supplement purses in overnight races, \$218,699 to owners of Kansas mares who produced winning foals, \$54,675 to owners of Kansas stallions which sired winning foals, \$47,500 to supplement purses in stakes races, \$10,707 available for equine industry research grants in Kansas, and a carryover of \$152,000 to be applied to purses and stakes awards during the 1991 racing season.

At the Woodlands for the 1990 racing season the owner of each Thoroughbred mare who had a racing age foal which won a race received \$4016.12. Each Thoroughbred stallion owner received \$ 2060.90. A Quarter Horse mare award was worth \$1971.43, and stallion award was \$ 1182.86. If we are permitted by the new language in this bill to pay awards based on wins, place, or show finishes it would be possible to allow more Kansas owners to receive the economic incentive of raising and racing their horses here in Kansas rather than sending them out of state.

HOUSE FEDERAL AND STATE AFFAIRS

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KANSAS QUARTER HORSE RACING ASSOCIATION

Albert C. Becker, President, 9306 Kansas Avenue, Kansas City, Kansas 66111, 913/299-3707



April 11, 1991

Representative Sebelius, Chairman and members of the House Committee on Federal and State Affairs. Thank you for the opportunity to appear today. My name is Karen Tolle and I am the Executive Director for the Kansas Quarter Horse Racing Association. The Board of Directors of the Kansas Quarter Horse Racing Association have met and discussed the proposed legislation in Senate Bill No 375. After reviewing this bill in detail we are in full support of Senate Bill No. 375 and ask for your favorable consideration of the changes proposed. I would be happy to respond to any questions that you may have.

Karen Tolle

EXECUTIVE SECRETARY, KQHRA
P.O. BOX 2008, TOPEKA, KANSAS 66601
(913) 233-1984

HOUSE FEDERAL AND STATE AFFAIRS
April 11, 1991
Attachment #12 - Page 1

Bill Graves
Secretary of State



2nd Floor, State Capitol
Topeka, KS 66612-1594
(913) 296-2236

STATE OF KANSAS

TESTIMONY BEFORE THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE SENATE BILL NO. 368

April 11, 1991

SB 368 requires that a social security number or federal employer identification number be included on every Uniform Commercial Code financing statement.

In June, 1990, we met with representatives of the banking community, Farmers Home Administration and private industry to discuss new ways we could serve them through UCC search procedures. All representatives agreed that we should require customer FEIN and/or SSN's on financing statements to better identify debtors, and to make requests for debtor information more accurate.

The FEIN/SSN numbers are already required on agricultural filings under the 1983 Food Security Act that has been adopted by a number of states. Six other states require the numbers on all UCC filings. (South Dakota, North Dakota, Nevada, Montana, Colorado and Louisiana.) Our UCC computer programs already have space provided for the inclusion of FEIN/SSN numbers and there would be no fiscal impact.

The Senate amendment was intended to permit a secured party to file a continuation without the FEIN/SSI number if it was unknown. (Apparently, the word "after" should have appeared on page four, line 40, rather than the words "prior to.") We believe that this exception is unnecessary and would prevent searches from being trustworthy. We checked with the states currently requiring numbers on the continuations and they report no problems.

Although we prefer that the Senate amendment be removed, we support SB 368 in either form and urge its passage.

Thank you.

Carol Beard
Deputy Assistant Secretary of State
Uniform Commercial Code Division

HOUSE FEDERAL AND STATE AFFAIRS
April 11, 1991

Attachment #13 - Page 1

REGISTER OF DEEDS

KANSAS

ASSOCIATION

PRESIDENT Bernita Bell, Graham County
VICE-PRESIDENT Mary Ann Holsapple, Nemaha County

Charlotte Shawver, Riley County
Janice Gillispie, Thomas County
SECRETARY
TREASURER

Madam Chairman, and members of the committee, I am Linda Fincham, Legislative Chairman for the Register of Deeds Association. Our Association supports S.B. 368. This bill would make the UCC fees that are filed in our office uniform with the fees now being collected by the Secretary of State and eliminate confusion with the customers that file UCC's in both offices.

I would like to point out that filing fees have been the same for both offices since the enactment of the UCC law in 1966. The change in filing fees came about with the 1990 legislative session and quite frankly it was an oversight of the Register of Deeds that we did not address the issue at that time.

A feasibility study shows that the current fee being charged at the county level does not cover the cost of processing a UCC. A study by IACREOT, a national association, shows that Kansas is low in comparison with fees charged in other states.

We appreciate the opportunity to address S.B. 368 and we request passage of this bill.



The KANSAS BANKERS ASSOCIATION
A Full Service Banking Association

April 11, 1991

TO: House Committee on Federal and State Affairs

RE: **SB 368: UCC Article 9 filings**

Madam Chairperson and Members of the Committee:

The Kansas Bankers Association appreciates the opportunity to appear in support of **SB 368**. This bill would amend a vital part of the Uniform Commercial Code, Article 9, which is the law governing secured transactions. Specifically, this bill would require that a financing statement filed with the Secretary of State, include the federal employee identification number (FEIN) or social security number (SSN) of the borrower.

When making secured loans, it is imperative that a lender be accurate in his or her determination of the priority status regarding collateral taken as security for the repayment of a loan. Therefore, most every lender will conduct a search of the UCC filings for that borrower, prior to making the loan. Unfortunately, some lien searches are inaccurate due to an inadvertent error in spelling a borrower's name, or not using the borrower's full name or correct initial. By requiring all UCC filings to have the FEIN or the SSN of the borrower, a search could be conducted by using these numbers instead of the borrower's name. While there is still room for human error in transmitting numbers, it is minimal, so that with this change the entire process will be much more efficient and accurate.

The KBA strongly supports the passage of **SB 368** as it will be very beneficial to the Kansas banking industry in the area of secured transactions.

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Attachment #15 - Page 1

TESTIMONY OF WILLIAM Q. MARTIN
General Counsel and Trust Officer

THE SMITH COUNTY STATE BANK & TRUST COMPANY
136 S. Main
Smith Center, Kansas 66967
(913) 282-6682

April 11, 1991

To: House of Representatives
Federal and State Affairs Committee
Kathleen G. Sebelius, Chair

Re: Senate Bill 370

Good afternoon:

My name is Bill Martin. I am General Counsel and Trust Officer for The Smith County State Bank & Trust Company, Smith Center, Kansas. Although I am a member of the executive committee of the Real Estate, Probate and Trust Law Section of the Kansas Bar Association, my appearance today is not on behalf of the Kansas Bar Association.

I handle tax and legal matters that affect trusts and wills for which The Smith County State Bank & Trust Company serves in a fiduciary capacity. In my position, I review testamentary documents and coordinate the estate tax impact of state statutes with the Internal Revenue Code. From time to time, some state statutes do not fully allow for the full use of the tax law as drafted in the Internal Revenue Code and could be termed technically deficient.

K.S.A. 59-22a01 is a state statute that is technically deficient and Senate Bill 370 is intended to correct this deficiency.

The Internal Revenue Code allows for estate tax deductions for the remainder interest of contributions for charitable remainder trusts, annuity trusts, pooled income funds and life estates in residences and farms where the remainder passes to charity upon the expiration of the interest of the non charitable beneficiary. Due to the technical difficulty of always meeting these provisions, Congress enacted section 2055(e) of the Code to allow defective instruments to be reformed under state law in order to preserve the charitable deduction.

K.S.A. 59-22a01 was enacted as part of the 1988 Session Laws to allow Kansas state courts to reform defective instruments as intended by section 2055(e) of the Internal Revenue Code. However, the statute, as drafted only appears to allow reformation of defective charitable remainder trusts, annuity trusts and pooled income funds; life estates in residences and farms where the remainder passes to charity upon the expiration of the interest of the non charitable beneficiary do not appear to be permissible as part of a reformation action. This would appear to be an oversight.

As proposed by Senate Bill 370, the revised terms of K.S.A. 59-22a01 would allow for reformations under Kansas law to meet the full extent permitted by the Internal Revenue Code to preserve these charitable estate tax deductions.

I support the enactment of Senate Bill No. 370.

Thank you.

HOUSE FEDERAL AND STATE AFFAIRS
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Attachment #16 - Page 1



Kansans for Improvement of Nursing Homes, Inc.

913 Tennessee, suite 2 Lawrence, Kansas 66044 (913) 842 3088

TESTIMONY PRESENTED TO
THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE
CONCERNING SB 377

THE LONG-TERM CARE PLANNING COMMISSION

April 11, 1991

Madam Chairperson and Members of the Committee:

The basic premise of SB 377 is hardly a new one. It is only the recognition, once again, that most people would prefer to remain in their own homes as long as possible, and that providing services that enable them to do so is not only more satisfactory for the individual but less costly for the state, in those instances in which the individual is unable to pay the full cost of the care. KINH has supported that concept in its many legislative incarnations from the beginning.

Over a period of several years and in several legislative committees, advocates have discussed the concept of a system of long-term care that emphasizes in-home care in preference to institutional care. But we are not much closer to achieving that goal statewide and, indeed, the medicaid reimbursement system continues its bias toward institutional care. KINH sees in this bill an opportunity to move in the direction we all want to go. We support SB 377.

We are pleased that the Senate Public Health and Welfare Committee increased the number of appointees to the commission who would represent the general public. It is the consumer who has experienced the problems and frustrations of a system clearly biased toward institutional care and whose needs and desires must be central to any plan.

While we understand that alternatives to long term care will be the primary focus of this commission, we believe that a long term care system must include a complete continuum of services, from the simplest and least restrictive home care services to nursing home care. In our enthusiasm for in-home care it may be too easy to consider it a panacea for all care of the elderly and to push still farther out of mind the far end of the continuum, the nursing home. We urge you to remain sensitive to the need for further efforts in that arena, as well as to develop home care alternatives, and to understand that when we talk about long-term care we should be referring to the full spectrum of care from in-home supports and services to nursing home care.

Marilyn Bradt
Legislative Coordinator

**KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
Robert C. Harder, Acting Secretary**

**Testimony Before the Federal and State Affairs Committee
Senate Bill 377**

The Kansas Department of Social and Rehabilitation Services (SRS) supports the passage of Senate Bill 377. Experience has demonstrated that a statewide system needs to be put in place and methods developed so that 1) duplication of services can be avoided, 2) services can be targeted to the identified priority groups, 3) adequate services can be developed and provided for the appropriate level of care, 4) elder Kansans with varying income levels can be accomodated, 5) the sparse resources used in the best manner, and 6) quality of care can be ensured.

Despite the fact that numerous comprehensive plans for long term care for the elderly and disabled have been developed over the past ten years in Kansas, the state still lacks a defined statewide service delivery system, and major issues identified by previous studies still exist. Program and funding decisions continue to be made in isolation and in a segmented manner with little or no understanding of the inter-relationship between institutional and community, elderly and disabled, medical and nonmedical, and Medicaid and non-Medicaid services. In addition, while many services and programs are in operation, a coordinating mechanism is still needed to interrelate the various service elements, which continue to be basically independent organizational structures, into a comprehensive, coordinated system of long-term care.

The most recent study, completed December 31, 1986, was built on previous works including the 1978 Home Care Study; the 1981 interim legislative study of alternatives to nursing home services; the State Health Plan for Kansas on long

term care; and the 1984 Joint Position Statement on Long Term Care by the Kansas Medical Society, Ks. Dept. of Health and Environment, Ks. Dept. on Aging, Ks. Dept. of SRS. The plan, which was directed by HCR 5052, included an analysis of the need for community alternative long-term care services; the goals and objectives for community long-term care services; recommendations for implementation; analysis of gaps in programs and service; and methods to coordinate efforts among and between appropriate state and community agencies.

Considerable work has been accomplished in these previous planning efforts relative to identifying existing services gaps, and it is now time to build on those efforts and move forward. Every agency, local or state, who has some involvement in long term care services operates under a different philosophy and has different priorities. Coordination is difficult at best, but achievable with a common vision and commitment to an identified and agreed upon long term care delivery system. Experience tell us that **only an accepted, identified statewide system can systematically address the service gaps, control costs, reverse the current institutional bias, and ensure equal access and quality care** for Kansas citizens.

John W. Alquest
Acting Commissioner
Income Support/Medical Services
(913) 296-6750

4/11/91