

Approved FEB 19 1991
Gary Blumenthal
Date

MINUTES OF THE House COMMITTEE ON Governmental Organization

The meeting was called to order by Rep. Gary Blumenthal at
Chairperson

9:00 a.m./p.m. on February 11, 1991 in room 522-S of the Capitol.

All members were present except:

Committee staff present:

Carolyn Rampey, Research
Avis Swartzman, Revisors
Nita Shively, Committee Secretary

Conferees appearing before the committee:

Kristy Koscielny, Assistant Liaison to Governor
Rep. Frank Weimer
Rep. John McClure
Rep. Nancy Brown
Rep. Gary Blumenthal
Rep. Don Rezac
Milton Anderson, member Kansas Auctioneer Assoc.
Bob Wilson, President-Elect, KAA
Bob Thummel, member KAA-auctioneer
Larry Theurer, auctioneer
Rep. Bob Mead
Pat Keenan, auctioneer
Larry Carr, auctioneer
Greg Hubert, auctioneer
Joe Rickabaugh, Executive Secretary, Purebred Division

Chairman Blumenthal announced that the introduction of numerous bills would precede the hearing on HB 2062.

Chair recognized Kristy Koscielny who requested, on behalf of Governor Joan Finney, the introduction of a House Concurrent Resolution; an amendment to the Kansas Constitution making the State Treasurer, State Auditor and Insurance Commissioner constitutional officers. Rep. Bowden made a motion to introduce this legislation, seconded by Rep. Watson, motion carried.

Chair recognized Rep. Frank Weimer who spoke on behalf of the City of Lenexa, requesting a bill modifying KSA 11719 allowing alcoholic beverages to be served during community functions at the Kansas National Guard Armory in Lenexa. Motion made by Rep. McClure, seconded by Rep. Lawrence, motion carried.

Rep. McClure requested the re-authorization of the Citizens' Utility Rate Board, indicating that several changes were also requested; primarily the number of Board members be changed from 5 to 8, at least one Board member from each Congressional District, and they would like authority to make their own budget requests. Rep. Watson moved this legislation be introduced, motion seconded by Rep. Bowden, motion carried.

Chair recognized Rep. Brown who requested that the gender balance bill, which was passed out of committee last year, be introduced again. Rep. Brown made a motion to introduce this legislation, seconded by Rep. Hamilton, motion carried.

Chairman Blumenthal introduced a bill, requested by the Speaker's office, regarding the House Committee on Interstate Cooperation; it would give the Speaker the authority to appoint a designee as Chairman of that committee. Motion made by Rep. Watson, seconded by Rep. McClure, motion carried.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Governmental Organization,

room 522-S, Statehouse, at 9:00 a.m./p.m. on February 11, 1991

HB 2062 - AN ACT concerning auctioneers, providing for licensure and regulation.

Rep. Rezac appeared in support of HB 2062 and presented written testimony, (Attachment 1). He noted the controversy regarding this bill and addressed some of the rumors surrounding it.

Chair welcomed students and advisors from Great Bend's Close-Up Foundation to the Governmental Organization committee meeting.

Milton Anderson drew attention to balloon copy of HB 2062, (Attachment 2). He gave a step-by-step analysis of the bill including the proposed amendments. Following that he testified and furnished written testimony on the merits of the bill, (Attachment 3). He stressed the need for professionalism in the industry which, he feels, would result from guidelines and regulations.

Bob Wilson appeared in support of HB 2062, furnishing written testimony, (Attachment 4). He noted the growing support in the KAA membership for this bill. In addition, he pointed out how the public would be safe guarded if this legislation is enacted.

Bob Thummel testified and furnished written testimony, (Attachment 5). The main focus of his testimony dealt with the problems of the dishonest auctioneer, citing his own loss and several others. He also mentioned that the KAA has met with members of associations in Oklahoma, Nebraska, Missouri, and Iowa to discuss reciprocal licensure.

Larry Theurer testified and presented written testimony, (Attachment 6). He spoke of the changes in auctioneering in recent years and how much more extensively the practice is used today. He voiced concern that anyone can profess to be an auctioneer in Kansas without any formal or informal training.

Chair recognized Rep. Mead who stated that he would not testify since he is also an auctioneer, citing conflict of interest, but he wanted to introduce 2 opponents of this legislation.

Pat Keenan appeared in opposition to HB 2062, furnishing written testimony, (Attachment 7). Although he acknowledged that there are some problems, he feels that by enacting this legislation, it would only create more. Mr. Keenan stated that he feels it is the responsibility of the person engaging the services of an auctioneer to check out the reliability of that person.

Larry Carr testified and provided written testimony regarding his opposition to HB 2062, (Attachment 8). He expressed his concerns over both the cost (\$100.00) of the license fee and the resulting cost to taxpayers. He also felt there could be conflicts with the Real Estate Commission in connection with closing transactions in the required period of time.

Greg Hubert testified and presented written testimony regarding his opposition to HB 2062, (Attachment 9). He emphasized his years of experience in the purebred cattle sales management business and his strong feeling that this proposed legislation is unnecessary; that the existing system is adequate. He cited the additional paperwork and bureaucracy resulting from the enactment of this bill.

Joe Rickabuagh testified and presented written testimony in opposition to HB 2062, (Attachment 10). He stated there may not be adequate funding in this bill and also brought up the municipality fee on auctioneer which was not addressed in the bill.

Questions were asked by the committee members after each conferee testified. A brief discussion followed the last conferee.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Governmental Organization,
room 522-S, Statehouse, at 9:00 a.m./~~p.m.~~ on February 11, 1991

Motion to approve the minutes for January 29 and February 5, 1991 was made by Rep. Watson, seconded by Rep. McClure, motion carried.

Meeting adjourned at 10:25 a.m.

GUEST LIST

COMMITTEE: Governmental Organization

DATE: Feb. 11, 1991

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Mary Eubank	Manhattan, KS	
Kristy Koscielny	Governor's office	
Milton Anderson	Manhattan, KS	Auctioneer
Bob Wilson	Manhattan, KS	Auctioneer
James Dukes	Topeka	Ks. Auctioneers Assoc.
JOE RICKBAYASH	Topeka	Ks. Livestock Assoc.
Rep. Bob Wood	Pawnee Park	Legislature
Mark Kistner	Manhattan	Rep. - 1st Dist.
TOM TUNNELL	TOPEKA	KANSAS GRAIN & FEED ASSN.
Larry Carr	Lamear	Car Auction
Kat Steenan	Gr. Bend	Keenan Auction
Charley Gowdy	Great Bend	Close Up Kansas
Ann Hagan	Great Bend	
Roger L. Porter	Clatshe KS	Table Auction + REALTY
Pat Mayo	Grass Bend	Close Up Kansas
Ann Hagan	Gr. Bend	Close Up Kansas
Myrle Cotton	Topeka	Ks. Women's Assoc.
Mary Merkave	Topeka	Assoc. F&S
Brad Bink	Great Bend	Close Up Kansas
Stanley Fisk	Great Bend	Close Up Kansas
Orville Moore	Great Bend	Close Up Kansas
Dan Kull	Topeka, KS.	Auctioneer
Vern Gannon	Manhattan, KS	Auctioneer
Sherri Theurer	Manhattan KS	Secretary Treasurer KAAE
Ron Kellard	Osage City, KS	Richard Kellard



TOPEKA

HOUSE OF
REPRESENTATIVES

February 11, 1991

DON M. REZAC
 REPRESENTATIVE, SIXTY-FIRST DISTRICT
 PARTS OF POTTAWATOMIE,
 WABAUNSEE, MARSHALL & LYON COUNTIES
 (913) 535-2961

COMMITTEE ASSIGNMENTS
 CHAIRMAN: PENSIONS, INVESTMENTS AND BENEFITS
 VICE CHAIRMAN: AGRICULTURE
 MEMBER: ENERGY AND NATURAL RESOURCES
 TRANSPORTATION

Testimony Concerning House Bill 2062

Thank you, Mr. Chairman, and members of the Committee. My name is Representative Don Rezac. I am here in support of House Bill 2062.

In December, I met with a group of auctioneers made up of both members and non-members of the Kansas Auctioneers Association. At this meeting, they had a draft copy of a bill similar to the one before you today. I took it to the revisors to be drafted and then came before this committee two weeks ago and asked for the bill to be introduced as a committee bill.

One comment in December was "I wish you were more enthusiastic about this bill." I knew a licensing law concerning auctioneers would cause some uproar. Well, today I am more enthusiastic about this bill, and I want to commend the Kansas Auctioneers Association for coming forward with the bill.

I think anything we do today, we need organization. This bill will not only give the auctioneers some uniformity and organization to work with within their own association but also will enhance public trust.

One positive factor that this bill has is a recovery fund. If there is some trouble somewhere, the auctioneer will have the Kansas Auctioneers Association to straighten out the problem.

I mentioned that this bill would cause some uproar. There were a lot of rumors flowing on this bill and people working against it and the committee hasn't even had hearings on the bill.

There is one organization which has been lobbying against this bill and waited until 2:00 last Friday to even discuss the bill with me.

One complaint that I've heard is that the board will not be able to operate on \$100 membership fees.

I would like to draw your attention to three boards who do operate with small budgets:

Abstractor's Board of Examiners

Board of Examiners for Hearing Aids

Board of Optometry Examiners

This bill also applies to non-resident auctioneers, who will also have to apply for the auctioneer's license.

I can see nothing wrong with non-resident auctioneers coming into the state, but when they do, keep in mind a large commission fee leaves with them, and they should also be subjected to Kansas law.

I would hate to have to have the future of the Kansas Auctioneers Association determined by the hobby auctioneer or by a group who do not feel they need the benefit of a license.

The Kansas Auctioneers Association has come forward today with this bill to take responsibility for the future of Kansas auctioneers.

To: Representative Don Rezac

From: Debra Duncan, Legislative Research

Re: Fee board budgets

Fee Board	Actual FY 1990	Gov. Rec. FY 1991	Gov. Rec. FY 1992
Abstractors' Board of Examiners	15,407	16,124	16,236
Board of Accountancy	164,124	181,241	188,040
Bank Commissioner	2,544,305	2,723,857	2,682,732
Board of Barbering	90,129	84,247	87,248
Behavioral Sciences Regulatory Bd.	214,760	241,264	243,497
Consumer Credit Commissioner	300,096	314,188	320,620
Board of Cosmetology	280,825	285,188	300,004
Department of Credit Unions	501,707	559,904	599,373
Kansas Dental Board	142,138	146,989	153,307
Board of Healing Arts	1,252,182	1,098,368	1,129,801
Board of Examiners for Hearing Aids	11,516	13,724	13,724
Board of Mortuary Arts	126,173	134,225	139,107
Board of Nursing	626,434	688,194	703,871
Board of Optometry Examiners	29,199	33,224	35,603
Board of Pharmacy	328,214	340,492	350,395
Real Estate Commission	496,990	593,187	596,322
Savings and Loan Department	223,013	204,215	197,612
Office of Securities Commissioner	1,217,385	1,273,456	1,288,278
Board of Technical Professions	250,375	268,322	274,400
Board of Veterinary Examiners	58,179	103,273	115,474

*g.o. 2-11-91
attachment 1-3*

BOARD OF EXAMINERS FOR HEARING AIDS

Expenditure	Actual FY 90	Agency Est. FY 91	Governor's Rec. FY 91	Agency Req. FY 92	Governor's Rec. FY 92*
State Operations:					
Special Revenue Fund	\$ 11,516	\$ 13,724	\$ 13,724	\$ 15,034	\$ 13,724
Percentage Change	1.4%	19.2%	19.2%	9.5%	0.0%
FTE Positions	0	0	0	0	0

* Excludes amounts reserved for employee compensation.

BUDGET SUMMARY

A. FY 1991. The Board estimates it will spend \$13,724 in FY 1991, which is the amount approved.

The Governor concurs with the Board's estimate of \$13,724.

B. FY 1992. The Board's FY 1992 request is \$15,034, an increase of \$1,310 over the current year. The increase is accounted for primarily by increases in salaries (\$421), travel (\$350), and fees for professional services (\$400).

For FY 1992, the Governor recommends expenditures of \$13,724, the same amount estimated for the current year and a reduction of \$1,310 from the Board's request.

C. Fee Fund Analysis. The Board raised some of its fees to their statutory limits in 1990, in response to a revenue shortfall that would have seriously affected the Board's fee fund by FY 1992. (The annual license renewal fee was increased from \$25 to \$50, the late renewal fee from \$5 to \$100, and the extended late renewal fee from \$10 to \$200.) The increases appear to have stabilized the Board's fee fund revenues.

An analysis of the Board's fee fund based on the Governor's recommendation is shown below:

Resource Estimate	Actual FY 90	Gov. Rec. FY 91	Gov. Rec. FY 92
Beginning Balance	\$ 22,103	\$ 23,359	\$ 23,395
Net Receipts	12,772	13,760	13,760
Total Funds Available	<u>\$ 34,875</u>	<u>\$ 37,119</u>	<u>\$ 37,155</u>
Less: Expenditures	11,516	13,724	13,724
Ending Balance	<u><u>\$ 23,359</u></u>	<u><u>\$ 23,395</u></u>	<u><u>\$ 23,431</u></u>

STATE OPERATIONS

<u>Item</u>	<u>Governor's Recommendation</u>
<p>A. Salaries and Wages. For FY 1991, the Board estimates expenditures of \$10,241 for salaries and wages. The amount includes \$3,943 for the salary of the Board member who serves as Executive Secretary, \$840 for the per diem compensation of the five Board members to attend regular meetings, and \$4,661 for the hourly wages of an employee who works 10 to 12 hours a week. For FY 1992, the Board requests \$10,662 for salaries. Changes from FY 1991 to FY 1992 include an increase of \$158 in the Executive Director's salary and an increase of \$179 in the salary of the part-time employee.</p>	<p>A. For FY 1991, the Governor recommends \$10,244 for salaries, which is the amount estimated by the Board with a \$3 adjustment in fringe benefits. For FY 1992, the Governor recommends \$10,296, which would fund salaries at the same level as in the current year, with adjustments in fringe benefits to reflect FY 1992 rates. (Staff Note: In the Governor's FY 1992 recommendations, there is a reserve of funds for unclassified and other salary increases that is not reflected in individual agency budgets.)</p>
<p>B. All Other Expenditures. All other expenditures total \$3,483 in FY 1991 and \$4,372 in FY 1992. Included are expenditures for phones and postage, estimated to be \$750 in FY 1991 and \$827 in FY 1992. The increase is due to plans to mail to licensees copies of Board rules and regulations and a roster of licensees. Printing is estimated to be \$500 in both FY 1991 and FY 1992 and travel and subsistence is estimated to be \$1,350 in FY 1991 and \$1,700 in FY 1992. The request for travel for FY 1992 reflects perfect attendance at Board meetings. Fees for professional services are estimated to be \$100 in FY 1991 and \$500 in FY 1992. According to the Board, the increase is requested in order to enable it to pay the expenses of licensees who are occasionally asked to assist the Executive Secretary in investigating complaints. Office supplies are estimated to be \$688 in FY 1991 and \$750 in FY 1992.</p>	<p>B. The Governor concurs with the Board' estimate for FY 1991 of \$3,483. For FY 1992, all other expenditures recommended by the Governor total \$3,428, virtually the same level as the current year. Printing is reduced from \$500 to \$422 and travel is increased from \$1,350 to \$1,373. All other items are at the FY 1991 level.</p>

ABSTRACTERS' BOARD OF EXAMINERS

Expenditure	Actual FY 90	Agency Est. FY 91	Governor's Rec. FY 91	Agency Req. FY 92	Governor's Rec. FY 92*
Fee Fund:					
State Operations	\$ 15,407	\$ 16,115	\$ 16,124	\$ 16,225	\$ 16,236
Percentage Change:					
All Funds	2.0%	4.6%	4.7%	0.7%	0.7%
FTE Positions	--	--	--	--	--

* Excludes amounts reserved for employee compensation.

BUDGET SUMMARY

A. **FY 1991.** The Board estimates FY 1991 expenditures of \$16,115, a decrease of \$865 from the expenditure limitation of \$16,980 approved by the 1990 Legislature.

The Governor recommends expenditures of \$16,124, an increase of \$9 above the agency estimate. The recommendation reflects the agency estimate with adjustments for employee fringe benefits

B. **FY 1992.** The Board requests \$16,225 in FY 1992, an increase of \$110 over the FY 1991 estimate.

The Governor recommends FY 1992 expenditures of \$16,236, an increase of \$11 above the agency request. The recommendation reflects the agency request with adjustments for employee fringe benefits.

C. **Fee Fund Analysis.** The Board collects fees for examining all individuals and licensing all individuals and firms selling abstracts of title to Kansas real estate. For several years, the agency's fee fund was being depleted of its carryover balance because the agency annually spent more than it collected in fees. Effective November 1989, however, the Board increased the fees for examinations and licensure from \$25 to \$35 in order to generate more fees. The Board anticipates that this increase will stop the depletion of the Board's fee fund balance. The following table summarizes the status of the fee fund as requested by the agency and as recommended by the Governor:

Resource Estimate	Actual FY 90	Agency Est. FY 91	Gov. Rec. FY 91	Agency Req. FY 92	Gov. Rec. FY 92
Beginning Balance	\$ 6,581	\$ 7,122	\$ 7,122	\$ 8,283	\$ 7,378
Net Receipts	15,948	17,276	16,380	16,380	16,380
Total Funds Available	\$ 22,529	\$ 24,398	\$ 23,502	\$ 24,663	\$ 23,758
Less: Expenditures	15,407	16,115	16,124	16,245	16,236
Ending Balance	\$ 7,122	\$ 8,283	\$ 7,378	\$ 8,418	\$ 7,522

Abstracters' Board
J.O. 2-11-91
attachment 1-6

STATE OPERATIONS

Item	Governor's Recommendation
<p>1. Salaries and Benefits. The Board requests \$13,575 in FY 1992 and \$13,565 in FY 1991 for its two part-time staff and for Board member compensation. The Board has a part-time Executive Secretary and a part-time secretary and has no full-time staff. Actual FY 1990 expenditures were \$13,169. The agency states that it does not anticipate increasing salaries in FY 1992 because it does not want to deplete the fee fund balance. (Staff Note: The agency understates the amount necessary for fringe benefits in both FY 1992 and FY 1991. The revised totals for salaries and wages would be \$13,586 in FY 1992 and \$13,574 in FY 1991.)</p>	<p>1. The Governor recommends \$13,586 for salaries and wages in FY 1992 and \$13,574 for salaries and wages in FY 1991. The recommendations reflect the agency request with adjustments for employee fringe benefits. The Governor's recommendation for FY 1992 includes a reserve of funds for step movement, longevity bonuses, unclassified merit pool, and a cost-of-living increase; but these items are excluded from the detailed expenditure estimates for each agency.</p>
<p>2. Other Operating Expenditures. The Board requests operating expenditures of \$2,650 in FY 1992 and \$2,550 in FY 1991. Actual expenditures in FY 1990 were \$2,238. Included in the FY 1992 request is \$350 for communications (telephone service and postage), \$400 for printing and advertising, \$250 for rents and utilities, \$1,300 for travel and subsistence, and \$350 for stationery and office supplies.</p>	<p>2. The Governor concurs with the agency request of \$2,650 for other operating expenditures in FY 1992 and with the FY 1991 estimate of \$2,550.</p>

BOARD OF OPTOMETRY EXAMINERS

Expenditure	Actual FY 90	Agency Est. FY 91	Governor's Rec. FY 91	Agency Req. FY 92	Governor's Rec. FY 92*
State Operations:					
Special Revenue Fund	\$ 29,199	\$ 36,200	\$ 33,224	\$ 39,000	\$ 35,603
Percentage Change	11.5%	24.0%	13.8%	7.7%	7.2%
FTE Positions	0.3	0.3	0.3	0.3	0.3

* Excludes amounts reserved for employee compensation.

BUDGET SUMMARY

A. **FY 1991.** The agency requests FY 1991 expenditures of \$36,200, a decrease of \$1,125 from the amount approved by the 1990 Legislature. The decrease is due to turnover in wages and salaries (\$747), and decreases in costs for communication (\$1,250), printing and advertising (\$1,150), fees -- other services (\$829), and rents (\$250). These decreases are partially offset by increases in costs for travel and subsistence (\$200) and for fees -- professional services (\$3,300).

The Governor recommends FY 1991 expenditures of \$33,224, a decrease of \$4,101 from the amount approved by the 1990 Legislature. Recommended are decreased expenditures for salaries and wages (\$1,109), communications (\$1,250), printing and advertising (\$1,150), rents (\$250), fees -- other services (\$829), and stationery and office supplies (\$150). The recommended decreases are offset by recommended increases for travel and subsistence (\$200) and for fees -- professional services (\$437).

B. **FY 1992.** The agency requests expenditures of \$39,000, an increase of \$2,800, or 7.7 percent, over the current year request. The request would continue the present staffing of a 0.3 FTE position, and would permit the current level of operations to continue.

The Governor recommends FY 1992 expenditures of \$35,603, a reduction of \$3,397 from the agency's request. The recommendation includes reductions in salaries and wages (\$933), fees -- other services (\$13), fees -- professional services (\$2,701), as well as an increase for stationery and office supplies (\$250).

C. **Fee Fund Analysis.** The Board receives most of its revenue from fees for the renewal of practitioners' licenses, which are collected annually. Other revenue is derived from examination fees and fees for new licenses. From FY 1980 to FY 1986, license renewal fees were set at the statutory maximum of \$75 per year. The Board reduced the fee to \$40 in FY 1987 and FY 1988 in response to high ending balances in the fee fund. The renewal fee was increased to \$50 in FY 1989, and to \$60 in FY 1990. The Board reports increasing demands on its budget by the impaired provider program, and the need to engage legal counsel due to legislation regulating the practice of optometry passed by the 1990 Legislature (L. 1990, Ch. 223), in view of which the Board proposes to promulgate rules and regulations during FY 1991 to adopt fee increases as indicated below:

	Actual FY 1990	Requested FY 1991	Requested FY 1992	Statutory Limit
License Fee	\$10.00	\$10.00	\$30.00	\$30.00
License Renewal Fee	50.00	60.00	100.00	100.00
Examination Fee	75.00	150.00	150.00	150.00
Exam -- First Repeat	37.50	75.00	75.00	75.00
Exam -- Second Repeat	22.50	45.00	45.00	45.00
Renewal Penalty	0.00	0.00	300.00	500.00

The Board's requested fee schedule for FY 1991 will generate funds that are less than the estimated budget request. The fee schedule for FY 1992 will generate funds that are greater than the agency's request.

The Governor recommends the following fee schedule for both FY 1991 and FY 1992.

	Governor's Recommendation	Statutory Limit
License Fee	\$25.00	\$30.00
License Renewal Fee	90.00	100.00
Examination Fee	130.00	150.00
Exam -- First Repeat	50.00	75.00
Exam -- Second Repeat	35.00	45.00
Renewal Penalty	300.00	500.00

The status of the Optometry Fee Fund, reflecting the recommendations of the Governor, is shown below:

Resource Estimate	Actual FY 90	Gov. Rec. FY 91	Gov. Rec. FY 92
Beginning Balance	\$ 43,649	\$ 38,296	\$ 30,470
Net Receipts	23,846	25,398	46,195
Total Funds Available	\$ 67,495	\$ 63,694	\$ 76,665
Less: Expenditures	29,199	33,224	35,603
Ending Balance	\$ 38,296	\$ 30,470	\$ 41,062

STATE OPERATIONS

Item	Governor's Recommendation
A. Salaries and Wages. The agency requests \$9,739 for salaries and wages in FY 1992, an increase of \$250 over the revised current year estimate. The request includes funding for the salaries of the 0.3 FTE secretary and the secretary-treasurer of the Board, as well as \$1,500 for compensation for three board members for attendance at board meetings. A \$500 increase for the services of the part-time clerical employee is requested. Actual costs for FY 1990 totalled \$6,602. (Staff Note: the Board's estimates for	A. The Governor recommends \$8,766 for salaries and wages in FY 1991 a decrease of \$363 from the agency's revised current year estimate. For FY 1992, the Governor recommends expenditures for salaries and wages of \$8,806. The Governor's recommendation for FY 1992 includes a reserve of funds for step movement, longevity bonuses, unclassified merit pool, and a cost-of-living increase; but these items are excluded from the detailed expenditure estimates for each agency.

Item	Governor's Recommendation
<p>the funding of fringe benefits are overstated by \$360 for FY 1991 and by \$386 for FY 1992.)</p>	
<p>B. Communications. The agency estimates communications expenditures of \$500 in FY 1991, \$1,250 less than the amount approved by the 1990 Legislature. For FY 1992, the agency requests \$500. Actual FY 1990 expenditures for communications were \$386.</p>	<p>B. The Governor concurs with the agency's FY 1991 estimate and its FY 1992 request for communications expenditures.</p>
<p>C. Printing. The agency estimates printing expenditures of \$600 in FY 1991. This is \$1,150 less than the amount approved by the 1990 Legislature. For FY 1992, the agency requests \$600. Actual FY 1990 printing expenditures were \$399.</p>	<p>C. The Governor concurs with the agency's FY 1991 estimate and its FY 1992 request for printing expenditures.</p>
<p>D. Travel and Subsistence. Expenditures for travel and subsistence totalling \$3,800 are estimated by the agency for FY 1991. This represents an increase of \$200 over the amount approved by the 1990 Legislature. For FY 1992, the agency requests \$4,300, an increase of 13 percent over the current year estimate. Travel and subsistence expenditures totalling \$3,758 are reported by the agency for FY 1990.</p>	<p>D. The Governor concurs with the agency's FY 1991 estimate and its FY 1992 request for travel and subsistence costs.</p>
<p>E. Fees -- Professional Services. The agency estimates expenditures for fees -- professional services of \$21,300 for FY 1991, or \$3,300 more than the amount approved by the 1990 Legislature. For FY 1992, the agency requests \$22,981, an increase of 7.9 percent over the revised current year estimate. The professional services required are apparently almost exclusively linked to legal matters including attorney fees, expenses, court reporters, medical consultations, monitoring Federal Trade Commission actions and updating rules and regulations. The agency reports actual FY 1990 expenditures for fees -- professional services of \$16,761.</p>	<p>E. The Governor recommends FY 1991 expenditures of \$18,437, a decrease of \$2,863 from the agency's revised current year estimate. For FY 1992, the Governor recommends expenditures of \$20,280, a decrease of \$2,701 from the agency's request.</p>
<p>F. All Other Expenditures. The agency estimates expenditures of \$871 for the current year. This amount includes \$171 for fees -- other services (or \$829 less than the amount approved by the 1990 Legislature), and \$700 for other contractual services (the amount approved by the 1990 Legislature). For FY 1992, the agency requests \$800 -- including \$180 for fees -- other services and \$700 for other contractual services. The agency makes no estimate for stationery and office supplies for FY 1991, nor does it request expenditures in this area for FY 1992, although \$400 was approved for such expenditures by the 1990 Legislature. All other expenditures for FY 1990 totalled \$1,043.</p>	<p>F. For FY 1991, the Governor recommends expenditures of \$1,121, an increase of \$250 over the agency's revised current year estimate. The increase is accounted for by a recommendation for \$250 for stationery and office supplies; the agency estimated no expenditures for stationery and office supplies. The Governor concurs with the agency's estimate for fees -- other services and other contractual services. For FY 1992, the Governor recommends reducing the agency's request for fees -- other services by \$13, concurs with the agency's request of \$700 for other contractual services, and recommends expenditures of \$250 for stationery and office supplies for which the agency made no request.</p>

HOUSE BILL No. 2062

By Committee on Governmental Organization

1-29

8 AN ACT concerning auctioneers; providing for licensure and
9 regulation.

10

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

12 Section 1. From and after July 1, 1991, no person shall act or
presume to act as an auctioneer in this state unless such person has
a current license in good standing issued by the board.

13 Sec. 2. (a) "Auctioneer" means a person who knowingly creates
16 or abets the inference of being available to sell, offer to sell at auction
17 real or personal property, goods, chattel, merchandise, or commod-
18 ities of any description by or at public auction or who sells property
19 at auction.

20 (b) "Auction facility" means any business establishment or other
21 location owned, leased, or controlled by any entity other than a duly
22 licensed auctioneer where goods are sold or are advertised to be
23 sold, at auction on any recurring basis.

24 (c) "Property" means any chattels, goods or merchandise, real or
25 personal or commodities of any form or type which may be lawfully
26 kept or offered for sale.

27 (d) "Auction" means the public sale of property real or personal,
28 or both, in which the sale price of the property offered is increased
29 by bids until the highest accepted bidder becomes the purchaser.

30 (e) "Absolute auction" means an auction where at the time of
advertising and at the time of auction sale, ownership of the goods
to be sold will pass to the highest bidder regardless of the amount
33 of the highest and last bid.

34 (f) "Association" means a voluntary association of licensed auc-
35 tioneers organized to improve and promote the auction method of
36 sales.

37 (g) "Auction manager" means any person, individual, corporation
38 or other entity who knowingly represents, creates or abets the in-
39 ference of being available to manage or operate an auction and who
40 is responsible for collection and disbursing of auction funds.

41 (h) "Board" means the auctioneers board created by ~~sections 3~~
and 4.

section

composed as provided by section

Sec. 3. (a) There is hereby created the auctioneers board and

g.o 2-11-91
attachment 2

g.o 2-11-91
attachment 2

1 uelegates to the board. The board may adopt rules and regulations
2 reasonable and necessary for the orderly licensing and regulation of
3 the auctioneering profession and the protection of the public.

4 (b) The board may:

5 (1) Establish and collect reasonable license fees and fees for an-
6 nual renewal thereof;

7 (2) employ staff and support personnel for the conduct of business
8 and to assure compliance with this statute. Such employees shall be
9 in the classified service of the Kansas civil service act. In accordance
10 with appropriations, the board shall obtain office space, furniture,
11 stationary, and other proper supplies and conveniences reasonably

12 necessary to carry out the provisions of this act;

13 (3) conduct investigations and hold hearings;

14 (4) administer written and oral examinations as a prerequisite to
15 issuing a license; and

16 (5) procure liability insurance or other insurance as provided by
17 law.

18 Sec. 4. (a) The board shall consist of five members, ~~three of~~
19 ~~whom shall be licensed auctioneers and two of whom shall be non-~~
20 ~~auctioneers~~ who shall be appointed by the governor ~~from lists of~~
21 ~~nominees furnished by the Kansas auctioneers association.~~ The auc-
22 ~~tioneer members shall be appointed from a list of six persons, and~~
23 ~~the nonauctioneers from a list of four persons.~~ The governor shall
24 designate one member of the board as chairperson and one as vice
25 chairperson. At least three members shall be present for the board
26 to take final action on any matter. ~~All nominees shall possess the~~
27 ~~following minimum qualifications:~~

28 (1) ~~Nominees shall have five years' experience as an auctioneer,~~
29 ~~but this shall not be applicable to nonauctioneer members;~~

30 (2) ~~the members of the board immediately prior to appointment~~
31 ~~shall have been residents of this state for at least five years;~~

32 (3) ~~nominees shall be of good reputation and moral character.~~

33 (b) The governor shall appoint the members of the initial board
34 for the following terms:

35 (1) One member for a term of one year;

36 (2) two members for terms of two years;

37 (3) two members for terms of three years.

38 Subsequent appointments shall be for three-year terms except for
39 interim appointments to fill unexpired terms which shall be only for
40 the remainder of the unexpired term.

41 (c) For attendance at authorized meetings of the board, members
42 shall be paid \$25 compensation per day of the meeting and expense
43 amounts as provided by subsection (e) of K.S.A. 75-3223 and amend-

Three members of the board shall be licensed
auctioneers and two members of the board shall be
nonauctioneers. The members of the board shall be
of good reputation and moral character and shall
have been residents of this state for at least
five years immediately prior to appointment.

of the board

have had experience as an auctioneer for at least
five years immediately prior to appointment

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attachment 2-2

ments thereto.

2 Sec. 5. (a) There is hereby established two classes of auctioneers'
3 licenses: Auctioneer and auction facility/auction manager.

4 (b) All applicants for a license under this act shall possess the
5 following minimum qualifications:

- 6 (1) Be 18 years of age as of date of application;
- 7 (2) have a high school diploma or a G.E.D. certificate; and
- 8 (3) have had eight classroom hours of study with a recognized
9 institution of instruction in the auctioneering profession.

10 (c) Each applicant for a license under this act shall satisfy the
11 board that such person is of good moral character and worthy of
12 public trust through background information to be provided with the
13 application form. The board may in questionable situations require
14 additional information and personal interview with the applicant to
15 determine if a license should be granted.

16 (d) Each applicant for a license under this act shall take and
17 successfully complete an examination as prescribed by the board.
18 The examination shall include questions on ethics, reading, writing,
19 spelling, elementary arithmetic, elementary principles of land eco-
20 nomics and a general knowledge of the statutes relating to the bulk
21 sales law, deeds, mortgages, contracts of sale, agency, leases, auc-
22 tions, brokerage and the provisions of this law and rules and reg-
23 ulations adopted pursuant to it. There shall be separate examinations
24 for auction facility/auction manager and auctioneer applicants, each
25 based upon relevant subject matter appropriate to the license clas-
26 sification. Examinations shall be administered at least monthly and
27 at the board's discretion, special examinations may be administered
28 in exigent circumstances.

29 (e) In order to defray the cost of administration of the exami-
30 nations, applicants for the examination shall pay reasonable fees as
31 established by the board.

32 (f) There is hereby created the board of auctioneers fee fund.
33 Except as provided for amounts to be deposited in the auctioneers
34 recovery fund, the board of auctioneers shall remit all moneys re-
35 ceived by or for it from fees, charges or penalties to the state
36 treasurer at least monthly. Upon receipt of each such remittance,
37 the state treasurer shall deposit the entire amount thereof in the
38 state treasury. Of each such deposit 20% shall be credited to the
39 state general fund, for the purposes stated in K.S.A. 75-3170a and
40 amendments thereto and the balance shall be credited to the board
41 of auctioneers fee fund. All expenditures from the board of aucti-
oneers fee fund shall be made in accordance with appropriation acts
upon warrants of the director of accounts and reports issued pursuant

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1 to vouchers approved by the chairperson of the board of auctioneers
2 or by a person or persons designated by the chairperson.

3 Sec. 6. (a) There is hereby established an auctioneer recovery
4 fund, to be administered by the state treasurer as a separate fund
5 with money collected from fees established under this section.

6 (b) In addition to the license and renewal fees required by section
7 3, the board shall collect ~~a fee of \$100 for the first year, and \$50~~
8 ~~for each subsequent year, from each licensee at the time of license~~
9 ~~application or license renewal. These funds shall be deposited by~~
10 ~~the state treasurer into the auctioneer recovery fund.~~

a fee of \$100 for the first year of licensure and
\$50 for each subsequent year as necessary to attain
and maintain a balance of not less than \$100,000
in the fund

(c) The purpose of the fund shall be as follows:

11 (1) When an auctioneer has been found guilty of violating any
12 of the provisions of this act or the rules and regulations adopted by
13 the board and upon the entry of a final decision by the board or if
14 appealed, a district court order, the board is authorized to pay the
15 aggrieved party or parties an aggregate amount not to exceed \$5,000
16 for the first \$20,000 in the fund, \$10,000 for the first \$40,000 in the
17 fund, and a maximum of \$20,000 when the fund equals or exceeds
18 \$100,000, against any one auctioneer provided that the auctioneer
19 has refused to pay such claim within a period of 20 days of entry
20 of the final decision by the board or by the district court if appealed.

Fees paid to the board pursuant to this subsection
shall be remitted to the state treasurer and

21 (2) ~~The board shall maintain a minimum level of \$20,000 in the~~
22 ~~fund for recovery and guaranty purposes. These funds may be in-~~
23 ~~vested and reinvested by the state treasurer in interest bearing ac-~~
24 ~~counts, such interest accrued being added to the fund. Sufficient~~
25 ~~liquidity shall be maintained so that there shall be money available~~
26 ~~to satisfy any and all claims which may be processed through the~~
27 ~~board.~~

in the state treasury

and credited to

pooled money investment

28 ~~(3) The board in its discretion, may use all funds in excess of~~
29 ~~\$100,000 for the following purposes:~~

30 (A) To carry out the advancement of education and research in
31 the auctioneering profession for the benefit of those licensed under
32 the provisions of this act and the improvement of efficiency of the
33 industry;

34 (B) to underwrite educational seminars, training centers, and
35 other forms of educational projects for the use and benefit generally
36 of licensees;

37 (C) to sponsor, contract for, and underwrite any and all other
38 educational and research projects of a similar nature having to do
39 with the advancement of the auctioneer profession in Kansas; and

40 (D) to cooperate with associations of auctioneers and any and all
41 groups for the enlightenment and advancement of the auctioneer
42 profession in Kansas.

may invest and reinvest the moneys in the fund in: (A) Direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America; (B) interest-bearing time deposits in any commercial bank located in Kansas, except that the amount so invested in any such bank or trust company shall not exceed an amount equal to the total capital and surplus of such bank or trust company and shall be secured in the manner prescribed by subsections (a) through (e) of K.S.A. 75-4218, an amendments thereto; (C) if the pooled money investment board determines that it is impossible to deposit such moneys in such time deposits, in repurchase agreements of less than 30 days' duration with a Kansas bank or with a primary government securities dealer which reports to the market reports division of the federal reserve bank of New York for direct obligations of, or obligations that are insured as to principal and interest by, the United States government or any agency thereof; or (D) in shares or accounts in savings and loan associations insured by the federal savings and loan insurance corporation, or other federal agency, to the extent covered by such insurance. All moneys received as interest earned by the investment of the moneys in the fund shall be credited

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2 Sec. 7. (a) If a licensee is adjudged guilty of violating a section
 3 of this act or the rules and regulations adopted by the board, and
 4 if the amount of the money lost by the aggrieved party or parties
 5 is in dispute or cannot be determined accurately, the amount of
 6 damages shall be determined by a district court, provided that the
 7 board has previously determined that a violation of the license laws
 8 or rules and regulations has occurred and a final order has been
 9 entered.

10 (b) If such an order has been entered and the auctioneer license
 11 rights of the licensee have been finally adjudicated, then the district
 12 court shall make a finding as to the monetary damages resulting
 13 from the violation or violations.

14 (c) When a final order has been entered by the district court,
 15 and upon certification to the board, the aggrieved party or parties
 16 shall be paid such amount or amounts in the aggregate not to exceed
 17 \$20,000 by the board, and the auctioneer's license held by the
 18 licensee against whom the claim was made by the aggrieved party
 19 shall be suspended until such time as the licensee has reimbursed
 20 the auctioneer recovery fund for all amounts paid to the aggrieved
 21 party due to the violation of the licensee.

22 (d) When, upon the final order of the district court, the board
 23 has paid from the auctioneer recovery fund any sum to the aggrieved
 24 party, the board shall be subrogated to all of the rights of the
 25 aggrieved party to the extent of the payment and the aggrieved party
 26 shall to the extent of the payment assign right, title, and interest
 27 in the judgment to the board.

28 (e) All the claims for monetary damages or relief from the auc-
 29 tioneer recovery fund must be made in writing on a proof of loss
 30 form submitted to the board within six months of the act of the
 31 auctioneer giving rise to the loss. Failure to file such claims within
 32 the six-month period shall bar the claim. Additional evidence shall
 33 be submitted by the claimant if required by the board.

34 (f) No claims shall be approved under this section for amounts
 35 which, in the aggregate, exceed the maximum payable on account
 36 of any one license in effect at the time of the act or acts of the
 37 licensee giving rise to the claims, except to the extent of the
 38 maximum.

39 Sec. 8. All licenses granted pursuant to this act shall be for one
 40 year and shall expire on June 30. The initial issuance of a license
 41 shall be for the period from time of issue until June 30. Annual
 license fees shall be set from time to time by the board with a
 maximum annual fee of \$100. Individuals failing to renew the license
 within 30 days after June 30 shall be required to successfully pass

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 attachment 2-5*

1 the examination in order to obtain the license and to pay a renewal
2 fee of \$200.

3 Sec. 9. Proceedings under this act shall be conducted in ac-
4 cordance with the Kansas administrative procedure act. Judicial re-
5 view and civil enforcement of agency actions under this act shall be
6 in accordance with the act for judicial review and civil enforcement
7 of agency actions.

8 Sec. 10. (a) From and after the effective date of this act and for
9 a period of ~~six~~ months thereafter, any person including nonresidents
10 who have practiced the auctioneering profession in this state for at
11 least one year prior to the passage of this act may apply for an
12 auctioneer's license without examination. The requirements for such
13 an application are as follows:

12

14 (1) Submit an application as outlined in section 5;

15 (2) Submit an affidavit that such person has been a practicing
16 auctioneer for at least one year prior to the passage of this act, and
17 has actually called bids in five sales in the past year;

18 (3) tender with the application the license fee of \$100;

19 (4) tender an initial contribution to the auctioneer recovery fund
20 in the amount of \$100.

21 (b) Upon verification of the information contained in the appli-
22 cation and the individual is found to be otherwise qualified, the
23 board shall issue the applicant a license without the examination.

24 Sec. 11. Any auctioneer who is licensed in a state which has a
25 licensing law substantially the same or equivalent to this act, or
26 which state's licensing requirements are equal to the requirements
27 of this act, and which state's licensing law has been reviewed and
28 approved by the board, and which state's board has entered into a
29 reciprocal licensing agreement with the state of Kansas, may apply
30 for and be granted a license without examination. Applicants for a
31 license through reciprocity shall furnish the board a copy of the
32 license from the state of residence and the same information as that
33 required of resident applicants. In addition, nonresident applicants
34 shall pay to the board the fee required for the auctioneer recovery
35 fund.

36 Sec. 12. Commission of any of the following acts by a licensee
37 shall be a violation of this act, and may subject the licensee to the
38 disciplinary provisions contained herein:

39 (a) Knowingly filing or causing to be filed a false application;

40 (b) failure to enter into a written contract with a seller or con-
41 signor prior to placing or permitting advertising for an auction sale
42 to be placed. The appearance of a licensee's name in advertising
43 creates a rebuttable presumption that the advertising was placed

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with the licensee's knowledge;

(c) failure by the licensee to give the seller or consignor a signed receipt for items received for sale at auction, either by items or by lot at the time the goods are received, unless the goods are to remain in the possession of the seller or the consignor;

(d) failure to give the seller and the purchaser of goods sold at auction a statement indicating the item or lot description, selling price, purchaser's identity, and the net proceeds due to the seller or consignor;

(e) unless contemporaneous payment is made to the consignor, failure to place funds received from an auction sale in an escrow or trust account, and failure to make a timely settlement on escrowed funds absent a written agreement to the contrary, 10 business days shall be deemed timely for settlement on personal property, and 30 days on real property;

(f) permitting an unlicensed auctioneer to call for bids in an auction sale;

(g) being convicted of one or more felonies;

(h) any course of intentional or wanton conduct by a licensee which misleads or creates a false impression among the seller, buyer, bidders, and the auctioneer in the advertising, conduct or closing of an auction sale;

(i) violations of this act or rules and regulations of the board.

Sec. 13. The auction facility/auction manager or firm license is intended for those which have recurring sales, receive goods from numerous consignors during extended periods, and only use a licensed auctioneer to call bids and strike the bargain between buyer and seller.

In addition to the other requirements contained in this act, the holder of an auction facility/auction manager license shall comply with the following:

(a) Enter into a written contract with a licensed auctioneer to call bids prior to the start of an auction sale. A copy of the contract shall be maintained on the premises and available for inspection by the public;

(b) conspicuously post at the facility location the license and the name of the licensee;

(c) maintain complete records of each sale held at the licensed premises, to include, but not limited to, consignment receipts, bidder registrations, final settlements with consignors, and any other documents relevant to the conduct of the sale. These records shall be maintained for one year from the date of the sale;

(d) maintain a file on all current and past employees of the auction

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attachment 2-7*

facility for the previous three years. Such file shall contain the employee's name, last known address, social security number and date of birth;

(e) assume responsibility for all checks, drafts, and other negotiable instruments tendered by buyers in payment for goods sold through the auction gallery;

(f) deposit all proceeds from the auction sales into the licensee's escrow account, and make all disbursements from the escrow account; and

(g) make all records pertaining to the auction facility available to a member or employee of the board for inspection upon demand.

Sec. 14. The license requirements contained in this act shall not apply to any of the following types of auction sales:

(a) Sales of goods by an individual who personally owns the goods, and who did not acquire the goods for the purpose of resale. This exemption applies only to individuals, and not to partnerships, corporations or other entities;

(b) sales conducted for any charitable, religious or civic organization which has tax-exempt status, and for which the auctioneer receives no compensation;

(c) sales required by law to be held at auction, or sales ordered to be held at auction by a court of competent jurisdiction;

(d) any livestock auction facility licensed under federal law relating to packers and stockyards act;

(e) any auction facility when utilized for the purposes defined in subsection (jj) of K.S.A. 1990 Supp. 8-2402 and amendments thereto and any auction manager licensed under the vehicle dealers and manufacturers licensing act while engaged in performing the duties such manager is authorized to perform under the vehicle dealers and manufacturers licensing act, except that a nonmanager auctioneer performing auctioneer duties shall not be exempt from licensure requirements under this subsection; and

(f) notwithstanding the provisions of this section, no licensee under this act shall be exempted from any of the provisions of this act by reason of participation in any sale excepted under this section.

Sec. 15. Violation of this act is a class C misdemeanor.

Sec. 16. This act shall take effect and be in force from and after its publication in the statute book.

upon being charged with a violation of this act or rules and regulations of the board,

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Attachment 2-8*

*J.O. 2-11-91
attachment 2-8*

HOUSE GOVERNMENTAL ORGANIZATION COMMITTEE
TESTIMONY RE: HB 2062

Presented by Milton Anderson on behalf of
THE KANSAS AUCTIONEERS ASSOCIATION
February 11, 1991

Mr. Chairman, members of the committee:

My name is Milton Anderson. I am a member of the Kansas Auctioneers Association and have been a member of the auctioneering profession for 21 years.

House Bill 2062 would provide adequate self-funding to its regulatory board, as well as funds to the State of Kansas. An estimated 600 individuals are currently involved in the auction profession. Each of those members would be required to pay a \$100 licensure fee. Eighty percent (\$48,000) would be directed to the regulatory board. The remaining 20% (\$12,000) would be deposited in the general fund of the State of Kansas. In addition, licensed professionals would submit monies to provide a \$20,000 recovery fund for consumers. Associations comparable to the KAA within the state have indicated these figures will adequately support the regulatory board with no further assistance required.

Because the livelihood of many auctioneers is based on the auction industry, a need for respect and professional standards exists. An auctioneer has the potential to handle hundreds of thousands of dollars for consumers, yet the industry remains completely unregulated. The same is not said of other industries such as attorneys, bankers, CPA's, plumbers, electricians, etc., who determine the fate of such large sums of money.

If our profession is to serve the needs of federal and state governmental agencies wishing to foreclose or dispose of surplus, such as Freddie Mac, Fannie Mae, FHA & VA, the industry will imminently be required to provide accountability such as bonding and licensure. It would be wise for an industry to have input on such regulations. The association would ultimately prefer input on licensure to ensure that regulations and requirements are feasible and realistic within its own profession. Members of each governing body such as the State of Nebraska, and the City of Topeka, have unanimously voted down licensure within their municipality and state, which were unrealistic and damaging to the rights of the seller as well as the auctioneer.

A regulatory board can also inform all auctioneers of state laws and regulations so that each auction conducted is consistent and within the boundaries of the legal system. Auctioneers who are not members of the Kansas Auctioneers Association currently do not have access to such information.

This bill is extremely important to the professional auctioneer, whose entire livelihood depends upon his success. This bill will serve as a tool for continuing education within the membership, and cause for better serving the public. The Sales Tax issue is an example. Inconsistent sales tax collections have occurred for years, primarily because of conflicts of regulations within the Department of Revenue. The KAA has worked closely with the Department of Revenue to incorporate legislation which makes these issues clearer. Auctioneers who collect sales tax properly, repeatedly get complaints from consumers because other auctioneers may not be taxing them.

The auction industry has dramatically changed in the last 4-5 years and will continue changing. Passage of this bill will provide guidelines and regulations for this industry before a crisis occurs. An auctioneer should be required to earn the right to handle any amount of money.

I strongly support House Bill 2062.

*g.o. 2-11-91
attachment 3*

HOUSE GOVERNMENTAL ORGANIZATION COMMITTEE
TESTIMONY RE: HB 2062

Presented by Bob Wilson on behalf of
THE KANSAS AUCTIONEERS ASSOCIATION

My name is Bob Wilson. I am President-Elect of the Kansas Auctioneers Association. President Leland Boesker was unable to attend because of a death in the family.

I would like to bring the requested amendments to House Bill 2062 to your attention. The copies before you indicate that amendments have been made on Page 2, Section 4, Line 18; Page 4, Section 6, Sub-section (b), Line 7; Page 4, Section 6(2), Line 22; Page 6, Section 10, Line 8; Page 8, Section 13, Sub-section (g), Line 10.

In 1989 the KAA membership unanimously endorsed Senate Bill 241. During that legislative session, it was suggested the bill be held in committee until a study of auctioneers throughout the state could be conducted. Such a study was done by the KAA while holding area wide meetings in May of 1989 and July of 1990. New laws affecting auctioneers and the licensure law were discussed. Approximately 200 auctioneers attended these sessions, a large percentage non-members of the Kansas Auctioneers Association. Each time the KAA membership has grown and more support has been shown for licensure. We estimate 350-450 auctioneers support this legislation. Conservatively, we would estimate that well in excess of 75% of the volume of sales conducted annually is represented by the persons of this association.

Auctioneers can and do handle large sums of money often cash. It is done without regulations prohibiting co-mingling of client's monies with their own, holding such monies in escrow account, or even requiring return of the money to the individual for whom the sale was conducted. If a garnishment were placed on an auctioneer's account co-mingled with a client, the client could be responsible for issues he has no knowledge of.

Being an auctioneer is more than "crying a sale". It requires knowledge about the products being offered for sale, appropriate marketplaces, various rules, laws and regulations applicable to possession, sale and transfer of personal property, and knowledge of the general rights and obligations of parties to a legal transaction with regard to personal property. These laws would include the bulk sales law and UCC provisions such as secured transactions, chattel mortgages, and lien foreclosures, all of which an auctioneer will be confronted with.

Opposers to this bill will debate this places a burden upon auctioneers to come into our state. The bill purposefully contains a grandfather clause that will ensure that any auctioneer, whether in state or out of state, who is actively engaged in the business of auctioneering for one year prior to the date of this act, is able to become an auctioneer in this state for simple payment of a \$100 fee. In addition, any out of state auctioneer coming from a state which is licensed will, in all probability, be able to reciprocate automatically pursuant to that section as well. Presently 26 states formally regulate auctioneers. Furthermore, Kansas Auctioneers will be able to function in other states with no expensive or time consuming regulations.

Auctioneering is a powerful means of enterprise. The entire life-savings of an individual can be liquidated in a few hours. Licensure would protect consumers and would provide an agency which could regulate activities and follow-up on grievances.

I therefore strongly support HB 2062.

g o 2-11-91
Attachment 4

HOUSE GOVERNMENTAL ORGANIZATION COMMITTEE
TESTIMONY RE: HB 2062

Presented by Bob Thummel on behalf of
THE KANSAS AUCTIONEERS ASSOCIATION
February 11, 1991

Mr. Chairman, members of the committee:

My name is Bob Thummel. I am Legislative Chairman for the Kansas Auctioneers Association.

Years ago when a licensure law was suggested to our organization, the membership was non-supportive. As more laws surface that effect autcioneers and more incidents of the general public being exposed to unscrupulous or incompetent auctioneers, that viewpoint has dramatically changed.

In regard to the unscrupulous auctioneer, I personally experienced a loss and have had limited avenues for compensation. An auctioneer from Colorado purchased a substantial amount of antique furniture from my auction. The check written for these items was returned for insufficient funds. I proceeded through the legal system which provided a monthly payment schedule for my reimbursement. However, the individual made only one monthly payment. I believe this individual is still an active auctioneer in Colorado. A licensing board would be able to investigate the circumstances, and monitor further activities. HB 2062 includes provisions for licensure to be revoked if warranted. The current laws are woefully inadequate. It is perfectly legal for an auctioneer who has been indicted, convicted, or suspended from practicing in another state to come into Kansas and conduct auctions.

I also have documentation from an individual in Wellington, Kansas who two years ago sold items here in Kansas that an Iowa compnay conducted. This person has yet to recover the \$5,600 due him for that merchandise. There are four more individuals who suffered monetary loss from this individual.

A license law will not solve all problems, however the benefit to the public and state will greatly surpass any burden placed upon individual auctioneers.

This bill will assist the public in becoming more knowledgeable consumers. Licensure will provide regulation of individuals who may be dishonest, incompetent or otherwise be of disservice to the profession and the state.

The Kansas Auctioneers Association has met with members of the Oklahoma, Nebraska, Missouri, and Iowa Associations to discuss reciprocal licensure. Colorado was unable to attend because of weather conditions. All associations agreed to attempt introduction of similar laws and to interchange licensure with states willing to do so.

I strongly urge you to support HB 2062.

J. O. 2-11-91
Attachment 5

Eagle Eye Construction
1316 Cherry
Winfield Ks 67156

February 9, 1991

To Whom it May Concern:

Hunter Auction Co. conducted an Auction for us in November of 1988, we thought they were a respectable Auction Co..

The written agreement was that they would pay us within ten working days, as of yet we have not received any money.

Auction receipts were \$54,400.00 .

We later found that they were'nt bonded or licensed in state of KS.

Sincerely

A handwritten signature in cursive script that reads "LeRoy Rakestraw". The signature is written in black ink and is positioned above the typed name.

LeRoy Rakestraw Owner

g. O. 2-11-91
attachment 5-2

Viking Services, Inc.

Logging and Perforating

1725 N. A St. • P.O. BOX 686 • WELLINGTON, KANSAS 67152
PHONE: (316) 326-8902

February 8, 1991

To Whom It May Concern,

Over two years ago I consigned construction equipment to an auction in Wichita, Kansas. The auction firm was from out of state but was supposedly a firm of reputable character. The items sold amounted to approximately \$7,000.00. After not receiving payment for the items sold within a few days after the auction I tried to contact the firm to find why I have not been paid. Numerous phone calls and correspondence were all in vain. To this day I have been unable to recover any of my money. Further investigation reveals other consignors were also not paid. It now appears the out of state auction firm has changed its corporate name and is operating under a different structure but with the same people.

I along with my attorney was appalled to learn that any person can claim to be and/or practice as an auctioneer in the State of Kansas without being licensed. I cannot believe any such individual should be given the authority to sell someone else property without any restrictions whatsoever.

I strongly urge the adoption of an auction license law that would prevent other people from being taken advantage of.

Please give this matter your thoughtful consideration and support.

Sincerely,



Viking Services, Inc.

R.C. Dixon

g. O. 2-11-91
attachment 5-3

Re: House Bill 2062
February 10, 1991
To: Governmental Organizational Committee
From: Larry Theurer

Mr. Chairman and Committee Members,

I am Larry Theurer an auctioneer and licensed real estate broker from Wellington, Ks. I am a member of the National and Kansas Auctioneers Associations and a member of the Kansas Livestock Association.

My agriculture background includes being born and raised on a livestock and grain farm, I have a B.S. from Kansas State University and a M.S. from Colorado State University, both degrees being in Animal Science. I owned and operated an extensive grain and livestock business from 1966 to 1985. I still maintain interest in the farm and livestock business.

I have been in the auction profession since 1976, and a full time auctioneer since 1985, conducting over 70 auctions in 1990. I have conducted auctions where the gross sales have ranged from as little as \$500 to those grossing several hundred thousand dollars. I have strived to operate my business by the Golden Rule. I have enjoyed being able to conduct a business with minimal regulations.

Times have changed and so is the auction business. No longer is an auction considered a last resort effort to sell property which no one wants. No longer are auctions used to sell only livestock, farm machinery, or household estates. Today auctions are being used to sell everything from fine arts and antiques to multimillion dollar buildings and shopping centers. Did you know an auction is the method used to establish the weekly government Treasury bill rates?

Today auction schools are graduating people in record numbers throughout the country. Anyone can profess to be an auctioneer in Kansas without any formal or informal training. He can hold the auction proceeds in his own personal bank account or put it in his pocket and run.

I do not want a law which keeps anyone from being an auctioneer nor do I want a license law that keeps other auctioneers from coming into Kansas or keeps me from practicing in other states. A reciprocity clause in the license law would overcome this problem. I understand purebred livestock owners being concerned about hiring out of state livestock auctioneers, but a full time professional auctioneer with any integrity should not be opposed to being licensed or paying a license fee. It should furthermore be noted that the monetary value of purebred livestock auctions are only a minimal portion of the total auction industry.

**Call Theurer
for Sure**

g.O. 2-11-91
Attachment 6

The time has come to enact an auction license law, a law that includes not only auctioneers but consumers on a regulatory board, and a law that protects the sellers as well as the consumers.

Respectively Submitted,

Larry Theurer

Larry Theurer, CAI

g. O. 2-11-90
attachment 6-2

COMMITTEE ON GOVERNMENTAL ORGANIZATION

ATTENTION:

MR CHAIRMAN AND MEMBERS OF THE COMMITTEE

- ## My name is Pat Keenan. I am an auctioneer and reside at 3621 19th Street, Great Bend, KS.
- ## Thank you for the opportunity to share my views on H.B. 2062
- ## Speaking in opposition to this bill
- ## I own and operate Keenan-Auction Co., 4312 10th Street Place, Great Bend, KS.
- ## Keenan Auction-Co. was founded in 1910 by my father; I have been owner-operator since his death in 1969
- ## Scope of business: Conducting auctions of Farm Equipment; Real Estate, City and Farm; Oil & Gas leases; Oil & Gas production; Personal Property; Antiques and general auctioneering
- ## If it isn't broke, don't fix it
- ## Examination; reading, writing, spelling & 8 classroom hours
- ## Waiver requirements or exemptions from License Law
- ## Fees Auction vs Real Estate
- ## License Law for protection of Public
- ## Absence of documented cases where substantial losses were suffered by Buyer or Seller as a result of auction-sale.
- ## Majority of Auctioneers are licensed Real Estate Brokers or Salespeople and are already subject to their rules and regulations
- ## Topeka License
- ## Why do we need another law unless it's an ego trip
- ## 2/3 of auctioneers uninformed, as to this, proposed legislation
- ## Thank You

PAT KEENAN, REALTOR/Auctioneer


CRB - CRS - GRI.

*g. o. 2-11-91
attachment 7*

IN REFERENCE TO THE COMMITTEE ON GOVERNMENTAL ORGANIZATION
PROPOSING THE HOUSE BILL # 2062.

MR. CHAIRMAN, AND MEMBERS OF THE COMMITTEE

This license law is going to be a tremendous cost to the taxpayers, as I don't believe it will be self-sustaining.

The Grandfathering Requirements for an auctioneer are not strict enough.

I do not think that a person who has one year's experience and has worked five sales during that year, should be given a license without an examination.

Too many auctioneer's would be exempt from this licensing law. Why exempt ANY Auctioneers. On Page #8, livestock auctioneers and vehicle dealer auctioneers would be exempt. This type of auctioneer handles more money during these types of auctions than Many others. Also, the last place I feel you would want an unlicensed auctioneer is at a Court ordered sale. Why should these Auctioneers be exempt??

The Auctioneer's license fee would be \$100. I feel that this fee may be excessive in that the Realtor's license fee is only \$50.

In reference to Page #7, Lines #10 through 15, I believe you are stepping into the rules and regulations of the Real Estate Commission in regard to the timely settlement for real property.

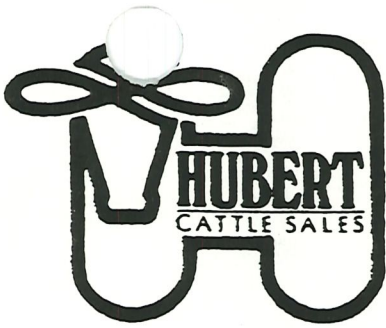
In reference to Page #2, it states the Board may conduct investigations and hold hearings? What would they investigate? We have a Court Judicial System to correct any problems which arises in the Auctioneer industry.

If the public has been doing business with a reputable organization, there is not a problem of getting cheated.

We are already overwhelmed with paperwork and bookkeeping records on all real estate transactions. Depending on the requirements made by the Board, it may be very time consuming to keep paperwork ready and available for inspection upon demand.

The Auctioneers in the State of Kansas are doing a good job in selling for the People in the State of Kansas.

Larry Can
2-11-91
attachment 8



February 6, 1991

TO: Senate Committee - Governmental Organization
FROM: Greg Hubert - Hubert Cattle Sales
RE: House Bill No. 2062

Mr. Chairman and committee members,

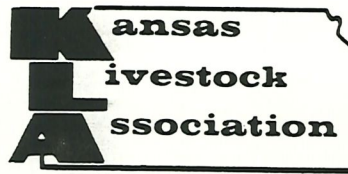
Thank you for giving me this opportunity to address your committee concerning Senate Bill No. 241. I am in the purebred cattle sales management business. Over the past five years I have managed 131 purebred livestock auction sales in the Charolais breed of cattle. About half of those sales were production sales where one owner sold all the cattle in that sale. The other half of the sales I managed were consignment sales in which usually twenty to thirty different owners sold cattle. Each and every one of those consignment sales were sponsored by different state breeder associations. In each sale I set up all advertising, print all promotional material, mail all catalogs and flyers, hire the auctioneer, handle all registration certificates, collect all sale proceeds, pay all outstanding bills against the sale, and make final settlement with all owners.

I believe there is no need for House Bill No. 2062 for the following reasons:

- (1) During the organization of these 131 sales I have managed, for over 500 different owners, in eighteen different states, I have offered written contracts to these sellers and sponsoring associations every time and have only had my contract returned to me signed five times in five years. Nor have I ever been asked if I was licensed or bonded in any of the states I have conducted sales, including trust officers for estates I have sold the cattle for.
- (2) During those sales held in the following states; Kansas, Oklahoma, Iowa, Missouri, South Dakota, Wyoming, Nebraska, Colorado, Texas, Minnesota, California, Wisconsin, Arkansas, Tennessee, Maryland, Oregon, Illinois, and Georgia, I was never contacted by a licensing board. I now know that several of those states did have the very regulating board we are concerned with today.
- (3) Those of us in this business including the purebred auctioneers, sell ourselves to the buying and selling public based on our integrity, our reputation, and our good business practices. If there was a problem the cattle sellers would be asking for our licenses and for their funds to be put into escrow.

Mr. Chairman, I'd like to thank the committee for their time and I would be happy to answer any of your questions about my testimony at this time.

Greg Hubert



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FAX: (913) 273-3399

Owens and Publishes The Kansas STOCKMAN magazine and KLA News & Market Report newsletter.

STATEMENT OF THE
KANSAS LIVESTOCK ASSOCIATION
TO THE
HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION
REPRESENTATIVE GARY BLUMENTHAL, CHAIRMAN
WITH RESPECT TO
HOUSE BILL 2062
PRESENTED BY
JOE RICKABAUGH, EXECUTIVE SECRETARY,
PUREBRED DIVISION

The Kansas Livestock Association (KLA) is a voluntary trade organization consisting of nearly 10,500 members located in all of the 105 counties. KLA, founded in 1894, has members who are actively involved in general farming and ranching enterprises. The members are predominately cow-calf producers, stocker/yearling operators and cattle feeders.

Thank you Mr. Chairman and committee members for giving us the opportunity to present our views about House Bill 2062, the Auctioneers Bill.

Our members are concerned on what affect HB 2062 could pose on their businesses when conducting an auction. Quite simply, our members want to hire the auctioneer who will conduct a professional auction and gather the most money for them. Often, in order to hire the "best auctioneer" who knows the business and the product, requires hiring an out-of-state auctioneer. Other times, because of a rancher living close to an adjoining state, his choice of an auctioneer also might come from another state. This bill definitely makes it more difficult for all auctioneers to conduct business in this state. This ultimately affects the person who is having the auction. It gives him one more detail to checkout to make sure the sale won't be stopped because he or his auctioneer were unaware of such legislation. Even worse, his first choice auctioneer could refuse doing the sale because of this legislation.

Another reason given as to the need of this bill is protecting the public from dishonest auctioneers. To be quite truthful, we have not heard a large number of complaints. We also feel it is the responsibility

*g. o. 2-11-91
attachment 10*

of the person who hires the auctioneer to make sure they are hiring a reputable and honest individual. If there are problems with the present system of auctioneering, this bill should be asked for by the people who hire auctioneers rather than the auctioneers themselves.

There are also a couple of questions that we feel needs to be addressed.

1. Is there enough funding in this bill?

This bill allows a license fee of up to \$100 to be collected on an annual basis. Presently, there are 200-300 auctioneers who are members of the Kansas Auctioneers Association. Let's double the number to 600 auctioneers. In one year, this would generate \$60,000. Subtracting 20% for the state general fund leaves \$48,000 to hire a staff, lease and equip an office and provide expenses and per diem for a five member board. Is \$48,000 going to do the job?

2. Should this bill address a municipality fee on auctioneers?

Several cities require a fee before an auctioneer may conduct an auction in their community. This is just one more detail an auctioneer and his client have to check in order to prevent the auction from being stopped on the day of the sale.

Mr. Chairman and committee members, our association members see little need in licensing auctioneers and creating another bureaucracy. Our members believe they are the best ones to police who or who does not auction for them. Ultimately, the person who hires the auctioneer is the person who gives the auctioneer the most important license.

I would be happy to respond to any questions or comments on my testimony. Thank you for considering our views on this legislation.

g. O. 2-11-91
attachment 10-2