

Approved

MAR 6 1991

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 25, 1991 in room 522-S of the Capitol.

All members were present except:

Committee staff present:

Carolyn Rampey, Research Dept.
Avix Swartzman, Revisor of Statutes
Nita Shively, Committee Secretary

Conferees appearing before the committee:

Dick Morrissey, Director, H&E
Rep. Kerry Patrick
Rep. Diane Gjerstad
Dr. Steve Davies, Secretary - Dept. of Corrections
Lieutenant Bill Jacobs, KS Highway Patrol
Rep. Cindy Empson

Chairman Blumenthal recognized Dick Morrissey who requested introduction of a bill relating to the Kansas emergency planning and community right to know act; mentioning several desired changes. (Attachment 1). Motion to introduce this bill was made by Rep. McClure, seconded by Rep. Brown, motion carried.

Chair requested introduction of a bill that would essentially add a step to the administrative rules and regulation procedure providing for additional publishing notice. Motion made by Rep. Hamilton, seconded by Rep. Bishop, motion carried.

Chair recognized Rep. Patrick who requested introduction of a bill that would do away with the position of Legislative Counsel. Motion made by Rep. Bishop, seconded by Rep. Weimer, motion carried.

HB 2182 - AN ACT authorizing the acquisition and disposition of the homes of certain relocated state officers and employees of the department of corrections and Kansas highway patrol; prescribing powers, duties and functions for the secretary of administration prescribing guidelines therefor.

Chair recognized Rep. Gjerstad, who appeared in support of HB 2182, furnishing written testimony, (Attachment 2). Rep. Gjerstad pointed out the inability of qualified people to accept promotions or make lateral moves simply because they cannot sell their present home. She also emphasized that the corporate world has, for many years, recognized this need and feels the state should do likewise.

Chair recognized Dr. Steve Davies, Secretary of Corrections, who testified and presented written testimony in support of HB 2182, (Attachment 3). He also drew attention to the balloon copy of this bill requesting several amendments. Dr. Davies stressed the need to place well-trained, qualified personnel in the 2 facilities that will be opening soon.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Governmental Organization,
room 522-S, Statehouse, at 9:00 a.m./~~p.m.~~^{XX} on February 25, 1991

Lieutenant Jacobs testified and presented written testimony in support of HB 2182, (Attachment 4). He stated that despite the initial cost, it is conceivable that depending on the real estate market, the state could actually make a profit.

Questions were asked and discussion followed each conferee's testimony.

HB 2159 - AN ACT relating to the highway patrol; concerning other employment; amending K.S.A. 74-2113 and repealing the existing section.

Rep. Empson testified and presented written testimony in support of HB 2159, (Attachment 5). She stated, in her view, the ruling prohibiting outside employment causes undue and unfair hardship on members of the Kansas Highway Patrol. Questions and discussions followed her testimony.

Chair recognized Rep. Brown who requested drafting a bill regarding the care and treatment of animals. Motion was made by Rep. Brown, seconded by Rep. Ramirez, motion carried.

Meeting adjourned at 9:50 a.m.

September 24, 1990

_____ BILL NO. _____
BY _____

AN ACT relating to the Kansas emergency planning and community right-to-know act, amending K.S.A. 1990 Supp. 65-5703, 65-5704, 65-5707, 65-6708 and repealing the existing sections.

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

Section 1. K.S.A. 1990 Supp. 65-5703 is hereby amended to read as follows: 65-5703. (a) There is hereby created the state emergency response commission for the purpose of carrying out all requirements of the federal act.

(b) The commission shall consist of: (1) The following persons or their designees: The lieutenant governor, the secretary of wildlife and parks, the secretary of human resources, the secretary of the state board of agriculture the secretary of health and environment, the adjutant general, the superintendent of the Kansas highway patrol, the state fire marshal, the secretary of transportation, the attorney general, the chairman of the Kansas corporation commission, and the governor; (2) three members appointed by the governor to represent the general public; and (3) two members appointed by the governor to represent owners and operators of facilities regulated pursuant to this act.

(c) Members of the commission appointed by the governor shall serve for terms of two years. Any vacancy in the office of an appointed member of the commission shall be filled for the unexpired term by appointment by the governor.

(d) A chairperson shall be elected annually by the members of the commission. A vice-chairperson shall be designated by the chairperson to serve in the absence of the chairperson.

(e) Members of the commission attending meetings of such board, or attending a sub-committee meeting thereof authorized by such board, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223 and amendments thereto.

(f) The commission shall: (1) Establish local planning districts subject to approval by the secretary of health and environment and the adjutant general, and shall appoint a local planning committee for each such district, as required by the federal act, to perform such duties as provided by the federal act; and (2) perform such other duties as provided by the federal act, in accordance with rules and regulations adopted pursuant to this act.

Sec. 2. K.S.A. 1990 Supp. 65-5704 is hereby amended as follows: 65-5704. The secretary of health and environment shall: (a) Provide support for the oversight and administrative activities of the commission; (b) receive, process and manage hazardous chemical information required to be submitted and notifications required to be given pursuant to the federal act; (c) establish

a list of Kansas reportable chemicals which shall also be subject to the requirements of sections 311 and 312 of the federal act; (d) the secretary shall designate threshold planning quantities and reportable quantities for any chemical so designated for listing in Kansas, or may, for purposes of reporting in Kansas, establish more stringent reporting thresholds for those chemicals requiring reporting under the federal act. Chemicals shall be designated and reporting thresholds established after public notice and hearing, based upon concern for the hazards these chemicals may represent in Kansas; and ~~(c)~~ ^(d) adopt such rules and regulations as necessary to implement the provisions of the federal act and the secretary's duties under this section, including provisions for protection of trade secrets and for public disclosure of information consistent with sections 322, 323 and 324 of the federal act. Such rules and regulations may establish fees to cover all or part of the total cost of operation of the program.

Sec. 3. K.S.A. 1990 Supp. 65-5707 is hereby amended to read as follows: 65-5707. The provisions of sections 302(c), 303(d), 304, 311, 312, 313, and 323 of the federal act, as effective on the effective date of this act, pertaining to providing of information and giving of notifications shall be considered the law of this state and shall apply equally to all federal agencies, departments, installations and facilities located in this state, as well as to any other facilities subject to the federal act. For purposes of complying with this section, facilities regulated under Sections 311 and 312 of the federal act shall submit lists of chemicals in

lieu of Material Safety Data Sheets; and Tier II reports in lieu of Tier I reports; Material Safety Data Sheets shall be submitted within 30 days of request to the state or local emergency planning committees.

Sec. 4. K.S.A. 1990 Supp. 65-5708 is hereby amended to read as follows: 65-5708. (a) The secretary of health and environment, the adjutant general or the attorney general may order a facility owner or operator to comply with the requirements of section 302(c) or 303(d) of the federal act, as adopted by K.S.A. ~~1987~~ 1990 Supp. 65-5707 ~~and amendments thereto.~~ The secretary of health and environment, the adjutant general or attorney general may bring an action to enforce the order in the district court of the judicial district where the facility is located by a civil penalty of not more than \$25,000 for each day the violation or failure to comply continues.

(b) For a violation of the requirements of section 304 of the federal act, as adopted by K.S.A. ~~1987~~ 1990 Supp. 65-5707 and amendments thereto:

(1) The secretary of health and environment, the adjutant general or the attorney general, upon notice and opportunity for hearing, may assess a civil penalty of not more than \$25,000 per violation.

(2) The secretary of health and environment, the adjutant general or the attorney general may bring an action against a facility owner or operator in the district court of the judicial district where the facility is located for a civil penalty of: (A)

Not more than \$25,000 per day for each day the violation continues, for the first violation; and (B) not more than \$75,000 per day for each day the violation continues, for the second or a subsequent violation.

(c) For a violation of the requirements of section 312 or 313 of the federal act, as adopted by K.S.A. ~~4987~~ 1990 Supp. 65-5707 and amendments thereto, or for denial of the accesses provided for in section 5 and amendments thereto:

(1) The secretary of health and environment, the adjutant general or the attorney general, upon notice and opportunity for hearing, may assess a civil penalty of not more than \$25,000 per violation.

(2) The secretary of health and environment, the adjutant general or the attorney general may bring an action against a facility owner or operator in the district court of the judicial district where the facility is located for a civil penalty of not more than \$25,000 per day for each day the violation continues.

(d) For a violation of section 311 or 323(b) of the federal act, as adopted by K.S.A. ~~4987~~ 1990 Supp. 65-5707 and amendments thereto:

(1) The secretary of health and environment, the adjutant general or the attorney general, upon notice and opportunity for hearing, may assess a civil penalty of not more than \$10,000 per violation.

(2) The secretary of health and environment, the adjutant general or the attorney general may bring an action against a

facility owner or operator in the district court of the judicial district where the facility is located for a civil penalty of not more than \$10,000 per day for each day the violation continues.

(e) The secretary of health and environment may impose a late fee at the rate of 10% per annum on any outstanding fee (including late fee) owed the department under K.S.A. 1990 Supp. 65-5704 and amendments thereto or rules and regulations promulgated thereunder. This late fee shall be imposed on the first of each month following the date a fee was due. Payment made prior to the next succeeding month shall satisfy this section.

~~(e)~~(f) Any health care professional entitled to information pursuant to section 323 of the federal act, as adopted by K.S.A. ~~1987~~ 1990 Supp. 65-5707 and amendments thereto, may bring an action in the district court to require a facility owner or operator to provide such information.

~~(f)~~(g) Except as provided by subsection ~~(g)~~(h), any civil penalty recovered pursuant to this section shall be remitted to the state treasurer, who shall deposit the entire amount in the state treasury and credit it to the state general fund.

~~(g)~~(h) At the request of the secretary of health and environment, the adjutant general or the attorney general, a county or district attorney may bring an action for a civil penalty as provided by this section, in which case 1/2 of any penalty recovered in such action shall be paid to the county treasurer for deposit in the county treasury and credit to the county general fund. The remainder shall be remitted to the state treasurer for

disposition as provided by subsection ~~(f)~~(g).

New Sec. 5. Inspection. The secretary of health and environment, the adjutant general or the attorney general or their respective authorized representatives shall have the power to enter at all reasonable times upon any private or public property and inspect the premises and all relevant business or other records for the purpose of determining whether there is compliance with or violation of the provisions of this act and rules and regulations issued hereunder, except that entry into areas under the jurisdiction of the federal government shall be effected only with the concurrence of the federal government or its duly designated representative.

Sec. 6. K.S.A. 1990 Supp. 65-5703, 65-5704, 65-5707 and 65-5708 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.

DIANE A. GJERSTAD

REPRESENTATIVE, NINETY-EIGHTH DISTRICT
 SEDGWICK COUNTY
 2701 LULU
 WICHITA, KANSAS 67216-1237



TOPEKA

HOUSE OF
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS

CHAIR: ECONOMIC DEVELOPMENT
 JOINT COMMITTEE ON ECONOMIC
 DEVELOPMENT

MEMBER: FEDERAL AND STATE AFFAIRS
 LABOR AND INDUSTRY
 SPECIAL CLAIMS AGAINST THE
 STATE

Chairman Blumenthal and Members of the Committee:

H.B. 2182 represents an effort by the state to effectively deal with manpower allocation problems currently being encountered by the Kansas Highway Patrol and the Department of Corrections.

Currently, the Highway Patrol encounters problems when they wish to promote an officer. Many times the low need areas are rural where housing markets are depressed. The transfer results in the officer moving long before his house can be sold, resulting in financial hardship. This situation has prevented officers from accepting promotions that require a transfer. Officers may resign or not accept a promotion due to inability to sell their homes.

H.B. 2182 allows the Secretary of Administration to acquire the mortgage of the affected officers and reimburse to the officer the amount of equity according to appraised value, or in the case of house without a mortgage, the amount of the appraised will be paid to the officer.

The appraisal will be done, in accordance with state law, the median appraisal value being accepted. The median house price in Kansas has been estimated at \$74,900; each appraisal is \$150. Therefore, each transfer would cost \$75,350.

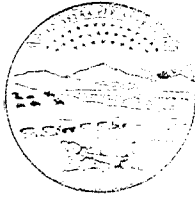
On the average, seven patrolmen are transferred each year. If, in the unlikely event that all seven patrolmen owned houses that could not be sold by the time of the transfer, the total initial cost would be \$527,450. However, much of this cost, possibly all of the cost, would be recovered by the state at the time of the eventual sale. A profit is also possible.

Simply, H.B. 2182 allows the Kansas Highway Patrol to effectively and efficiently manage their human resources.

Thank you for this opportunity.

*g. O. 2-25-91
 attachment 2*

STATE OF KANSAS



DEPARTMENT OF CORRECTIONS

OFFICE OF THE SECRETARY
Landon State Office Building
900 S.W. Jackson—Suite 400-N
Topeka, Kansas 66612-1284
(913) 296-3317

Joan Finney
Governor

Steven J. Davies, Ph.D.
Secretary

To: House Committee on Governmental Organization
From: Steven J. Davies, Ph.D.
Secretary of Corrections *Steven J. Davies*
Subject: House Bill 2182
Date: February 25, 1991

The Department of Corrections supports House Bill 2182.

The Department of Corrections will soon be opening the El Dorado Correctional Facility and the Larned Correctional Mental Health Facility. Due to the nature of these facilities it is important that we be able to place experienced personnel in key positions. It would not be operationally prudent to staff these types of facilities with employees who have had little or no previous experience in the field of corrections.

The program proposed in HB 2182 would be of assistance to the Department in that it would remove a potential barrier to transfer and promotion opportunities for employees. This program would offer encouragement to employees who are qualified for promotional opportunities but who may be reluctant to apply for such positions due to their personal financial situation.

The program would also allow the Secretary of Corrections more flexibility in managing the Department. It is important to have the right person in the right position. However, a secretary may be hesitant to transfer a person to another facility due to a concern about creating a financial burden for that individual. With the HB 2182 program in place, some of the concerns regarding the transfer decision will have been removed.

The Department has some suggested amendments to the bill which are set forth on the attached. Most of these amendments are technical in nature. However, I am also proposing that the personnel

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attachment 3

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classifications covered by the bill be expanded to include other classes. These positions are also important to the staffing of a facility and should be considered for inclusion in this program.

SJD:CES/pa

*g.O. 2-25-91
attachment 3-2*

HOUSE BILL No. 2182

By Representatives Empson and Gjerstad

2-11

8 AN ACT authorizing the acquisition and disposition of the homes of
9 certain relocated state officers and employees of the department
10 of corrections and Kansas highway patrol; prescribing powers,
11 duties and functions for the secretary of administration; prescribing
12 guidelines therefor.
13

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

15 Section 1. (a) Subject to the provisions of appropriations acts,
16 the secretary of administration, in the name of the state of Kansas,
17 may acquire by purchase the fee simple title to the real estate
18 comprising the residence of any trooper or corrections officer who
19 is required to relocate because of a permanent reassignment to an-
20 other geographic area of Kansas and who is unable to sell such real
21 estate prior to the effective date of such reassignment. As part of
22 such acquisition, the secretary of administration may assume any
23 outstanding loan which is secured by the real estate and which was
24 incurred for the purpose of acquiring or improving such real estate.
25 The secretary of administration may acquire such real estate only in
26 cases when: (1) The trooper or corrections officer concerned has
27 requested the acquisition, and (2) the superintendent of the Kansas
28 highway patrol, in the case of a trooper, certifies that the trooper
29 is required to relocate in order for the trooper to accept a promotion
30 in rank or in order for the trooper to achieve a proper allocation of
31 personnel across Kansas in accordance with enforcement of traffic
32 and other laws relating to highways, vehicles and drivers of vehicles
33 and recommends the acquisition, or (3) the secretary of corrections,
34 in the case of a corrections officer, certifies that the corrections officer
35 is required to relocate in order for the corrections officer to accept
36 a promotional appointment or in order for the secretary of corrections
37 to achieve a proper allocation of personnel at state correctional in-
38 stitutions and recommends the acquisition.

39 (b) Prior to each acquisition of real estate under this section, the
40 real estate shall be appraised under K.S.A. 75-3043a and amend-
41 ments thereto. The amount paid to the trooper or corrections officer
42 for the real estate shall not be more than: (1) In the case where any
43 outstanding loan secured by the real estate is assumed, the value

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attachment 3-3

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attachment 3-4

1 of the equity owned therein by the trooper or corrections officer as
2 determined by the secretary of administration in accordance with
3 the appraised value of the real estate, or (2) in the case where no
4 outstanding loan is assumed by the secretary of administration, the
5 appraised value of the real estate.

6 (c) The secretary of administration shall dispose of all real estate
7 acquired under this section and is hereby authorized to transfer and
8 convey all of the right, title and interest of the state of Kansas in
9 such real estate. Such disposition may be by negotiated sale or to
10 the highest bidder at public auction as determined by the secretary
11 of administration. Contracts entered into by the secretary of admin-
12 istration for purposes of disposing of such real estate shall not be
13 subject to the provisions of K.S.A. 75-3739 through 74-3741 and
14 amendments thereto.

15 (d) All moneys received from the sale of real estate acquired
16 under this section, after payment of the expenses of sale, shall be
17 remitted to the state treasurer. Upon receipt of each such remittance,
18 the state treasurer shall deposit the entire amount thereof in the
19 state treasury to the credit of the state general fund.

20 (e) As used in this section, (1) "trooper" means any person who
21 is an officer or trooper of the Kansas highway patrol, and (2) "cor-
22 rections officer" means any person who is (A) in any position in a
23 job class in the corrections officer class series, including but not
24 limited to ~~corrections officer I, corrections officer II, corrections~~
25 ~~supervisor I, corrections supervisor II or corrections supervisor III,~~
26 or (B) in a position in the corrections counselor I, corrections coun-
27 selor II, unit team ~~supervisor or corrections classification adminis-~~
28 ~~trator job class.~~

specialist

specialist

specialist

manager,

corrections manager class series, deputy warden, warden,
and such other positions where the secretary of correc-
tions determines the relocation is necessary to achieve
proper allocation of personnel at state correctional fa-
cilities.

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

SUMMARY OF TESTIMONY

Before the House Committee on Governmental Organization

February 25, 1991

Presented by the Kansas Highway Patrol

(Lieutenant Bill Jacobs)

Appeared in Support of House Bill 2182

The Kansas Highway Patrol supports House Bill 2182 because it would provide a very effective management tool for the agency. It would also alleviate an undue financial burden for troopers that are transferred throughout the state due to promotions or for other reasons.

The Patrol, unlike many other state agencies, is unique in that although comparatively small, it has personnel assigned to almost all counties in the state. In some counties, the Patrol has only one or two troopers assigned to cover large areas.

Sometimes it becomes necessary to move a trooper due to promotional opportunities or to realign services in an area where a vacancy occurs due to promotion, retirement or termination of an officer in that area. These movements can be accomplished through bidding procedures or by directed moves. Sometimes the bidding procedure results in an area where the successful bidder moves from, especially a less desirable area, to remain vacant and a directed move is then necessary to accomplish the mission of the Patrol.

Moving troopers, especially from a rural area where many times the real estate market is very depressed, to an urban area, where most real estate is more expensive, can place a real hardship upon the officer.

In recent years, the Patrol has had instances where an officer has accepted a promotion and several months later had to take a voluntary demotion and return to their previous location because they were not able to sell their home.

In other cases, the Patrol has had officers accept promotions or successfully bid a move and end up with the burden of making double house payments for very long periods of time.

This type of situation is unreasonable to expect employees to bear, regardless of cause, and does not allow the agency the flexibility to move its personnel to conform with its changing requirements and demands. Ultimately, the state is affected through the inability of the agency to manage its personnel in an effective manner to provide the services the citizens of this state expect and deserve.

The program would require an initial cost to purchase the homes of the affected individuals, but the state would recoup most of those costs when the real estate is sold and the money placed back into state funds. In some instances, if the real estate market were to flourish, the state could actually reap a net profit.

*g.o. 2-25-91
attachment 4*

Patrol estimates in recent years indicate that the agency has approximately seven moves per year due to promotions or for other reasons. This number could fluctuate due to unanticipated promotional opportunities or vacancies created for other reasons.

From a management perspective, the agency is very supportive of this bill. We also base this support from a fairness viewpoint of not requiring employees to make career choices based on the selling of their home.

We therefore ask your favorable support of House Bill 2182.

g.o. 2-25-91
attachment 4-2



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
MEMBER: FEDERAL AND STATE AFFAIRS
EDUCATION
LEGISLATIVE EDUCATIONAL
PLANNING COMMITTEE

CINDY EMPSON
REPRESENTATIVE, TWELFTH DISTRICT
MONTGOMERY COUNTY
HOME ADDRESS: P.O. BOX 848
INDEPENDENCE, KANSAS 67301

TOPEKA OFFICE: STATEHOUSE, RM. 182-W
TOPEKA, KANSAS 66612

TO: GOVERNMENTAL ORGANIZATION COMMITTEE

FROM: CINDY EMPSON

RE: H.B. 2159

DATE: February 25, 1991

Mr. Chairman and members of the Committee, thank you for the opportunity to appear before you in support of H.B. 2159.

This bill deletes the statutory provision that no member of the patrol may accept any other employment while a member of the patrol. This provision has been in the statutes since the Patrol was created in 1937. To my knowledge, we have no other state agencies that prohibit, by statute, their employees from holding a second job.

I am aware that the Kansas Highway Patrol performs a unique service for our state and certain jobs might be construed by the public as a conflict of interest. It is certainly not my intention to jeopardize the integrity of the Patrol and therefore, would ask the Committee's consideration of an amendment suggested by the Troopers Association which speaks to this concern. On page 2, line 20, after the period, add the following language:

"No member of the Patrol shall receive or accept compensation or employment in any alcohol related industry, or provide security which requires the use of any state equipment or the wearing of the Kansas Highway Patrol uniform".

*g.O. 2-25-91
attachment 5*

I have found within the Patrol a high degree of pride for their position and for their agency, which is often lacking or less visible in other agencies of state government. I respect this commitment and believe this bill could enhance the state's ability to retain those persons who might otherwise be forced to seek employment elsewhere solely for financial reasons. I have attached a copy of the fiscal note which was prepared for H.B. 2159 and call the Committee's attention to the last paragraph.

I firmly believe the Patrol should be afforded the same opportunity to seek outside employment, when necessary, that other state employees currently have. H.B. 2159 gives them that opportunity and I ask for your favorable consideration of this bill.

*g.o. 2-25-91
attachment 5-2*