

Approved MAR 25 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 March 5, 1991 in room 522-S of the Capitol.

All members were present except:

Committee staff present:

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

Conferees appearing before the committee:

Camile Nohe, Asst. Attorney General  
William Riggin, Consumer Counsel CURB  
Stacy Ollar, Jr., Chairperson, CURB  
Linda Weir-Enegren - CURB member  
George Goebel, AARP

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Continuation of Hearing on HB 2514

Chairman Blumenthal announced that written testimony from Wendell Maddox, Regional Director for the Humane Society of the U.S., has been distributed to the committee, (Attachment 1).

Camile Nohe testified as a proponent regarding several procedural changes requested by the Attorney General's office. They feel that statutory guidelines, especially regarding seizures, would be helpful. Their position on moving the Companion Pet Program, however, is neutral, but she strongly urged the committee to adopt the measures she described. Ms. Nohe agreed to furnish the committee with written testimony.

Hearing closed on HB 2514.

HB 2439 - AN ACT concerning the citizens' utility ratepayers board increasing the membership thereof; relating to budgeting, management and finance of operation; amending K.S.A. 66-1503 and K.S.A. 1990 Supp. 66-1222, 66-1225 and 66-1502 and repealing the existing section.

Chair recognized Bill Riggins who testified and presented written testimony in support of HB 2439, (Attachment 2). He gave a brief history and overview of CURB. In addition, his testimony included facts and figures designed to show how effective CURB has been since its inception. Mr. Riggins pointed out the desired changes in the original legislation, namely increasing the number of CURB members from 5 to 8, the Board, not KCC administering the budget, and specifying that CURB should continue to be funded by assessment.

Stacy Ollar, Jr. testified in favor of HB 2439. In his capacity as Board member, Dr. Ollar has spoken to many groups around the state, all of which expressed great appreciation for the protection and representation afforded by CURB. He urged that it be allowed to continue.

Chair recognized Linda Weir-Enegren who testified in favor of HB 2439. Mrs. Weir-Enegren emphasized that CURB is the only option available to many consumers having problems with their utility companies.

George Goebel testified and furnished written testimony in support of HB 2439 (Attachment 3). Dr. Geobel, representing AARP, endorsed this bill and also recommended an amendment which would authorize the Board to employ another attorney as consumer counsel. A brief question and answer period followed.

Hearing closed on HB 2439.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Governmental Organization,  
room 522-S, Statehouse, at 9:00 a.m./p.m. on March 5, 1991

HB 2080 - AN ACT concerning the Kansas sunset law; continuing in existence the department of transportation and the office of secretary of transportation; amending K.S.A. 74-7257 and repealing the existing section.

Rep. Hamilton gave a report on the KDOT subcommittee she chaired, providing written testimony, (Attachment 4). Their number 1 recommendation is for an interim study this summer on debt service on highway construction bonds. Since the other 2 recommendations regarding bonding activities and procedures was not unanimous, chair requested a minority report be submitted. In addition, Rep. Hamilton went briefly through each phase of the committee's investigation stating their findings and recommendations. With respect to the sunset law, the committee suggested a 5-year period rather than 8. Chair deemed it necessary to continue the Hearing on HB 2080 until Thursday so the minority report can be provided.

Reps. Weimer and Blumenthal thanked Rep. Hamilton for her outstanding efforts in chairing this subcommittee.

Meeting adjourned at 10.05 a.m.



My name is Wendell E. Maddox. I am Regional Director for the Humane Society of The United States (HSUS), based in our regional office in Kansas City, Missouri. The HSUS is a national non-profit organization dedicated to the prevention and elimination of cruelty to animals. The HSUS is the largest national humane organization in the country with a constituency of more than one million persons, including 9,484 residents of Kansas.

The HSUS would like to offer the following changes and deletions to H.B. 2514 for your consideration:

**Section 1. (n) (2) line 43 (B)** any premises where fewer than ~~all or part of three litters of animals, three intact females,~~ whether dogs or cats, or both are kept. ~~are sold during the registration year.~~

**New Section 1. (n) (2) line 43 (B)** any premises where fewer than three intact females, whether dogs or cats, or both are kept.

**Section 1. (x) lines 41,42 & 43** Sale, "sell" and "sold" include transfers by sale or exchange. ~~It is presumed that animals are maintained for sale by a person if such person maintains 20 or more animals.~~

**New Section 1. (x) lines 41,42 & 43** Any premises that houses, owns, posses or maintains physical custody of three or more intact female dogs or cats.

EXPLANATION: It is our opinion that these changes will provide a clearer definition of "Hobby Kennel". The USDA uses the same definition and is able to clearly define those facilities which

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should are should not be licensed. At present, there is no discernable method that can be used to prove a person is engaged in the sale of animals. Those possessing more than three intact females in an obvious breeding facility are usually involved in sells. An excellent example of the ineffectiveness of current law regarding determining if a facility is engaged in the sale of animals is the Hockenberry case. When our investigators visited their kennel they openly admitted that they were selling animals and who they were being sold to. A few weeks later when they were inspected by the Kansas Animal Health Department, they argued that they were not selling animals because they had less than thirty dogs on the premises. This facility clearly had far more than three intact females.

~~Section 18. (a) (2) (F) have familiarity with the animal dealer industry sufficient to fulfill the duties of the office of executive director.~~

**EXPLANATION:** It is not necessary for the administrator to have familiarity with the animal dealer industry. This provision could lead to serious conflicts of interest if persons from the industry are selected to serve as administrators of this act. In order to preclude any conveyance of impropriety of conflicts of interest and to insure the cooperation of all effected parties under the fact the administrator should be and also appear to be free of any conflicts of interest. The primary prerequisites of the administrator of this act should be integrity, intelligence and diligence. If an administrator is intelligent and hard working they can make themselves familiar enough with the industry to effectively enforce this act. The state of Kansas needs administrators of the highest integrity, intelligence, and dedication to duty and diligence. Any person meeting these requirements can effectively enforce this act. We don't need the industry regulating itself, in fact the necessity of this bill is

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ample proof of the industry's failure to regulate themselves.

~~Section 18. (c) The commission may appoint an advisory committee of persons knowledgeable in the animal dealer industry to provide information and recommendations to the commission regarding the administration of this act. Members of such advisory committee shall serve without compensation or reimbursement of expenses.~~

**EXPLANATION:** It is assumed that the members of the commission will possess the necessary knowledge to achieve the goals of the law without additional outside input or influence. An additional body governing this program could prove to be a liability rather than an asset.

Thank you for the opportunity to offer these recommendations on this very important humane legislation.

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**TESTIMONY OF WILLIAM G. RIGGINS  
BEFORE THE  
HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION**

**March 5, 1991**

Good morning. I'm Bill Riggins, Consumer Counsel for the State of Kansas. I represent the Citizens' Utility Ratepayers Board (CURB) in public utility matters. I appreciate the opportunity to testify today in support of HB 2439. Also testifying from CURB will be Dr. Stacy Ollar, Jr., current CURB Chairperson, and Linda Weir-Enegren, CURB Chairperson from 1988 to 1990. Also present is CURB member Donna Kidd.

I'll attempt to accomplish two goals with my testimony. First, I will provide a brief history and overview of CURB. Second, I will discuss the specific amendments that HB 2439 would make in existing statutes.

First, some history. For a number of years, attempts were made in the Legislature to establish a utility consumer advocate. Those attempts were unsuccessful. After his election, Governor Mike Hayden established a task force to recommend a method for increasing small consumer representation in the regulatory process. That task force disbanded after being unable to reach a consensus. In January, 1988, KCC Chairperson Keith Henley carved out a piece of the KCC budget and announced the creation of CURB. He appointed the initial CURB members in April of 1988. I was hired as the state's first consumer counsel in August of 1988.

Being a creation of the KCC, and existing at its pleasure, created some problems. It meant we didn't have all the legal tools we needed to do our job. The National Association of State Utility

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Consumer Advocates refused us membership on that basis. Recognizing those problems, the 1989 Legislature "re-created" CURB as a matter of state statutory law. Statutory existence didn't cost extra money, it simply provided us with necessary autonomy from the Commission. Following the enactment of the CURB bill, Governor Hayden reappointed all the original CURB members to new "statutory" terms.

That's how Kansas became the 38th state to establish by law a utility consumer advocate. CURB itself is composed of five consumer advocates, one from each congressional district, who are appointed by the Governor for staggered four-year terms. CURB members are volunteers and are not paid for their service on the board. In addition to the members I already have introduced, our board consists of Randal Loder, who farms near Garden City. Randal is our vice-chairperson. The other member is Dr. J. Lloyd Spaulding, an emeritus professor of economics from Bethel College in Newton. CURB directs the activities of the Office of Consumer Counsel which consists of myself; Beth Runnebaum, our volunteer services coordinator; and Robin Crider, our secretary.

To understand why the great majority of states have recognized the need for an advocate for small utility consumers, one must understand how the regulatory process works. Rate-setting is a technical, legalistic process. Rates are set on the basis of evidence that is introduced in formal hearings with the commissioners sitting as judges. The decisions of the commissioners can be and frequently are appealed to the courts.



In this rate-setting process, the utility's lawyers and expert witnesses act as an advocate for the company's interests. The utility's large customers usually hire lawyers and witnesses to advocate for their interests. The KCC staff does not act as an advocate for anyone. It's job, instead, is to assist the KCC in its legal duty of balancing the interests of the company and all the company's customers. This leaves a gap in the process. The residential and small business customers, who make up the great majority of the utility's customers, are unrepresented. If they are unrepresented, they are unprotected. That's why, as far back as 65 years ago, states began to fill this gap by creating offices like CURB. This also illustrates the legal inaccuracy of the time-worn argument that CURB simply duplicates what the KCC already does.

The "duplication" argument also is inaccurate from a practical viewpoint. To confirm that, one needs look no further than the savings we have accomplished for Kansas ratepayers. These savings are estimated very conservatively, and I can provide supporting documentation and calculations for them all. We take credit only for KCC-adopted adjustments that only CURB advocated. We do **not** take credit for KCC-adopted adjustments that were advocated by other parties besides CURB. With those qualifications in mind, in our first year of operation, in which we were not fully staffed throughout the year and in which we did not have statutory authority, we saved ratepayers about \$4.5 million. We spent about \$117,000 that first year. That works out to more than \$38 in

benefits to ratepayers for each dollar spent. In our second year, we saved ratepayers almost \$14 million. We spent about \$234,000. That's a cost-benefit ratio of more than \$59 in savings for each dollar spent. In light of these results, another time-worn argument, that CURB is simply more bureaucracy, is unimpressive. I am not aware of a more cost-effective governmental organization in this state.

Two other arguments made by opponents of the 1989 CURB bill are appropriately discussed here. First, it was argued that any money saved for small ratepayers would be collected from large ratepayers. In response to that argument I would point out that more than half of the savings referenced above benefitted all ratepayers regardless of size. Another argument made two years ago was that not many rate cases were being filed these days so there wouldn't be much for us to do. In our first year, we were involved, formally or informally, in 26 cases, issues, or requests for assistance. This past year, that number grew to 61. This year, eight months into the fiscal year, that number already is up to 65. Twenty seven of those are active. Again, I'm not aware of any three-person office in state government that handles a caseload such as this.

As a final matter, before I move on to another subject, I also should point out that CURB does not just become involved in major rate cases and generic investigations. We also represent individual consumers, at no cost to them, who are having problems with their utility companies. In addition, many of our

accomplishments can't be measured in dollars and cents. For example, we have improved consumer protections in areas such as security deposits and collection and disconnection practices. We got Union Gas to complete critical leak surveys in weeks instead of months. We convinced United Telephone to re-open a local bill payment center in Galena that the Company previously had closed.

That's a summary of who we are, what we do, and what we've accomplished for consumers during our first two years. The final area I will address, before moving on to HB 2439, is our budget.

Although the Legislature sets our budget, we are not funded by tax dollars. We are not funded from the general fund. Our budget is assessed back against the utility companies and, in turn, collected through rates from the consumers we are representing. This is the same way the KCC is funded. It's the fairest way to fund our operations. For example, right now we are spending a great deal of time on the pending KPL/KG&E merger case. Because of the assessment mechanism, our expenses in this case will be paid by the ratepayers we are representing in this case as opposed to, for instance, Southwestern Bell ratepayers.

In FY90, our budget was about \$273,000. This year, FY91, our budget is currently set at about \$303,000. The increase is attributable to two factors: converting our half-time secretarial position to full-time, and; the increased rent in the new KCC building. The Governor's budget recommendation for FY 92, as set forth in H.B. 2049, is about \$341,000. The increase is almost entirely attributable to the salary and fringe benefits associated

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with an additional attorney position. Because of the cost-effective nature of the office and its heavy caseload as described earlier, the CURB members consider this staff addition to be of critical importance.

One final note about our budget is that, in each year's budget, \$150,000 is designated for consultant fees. Rate making is a technical field that calls for expert witnesses such as accountants, economists, and engineers. We do not have a technical staff, so we use our consultant fund to hire expert witnesses on a case-by-case basis.

If HB 2439 is not passed, CURB will cease to exist as of July 1 of this year. In addition to extending CURB's life, the bill would make one substantive change and two clarifications to existing statutes.

The substantive change consists of increasing the number of CURB members from five to eight. The current statute specifies that there will be five members -- one from each congressional district. If this provision is not changed, problems will develop next year when the number of Kansas congressional districts decreases to four. As Stacy and Linda will discuss later, it is very difficult for a single volunteer board member to adequately cover an entire congressional district. The problem will be exacerbated next year when those districts become even larger. We estimate that increasing the number of members from five to eight will cost less than \$2,400 a year, and we believe we can absorb this increase within existing budget constraints.

The other two changes to existing statutes proposed by HB 2439 are clarifications. These clarifications will not cost any money. They are important, however. These clarifications are set forth in Section 2 of the bill.

The first clarification specifies that the Board -- not the KCC -- shall administer CURB's budget and related financial affairs. CURB must have autonomy from the KCC to fulfill its duty of protecting ratepayer interests. Since the original CURB bill was enacted two years ago, management of the CURB budget has rested with the Board. However, the CURB budget itself is still a part of the KCC's budget. That means that, when the budget process begins each year, it is the KCC -- not the Division of Budget, that sets CURB's budget allotments. Given that we routinely are in an adversarial relationship with the KCC, the potential threat this poses to our autonomy is obvious.

The second clarification specifies that CURB should continue to be funded by assessment. I already have explained why assessment is the fairest way to fund CURB. However, current statutes do not specify that we are to be funded in that manner. On that basis, several utilities have threatened to legally challenge assessments against them. One utility actually took the initial steps to do so. It withdrew its legal challenge when we agreed to seek this clarification from the Legislature this year. Therefore, Sections 3 and 4 simply add CURB to the existing assessment mechanism for the KCC.

I appreciate your courteous attention and will be happy to answer any questions you might have.

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attachment 2-8*

TESTIMONY  
for the  
COMMITTEE ON GOVERNMENTAL ORGANIZATION  
of the  
HOUSE OF REPRESENTATIVES  
STATE OF KANSAS

March 5, 1991

re: House Bill 2439

By Dr. George Goebel, Chairman,  
Capital City Task Force,  
American Association of Retired  
Persons, Topeka, Kansas.

Mr. Chairman and Members of the Committee:

My name is George Goebel. I am chairman of the Capital City Task Force of the American Association of Retired Persons, Topeka, and a member of the AARP State Legislative Committee. Thank you for this opportunity to testify on behalf of the AARP on House Bill 2439.

The AARP was a strong supporter of the original legislation which established the Citizens' Utility Ratepayers Board. Our enthusiasm for CURB is even stronger today, and we are fully convinced that it is one of the most rational and productive investments that the ratepayers of Kansas will ever make.

A change in membership of the Board is necessary because of the forthcoming change in the number of Kansas congressional districts. We believe that the expansion of the Board along the lines prescribed by HB 2439 is sound policy and will strengthen the Board. Other administrative changes specified in this bill appear to be reasonable and appropriate.

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Attachment 3

We are convinced that C.U.R.B., through the vigorous action of its members and its consumer counsel, has saved the citizens of Kansas millions of dollars. We are equally convinced that it could be even more effective with the addition of a second attorney as consumer counsel, and we strongly recommend that the bill be amended in Section 1. (e) (1) to authorize the Board to "Employ attorneys as consumer counsel." Such language would allow the Board to adjust its staff to the workload insofar as possible within the confines of its approved budget and appropriated funds.

Mr. Chairman, I am sure that you and all members of this committee are well aware that C.U.R.B. is not funded by general taxes; it is funded by the ratepayers whom it serves and who appreciate the very effective "watchdog" role which it fills. Thus, even in times of tight fiscal restraints such as those gripping Kansas this year, a carefully planned investment in C.U.R.B. is well justified as good management.

Thank you.

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# MEMORANDUM

## Kansas Legislative Research Department

Room 545-N – Statehouse  
Topeka, Kansas 66612-1586  
(913) 296-3181

March 5, 1991

**To:** House Governmental Organization Committee

**From:** Representative Joan Hamilton, Subcommittee Chair  
Representative Tom Bishop  
Representative Carol Dawson  
Representative Frank Weimer

**Re:** Subcommittee Report on the Sunset Review of the Kansas Department of Transportation

The Subcommittee on the sunset review of the Kansas Department of Transportation (KDOT) held eight meetings to review the duties and operations of the Department. Present at meetings were representatives of the Department, including Acting-Secretary Arland Hicks, Secretary Gary Stotts, division directors, and other staff. Also in attendance at various meetings were representatives of other state agencies and organizations affected by the Department's operations.

Early in its deliberations the Subcommittee developed a list of concerns and activities that formed the basis of its review. The list, with the Subcommittee recommendations, includes the following:

1. **A Review of Bonding Activities and Procedures.** A majority of the Subcommittee members recommend that the following be considered for an interim study before any further action occurs:
  - a. that KDOT have all bonds issued through the state's bonding agency, the Kansas Development Finance Authority;
  - b. that all bond services should be competitively bid; and
  - c. in addition, the Subcommittee recommends that an interim study be conducted in the summer, 1991, on the "future revenue stream" in relationship to debt service on highway construction bonds.
  
2. **A Review of the Implementation of the *FY 1991-1995 Comprehensive Highway Program*.** An excellent presentation was given with helpful handouts to explain the complicated program format. The Subcommittee learned that the 5-year Highway Plan is a constantly on-going 5-year plan.

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attachment 4

The Subcommittee recommends that an interim study be conducted in the summer, 1991, on the "future revenue stream" in relationship to debt service on highway construction bonds.

3. **Consideration of Possible Overlap of Responsibilities Between the Department and the Kansas Highway Patrol Concerning Ports of Entry and Motor Vehicle Inspection Duties.**

The Subcommittee makes no recommendation because the issue was resolved with the answers contained in legislation enacted in 1988 (House Bill No. 2400).

4. **Review of Litigation Involving the Department.**

The Subcommittee makes no recommendation regarding this issue.

5. **Consideration of the Types of Materials Used in Highway Construction and Consideration of the Department's Efforts to Keep Up With Current Technology.**

The Subcommittee recommends:

- a. that the Department continue to upgrade its knowledge, skills, experiments, and technology in order to utilize current and acceptable techniques in highway construction (an example would be the recycling of rubber tires and dealing with the issues of longevity versus expense); and
- b. legislation should be introduced to match the terminology of KDOT rules and regulations with the language used in the statutes concerning KDOT.

6. **Consideration of the Department's Supervisory Powers as they Relate to County Highway and Bridge Construction and Maintenance.**

The Subcommittee recommends:

- a. there should be better training of KDOT and local employees and perhaps a change in the powers of KDOT, if necessary, to assure open communication and good public relations between the taxpayers and the in-charge person of any road or bridge construction project; and
- b. a toll-free number should be established to answer any road or bridge questions for the residents of Kansas.

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attachment 4-2

7. **A Review of Permitting Procedures and Regulations Affecting Movement of Drilling Rigs and Other Overweight and Oversize Vehicles.**

Due partly to the Subcommittee's concerns on these issues, KDOT, the Kansas Highway Patrol, Kansas Independent Oil and Gas Association, and representatives of the drilling industry met together and cooperatively proposed some administrative regulations. The Subcommittee strongly recommends continued work together without legislative interference at this time.

8. **A Review of Highway Signs and Logos.**

The Subcommittee makes no recommendation on this issue.

9. **Consideration of the Regulation of Wide-Profile Radial Tires.**

The Subcommittee does not recommend legislation on this subject presently. However, close supervision should be kept on this subject as the usage becomes more widespread. KDOT, as well as other agencies, voiced its concerns in this area. Open communication regarding the need for regulation should be encouraged and even required by KDOT. Several states do have a pounds-per-square-inch limitation, and an example of Utah's resolution regarding "Limitation of Single Tire Configuration" was given to the Subcommittee for possible future legislation.

10. **Study of Scenic By-Ways.**

The Subcommittee recommends:

- a. that identification of by-ways should be done by the proper officials without interference or interpretation by the Legislature; and
- b. better communication and information needs to be given to KDOT and the public regarding the phases of any "study of the scenic by-ways."

11. **Vandalism and Safety of the Kansas Rest Areas.**

The Subcommittee recommends:

- a. stronger enforcement of the laws of vandalism and public safety by the Highway Patrol in our rest areas (this could perhaps be done through cooperation of county sheriffs and volunteer law enforcement officers without causing budget enhancement);
- b. the Subcommittee members agreed with KDOT officials that the use and allowance of campers, recreational vehicles, etc., in the rest

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attachment 4-3

areas helped deter criminal activity -- we would oppose any new legislation limiting this use in rest areas; and

- c. there should be another examination of cost-sharing between KDOT and the Department of Corrections for inmate labor to clean roadways, rest areas, and other highway areas not "adopted" by volunteer workers.

12. **Sunset Law for KDOT.**

It was the unanimous agreement by Subcommittee members that KDOT should be continued under the Kansas Sunset Law until July 1, 1996 (five years). Since this is not the maximum number years under the Sunset Law (eight years), the Subcommittee would recommend an amendment to five years if needed.