

Approved April 26, 1991  
Date

MINUTES OF THE Senate COMMITTEE ON Governmental Organization

The meeting was called to order by Senator Lana Oleen at  
Chairperson

1:35 ~~xxx~~/p.m. on April 2, 1991 in room 531-N of the Capitol.

~~xx~~ members ~~were~~ present ~~xxxxxx~~: Senators Oleen, Bogina, Francisco, Gaines, Kanan,  
Strick and Vidricksen.

Committee staff present:

Julian Efird, Kansas Legislative Research Department  
Fred Carman, Revisor of Statutes  
Mary Allen, Committee Secretary

Conferees appearing before the committee:

Karl Birns, Kansas Department of Health and Environment  
Representative Nancy Brown, House of Representatives  
Don Smith, Colby, Kansas  
Arthur Solis, Kansas American G. I. Forum  
Clarence Scroggins, Kansas Regional African-American History Month Founders Commission  
Blanche Parks, Department of Human Resources  
Sherlyn Sampson, Douglas County, Kansas  
Mary Pat Beals, Head Injury Association  
Paul Shelby, Office of Judicial Administration

The meeting of the Senate Committee on Governmental Organization was called to order at 1:35 p.m. by the Chairman, Senator Lana Oleen, who called for testimony on HB 2472.

House Bill 2472 - Kansas emergency planning and community right-to-know act.

The first proponent of HB 2472 to testify before the Committee was Karl Birns, Program Manager for Right-to-Know, Bureau of Environmental Health Services in the Department of Health and Environment. He presented background information on the Kansas Emergency Planning and Community Right-to-Know Act and noted that it is enabling legislation which empowers the Kansas Department of Health and Environment (KDHE) and the Adjutant General's Office with certain authorities to implement federally mandated legislation under the Superfund Amendments and Reauthorization Act which legislation requires states to establish State Emergency Response Commissions, Local Emergency Planning Committees and imposes certain reporting requirements on facilities that handle, store or emit hazardous chemicals. He pointed out that these reporting requirements are imposed so that information can be gathered for emergency planning and for the community right-to-know. Mr. Birns informed the Committee that HB 2472 was requested by KDHE in order to make the information collected more effective and useful and to provide a lesser burden on the facilities required to respond. He said that the bill proposes one policy and five technical changes in existing statutes. The policy change proposes to expand the duties of the State Emergency Response Commission (SERC) and would allow SERC to function both as a forum and aid to coordinate state agency activities in the area of chemical emergency preparedness, response, release prevention and amelioration of the risks chemicals represent in the community. He pointed out that the new SERC role will ensure greater efficiency and use of state resources and, at the same time, enhance responsiveness. Mr. Birns listed the technical changes in HB 2472 as: (1.) Reporting changes; (2.) Kansas list of chemicals; (3.) Enhancement of program compliance; (4.) Inspection and Late Fees; and (5.) State Emergency Response Commission Membership - the addition to the SERC of a member from the Kansas Corporation Commission. (See Attachment 1 for his testimony.)

Mr. Birns provided a letter to the Committee in support of HB 2472 from Edward Redmon, State Fire Marchall (Attachment 2) and a letter from Steven Cater, Chairman of the Emergency Planning Committee for Douglas County containing comments on the bill. (Attachment 3)

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 Senate COMMITTEE ON Governmental Organization

room 531-N, Statehouse, at 1:35 ~~am~~/p.m. on April 2, 1991

Representative Nancy Brown, Chairman of SERC, presented written testimony in support of HB 2472 (Attachment 4) and observed that the amendments contained in the bill are primarily technical in nature. Due to the fact that the House of Representatives was in Session, Representative Brown requested that she be allowed to return later in the meeting to answer questions concerning the bill.

The next conferee on HB 2472 was Don Smith, Colby, Kansas. Mr. Smith discussed the composition of SERC and stated that if this Commission has the power to make rules and regulations and, if rules and regulations are law, then this is an illegal, unconstitutional delegation of legislative powers. He requested that the Committee request an opinion from the Attorney General concerning the constitutionality of the SERC and that the Committee also file suit in the Kansas Supreme Court to determine whether HB 2472 is constitutional. After expressing concern over other Sections of the bill, Mr. Smith requested that if HB 2472 is to become law he would like to have the bill amended to exclude Thomas County from its provisions. (Attachment 5)

Chairman Oleen called for testimony on HB 2283.

House Bill 2283 - African-American advisory committee, composition, officers, powers and duties.

Arthur Solis, Kansas American G.I. Forum, told the Committee that his organization, consistent with its founding principles of equality of opportunity and advocacy of the rights of others, supports HB 2283, which is an Act establishing an advisory committee on African-American affairs. (Attachment 6)

The next conferee in support of HB 2283 was Clarence Scroggins, Chairman of the Kansas Regional African-American History Month Founder's Commission, who stated that his organization unequivocally supports this bill which calls for the formation of a State Advisory Committee on African-American Affairs. He noted that through the passage of this bill, the Kansas Legislature could manifest its commitment to create an appropriate vehicle for citizens to address the same set of unsolved economic, political and social concerns of the African-American community in the nation as also exists in African-American communities throughout the State of Kansas. Mr. Scroggins recommended that the proposed Advisory committee not be appointed by the Governor alone but rather appointments be made by the President of the Senate, the Senate Minority Leader, the Speaker of the House and the Minority Leader of the House, in addition to the Governor. (Attachment 7)

Blanche Parks, representing the Kansas Department of Human Resources (DHR), presented, at the request of the Secretary of DHR, information on that Department's Black American Affairs Committee (BAAC). (Attachment 8) Mrs. Parks said that BAAC was established in 1988, under Kansas law K.S.A. 75-5724 (Attachment 9) which states that the Secretary of Human Resources may create advisory boards, commissions, or committees with the approval of the Governor. The fifteen members of the BAAC serve at the pleasure of the Secretary or until their resignation. Mrs. Parks provided copies of the first edition of the Black American Affairs Newsletter mailed by the BAAC. (Copy on file in the Kansas Legislative Research Department.) In conclusion, she told the Committee that upon their appointment, BAAC members dedicated themselves to the black youth of Kansas and sponsored a series of statewide youth conferences designed to educate students about the benefits of completing high school, encourage them to seek a career and pursue the post-secondary education and training needed to achieve their goals.

A Committee member asked if there are similarities between the BAAC and the Committee provided for in HB 2283. Mrs. Parks answered that the Committee in this bill would be mandated by law and would be similar to the Hispanic Affairs Committee with an Executive Director. The BAAC, she observed, has youth as its focus at this time, but the Committee's focus can be changed by the Secretary of Human Resources.

Chairman Oleen stated that the fiscal noted on HB 2283 for the first year is \$193,790 with an additional four FTE positions and \$4,300 for capital outlay the

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Governmental Organization,

room 531-N, Statehouse, at 1:35 ~~xxx~~/p.m. on April 2, 1991

first year only. She said that the fiscal impact of this bill is not reflected in the Governor's budget.

The Committee again turned its attention to HB 2472 and Representative Nancy Brown who was present to answer questions concerning the bill. A member of the Committee questioned why the bill provides that the members of the proposed State Emergency Response Commission can designate someone to serve in his or her place. Representative Brown responded that these people specified in the bill serve on a variety of committees. She expressed concern that there be consistency on the Commission and that the same person attend the meetings whether it be a Secretary or a designee. The member asked why it is important that all the information on reportable chemicals and their reporting thresholds be gathered in Topeka. She answered that the information is disseminated statewide and that there are certain federal reporting requirements that all the information be in one location.

The Committee discussed HB 2080.

House Bill 2080 - Sunset law, department and office of secretary of transportation continued.

Chairman Oleen stated that following the discussions the Committee had with the Secretary of Transportation, several members had concerns that, as the State goes through the bonding process on the highway program, the Department of Transportation (KDOT) should continue to be reviewed and, therefore, should only be extended for one year in order that another review can be made next year. Vice-Chairman Bogina expressed the opinion that both KDOT and the Kansas Corporation Commission should be reviewed during the Interim.

Senator Bogina moved that HB 2080 be amended in line 20 by changing the number "1996" to the number "1992". Senator Francisco seconded the motion. The motion carried.

Senator Bogina moved that HB 2080 as amended be recommended favorably for passage. Senator Francisco seconded the motion. The motion carried.

The Committee heard testimony on SB 398.

Senate Bill 398 - Creating the Kansas head and spinal cord advisory board.

The first conferee was Sherlyn Sampson, Clerk of the District Court, Douglas County, Kansas, who appeared in opposition to SB 398. Ms. Sampson pointed out that even though lawsuits filed in regard to head and spinal cord injuries are generally civil litigation, this bill provides that funding for the activities of the advisory board would be derived from criminal and traffic court costs. She observed that the bill increases certain traffic and fish and game docket fees by \$3.00 and deducts \$3.00 from current criminal docket fees. She noted that it is estimated that passage of this bill would cause a loss to the State General Fund of approximately \$116,000 due to the deductions from current criminal docket fees. Further, she said, SB 398 would have a substantial impact on the 105 District Courts of the State by requiring them to revise their accounting systems which systems are already cumbersome since nearly all monies collected have to be broken down into several categories for proper distribution. Ms. Sampson attached to her testimony (Attachment 10) a copy of the categories now used by the Courts and a copy of the court receipts journal. She told the Committee that passage of SB 398 would require the Courts in 105 counties to change their forms and/or computers and, at a time when the Court is short staffed and is looking at ways to reduce its work load in order to survive the hiring freeze and budget cuts, it does not need additional problems to solve or an increase in workload such as SB 398 would cause. In conclusion, she suggested that if the Legislature wishes to fund this Advisory Board, it amend the bill to provide that the Court collect the money but it would send it to the State Treasurer who would deduct a percentage of the fees paid and place them in a special trust fund for this Board.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Governmental Organization,  
room 531-N, Statehouse, at 1:35 ~~am~~/p.m. on April 2, 1991

Mary Pat Beals, Executive Director of the Head Injury Association, appeared in support of SB 398 and told the Committee that this bill is needed and that she would be willing to work with the Clerks of the District Court to devise a collection arrangement which would be satisfactory to all parties. She noted that her Association has worked with the Department of Social and Rehabilitation Services, Department of Transportation and the Department of Health and Environment to do everything possible with existing policies and funding to help people with head injuries, most of whom are males between the ages of 15 and 30. She pointed out that there is not an adequate or appropriate system of programs in Kansas to help these people and she noted that in order to get these programs they need a funding source. Ms. Beals said that the funding source proposed in SB 398 would be used only to provide services to small not-for-profit 501 (c)(3) community based organizations which are providing community services or supporting and developing injury prevention programs. In conclusion, Ms. Beals urged the passage of SB 398.

Paul Shelby, Assistant Judicial Administrator, Office of Judicial Administrator, said that he agrees with the testimony presented by Sheryl Sampson. He suggested that if the Legislature wishes to fund the program set out in SB 398 the bill should be amended to provide that the money specified for the program to be collected by the Court would not go to the General Fund but rather would go to the State Treasurer who would place it in a special trust fund. Mr. Shelby estimated that total revenue to this special fund would be approximately \$1.6 million. (See Attachment 11 for Mr. Shelby's testimony and copy of his suggested amendment.)

The Chairman announced that the Committee would meet the next day at 2:00 p.m. The meeting was adjourned at 2:35 p.m.

GUEST LIST

COMMITTEE: SENATE GOVERNMENTAL ORGANIZATION

DATE April 2, 1991

NAME	COMPANY / ORGANIZATION	ADDRESS
Sherlyn Sampson	Dg Co. District Court	Lawrence
Paul Shelby	OJA	Topeka
Don Smith	Self	Celly, Kansas
P WILLBOURN	KDOT	TOPEKA
Jan Stegelman	KDHE	Topeka
Arthur W Solis	Ks GI Forum	Olathe KS
William Meinerz, president	C.C.B.C.	
Charles G. Bredahl	The Adjutant General's Dept	Topeka
Marti Malcolm	SRS/AMS	TOPEKA,
Blanchel Parks	Ks. Dept. Hum Resources	401 Topeka
Paula Freerksen	League of KS Municipalities	112 S.W. 7th
LINDA McGill	KSTA	TOPEKA
Tom Day	KCC	TOPEKA

Testimony presented to  
Senate Governmental Organization Committee

by

The Kansas Department of Health and Environment

House Bill 2472, as Amended

The Bhopal, India and Institute, West Virginia toxic chemical incidents which resulted in over 3,000 deaths and over 200,000 injured, highlighted the need for local and state planning for chemical emergency response. This, coupled with heightened citizen concern for chemicals in the environment, their health implications and environmental effects, led the Congress to enact the Federal Emergency Planning and Community Right-to-Know Act, Title III of the Superfund Amendments and Reauthorization Act.

The Kansas Emergency Planning and Community Right-to-Know Act establishes the authority for the State to implement the provisions of Title III. The federal law was signed by the President on October 17, 1986 and imposed reporting requirements on facilities that handle, store or emit hazardous chemicals. It further mandated state's to establish Emergency Response Commissions and Local Emergency Planning Committees to develop emergency plans for dealing with releases of these materials. The law also provided for "right-to-know" by the public regarding the risks these chemicals represented to them in the community and in the environment. Under state law, the Kansas Department of Health and Environment (KDHE) was delegated responsibility for receipt of these reports. The Division of Emergency Preparedness of the Adjutant General's department was given the responsibility for oversight of the emergency planning process.

The State of Kansas is an acknowledged leader in this program area. EPA has published a document "Successful Practices in Title III Implementation" which highlighted the Kansas program as a model for other states. While our program has been very successful to date we have noted some areas where legislative action would enhance achieving its goals. In particular, the Kansas Department of Health and Environment as recipient of the data submitted has proposed for your consideration amendments to the Kansas statute before you today.

This Bill proposes one policy and five technical changes in the existing statute.

POLICY (pg 1, lines 19-23 and pg 2, lines 9-25)

House amendments propose to expand the duties of the State Emergency Response Commission (SERC). This would de jure codify the de facto coordination role currently accomplished by the SERC for its member agencies.

It would also allow the SERC to function both as a forum and aid to coordinate state agency activities in the area of chemical emergency preparedness, response, release prevention and amelioration of the risks chemicals represent in the community. Currently many state agencies have overlapping or partial responsibilities in these areas. This new SERC role will ensure greater

*Senate Committee on Governmental Organization*  
*4-2-91*

*Attachment 1*

efficiency and use of state resources at the same time responsiveness will be enhanced. Oversight will make sure that agency efforts are not duplicated and also insure that gaps in agency programs are addressed. This will provide better levels of protection to the health, safety and environment of Kansas citizens.

#### TECHNICAL

##### I - Reporting Changes (pg 3, lines 12-17)

Section 311 of the Federal Act imposes a one time initial reporting requirement on facilities that are work places regulated under the Occupational Safety and Health Act. Existing reporting provisions allow submitting under Section 311 for each regulated chemical either a material safety data sheet (MSDS) or for the facility, submission of a list of hazardous chemicals and associated physical and health hazards. A list of chemicals and their associated hazards provides a more efficient means for the state to review and enter this information into the data management system. Submission of material safety data sheets should be at state or local government requests. Five states require and 35 states request the list in lieu of MSDSs.

Section 312 of the Federal Act requires these same facilities regulated under Section 311 to file an annual inventory on their reportable chemicals by March 1st of the succeeding year. They have the option of filing this report as either a Tier I report which aggregates the chemicals by hazard category or Tier II which reports information explicitly for each reportable chemical by name. The submission of Tier II reports only, rather than the federal option of submission of either the Tier I or Tier II report will reduce the paperwork burden, reduce confusion to the reporting facility as to which report to submit, and stabilize the fee schedule. The Tier II report provides much more detailed and useable information for Title III including emergency planning purposes.

At last report, 26 states have authority for and are requiring, and another 21 states request, the submissions of Tier II reports in lieu of Tier I reports.

##### II - Kansas List of Chemicals (pg 2, lines 32-41)

The authority to establish a list of Kansas specific reportable chemicals and their reporting thresholds would provide flexibility to monitor for any hazards unique to circumstances within Kansas. Currently, seven states have authority to request specific chemicals be reported, and thirteen states have authority to require reporting at lower quantity thresholds than the federal act. The need for authority to require reporting unique to Kansas was made manifest when the SERC investigated the explosion and death of six firemen in Kansas City.

##### III and IV - Compliance - Inspection and Late Fees (pg 3, line 33 and pg 4, line 1 and pg 4, lines 21-27)

The inclusion of authority to inspect regulated facilities when required is necessary in any compliance regulatory program. The ability to impose a late fee on those facilities recalcitrant in submitting required reports and fees will remove any economic advantage from late payment. Both these provisions are designed to enhance compliance. Enhanced compliance would increase the number of facilities participating in the program and thereby provide a better data base

to support emergency planning and other public purposes. Also, this would be more equitable to facilities since all regulated facilities would be providing information and participating through their fees in support of the program. This would potentially require a lower level of cost per facility to provide the same amount of funds necessary to underwrite the cost of operating the program.

V - State Emergency Response Commission Membership (pg 1, line 30)

K.S.A. 65-5703 establishes membership for the State Emergency Response Commission (SERC). The Kansas Corporation Commission (KCC) is currently not represented. Since the KCC maintains an active role in hazardous material spill and release reporting which interacts with SERC responsibilities, it is appropriate to include KCC as a SERC member.

We have prepared a worksheet entitled "Fiscal Impact on Fee Paying Facilities" which presents the existing fee collection program for FY 1990 and projected impact of these proposed amendments on fee collections and average cost per facility in FY 1992. The assumptions used in making this projection include the same number of facilities providing information under the various reporting sections in 1992 as 1990. However, we expect that given the programs recent contract under grant to the US Environmental Protection Agency to enhance our ability to identify non-filers and suspect data, we should be able to increase the number of facilities which are in compliance. No significant change in expenditures will occur as a result of the implementation of this legislation by KDHE. There will be revenue enhancement since facilities will be submitting Tier II forms in lieu of Tier I forms and lists in lieu of Material Safety Data Sheets. Our estimates indicate approximately a 40% increase in fee collections under these sections when comparing FY 1992 projections to FY 1990 income. The major area of revenue enhancement is from Section 311 since the current average cost per facility submitting MSDSs is \$7.63 which would then go up to \$23.00, the fee per Section 311 list. We have prepared a conversion chart for estimating the difference in fees for submitting Tier IIs in lieu of Tier Is. Based upon this, the average cost to a facility submitting Tier IIs would drop from \$15.97 to \$15.46. The reason for this is that those facilities that currently submit Tier I's paying \$6.00 would, with these amendments, have to now pay the cost of Tier IIs which would result in an average cost of \$15.46 per facility.

Thank you, if you have any questions I would be pleased to answer them.

Testimony presented by: Karl Birns  
Program Manager, Right-to-Know  
Bureau of Environmental Health Services  
April 2, 1991



FISCAL IMPACT ON FEE PAYING FACILITIES

FY 1990

<u>REPORT</u>	<u>#FAC</u>	<u>#UNITS</u>	<u>FEE</u>	<u>TOTAL</u>	<u>AVG COST/ FEE PAYER</u>
311 LIST	549	549	\$23	\$12627	\$23.00
311 MSDS	250	318	6	1908	7.63
312 TIER I	1211	1211	6	7266	6.00
312 TIER II	1501	2497	9	<u>22473</u>	15.97
				\$44274	

FY 1992\* (Based on current fees and same number of facilities)

<u>REPORT</u>	<u>#FAC</u>	<u>#UNITS</u>	<u>FEE</u>	<u>TOTAL</u>	<u>AVG COST/ FEE PAYER</u>
311 LIST	799	799	23	\$18377	\$23.00
TIER II	2712	4661+	9	<u>41949</u>	15.46
				\$60326	

+Conversion of Tier I to Tier II Equivalentents

In FY 1990, 1211 facilities filed Tier I, of these 907 had corresponding MSDS's or 311 Lists (others out of compliance).

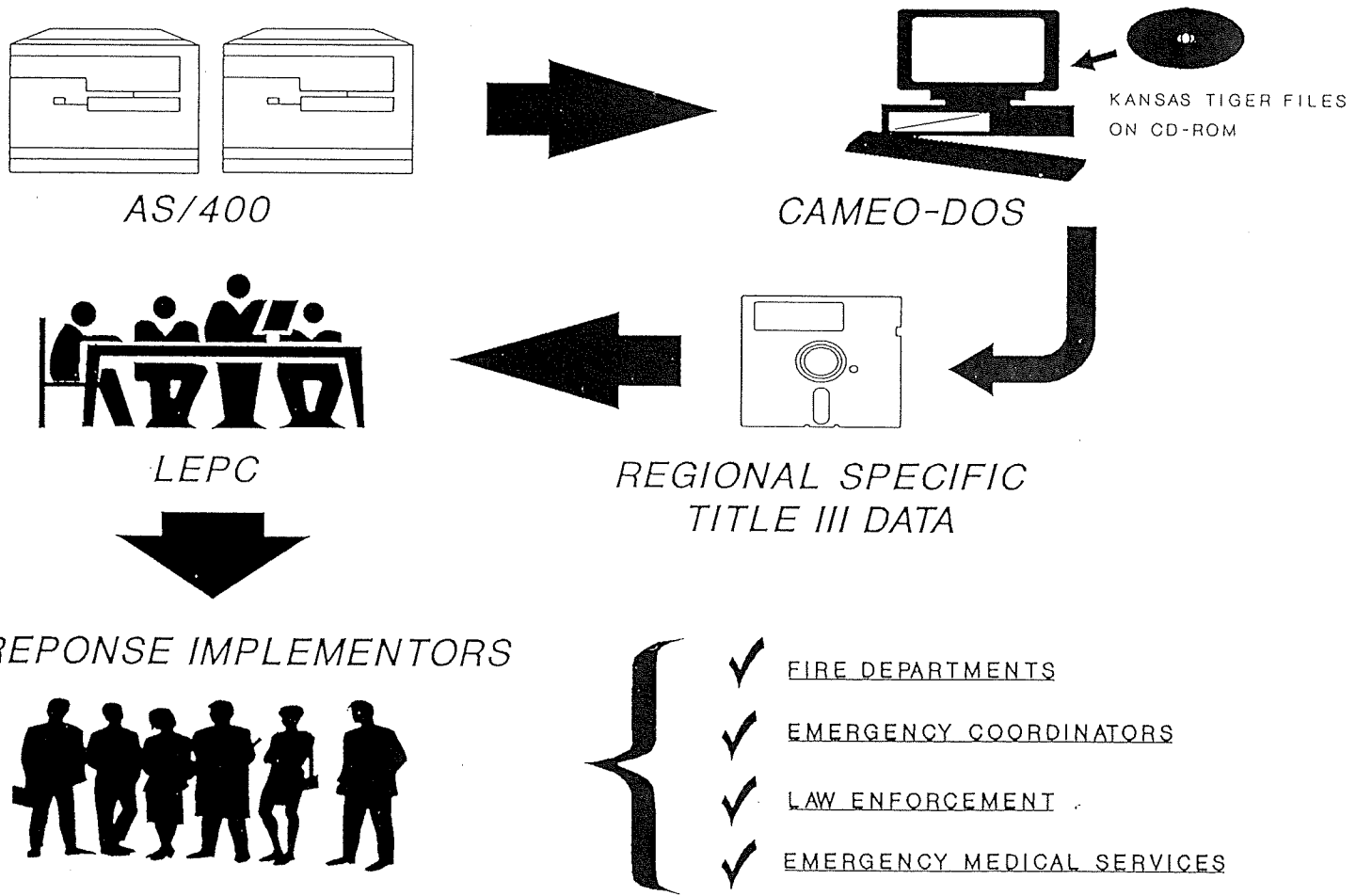
<u># Facilities</u>	<u>Chemical Count Range</u>		<u>#Tier II Equiv/Facility</u>
531	≤3	(1)	531
156	>3≤6	(2)	312
42	>6≤9	(3)	126
78	>9≤18	(4)	312
85	>18	(4)*	<u>340</u>
			1621

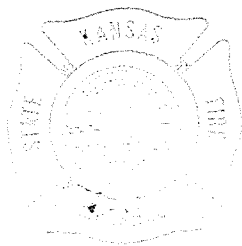
\*We expect that most facilities with greater than 18 chemicals reported on the Tier I are over reporting - e.g. providing a complete inventory for the facility without regard for the 10,000 lb. reporting threshold.

$$\frac{907}{1211} : \frac{1621}{x}$$

x = 2164  
Number Tier II equivalent if all had 311 compliance

KANSAS DEPARTMENT OF HEALTH & ENVIRONMENT  
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April 1, 1991

Honorable Lana Oleen, Chairperson  
Governmental Organization  
Room 143N  
State Capital Building  
Topeka, Kansas 66612

Dear Chairperson Oleen:

As a member of the State Emergency Response Commission I support the legislation proposed in House Bill 2472. I feel the Commission needs the authority and responsibility to carry out the full intent of the federal act. The Commission needs to have the authority to coordinate state agency activities to: (1) provide quality chemical emergency training is provided to our States emergency response agencies; (2) development of hazardous materials emergency response areas and teams within those areas; (3) to collect information about hazardous materials incidents without duplication of reporting.

I also feel that the addition of the Chairperson of the Kansas Corporation Commission will give the SERC commission additional communication within the transportation industry.

I believe the Commission should have the authority to establish committees to accomplish its assigned tasks and to establish the local planning districts for the development of regional response areas and teams.

Sincerely,

  
Edward C. Redmon,  
State Fire Marshal

*Senate Committee on Governmental  
Organization*

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4-2-91

*Attachment 2*

EMERGENCY PLANNING COMMITTEE FOR DOUGLAS COUNTY

111 East Eleventh Street  
Lawrence, Kansas 66044

March 6, 1991

Mr. Karl Birns  
Right-to-Know Office  
Kansas Department of Health and Environment  
Mills Building  
109 SW 9th Street  
Topeka, KS 66612

Dear Karl,

Yesterday afternoon Jon Flint of your office contacted me about House Bill Number 2472. Below are some brief comments I have on it.

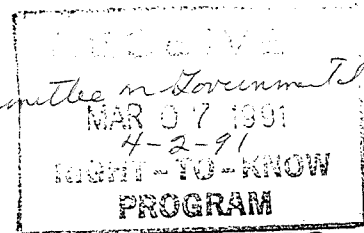
I agree with the addition of item C in Section 2. There are compounds stored and used in volume in Kansas that are not necessarily of interest nationwide. Unfortunately, the best example of a compound in this category (Hiflo, a mixture of ammonium nitrate and fuel oil) is associated with a tragedy. I suggest that the LEPC's explicitly be given the authority to also create a list of reportable compounds.

In section 3, having facilities submit lists of chemicals rather than the MSDS will save effort and filing cabinet space. To make them more useful, I suggest that the lists be sorted by some order other than alphabetical - such as by reactive classes. The provision requires facilities to submit MSDS upon request is essential so that the additional information on the MSDS can be obtained if necessary.

Section 3 also requires use of Tier II reports rather than Tier I. I support this change. For several years, our LEPC has asked facilities to use the Tier II report rather than the Tier I, simply because the Tier I report is so general that it is not very useful.

I have no objection to interest being added to outstanding fees. I suggest that a one month grace period similar to that used by credit card companies be added to allow for mailing delays and other minor problems.

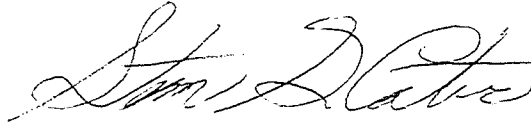
I would also like to point out what I consider to be a continuing problem for many LEPC's, the issue of funding. The LEPC is a committee given tasks on a local level but appointed by the State. Yet the local governments are expected to fund it. In many areas, this dichotomy has produced no funds for the LEPC; for why should a county fund a State committee? I suggest that either the LEPC's be given funds, or they be given authority to raise funds.



Mr. Karl Birns  
March 6, 1991  
Page 2

I have not had the opportunity to contact other members of the Local Emergency Planning Committee for Douglas County, so the above comments must be considered my personal opinions. I will circulate the Bill and my comments and send you any additional comments the committee may generate.

Sincerely,

A handwritten signature in cursive script, appearing to read "Steven G. Cater".

Steven G. Cater  
Chair, Local Planning Committee  
for Douglas County



TOPEKA

HOUSE OF  
REPRESENTATIVES

NANCY BROWN  
REPRESENTATIVE, 27TH DISTRICT  
15429 OVERBROOK LANE  
STANLEY, KANSAS 66224-9744  
TOPEKA: (913) 296-7696  
STANLEY: (913) 897-3186

COMMITTEE ASSIGNMENTS  
RANKING REPUBLICAN:  
LOCAL GOVERNMENT  
MEMBER: GOVERNMENTAL ORGANIZATION  
ECONOMIC DEVELOPMENT  
MEMBER, STATE EMERGENCY  
RESPONSE COMMISSION  
CHAIRMAN, COMMUNITY DEVELOPMENT  
BLOCK GRANT ADVISORY COMMITTEE  
CHAIRMAN, STATE EMERGENCY RESPONSE  
COMMISSION

HB 2472 - TESTIMONY BEFORE SENATE GOVERNMENT ORGANIZATION

April 2, 1991

HB 2472 amends the Kansas Emergency Planning and Community Right-to-Know Act, an act that was mandated by the Federal Government in 1986 after several toxic chemical incidents of world-wide concern, namely Bhopal, India, heightened the awareness of the potential for disastrous effects on health and environment through accidental release of such chemicals..

You will hear from other conferees who will provide you with some history and further testimony in support of the bill, but I want to take this opportunity to let you know that the State of Kansas, much to the credit of the Dept. of Health & Environment, the Division of Emergency Preparedness and the members of the State Emergency Response Commission, is considered one of the leaders in the nation in the area of Community Right-to-Know and Emergency Response.

The amendments in HB 2472 are primarily technical, as requested by the Department of Health and Environment and the State Emergency Response Commission. Amendments include changes in data submissions to provide for greater efficiency of data entry and maintenance, as well as provide a higher quality of data for use by the Local Emergency Planning Committees and the state in preplanning emergency response.

Other changes include the additional of a Kansas Corporation Commission member to the SERC, the enhancement of program compliance, and more equitable distribution of program costs. The bill also allows for coordination of state agency activities relating to chemical emergency response training and preparedness.

As one of the authors of the original legislation, a member of the State Emergency Response Commission since its creation, as well as current Chairman of the SERC, I appear in support of HB 2472. I and the other conferees are happy to answer any questions.

*Senate Governmental Organization Committee*  
*4-2-91*  
*Attachment 4*

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**DONALD D. SMITH P.E.**  
Kansas Certificate No. 4460

April 2, 1991

Madam Chairperson & members of the Committee:

I'm Don Smith from Colby, Kansas. I appreciate your time to consider my testimony on HB-2472.

My qualifications to present this bill includes: 6 years as state representative from the former District 105 which is Thomas County, Kansas.

I have been a businessman, developing manufacturing business since I served in the legislature. I'm a farmer and a professional engineer. I am not a paid lobbyist. The person that I represent in this area is Don Smith.

All opinions that I'm expressing on HB-2472 are my own professional opinions. HB-2472 is an act relating to Kansas emergency planning and community right-to-know act: amending K.S.A. 1990 Supp. 65-5703, 65-5704, 65-5707 and 65-5708, and repealing the existing sections.

I would like to take parts of the bill and give my professional opinion for the record.

Section 1. Part b sets up a commission that 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 chairperson of the state 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 the owners and operators of facilities regulated pursuant to this act.

The seventeen members on this commission that will be making rules and regulations and only THREE are members that the public can vote for: the governor, the lieutenant governor, and the attorney general.

If this commission has the power to make rules and regulations and if rules and regulations are law, then this is an illegal unconstitutional delegation of legislative powers delegating this commission the powers to make laws.

I would like to respectfully submit that the committee file with the attorney general to see if this is an unconstitutional delegation of legislative powers to make laws, if in his opinion this commission is constitutional. If not the attorney general, I would respectfully submit that the committee file suit in the Supreme Court of the State of Kansas to determine if HB-2472 is constitutional with the delegation of legislative powers to a commission to make rules and regulations and if rules and regulations have the same force and effect as statutes.

*Senate Committee on Governmental Organization*  
4-2-91  
Attachment 5

Section 4. Sub-section b Sub-sections 1 and 2. In my opinion, the secretary of health and environment, the adjutant general or the attorney general have the powers to assess unreasonable fines in such a way that they have to be considered cruel and unusual punishment. In section 2, the secretary or attorney general can assess \$75,000 per day for each violation or subsequent violations. The attorney general's salary is \$65,000 and secretary of health and environment's salary is \$75,000, which is 1 year's salary for 1 day violation.

In my opinion this is totally unconstitutional to allow the secretary of health and environment this much power.

In Section 5, New Sub-section H, the secretary of health and environment, the adjutant general or the attorney general or a district attorney may bring 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 sub-section (g).

In my opinion this is a very destructive and unconstitutional way of financing state and county government in lieu of driving businesses out of business to collect the fines.

If this legislation has been tested in courts for constitutionality and if the courts have ruled this is constitutional, Madam Chairperson, I would like to present an admendment to HB-2472.

A New Section 6 shall be submitted which states that a county with a population of 8258 people, shall be exempt from these statutes 65-5703, 65-5704, 65-5707 and 65-5708 are hereby repealed.

A New Section 8. This act shall take effect and be in force from and after it's publication in the statute book and the official state newspaper.

Madam Chairperson and the Committee, I would like to thank you for your time, allowing me to present this testimony at this hearing. I would appreciate very much a favorable recommendation that this committee will make to HB-2472.



DONALD D. SMITH, P.E.  
Former State Representative, Representing  
the former 102 District of the State of Kansas



# American GI Forum Of Kansas

NATIONAL VETERANS FAMILY ORGANIZATION



*Arthur W. Solis*

*Kansas State Chairman*

*"Education Is Our Freedom, and Freedom  
Should Be Everybody's Business"*

215 NORTH NORMANDY  
OLATHE, KANSAS 66061  
[913] 782-1613

## W R I T T E N   S T A T E M E N T

April 2, 1991

TO: Senate Committee on Governmental Organization

FROM: *AS* Arthur W. Solis, State Chairman  
AMERICAN GI FORUM OF KANSAS

RE: House Bill No. 2283  
An Act establishing the advisory committee on African-American affairs

The AMERICAN GI FORUM OF KANSAS is a State chapter of the American GI Forum of the United States, a national Hispanic veterans family organization. The American GI Forum is one of the oldest and largest Hispanic organizations in the United States. The Kansas GI Forum consists of various local forums, including Kansas City, Kansas; Topeka; Wichita; Hutchinson; Dodge City; Garden City; and Ulysses. In accordance with its national and state constitutions, the American GI Forum is non-partisan in its activities.

The Kansas GI Forum was instrumental in the establishment of the Kansas Advisory Committee on Hispanic (formerly Mexican American) Affairs and unequivocally supports the statutory mandate of the office of the Advisory Committee on Hispanic Affairs. Consistent with its founding principles of equality of opportunity and advocacy of the rights of others, the American GI Forum of Kansas lends its support for HB No. 2283, an act establishing the advisory committee on African-American affairs.

*Senate Committee on Governmental Organization  
4-2-91*

*Attachment 6*

AFRICAN-AMERICAN HISTORY MONTH FOUNDER'S COMMISSION

An Affiliate of The National/International African-American History Month Founder's Commission, Robert Sterling Pritchard, National Chairman

3730 Truman Avenue • Topeka, Kansas 66609 • Tel. (913) 267-5381

**FOR IMMEDIATE RELEASE**

27 March 1991

**C.E. "Sonny" Scroggins**  
Chairman

Cherlin Ray Adams  
African-American and Judicial Affairs Lobbyist  
Topeka, KS

Agnes Adéboye  
Lifeline Learning Center, Inc.  
Topeka, KS

Steve Anderson  
District Executive, Boy Scouts of America  
Jayhawk Council  
Topeka, KS

Angela Bates  
Kansas Black History Education and Research Group  
Topeka, KS

Jim Beachy  
Executive Director, Topeka Peace Resource Center  
Topeka, KS

E. Jean Carter  
Executive Director, H.O.P.E., Inc.  
Wichita, KS

Great Cushmanberry  
Sponsor, Annual Community Thanksgiving Dinner  
Topeka, KS

William Dickson  
Kansas Committee to Free Southern Africa  
Topeka, KS

K.C. Graves  
Kansas City, Kansas

Carl Gann  
Omaha, NE

Samuel Hughes  
Kansas City, MO

Charles Jackson  
Community Activist  
Topeka, KS

Steve Jackson  
Car Salesman  
Goodview, MO

Edwin Jefferson  
Photographer and Videographer  
Topeka, KS

Jack Jefferson  
Photographer and Videographer  
Topeka, KS

Sam Jordan  
Community Activist  
Topeka, KS

Kim Kears  
Former "Miss Topeka"  
Topeka, KS

Marilyn Kitchin  
Pottawatomie Indian Activist  
Topeka, KS

Bambi Landrum  
Pur. Chairperson, Kansas Fever Committee  
McPherson, KS

Sharon Lefler  
Acting Chairperson, Martin Luther King  
Heritage Project  
Topeka, KS

Robert "Bob" Love  
Musician, Composer  
Wichita, KS

Rody Love  
Musician, Composer  
Wichita, KS  
Los Angeles, CA

Q.B. Lov  
Topeka, KS

Lazarus H. Mingo  
Member, African National Congress  
Overland Park, KS

John Bright Moss  
Documentary Filmmaker  
Topeka, KS  
Baltimore, MD

Rev. Max Manning  
Missionary to Haiti  
Topeka, KS

George Mayfield  
Artist  
Kansas City, KS

Woody McDonald  
Network Consultant/Data Entry Clerk, State of Kansas  
Topeka, KS

Rev. Woods M. McNeale  
H.O.P.E., Inc.  
Wichita, KS

Jimmy McGee  
Denver, CO

Arthur Patrice  
Nurse  
Antony, IA

Fred Phelps  
Topeka, KS

Patricia Phillips  
Catering/food Service Dept., Holiday Inn  
Topeka, KS

Rosemary Rebot  
Reporter/Writer  
Topeka, KS

Rev. Clarence Saunders  
Topeka, KS

Henrietta Scroggins  
City Council  
Cherokee, OK

Lola Soerhoe  
National Sergeant-at-Arms, American GI Forum  
Iremon, KS

Logan Sharp  
Hercotak, OK

Lemuel Sheppard  
Musician  
Pittsburgh, KS

Dennis Shocks  
Nurse  
Topeka, KS

Fred Shocks  
Supervisor, Janitorial Service, Menninger Foundation  
Topeka, KS

Jim Spencer  
Member, KS

Ellie Mae Tolles  
Kansas Fever Committee  
Topeka, KS

Rev. Cecil Washington  
Topeka, KS

Shamie White  
Professor of History, Centenary State College  
Cherokee, OK

Edad Williams  
Cook at Docking State Office Building  
Topeka, KS

Mr. President,  
Distinguished Members of the Senate Chamber of the State of Kansas Legislature,  
Fellow Citizens of our State's Multi-Ethnic and Multi-Cultural Community-at-Large,  
And especially fellow citizens of our State's African-American Community:

My name is Clarence E. Scroggins, known to many of you as "Sonny" Scroggins. I am as proud to appear before you today in my capacity as Chairman of the Kansas Regional African-American History Month Founder's Commission as I was to appear before your distinguished colleagues of the House of Representatives in that same capacity in support of House Bill Number 2283, last month. Indeed, I am proud to note that the dynamics of participatory democracy have been amply manifested in the Supplemental Note on House Bill No. 2283 indicating certain amendments I proposed during the course of the previous hearing on this Bill. This is therefore to reaffirm my support of those amendments.

Though I appear before you here today, as Chairman of an African-American History Month Founder's Commission affiliate, which is part of a national network of community organizational coalitions uniting business, civic, cultural, education and religious leaders, scholars, and African-American community grass-roots leadership, it is as a citizen of Kansas... it is as a member of our local multi-ethnic community... it is as a neighbor of our Capital City's African-American Community, that I make this appeal to you to pass this civil, human and economic rights "promissory note" to our State's African-American Community in the form of House Bill 2283. For through such a piece of enabling legislation, the legislature of the State of Kansas will have manifested their commitment to create an appropriate vehicle for citizens to address those same set of unsolved economic, political and social concerns of the African-American Community in the nation, as also exists in African-American Communities throughout our State.

Accordingly, as I have already stated to the distinguished members of the House, I also congratulate this august body, the Senate, for the initiative it has taken to come to grips with a set of economic, political and social problems that, in being traditionally inadequately addressed by our State's body politic, have consigned our state's African-American Communities to a pace of growth and development that has historically fallen far short of the majority community and even one of our State's other communities-of-colour.

As I am not the seasoned public speaker that many of you are, and am therefore without either the experience or the oratorical skills to find novel ways in which to present truths that must be as apparent to all of you here today, as they are to

Senate Committee on Governmental Organization  
4-2-91 attachment 7

the majority of our State's African-American citizens every day, I have only those simple truths I simply expressed in my presentation before the House of Representatives last month, to share with you today. Thus, they are unadorned by those debate frills and clever twists of phrases and emphasis which could make of my presentation perhaps something a bit more original than the replica it actually is of my previous presentation before the House.

Still, I welcome this opportunity to express our Statewide organization's unequivocal support for House Bill No. 2283, introduced by Representatives Gomez, Cribbs, Hensley, Jones and Watson, calling for the formation of a State Advisory Committee on African-American Affairs.

We and our fellow members of our State's A-AHM Founder's Commission know that we do not have to remind you that, for more than a century, African-Americans have played a vital role in the growth of our State, and before, that our Territory. We are an integral part of the State's economic, governmental, educational, cultural, and political environment, if not as yet those establishments. At the same time, it must be recognized that the African-American community has, for equally well-known historical reasons, been short-changed in its enjoyment of the promise of full equality which is the goal of all Americans who cherish the ideals of a democratic society. While that society has, for the 128 years since the Emancipation Proclamation, offered the hope of "equal opportunity" to its African-American citizens, denied to our forefathers and foremothers during the 244-year period of our captivity and enslavement, it is today reassuring to find in both the text and the spirit of House Bill No. 2283 an Enabling Act which provides for official support for African-American community level initiatives. For it addresses not only the problem of equality of opportunity for Black citizens of our State, but quite frankly, the more fundamental and historically neglected criteria of equality of access to equal opportunity.

Unfortunately, the nuance of equality of access is all too often not understood as the Right which actually opens the door to equality of opportunity. That I have lived to see the day when the conscience of our State legislature led it to propose an Enabling Act providing for equality of access to equal opportunity, strengthens my belief in both God, State and Country, as it will surely strengthen the belief of my fellow African-Americans.

Our African-American community requires a vehicle such as the Advisory Committee on African-American Affairs at the level of State Government which can advise appropriate and concerned sectors of State Government on those special concerns of the African-American Community as they relate to its problems in the areas of culture, education, employment, health, housing, criminal justice, welfare and recreation. These concerns must be addressed by the State if indeed we are to narrow the gap which exists between African-Americans and Whites in Kansas, particularly in terms of economic justice before the end of this century. Such Commissions exist in other states such as New York and Louisiana where they have proved to be effective channels to address the special needs of the African-American Communities of those states.

We also most strongly support the statutory provision that the Advisory Committee should be a bipartisan one and further recommend that, in order to avoid politicizing the appointments process, that appointments of Committee members be made in a manner that is consistent with the precedent set by the Public Disclosure Commission. We therefore have respectfully opposed the provision that these sensitive appointments be made by the Governor alone, or indeed by any single leader of a single political entity or Department of Government. Rather have we recommended that in following the precedent set by the Public Disclosure Commission, that several appointments be made by the President of the Senate, the Senate Minority Leader, the Speaker of the House and the Minority Leader of the House, in addition to the Governor.

In this manner, or in some other fair and equally appropriate manner, the State Legislature would be responsive to our State's African-American Community's concern that such sensitive appointments not be subject to the politicization process. Such processes have all too often undermined even

the honest attempts of lawmakers like yourselves to support with pragmatic legislation, the longings of citizens of the African-American Community to at long last gain equal access to equal opportunity to the full enjoyment of life as an equal American citizen. History will surely record that the Kansas State Legislature of this term did, in addressing the needs and concerns of our State's African-American Community, at the same time well-serve the interests of our State's community-at-large.

I thank you for this opportunity to address an issue of major concern to our State's African-American Community. It is on behalf of our State's A-AHM Founder's Commission that I congratulate and commend you for the political responsibility you have shown in bearing witness to your commitment to the goals of racial equity and therefore racial harmony in our State. Through the introduction of House Bill 2283, which you are this day presenting the citizens of this State in a Public Hearing, all citizens will have the opportunity to contribute to an enabling act, being appropriately debated this day.

In adopting this piece of legislation, you will have set in motion a Bill in the political history of our State which, by the very fact of its existence as an issue of debate in this Chamber, and as one which I and my fellow African-American citizens throughout the State cannot even remotely conceive will not be adopted by our Legislature, you guarantee the historical forward movement of our State's contribution to the nation's inexorable drive towards the creation of a truly multi-ethnic/multi-cultural and equitable society.

In this moment, I feel what many of you may regard as descriptive of that which is emotionally and spiritually antipodal. I feel both pride and humility. I feel a sense of pride in what you are doing here today. At the same time, I feel a sense of humility in having this opportunity as a private citizen, an African-American citizen, to share with you my thoughts, feelings, and concerns, at once as a citizen of this State and an African-American member of my community. In this moment, the seeming antipodal character of those feelings interact to effect a certain compatibility, given my pride in each of you as the elected representatives of my fellow citizens of the State of Kansas, who, in sensing the imperatives of history, have seized the moment to assist the African-American community in its desire to address its own needs and concerns through the Enabling Act of the African American Affairs Commission.

I am humbled to have this opportunity to bear witness to the needs, concerns and indeed the conscience of all those of my people of this state who cannot be here this morning to say what needs to be said in an effort to share with you all that I have attempted to share on their behalf, however inadequate, inexperienced and unskilled my delivery may be. I thank you and God bless you.

**Testimony on H.B. 2283  
Establishing the Advisory Committee on African American Affairs**

by Blanche C. Parks  
Kansas Department of  
Human Resources

Chair and Members of the Committee:

I am Blanche C. Parks, and I represent the Kansas Department of Human Resources. I am appearing before you in regard to House Bill 2283. I have been asked to inform the Committee about the Black American Affairs Committee.

Many people know the Department of Human Resources is involved in the day-to-day business of responding to Kansas residents in the areas of employment and labor. What may not be as well known is the department's advocacy work for distinct constituency groups. You are all familiar with the Kansas Advisory Committee on Hispanic Affairs and the Kansas Commission on Disability Concerns, but an advisory body of which you may not as familiar is the department's Black American Affairs Committee (BAAC).

In 1988 the BAAC was established under Kansas law (K.S.A. 5724). This law states the secretary of human resources may create advisory boards, commissions, or committees with the approval of the governor. Members serve at the pleasure of the secretary or until their resignation.

Fifteen members were appointed as representatives of Kansas City, Lawrence, Topeka, and Wichita. During their three-year existence the committee adopted by-laws, elected officers, sponsored activities, and mailed the first edition of the *Black*

*American Affairs Newsletter*. Open meetings were initially held monthly, but are now held quarterly. Members serve on a volunteer basis, compensated only for travel expenses.

Upon their appointment, BAAC members dedicated themselves to the black youth of this state. With the department's technical and financial assistance, the committee sponsored a series of statewide youth conferences designed to educate students about the benefits of completing high school, encourage them to seek a career, and pursue the post-secondary education and training needed to achieve their goals.

Each year has seen the conferences' attendance grow and school districts' interest increase. Few Kansas conferences address the issues of "Stay in School", "Prepare for the Future", and "Don't Do Drugs" at students who are "At-Risk" of graduating from high school. To date, over 1,500 students attended conferences in Topeka, Kansas City, Overland Park, Wichita, and Lawrence.

The Committee is committed to continuing their work with youth and education, and to expanding into areas including employment, aging, economic development, and administration of justice.

Handouts: Black American Affairs Newsletter; Vol. 1 No. 1.  
K.S.A. 75-5727

BCP:JT

and the executive director of the advisory committee may prescribe and such duties and powers as are designated by law, and shall act for and exercise the powers of the advisory committee and the executive director of the advisory committee to the extent authority to do so is delegated by such committee or executive director.

**History:** L. 1976, ch. 354, § 18; L. 1985, ch. 292, § 8; L. 1986, ch. 302, § 6; July 1.

**75-5717, 75-5718.**

**History:** L. 1976, ch. 354, §§ 19, 20; Repealed, L. 1985, ch. 292, § 20; July 1.

**75-5719.**

**History:** L. 1976, ch. 354, § 21; L. 1985, ch. 292, § 9; Repealed, L. 1986, ch. 278, § 8; July 1.

**75-5720.**

**History:** L. 1976, ch. 354, § 22; L. 1978, ch. 332, § 55; L. 1985, ch. 292, § 10; Repealed, L. 1986, ch. 278, § 8; July 1.

**75-5721.**

**History:** L. 1976, ch. 354, § 23; Repealed, L. 1985, ch. 292, § 20; July 1.

**75-5722. Chief attorney and additional attorneys for department; appointment and salaries.** The secretary of human resources shall appoint a chief attorney for the department of human resources, who shall serve at the pleasure of the secretary. The chief attorney shall be in the unclassified service under the Kansas civil service act and shall receive an annual salary fixed by the secretary of human resources, with the approval of the governor. The secretary of human resources also may appoint additional attorneys for the department of human resources. Except for those attorneys the secretary may appoint to positions in the classified service under the Kansas civil service act in order to comply with directives under any federal act, or federal administration thereof, which federal act is related to a function or duty required to be performed by the secretary, such additional attorneys shall be in the unclassified service under the Kansas civil service act, shall receive an annual salary fixed by the secretary of human resources, with the approval of the governor, and shall be subject to assignment and reassignment of duties within the department of human resources as may be determined by the chief attorney.

**History:** L. 1976, ch. 354, § 24; L. 1985, ch. 292, § 11; July 1.

**75-5723. Organization of department.**

The secretary of human resources may organize the department of human resources in the manner the secretary deems most efficient, so long as the same is not in conflict with the provisions of law, and the secretary may establish policies governing the transaction of all business of the department and the administration of each of the divisions within the department.

**History:** L. 1976, ch. 354, § 25; L. 1985, ch. 292, § 12; July 1.

**75-5724. Creation of advisory boards, commissions or committees within department; allowances and expenses of members.** The secretary of human resources may create advisory boards, commissions or committees with the approval of the governor, and members of any such board, commission or committee shall be appointed by the secretary. Any such advisory board, commission or committee so created shall be within the department of human resources as a part thereof. Such advisory boards, commissions or committees shall consult with and advise the secretary with reference to the management, control and operation of any programs under the jurisdiction of the department or with reference to any law administered by the department or any division thereof. Members of any advisory board, commission or committee created under authority of this section attending meetings thereof, or attending a subcommittee meeting thereof authorized by such board, commission or committee, shall be paid amounts provided in subsection (e) of K.S.A. 75-3223, and amendments thereto. All vouchers for expenditures and all payrolls of each of such advisory boards, commissions or committees shall be approved by the presiding officer thereof and the secretary of human resources or a person or persons designated by the secretary.

**History:** L. 1976, ch. 354, § 26; L. 1985, ch. 292, § 13; July 1.

**Attorney General's Opinions:**

Department of human resources; creation of advisory boards. 86-61.

**75-5725, 75-5726.**

**History:** L. 1976, ch. 354, §§ 27, 28; Repealed, L. 1985, ch. 292, § 20; July 1.

**75-5727. Custody of records, memoranda, writings of departmental transactions.** The secretary of human resources shall have the legal custody of all records, memoranda, writings, entries, prints, representations or

TESTIMONY OF SHERLYN SAMPSON, CLERK OF DISTRICT COURT, DOUGLAS COUNTY, KANSAS

RE: SB 398

I am Clerk of the District Court of Douglas County, Kansas and President-Elect of the Kansas Association of District Court Clerks and Administrators (KADCCA). I am addressing you this afternoon in opposition to SB 398.

This bill establishes a Head and Spinal Cord Advisory Board to provide funding to support financially persons with head and spinal cord injuries and to foster community based programs to benefit the person and their families.

Even though lawsuits filed in regard to head and spinal injuries would generally be civil litigation, funding for the activities of the board is to be derived from criminal and traffic court costs. The bill increases certain traffic and fish and game docket fees by \$3.00 and deducts \$3.00 from current criminal docket fees. It is estimated that this bill would cause a loss to the State General Fund of approximately \$116,000 because of the deductions from current criminal docket fees.

This bill, in its present form, would have a substantial impact on the 105 District Courts of the State requiring them to revise their accounting systems.

The accounting system of the Court is cumbersome as nearly all monies collected have to be broken down into several categories for proper distribution. This bill would add another category to the list. Attached is a list of the categories we now use and a copy of the court receipts journal to help you understand the system. There are more categories on the list than you

*Senate Committee on Governmental Organization*  
4-2-91

• Attachment 10



will see columns on the receipts journal. Because of the lack of space on the journal, several of these categories are put under "other".

Passage of this bill would require the court in 105 counties to change their forms and/or computers. Those court that have their accounting on computer would have to have the computer programs modified to accommodate this change.

Jerry Sloan of the Office of Judicial Administration has prepared a fiscal note that sets out the estimated cost of these accounting and computer changes. Because of the additional accounting transactions this bill will require, it is estimated that the cost of clerical time involved to post these transactions would be approximately \$195,000. This is based on temporary clerk-hire pay at the rate paid in FY90, \$8.16 per hour.

Because of the accounting problems this bill would cause; the costs of making the necessary changes to forms, computer programs and manuals; the clerical time involved in posting the additional transactions; and the income loss to the state general fund; we would like to see this bill killed. We also feel the passage of this bill could open the door for other agencies or special interest groups to seek establishment of funds in the future and also look to the court for funding of those projects. More and more, the courts seem to be looked upon as a collection agency for funds for projects. This year alone three have been proposed: HB 2526, HB 2471 and this bill.

At a time when we are short staffed and looking at ways to reduce our work load in order to survive the hiring freeze and budget cuts we've been on for the last year, we don't need addi-

tional problems to solve or an increase in workload such as the ones this bill could cause.

We feel the bill as it is currently written establishes the worst possible way to collect fees to sustain this Advisory Board. If you wish to fund this Advisory Board, then we would ask that this bill be amended as proposed by the Office of Judicial Administration. This amendment would save some of the costs for accounting and clerical time by changing the bill so that the court collects the money and sends it to the State Treasurer who deducts a percentage of the fees paid and places them in a special trust fund for this Advisory Board. With this amendment only one computer and/or form change would be necessary instead of 105. This procedure is currently being done for collection of monies for Crime Victims Compensation Fund, Crime Victims Assistance Fund, Juvenile Detention Facilities Fund, Protection From Abuse Fund, Family and Children's Trust Fund, Vehicles Operating Fund, Community Alcoholism and Intoxication Programs Funds, and Highway Patrol Training Center Fund.

Thank for your time today to listen to my concerns in regard to this bill.

CURRENT CATEGORIES NOW BEING USED FOR DISTRIBUTION OF MONIES COLLECTED BY DISTRICT COURTS IN KANSAS

CLERK FEES STATE

PROBATION FEE

XEROX FEE

JUROR FEES

MARRIAGE LICENSE FEES

CLERK FEES COUNTY

FINES, PENALTIES & FORFEITURES

INTEREST

RESTITUTION

JUDGMENTS

URINALYSIS

PUBLICATION FEE

CHILD SUPPORT

INDIGENT DEFENSE SERVICE FUND (IDS)

LAW ENFORCEMENT TRAINING CENTER FUND (LETC)

ALCOHOL & DRUG SAFETY ACTION PROGRAM (ASAP)

WITNESS FEES

DEFENSE FEES - Felony

GUARDIAN AD LITEM FEES

APPRAISERS FEES

ABSTRACTER FEES

DEFENSE FEES - Misdemeanor

RESINSTATEMENT FEES

APPEARANCE BONDS

ESCROW ACCOUNT (Hold)

REIMBURSEMENTS, OVERPAYMENTS

PROSECUTING ATTORNEY TRAINING FUND (PATF)

LAW LIBRARY



Senate Bill No. 398  
Senate Governmental Organization  
April 2, 1991

Testimony of Paul Shelby  
Assistant Judicial Administrator  
Office of Judicial Administration

Madam Chair:

I appreciate the opportunity to appear today to discuss Senate Bill No. 398 which establishes a head and spinal cord advisory board to provide funding to support financially persons with head and spinal cord injuries and to foster community based programs to benefit the persons and their families.

Funding for the activities of the board is to be derived from court costs. This will have a substantial impact on the 105 district courts of the state by requiring them to revise their accounting systems and probably expanding clerical workload.

An accounting system dislocation of this sort would cost \$180,000 for programming mainframe computers, \$7,500 for form changes in our manual system, and \$216.00 for new manuals. These costs would be to the County General Funds.

The bill increases certain traffic and fish and game docket fees by \$3. Revenue to the special revenue fund created by lines 11 and 12, page 3, the head and spinal cord injury trust fund, would be about \$857,000 based on applicable criminal transactions in FY1990. Of this revenue to the special revenue fund, \$741,000 would be new revenue from the docket fee increase and \$116,000 would be a loss to the State General Fund from \$3.00 deductions from other criminal docket fees as prescribed by lines 34 through 37, page 5.

Municipal court revenue to the special revenue fund should come to \$750,00 (an estimated 250,000 traffic cases per year).

Total revenue to this special fund would be approximately \$1.6 million. (District Courts = \$857,000 and Municipal Courts = \$750,000).

The Clerks of the District Court are presently required to keep separate and maintain more than twelve different funds. These include Fines, Law Library, Prosecutors Training Fund, Clerks fees state, Clerks fees County, Law Enforcement Training Center Fund, Indigent Defense Services, Marriage License Fees, Child Support, Restitution payments, probation fees, Alcohol and drug safety action program fees, Drivers License Reinstatement Fee and Judgments to name a few.

*Senate Committee on Governmental Organization*  
*4-2-91*  
*Attachment 11*

This new fund will just add to the above requirements and during this time of budget cuts and a hiring freeze is a hardship on the Judicial Branch and especially the Clerks of the District Court.

Some of the costs for the accounting and the hardship on the Clerks of the District Court could be saved by changing the bill so that the deduction is made by the State Treasurer from the total amount of docket fees paid to the state; without this change we estimate additional clerical costs to be \$195,000.

I offer an amendment on Page 5, lines 30 through 42 to accomplish this burden and still generate the funds that this bill proposes. I urge your support for this amendment.

To the county treasurer, for deposit in the county treasury and credit to the county general fund:

(1) A sum equal to \$10 for each docket fee paid pursuant to K.S.A. 60-2001 and amendments thereto during the preceding calendar month;

(2) a sum equal to \$10 for each \$35 or \$60 docket fee paid pursuant to K.S.A. 61-2501 and amendments thereto; and

(3) a sum equal to \$5 for each \$15 docket fee paid pursuant to K.S.A. 61-2501 or 61-2704 and amendments thereto during the preceding calendar month.

(b) To the board of trustees of the county law library fund, for deposit in the fund, a sum equal to the library fees paid during the preceding calendar month for cases filed in the county.

(c) To the county treasurer, for deposit in the county treasury and credit to the prosecuting attorneys' training fund, a sum equal to \$1 for each docket fee paid pursuant to K.S.A. 28-172a and amendments thereto during the preceding calendar month for cases filed in the county and for each fee paid pursuant to subsection (c) of K.S.A. 28-170 and amendments thereto during the preceding calendar month for cases filed in the county.

(d) To the state treasurer, for deposit in the state treasury and credit to the indigents' defense services fund, a sum equal to \$.50 for each docket fee paid pursuant to K.S.A. 28-172a and subsection (d) of K.S.A. 28-170 and amendments thereto during the preceding calendar month.

(e) To the state treasurer, for deposit in the state treasury and credit to the law enforcement training center fund, a sum equal to \$5 for each docket fee paid pursuant to K.S.A. 28-172a and amendments thereto, during the preceding calendar month.

~~(f) To the state treasurer, for deposit in the state treasury and credit to the juvenile detention facilities fund, a sum equal to 5.85% of the remittances of docket fees paid during the preceding calendar month.~~

~~(g) To the state treasurer, for deposit in the state treasury and credit to the head and spinal cord injury trust fund, a sum equal to \$3 for each docket fee paid pursuant to K.S.A. 28-172a and amendments thereto, during the preceding calendar month.~~

~~(h) To the state treasurer, for deposit in the state treasury and credit to the state general fund, a sum equal to the balance which remains from all docket fees paid during the preceding calendar month after deduction of the amounts specified in subsections (a), (b), (c), (d), (e) and (f) and (g).~~

(g) From the balance of docket fees received pursuant to subsection (f) above, the state treasurer shall deduct a sum equal to 5.85% of the remittance and deposit it to the credit of the juvenile detention facilities fund.  
(h) From the balance of docket fees received pursuant to subsection (f) above, the state treasurer shall deduct a sum equal to 7.2% of the remittance and deposit it to the credit of the head and spinal injury trust fund.  
(i) The remainder of the remittance of the docket fees received pursuant to subsection (f) above shall be deposited in the state treasury to the credit of the state general fund.

and (e)

Sec. 11. K.S.A. 1990 Supp. 28-172a is hereby amended to read