

Approved: 2-13-92
Date

MINUTES OF THE HOUSE COMMITTEE ON APPROPRIATIONS.

The meeting was called to order by Chairperson George Teagarden at 1:35 p.m. on February 10, 1992 in room 541-S of the Capitol.

All members were present except: Representatives Fuller, Adam, Solbach (All excused).

Committee staff present: Ellen Piekalkiewicz, Legislative Research Department
Debra Duncan, Legislative Research Department
Jim Wilson, Revisor of Statutes
Sue Krische, Administrative Aide
Rose Baker, Committee Secretary

Conferees appearing before the committee:

William Wolff, Principal Analyst, Kansas Legislative Research Department
Emil Lutz, Director, Legislative Administrative Services

Others attending: See attached list

HB 2791 - Claims Against the State

Dr. William Wolff, Kansas Legislative Research Department, reviewed HB 2791, which authorizes expenditures from the State General Fund and various special revenue funds for the payment of specific claims against the state of Kansas. A handout was provided by Gary Stotts, Secretary of Corrections, regarding Section 3(b) and Section 9(b) (Attachment 1). Jack Lacey, Secretary of Wildlife and Parks, provided a handout regarding Section 11 (b) and (d) (Attachment 2).

Representative Vancrum moved to delete Section 3 (b). Representative Turnquist seconded. Motion carried. Dr. Wolff stated that the Department of Corrections requests an amendment to Section 4 (b) to make the warrant payable to two additional payees who are surviving members of the inmate's family and were responsible for paying, in part, the funeral expenses. Representative Hamm moved to amend Section 4 (b) by placing the two surviving members as payees on the warrant in addition to the name listed in the bill. Seconded by Representative Chronister. Motion carried.

KLRD suggested an amendment to Section 10 (a) line 7 to reduce the amount to \$7,114.02. This bill has partially been paid. Representative Chronister moved to amend Section 10 (a) line 7 to read \$7,114.02. Seconded by Representative Pottorff. Motion carried. Representative Everhart moved to delete Section 11 (b) authorizing a claim for damage to claimants' property caused by a fire not properly contained and Section 11 (d) authorizing payment from the wildlife fee fund for payment for loss of business due to not being issued permits to remove gravel from the Neosho river. Seconded by Representative Dean. Representative Vancrum requested the motion be divided. The chair ruled the motion be divided. The motion to delete Section 11 (b) carried. The motion to delete Section 11 (d) carried.

Representative Blumenthal moved to amend Section 14 (d) line 6 replacing NJ with NY. Seconded by Representative Chronister. Motion carried. Representative Helgerson moved to delete Section 15 (c). Seconded by Representative Patrick. Motion carried. Representative Chronister moved to delete Section 17 (a). Seconded by Representative Patrick. Representative Chronister withdrew motion. Representative Vancrum moved to amend Section 17 (b) line 31 dollar amount to \$1,366.00. Seconded by Representative Chronister. Motion carried. Representative Chronister moved to amend Section 19 line 41 to delete state general fund and replace with department of transportation. Representative Dean seconded. Motion carried.

Representative Chronister moved to authorize staff to make technical amendments to HB 2791. Seconded by Representative Helgerson. Motion carried. Representative Helgerson moved that HB 2791, as amended, be recommended favorably for passage. Representative Wisdom seconded. Motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON APPROPRIATIONS, room 541-S Statehouse, at 1:35 p.m. on February 10, 1992.

SB 498 - Fees and receipts of legislative agencies, disposition.

Emil Lutz, Director, Legislative Administrative Services presented testimony in favor of SB 498. A handout was provided by Senator Fred Kerr (Attachment 3). Director Lutz stated SB 498 would establish a legislative special revenue fund whereby fees for certain legislative charges and revenues from surplus property expenditures could be deposited. Director Lutz advised committee, for example, printing materials for legislators up to a specified limit are provided and a charge for materials ordered above that limit will be made. The deposit of these fees would be placed in the legislative special revenue fund rather than the state general fund. Representative Wisdom moved that SB 498 be recommended favorably for passage. Seconded by Representative Chronister. Motion carried.

INTRODUCTION OF BILL

Chairman Teagarden requested introduction of a bill to abolish the \$4 million SGF transfer to Worker's Compensation Fund. Representative Hamm moved introduction of the bill to abolish the \$4 million SGF transfer to Worker's Compensation Fund. Seconded by Representative Wisdom. Motion carried.

Representative Helgerson moved to accept the minutes dated January 23, 28, 29, 1992 as presented. Seconded by Representative Wisdom. Motion carried.

The meeting was adjourned at 3:15. The next meeting is scheduled for Tuesday, February 11, 1992 at 1:30 p.m. in 514-S.

STATE OF KANSAS



DEPARTMENT OF CORRECTIONS

OFFICE OF THE SECRETARY

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Joan Finney
Governor

Gary Stotts
Secretary

To: House Appropriations Committee
From: Gary Stotts, Secretary of Corrections
Re: House Bill No. 2791
Date: February 10, 1992

During the summer and fall the Joint Committee on Special Claims Against the State considered a number of claims involving the Department of Corrections. The purpose of this memorandum is to bring to your attention two of the claims which were approved by the Claims Committee for payment and request those claims be reviewed by this Committee prior to being approved.

In Section 3, subsection (b), payment of \$525.00 to Janice Thomas of Kansas City, Kansas is recommended. Ms. Thomas' car was damaged while parked in a parking lot at the Lansing Correctional Facility. The vehicle striking Ms. Thomas' car was not identified. No evidence was discovered to indicate that a state vehicle was in any way involved in the incident. All of the state vehicles at the facility were inspected and no damage to any of them was found. Investigation by facility staff and the Lansing Police Department listed the incident as a hit and run accident. Since there was no evidence of negligence on the part of facility staff, the Department recommended that the claim be denied. The Committee's recommendation, however, was to pay \$500.00 in damages to Ms. Thomas plus \$25.00 in travel expenses to attend the Claims Committee hearing. I have a concern with establishing a precedent for state liability in situations such as this. Absent some indication of negligence on the part of the State, I question the advisability of paying claims of this nature and request the Committee review this claim, particularly since one other claim involving a damaged vehicle at a correctional facility was denied.

In Section 9, subsection (b), the Claims Committee recommended payment of \$12,462.46 to an inmate at Hutchinson Correctional

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Attachment 1

House Appropriations Committee
House Bill No. 2791
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Facility who was injured while on a work assignment. Medical records did not indicate a permanent injury to this inmate. However, the Claims Committee felt there was negligence in the incident and awarded compensation to the inmate. The concern I have with this action is that the rules of the Claims Committee provide that compensation to an inmate injured on a work assignment is predicated on whether the inmate sustained a permanent disability. Since a permanent disability was not indicated in this case, compensation based on workers' compensation calculations appears questionable.

I would appreciate your review of these two claims.

GS:CES/pa



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DEPARTMENT OF WILDLIFE AND PARKS
JOAN FINNEY, Governor
JACK LACEY, Secretary
JOHN S. C. HERRON, Assistant Secretary

MEMORANDUM

Jack Lacey
FROM: SECRETARY JACK LACEY
RE: Claim of Lois E. Wilson and Floyd E. Holloway
DATE: 2/10/91

Lois E. Wilson and Floyd E. Holloway, brother and sister, owned property adjacent to the Elk City State Park. Their property included several out-buildings and a house which had not been lived in for over a year.

Damage to their property was a result of an arson fire that began on Monday, March 13, 1989 on the Elk City State Park grounds. The local fire unit, the Elk City Rural Fire Unit, responded to the fire, extinguished the fire and returned home. The next day extremely high winds came up, rekindling the fire. The fire could not be stopped until the fire unit backfired along the creek. Finally, the fire was out except for a few smoldering embers. Again the fire unit in charge of fighting the fire returned home.

Winds increased that afternoon to gusts of 65 miles per hour and the fire again rekindled. Over one hundred fire fighters from surrounding communities responded to the fire, but were unable to control the fire until several structures, including those owned by Ms. Wilson and Mr. Holloway. All five employees of the park, including the secretary, assisted in fighting the fire throughout the week.


KDWP believes that the agency should not be held liable for an act not of its own making -- that of arson.



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DEPARTMENT OF WILDLIFE AND PARKS
JOAN FINNEY, Governor
JACK LACEY, Secretary
JOHN S. C. HERRON, Assistant Secretary

MEMORANDUM

FROM: SECRETARY JACK LACEY 
RE: Claim of Chauncey Shepard
DATE: 2/10/91

State law requires that KDWP protect and conserve, along with many other duties, the natural resources of this state, which includes the Neosho Madtom. The Neosho Madtom, originally a state endangered species (May 1, 1978), became a state threatened species on May 1, 1987, and is currently listed by both Kansas Department of Wildlife and Parks and the U.S. Fish and Wildlife Service (USFWS). Due to its continued decline in numbers, the USFWS listed the Neosho Madtom as nationally threatened on May 22, 1990, pursuant to the Threatened and Endangered Species Act. A moratorium on gravel dredging in the Neosho, Cottonwood and Spring Rivers was jointly decided upon and issued on May 31, 1991, to remain in existence until mitigation for the dredging could be determined.

The intentional taking of a state threatened species is illegal pursuant to K.S.A. 1991 Supp. 32-1010 and is a C misdemeanor. Any taking of a nationally threatened species can subject an individual to a fine of up to \$50,000 per occurrence or per day and up to a year's imprisonment for each occurrence or day. If KDWP were to issue a permit to an individual allowing them to dredge gravel and that dredging causes a taking of the species, USFWS could proceed against the individual, the staff member who signs the permit and against the agency itself.

KDWP not only must comply with its statutory duties to protect and conserve the natural resources of this state, steps must be taken by the agency to not violate federal law. This includes not issuing permits for gravel dredging in the Neosho, Cottonwood and Spring Rivers. KDWP does not believe it should be held liable for upholding state or federal laws. KDWP believes that by denying permits to dredge gravel during the moratorium, both individuals and the state have been protected from possible federal action.

KDWP further suggests that to allow an individual to recover against the state on claims similar to Chauncey Shepard opens KDWP and other state agencies to great liability whenever individuals claim they were harmed by the lawful enforcement of any statutes or rules and regulations.

Kansas Outdoors "America's Best Kept Secret"

STATE OF KANSAS

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TOPEKA

SENATE CHAMBER
OFFICE OF MAJORITY LEADER

TESTIMONY; SB 498
Senate Ways & Means Committee
January 28, 1992
Senator Fred Kerr

On behalf of the Legislative Coordinating Council, I want to explain the reason for the introduction of SB 498. The bill would establish a legislative special revenue fund whereby fees for certain legislative charges and revenues from surplus property expenditures could be deposited.

The impetus for this bill is the effort by the LCC to control legislative costs. One of the areas that seemed out of control was the category of printing costs. Provisions adopted by the Council late in 1991 would attempt to get a handle on this by providing printing materials for legislators up to a specified limit and then charge, at cost, fees for materials ordered above that limit. This bill would allow the deposit of such fees in the legislative special revenue fund rather than the state general fund. There are other such examples.

Representatives of the Revisor of Statutes office and Legislative Administrative Services office will be available to answer further questions. Your prompt consideration of this bill would be appreciated because some legislators are waiting to make such purchases under the provisions of this proposed fund.

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Attachment 3