

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Representative Robert Krehbiel at \_\_\_\_\_  
Chairperson

1:30 ~~xxx~~/p.m. on Wednesday, March 25, 1992 in room 526-S of the Capitol.

All members were present except:  
Representative James Cates - Excused

Committee staff present:  
Lynne Holt, Kansas Legislative Research Department  
Mary Galligan, Kansas Legislative Research Department  
Mary Torrence, Office of the Revisor of Statutes  
Connie Craig, Secretary to the Committee

Conferees appearing before the committee:

**HB 3188**

- Bill Ervin, Chief, Municipal Accounting, State of Kansas
- Mark Burghart, General Counsel, Kansas Department of Revenue
- Jamie Corkhill, Child Support Enforcement, Department of Social and Rehabilitation Services, State of Kansas
- Chris McKenzie, Executive Director, League of Kansas Municipalities
- Mike Billinger, Ellis County Treasurer, Kansas

Vice-Chairman Krehbiel called the meeting to order, and opened the public hearing on HB 3188.

Bill Ervin appeared before the Committee to explain HB 3188, Attachment #1.

One Committee member asked if there is a fiscal note attached to the bill? One Committee member asked with regard to page 7, lines 23 through 26, HB 3188, why does interstate child support debts have last priority? Can child support come before collection of taxes? Another Committee member asked what the term "other claims" on line 21, page 7, HB 3188, means?

It was asked by a Committee member how would this affect the elderly in a situation like KU Medical Center or some other agency they've had to attend and they still have a financial obligation with that state agency, how would this affect them with the homestead act rebate? The answer was there is no exception for the elderly the way the statute reads right now.

Mark Burghart testified to the Committee as a proponent of HB 3188, Attachment #2.

One Committee member asked if we extend this to municipal units and they have a delinquent property tax payment, how long does that tax payment have to be delinquent before they would access somebody's homestead property tax refund or their refund of sales tax paid on food?

There was concern expressed with taxes due on December 20 and homestead refund doesn't come until March.

Unless specifically noted, the minutes and records 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 ON THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS  
room 526-S, Statehouse, at 1:30 p.m. on Wednesday, March 25, 1992.**

Jamie Corkhill appeared before the Committee to explain their concern with the child support section of the bill, and to suggest an amendment that would satisfy S.R.S.'s needs, Attachment #3.

Chris McKenzie appeared in support of HB 3188, Attachment #4.

Mike Billinger stood before the Committee to express their concern about personal property tax and the difficulty to collect those taxes should the owner move to another county.

Attachment #5 is written testimony from Bill Warner urging approval of HB 3188, and also to support the inclusion of Community Colleges into the program.

Chair Sebelius closed the public hearing of HB 3188, and asked the Committee for action on several bills.

### **HB 2739**

Representative Wagon explained that after speaking with Dr. Young at KDHE, it appears that they do not want this program, but they will run this program if that is what the Governor wants. She added that after visiting with the Attorney General, Attachment #6, he is willing to assume the responsibility of enforcement of the Kansas Animal Dealer's Act.

Representative Wagon made a motion to amend HB 2739 to substitute wherever the word "Secretary" appears with "Attorney General. Representative Graeber made a second to the motion.

The Committee discussed what this change would do to Jack Jones and other staff. A letter of support of this change from the Governor was distributed to Committee members, Attachment #7.

One Committee member asked what other acts the Attorney General enforces in this same fashion? Representative Wagon answered consumer affairs. Another Committee member asked how the Attorney General can license and prosecute? The Committee discussed the appropriation being changed accordingly.

One Committee member asked Representative Wagon if her motion included the definition of Attorney General on page 2, lines 8 and 9, HB 2739?

Representative Sprague made a substitute motion to table HB 2739 for the time. Representative Hamilton made a second to the motion, which fails on a voice vote.

After closing on her motion to amend HB 2739, the Committee passed the motion on a voice vote.

## CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS  
room 526-S, Statehouse, at 1:30 p.m. on Wednesday, March 25, 1992.

Representative Wagnon made a motion to amend HB 2739 as amended by changing language in Section 23, page 14, HB 2739, regarding fees, Attachment #8. Representative Baker made a second to the motion, which passed on a voice vote.

Representative Wagnon made a motion to report favorable for passage HB 2739 as amended. Representative Graeber made a second to the motion, which passed on a voice vote.

### **SB 234**

Representative Krehbiel, Chair of the Subcommittee, gave a report on SB 234, Attachment #9.

Representative Rock made a motion to adopt the Subcommittee Report. Representative Ramirez made a second to the motion, which passed on a voice vote.

Representative Jones made a motion to report SB 234 adversely. Representative Edlund made a second to the motion.

Committee Discussion:

- One Committee member stated that this is not misinterpreted by the public, and maybe it would be better to let this legislation to die a natural death.
- Chair Sebelius explained that because this is a non-exempt committee, bills don't ever die and certainly never a natural death.

Representative Lane made a substitute motion to table SB 234. Representative Sprague made a second to the motion. Division is called upon a voice vote. Motion passed on a show of hands, eleven in favor and eight opposed.

### **HB 3176**

Representative Baker made a motion to report favorable for passage HB 3176. Representative Lawrence made a second to the motion, which passed on a voice vote.

Chair Sebelius asked for a motion to approve minutes from March 16, 1992.

Representative Baker made a motion to approve the minutes with the change that she, Representative Allen and Representative Long were present at that day's Committee meeting. Representative Krehbiel made a second to the motion, which passed on a voice vote.

Chair Sebelius adjourned the meeting.

GUEST LIST

DATE 3-25-92

(PLEASE PRINT)

NAME	ADDRESS	WHO YOU REPRESENT
DOAN TUTT	Holt, KS	HEART OF JACKSON HUMANITARIAN
MARK A. BURGHART	TOPEKA	REVENUE
Jamie Corkhill	Topeka	SRS/child support enf.
DOUG CRAIG	✓	DOJ A - DETOFF
BILL ERVIN	✓	✓
Roger Brazier	Topeka	DOA Legal
ML Manning	"	DOB
Nick Roach	Topeka	IGT
Marilyn Egan	Topeka	
Andrey B. McKay	Topeka	
Frances Tuttle	Holt	
Karen McKee	Oliver	
Maria Kotelman	Topeka	
Susan G. Stender	"	KS Dept of AH
Don Wallman		KS Dept of Health
Patrick Hurley	Topeka	McGee & Assoc Nora
W Damon	Topeka	McHill & Assoc

**Testimony of Bill Ervin, Chief, Municipal Accounting**  
**H.B. 3188 Relating To Expansion Of Setoff Program**  
**House Federal and State Affairs Committee**  
**March 25, 1992, 1:30 p.m.**

The Setoff Program is an office responsible for implementation of the State Debt Setoff Act (K.S.A. 75-6201 et seq.) and in doing so assists other state agencies in collecting their accounts receivable. The process by which this is done is as follows:

State agencies submit to the Setoff Program certain debtor information (name, social security number, debt amount and debt description) which information is then entered into the computer "debtor file." On a regular basis computer tapes of the debtor file are matched against payments in process of state "payor" agencies (e.g. tax refunds of Department of Revenue, unemployment compensation benefit payments by Department of Human Resources). When a match is made between a debtor and a payment from the state to that debtor, the payment is suspended and the debtor is sent a notice that the setoff program intends to apply the suspended money to the debt. The debtor is also advised that if he or she disputes the validity of the debt a due process hearing can be requested before a presiding officer appointed by the Secretary of Administration. If no hearing is requested the money is transferred to the creditor state agency. If a hearing is requested within 15 days the money is held until resolution by the presiding officer.

During FY 91 the Setoff Program had gross collections of \$4,955,124, representing a growth in collections of 20.7% over that collected in FY 90. For the first seven months of FY 92 the Setoff Program has gross collections of \$2,207,801, representing a 23.2% growth over gross collections of the first seven months of FY 91.

We believe the benefits of this successful collection program should be extended to other units of government, limited, however, to collection of real and personal property tax debts, student loans, and debts which have been reduced to a civil judgment. House Bill No. 3188 would allow municipalities to participate in the program to this extent.

This bill also incorporates the Department of Revenue's initiative on reciprocal collection efforts of income tax debts with other states.

Thank you for the opportunity to appear before you today. I appreciate your consideration of House Bill No. 3188.

Attachments

*House Federal & State Affairs*  
*March 25, 1992*  
*Attachment #1*

SETOFF PROGRAM  
SUMMARY OF COLLECTIONS (SETOFF AND WRITE OFF) BY AGENCY  
FY 1989 - FY 1991

AGENCY NAME	FY 1989	FY 1990	FY 1991
ATTORNEY GENERAL	\$ 0	171	0
BOARD OF REGENTS	0	0	111
COMMISSION ON VETERANS AFFAIRS	0	0	133
DEPARTMENT OF ADMINISTRATION	25	369	1,439
DEPARTMENT OF HUMAN RESOURCES	445,444	501,145	382,955
DEPARTMENT OF REVENUE	19,089	72,573	67,047
DEPARTMENT OF TRANSPORTATION	0	0	180
EMPORIA STATE UNIVERSITY	21,091	32,909	26,803
FORT HAYS STATE UNIVERSITY	16,119	10,106	16,911
GRAIN INSPECTION DEPARTMENT	0	65	1,324
HEALTH AND ENVIRONMENT	0	6	0
HIGHWAY PATROL	0	0	80
INSURANCE DEPARTMENT	30	0	42
JUDICIAL BRANCH	0	0	1,581
KANSAS DEVELOPMENT FINANCE AUTHORITY	0	0	568
KANSAS SOLDIERS HOME	0	233	0
KANSAS STATE UNIVERSITY	15,789	27,819	29,066
KANSAS COLLEGE OF TECHNOLOGY	237	663	841
KANSAS NEUROLOGICAL INSTITUTE	1,317	1,128	2,197
KANSAS PUBLIC EMPLOYEES RETIREMENT SYSTEM	362	306	0
KANSAS UNIVERSITY MEDICAL CENTER	541,446	606,290	697,265
LARNED STATE HOSPITAL	510	1,453	7,642
OSAWATOMIE STATE HOSPITAL	25,392	22,439	22,113
PARSONS STATE HOSPITAL	283	192	969
PITTSBURG STATE UNIVERSITY	28,701	23,947	19,127
RAINBOW MENTAL HEALTH FACILITY	2,724	6,139	4,739
SCHOOL FOR THE DEAF	0	17	0
SOCIAL AND REHABILITATION SERVICES	1,809,050	2,721,791	3,602,156
TOPEKA STATE HOSPITAL	10,350	12,505	13,089
UNIVERSITY OF KANSAS	32,118	40,628	42,843
WICHITA STATE UNIVERSITY	23,986	19,967	13,903
WILDLIFE AND PARKS	6	735	0
WINFIELD STATE HOSPITAL	0	430	0
<b>TOTAL</b>	<b>\$ 2,994,069</b>	<b>4,104,026</b>	<b>4,955,124</b>

The following write off collections are included in the above amounts:

DEPARTMENT OF REVENUE	\$ 2,772	3,468	8,695
KANSAS STATE UNIVERSITY	3,397	10,633	8,838
KANSAS UNIVERSITY MEDICAL CENTER	217,415	238,775	260,150
UNIVERSITY OF KANSAS	6,162	11,747	7,114
OTHER AGENCIES	7,824	8,726	10,379
<b>TOTAL</b>	<b>\$ 237,570</b>	<b>273,349</b>	<b>295,176</b>

SETOFF PROGRAM  
SOURCES OF COLLECTIONS  
FY 1989 - FY 1991

SOURCES OF COLLECTIONS	FY 1989	FY 1990	FY 1991
STATE EMPLOYEE PAYROLL	\$ 96,711	108,779	97,659
STATE TAX REFUNDS	1,362,966	1,864,786	1,728,980
OTHER STATE PAYMENTS(A)	216,600	265,193	252,866
DIRECT PAYMENTS(B)	118,692	108,118	122,158
UNEMPLOYMENT INSURANCE(C)	955,200	1,470,808	2,460,213
UNCLAIMED PROPERTY	8,132	10,801	12,144
AGENCY COLLECTIONS(D)	235,768	275,541	244,009
KPERS(E)	0	0	37,095
<b>TOTAL</b>	<b>\$ 2,994,069</b>	<b>4,104,026</b>	<b>4,955,124</b>

- (A) These include miscellaneous vouchers that contain social security or federal employer identification numbers. Also includes Lottery prize winnings.
- (B) These are cash payments received from debtors after they are notified by the Setoff Program.
- (C) Unemployment insurance is only matched against delinquent child support debts.
- (D) When agencies receive direct payments on accounts that are in the Setoff Program and have been notified by the Division of Accounts and Reports, they are required to reimburse the Division 15 percent for its collection activities on setoff accounts and 100 percent on write off accounts.
- (E) Fiscal Year 1991 was the first year for the Setoff Program to intercept KPERS retirement and disability payments for child support debts.

STATE OF KANSAS

Mark A. Burghart, General Counsel  
Robert B. Docking State Office Building  
915 S.W. Harrison St.  
Topeka, Kansas 66612-1588



(913) 296-2381  
FAX (913) 296-7928

Department of Revenue  
*Legal Services Bureau*

**MEMORANDUM**

To: The Honorable Kathleen Sebelius, Chairperson  
House Committee on Federal and State Affairs

From: Mark A. Burghart, General Counsel  
Kansas Department of Revenue

Date: March 25, 1992

RE: H.B. 3188

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Thank you for the opportunity to appear in support of H. B. 3188. The bill, among other things, would authorize the Department of Revenue and Department of Administration to enter into a reciprocal agreement with other states to allow the set-off of tax liabilities of other states.

The bill would allow the state to further utilize the existing debtor set-off program to collect delinquent tax accounts of other states. Other states would in turn collect delinquent Kansas tax accounts under the reciprocal agreements. This concept was introduced to the Kansas Department of Revenue by the Missouri Department of Revenue in the fall of 1991. Missouri passed legislation in 1984 enabling that state to set-off against another state's tax debts but have not been able to take advantage of this legislation due to a lack of comparable legislation in any other state. Since no two states have entered into such an agreement, it is unknown how lucrative this concept might prove to be.

It is important to note that the Department would first attempt to collect the delinquent tax in-house through the use of telephone collections and written correspondence. The account would typically then be assigned to a private collector who then has the task of convincing the taxpayer to pay the debt. H.B. 3188 would provide another alternative for collecting the debt. The debtor is informed of the intent to set-off and it is then up to the debtor and the State to determine the terms of the set-off.

H.B. 3188 offers a positive approach to collecting debts for both the state and the taxpayer. There are many instances where a debtor does not know what to do in order to pay so they do nothing. This bill would offer an alternative to doing nothing.

I would be happy to respond to any questions you might have.

*House Federal & State Affairs  
March 25, 1992  
Attachment #2*



Department of Social and Rehabilitation Services  
Donna L. Whiteman, Secretary

**House Bill 3188**

Before the House Federal and State Affairs Committee  
March 25, 1992

The primary responsibility of the SRS Child Support Enforcement Program is to help children by establishing and enforcing support obligations. The CSE Program receives substantial federal funding under Title IV-D of the Social Security Act and is required to meet specific requirements for program operations. From that perspective, SRS has strong reservations about the present wording of Section 10 in House Bill 3188.

One of our federal mandates requires Kansas to provide services in interstate IV-D cases that are equivalent to the services provided in our own Kansas IV-D cases (45 CFR Sec. 303.7 and 303.102). The present wording of Section 10 (page 7, line 24) specifies that interstate child support debts are to have lower priority than other claims, including Kansas child support debts.

We are deeply concerned that this two-tiered treatment puts Kansas' IV-D state plan in jeopardy. If our state plan is declared out of compliance, all federal funding for the Title IV-D program ceases immediately, with additional sanctions against the Title IV-A (AFDC) program. In FY 1991 Kansas' IV-D federal funding totaled \$12,900,000, including funds passed through to the judicial branch and to local court trustee and county attorney contractors.

From a practical point of view, a distinction between in-state and interstate child support would create difficulties in the future. CSE's current practice of certifying interstate support debts separately has been a temporary measure until those cases could be fully integrated into the KAECSES (CSE mainframe computer) offset process. When integration is complete, the Dept. of Administration will be unable to distinguish between interstate and in-state support debts, without modification of the computer interface between CSE and the Dept. of Administration.

For these reasons, SRS urges the committee to strike the language "interstate child support debts and" on line 24, page 7, from House Bill 3188.

Respectfully submitted,

Jamie L. Corkhill  
Child Support Enforcement  
296-3237

*House Federal & State Affairs  
March 25, 1992  
Attachment #3*



**THE LEAGUE  
OF KANSAS  
MUNICIPALITIES**

**Municipal  
Legislative  
Testimony**

AN INSTRUMENTALITY OF KANSAS CITIES 112 W. 7TH TOPEKA, KS 66603 (913) 354-9565 FAX (913) 354-4186

**MEMORANDUM**

**TO: House Federal and State Affairs Committee**  
**FROM: *W* Chris McKenzie, Executive Director**  
**League of Kansas Municipalities**  
**DATE: March 25, 1992**  
**SUBJECT: Support for HB 3188**

On behalf of the League of Kansas Municipalities and its member cities, I appear today in support of HB 3188, concerning set off against debtors of the state's municipalities.

As currently written, (b)(3) of section 3 would restrict the collection of such debts to real estate or personal property taxes, student loans, or outstanding civil judgments. The League is of the opinion that the enactment of HB 3188 will contribute to increased tax fairness at the local level by helping reduce delinquent taxes which require the levy of additional taxes in order to finance the essential operations of local government.

Please let me know if you have any questions about this matter. Thank you very much.

**President: Bob Knight, Mayor, Wichita \* Vice President: Joseph E. Steineger, Jr., Mayor, Kansas City \* Past President: Frances J. Garcia, Commissioner, Hutchinson \* Directors: \* Donald L. Anderson, Mayor, Lindsborg \* Michael A. Conduff, City Manager, Manhattan \* Ed Eilert, Mayor, Overland Park \* Harry L. Felker, Mayor, Topeka \* Idella Frickey, Mayor, Oberlin \* William J. Goering, City Clerk/Administrator, McPherson \* Ralph T. Goodnight, Mayor, Lakin \* Jesse Jackson, Commissioner, Chanute \* Stan Martin, City Attorney, Abilene \* Mark Mingenback, Councilmember, Great Bend \* John Nalbandian, Commissioner, Lawrence \* Mary E. Reed, City Clerk/Director of Finance, Parsons \* Executive Director: Christopher K. McKenzie**

*House Federal & State Affairs  
March 25, 1992  
Attachment #4*

March 24, 1992

TO: Kansas House of Representatives, Committee on Taxation

RE: HOUSE BILL No. 3188

To the Chairman and Members of the Committee on Taxation:

House Bill No. 3188 includes, among other changes, the inclusion of Community Colleges for access to the Debt Setoff Program provided by the State of Kansas.

I believe the inclusion of Community Colleges into this program will allow us to use the benefits of this program and assist us in the collection of some bad debts.

I urge your approval of House Bill No. 3188 and support the inclusion of Community Colleges into the program.

Signed,

*Bill Warner*

Bill Warner

Business Manager

Cloud County Community College

and

President, Kansas Association of Community College Business  
Officials

*House Federal, State Affairs*  
*March 25, 1992*  
*Attachment #5*



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN  
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215  
CONSUMER PROTECTION: 296-3751  
TELECOPIER: 296-6296

March 4, 1992

The Honorable Clyde Graeber  
State Representative, 41st District  
State Capitol, Room 502-S  
Topeka, Kansas 66612

Dear Representative Graeber:

Pursuant to our telephone conversation, I want to confirm the fact that I would be willing to assume the responsibility of enforcement of the Kansas Animal Dealer's Act. I have stated that I would not pursue this responsibility but realize that it is important that there be aggressive enforcement if we are to stop the puppy mills in our state. Regardless of where the enforcement is placed, it is absolutely essential that adequate personnel, such as an assistant attorney general, be assigned to the full-time responsibility of enforcement.

Thank you for your consideration in this matter and I am appreciative of your concern and support to stop the travesty of puppy mills in our state.

Sincerely,

Robert T. Stephan  
Attorney General

RTS:bls

*House Federal & State affairs  
March 25, 1992  
Attachment # 6*

STATE OF KANSAS



OFFICE OF THE GOVERNOR

JOAN FINNEY, *Governor*  
State Capitol, 2<sup>nd</sup> Floor  
Topeka, KS 66612-1590

913-296-3232  
1-800-432-2487  
TDD# 1-800-992-0152  
FAX# (913) 296-7973

March 16, 1992

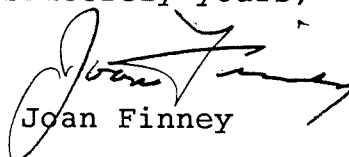
The Honorable Joan Wagnon  
State Capitol - Room 272-W  
Topeka, Kansas 66612

Dear Representative Wagnon:

I am writing to offer my support of HB 2739 which allows for the move of the Animal Facilities Inspection Program to the Attorney General's office.

I appreciate your help. If you would like to discuss this further, please give me a call at your convenience.

Sincerely yours,

  
Joan Finney

JF:bsm  
1653c

*House Federal, State Affairs*  
*March 25, 1992*  
*Attachment #7*

1 Kansas animal dealer act or by or against any officer of the state in  
2 such officer's official capacity or in relation to the discharge of such  
3 officer's official duties, shall abate by reason of the transfers effected  
4 under the provisions of this act. The court may allow any such suit,  
5 action or other proceeding to be maintained by or against the sec-  
6 retary of the department of health and environment or any officer  
7 affected.

8 (b) No criminal action commenced or which could have been  
9 commenced by the state shall abate by the taking effect of this act.

10 New Sec. 22. (a) On the effective date of this act, the balance  
11 of all funds appropriated and reappropriated to the livestock com-  
12 missioner with regard to the Kansas animal dealer act is hereby  
13 transferred to the Kansas department of health and environment and  
14 shall be used only for the purpose for which the appropriation was  
15 originally made.

16 (b) On the effective date of this act, the liability for all accrued  
17 compensation or salaries of officers and employees who, immediately  
18 prior to such date, were engaged in the performance of powers,  
19 duties or functions of any state agency or officer transferred by this  
20 act, or which becomes a part of the Kansas department of health  
21 and environment or the powers, duties and functions of which are  
22 transferred to the secretary of the department of health and envi-  
23 ronment, shall be assumed and paid by the Kansas department of  
24 health and environment.

25 New Sec. 23. Any person required to be licensed or registered  
26 under this act shall have a health certificate issued by the secretary  
27 for each animal sold by such person. The health certificate shall state  
28 that animals entering or leaving the state are free from any visible  
29 symptoms of communicable disease. The fee for each certificate shall  
30 not exceed \$4. The secretary shall determine annually the certifi-  
31 cation fee and shall fix such fee by rules and regulations. The sec-  
32 retary shall remit all moneys received by or for the secretary under  
33 this section to the state treasurer at least monthly. Upon receipt of  
34 each such remittance, the state treasurer shall deposit the entire  
35 amount in the state treasury and shall credit such funds to the animal  
36 dealers fee fund.

37 Sec. 24. K.S.A. 47-1708 and 47-1713 and K.S.A. 1991 Supp. 47-  
38 1701, 47-1702, 47-1703, 47-1704, 47-1706, 47-1707, 47-1709, 47-1712,  
39 47-1715, 47-1719, 47-1720, 47-1721, 47-1722, 47-1723, 47-1725, 47-  
40 1726 and 47-1727 are hereby repealed.

Sec. 25. This act shall take effect and be in force from and after  
its publication in the statute book.

dog or cat

dogs or cats

\$.40 for each dog or cat listed on the certificate

*House Federal State Affairs  
March 25, 1992  
Attachment #3*

REPORT OF HOUSE FEDERAL AND STATE AFFAIRS SUBCOMMITTEE  
ON SB 234--ATHLETIC ASSOCIATION PROCEDURES ACT

The subcommittee held hearings and considered further testimony from representatives of the NCAA and heard from proponents of the bill, particularly Bob Timmons, former track coach at the University of Kansas. As a result of the hearings before the full committee, and subcommittee hearings and discussion, the subcommittee makes the following findings and recommendations:

1. Review of NCAA penalties and sanctions is needed. It appears to the subcommittee that it is unnecessarily harsh to impose penalties and sanctions against student-athletes who have not been found or determined by the NCAA or the college or university in which they are enrolled to have violated any NCAA rule. Review of penalties, sanctions and procedures for their imposition is needed. In particular, the subcommittee believes that the NCAA should consider reduction or elimination of penalties and sanctions against innocent student-athletes and institutions where chief executive officers and administrators have not been determined to have violated rules. In addition, the subcommittee believes that the NCAA should consider imposing more severe penalties and sanctions against individuals who have been determined to have violated rules.

2. The NCAA is addressing the issue but further action is needed. The NCAA Special Committee to Review the NCAA Enforcement and Infractions Process ("Lee Committee") has addressed a number of the concerns of the subcommittee. However, the subcommittee

House Federal & State Affairs  
March 25, 1992  
Attachment #9

believes further action is needed on recommendations of the Lee Committee relating to the use of independent hearing officers in cases involving major violations. The subcommittee recommends that the House Federal and State Affairs Committee strongly urge the NCAA membership to adopt this provision at the earliest date possible.

3. Reform in NCAA penalties, sanctions and procedures is best made from within the NCAA. While the subcommittee believes that current NCAA penalties, sanctions and procedures are in some instances unfair, it is the preference of the subcommittee that changes in those penalties, sanctions and procedures come from within the NCAA. Universities within the state of Kansas which are members of the NCAA should take an active role as NCAA members to study the current penalties, sanctions and procedures, make specific and meaningful suggestions for reform and take specific action within the organization to require such reform.

4. NCAA special committee to review penalty structure has been authorized. Following hearings before the full committee and the first hearings before the subcommittee, the NCAA Administrative Committee authorized the formation of a special committee to review the current NCAA penalty structure. A copy of the memorandum from NCAA executive director Richard D. Schultz to the subcommittee is attached as Exhibit "A". Mr. Schultz has committed himself to appoint Bob Timmons, former University of Kansas track coach, and Mike Maddox, former basketball student-athlete from the University of Kansas, to participate on the special committee. The subcommittee finds that the action of the Administrative Committee and Mr. Schultz is a significant and



meaningful indication from the NCAA of its recognition of the need to study the NCAA penalty structure and make recommendations for reform to protect innocent student-athletes and educational programs at member institutions.

5. NCAA member institutions in Kansas must advocate reform.


The subcommittee recommends that the House Federal and State Affairs Committee direct the Kansas Board of Regents and each state institution which is a member of the NCAA to participate actively in the special committee's review of the NCAA penalty structure and to work for implementation of any needed reforms. The subcommittee recommends that the Board of Regents and the state NCAA member institutions be required to report on or before January 15, 1993, to the House Federal and State Affairs Committee regarding the matter and progress made regarding reform in the NCAA penalty structure. The subcommittee further recommends that the House Federal and State Affairs Committee request that Mr. Timmons, Mr. Maddox and any other Kansas members of the NCAA special committee report to the Committee on or before January 15, 1993. Finally, the subcommittee recommends that the House Committee request the NCAA report on the matter to be submitted to the Committee on or before January 15, 1993.

6. The House Committee should review matter in 1993.


Following presentation of the reports to the House Federal and State Affairs Committee in January, 1993, a hearing should be held before the full Committee and a determination made by the full Committee regarding whether sufficient progress has been made by the NCAA to reform its penalties, sanctions and penalty procedures and protect innocent student-athletes and Kansas

institutions where executive officers and administrators have not been found to have violated rules. If the Committee finds that insufficient progress has been made by the NCAA to reform its penalty structure, legislation similar to the amended version of SB 234 should be introduced by the Committee, hearings held and consideration given to passage of such legislation. The subcommittee finds that the need for reform in the NCAA penalty structure is of sufficient importance to Kansas student-athletes and other Kansans regarding tax support for NCAA member institutions and educational quality in such institutions that reform in the NCAA penalty structure is the proper subject of state legislation.

7. No legislative action should be taken in 1992. The subcommittee believes that it is not in the public interest to take legislative action on S.B. 234 in 1992, based on the action of the NCAA in the announcement of the special committee to review the NCAA penalty structure, the intent to appoint Mr. Timmons and Mr. Maddox to the special committee and the expectation that the NCAA and its special committee will function in a meaningful manner.

  
Bob Krehbiel, Chairperson

  
Don Smith

  
Dale Sprague

# THE NATIONAL COLLEGIATE ATHLETIC ASSOCIATION

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MEMORANDUM

March 4, 1992

**TO:** Kansas House Federal and State Affairs Subcommittee.  
**SUBJECT:** Amended Senate Bill No. 234 (SB 234).

This is in reference to the subcommittee's February 25 meeting at the state capitol in Topeka, Kansas.

During the course of that meeting, information was provided to you by NCAA Associate Executive Director Stephen R. Morgan pertaining to the NCAA and the Association's enforcement policies and procedures. Further, during the meeting, Mr. Morgan and NCAA Legislative Liaison Patrick J. Hurley apprised you of the intent by the Association to create a special committee to review the current NCAA penalty structure, which was last reviewed and acted upon by the NCAA membership in 1985.

As a matter of background, at a meeting during the 1992 NCAA Convention, the NCAA Committee on Infractions requested that a review of the current prescribed penalty structure for secondary and major violations be conducted by the membership during the ensuing year. As you know, a review of the NCAA enforcement policies and procedures by the Special Committee to Review the NCAA Enforcement and Infractions Process, chaired by Rex E. Lee, president of Brigham Young University and former U.S. Solicitor General, took place during 1991. A member of that Special Committee, Benjamin R. Civilotti, testified in opposition to amended SB 234 on February 20 before the House Federal and State Affairs Committee.

On February 27, pursuant to my request, the NCAA Administrative Committee authorized the formation of a special committee to review the current NCAA penalty structure. Members of this committee will include representatives of a broad cross section of individuals involved in intercollegiate athletics; specifically, presidents and chancellors from member institutions; conference commissioners; athletics directors; faculty athletics representatives; a representative from the NCAA Committee on Infractions; coaches from Division I member institutions in the sports of football and basketball, and student-athletes will be requested to participate in this review. I personally guarantee that your concerns regarding the effect penalties have on innocent student-athletes will be addressed. In this regard, I intend to invite Bob Timmons, former University of Kansas track coach, and Mike Maddox, former basketball student-athlete and current law student at the University of Kansas, to participate on the committee.

<p><b>PRESIDENT</b>                  JUDITH M. SWEET                  Director of Athletics                  University of California,                  San Diego                  La Jolla, California 92093-0905</p>	<p><b>SECRETARY-TREASURER</b>                  B.J. SKELTON                  Vice President                  Campus University                  Clearwater, South Carolina                  29634-5126</p>	<p><b>DIVISION I VICE-PRESIDENT</b>                  R. ELIAS DEEMING                  Senior Assoc. Director                  of Athletics                  University of Dayton                  Dayton, Ohio 45409-1220</p>	<p><b>DIVISION II VICE-PRESIDENT</b>                  ANTHONY F. GORDA                  President                  Shippensburg University of                  Pennsylvania                  Shippensburg, Pennsylvania 17257</p>	<p><b>DIVISION III VICE-PRESIDENT</b>                  JOHN R. HAINYET                  Director of Athletics and                  Physical Education                  Corner; Middle University                  Pittsburgh, Pennsylvania 15213</p>	<p><b>EXECUTIVE DIRECTOR</b>                  RICHARD D. SCULLIZ</p>
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I believe a close review of the events of this past year [the formation of the Special Committee, its subsequent recommendations, the NCAA Council's recent actions at the NCAA Convention adopting, in concept, the majority of the Special Committee's recommendations, and the most recent actions taken by the NCAA Administrative Committee to authorize the formation of a committee to review the NCAA penalty structure] indicates a consistent commitment by the NCAA membership to enhance the current enforcement policies, procedures and penalties; further, it is evidence of the membership's ability to meet challenges and make changes within the Association when appropriate.

During the months ahead, the proposed committee to review the current NCAA penalty structure and the entire NCAA membership will continue to devote their energies to develop workable changes in current rules and procedures that are committed to the enhancement of fairness for member institutions, institutional staff members and enrolled student-athletes.

We hope that the subcommittee will note that the NCAA is currently reviewing the issues addressed in the amended SB 234, which was submitted February 19 to the House Federal and State Affairs Committee by Senator Wint Winter, and make a recommendation that no action should be taken regarding the amended SB 234.

If you have any questions concerning the formation of the committee to review the NCAA penalty structure or need additional information concerning the NCAA, please do not hesitate to contact me. I sincerely appreciate the time and effort the subcommittee has devoted to this issue.



RICHARD B. SCHULTZ

RDS:lsr

cc: Mr. Patrick J. Hurley  
Mr. Scott E. Morgan