

Approved _____ Date _____

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Representative Kathleen Sebelius at
Chairperson

1:30 a.m./p.m. on Wednesday, April 1, 1992 in room 526-S of the Capitol.

All members were present except:

Representatives Don Smith, Sherman Jones, Dick Edlund, Arthur Douville - Excused

Committee staff present:

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

Conferees appearing before the committee:

SB 771

Martha Jenkins, Loyalty Management Group, A Delaware Corporation

HB 3182

Brenda Hagerman, Staff Attorney, Larned State Hospital

Chair Sebelius called the meeting to order, and began the public hearing for SB 771.

Martha Jenkins appeared before the Committee as a proponent of SB 771, and the only conferee for the bill, Attachment #1.

Chair Sebelius closed the public hearing for SB 771, and turned the Committee's attention to HB 3182.

Brenda Hagerman explained HB 3182's affects on evaluation and placement of criminal offenders in Kansas. She gave background information and differences between current law and the proposed legislation, Attachment #2.

One Committee member asked if incompetency means mental illness only, and not retardation? It was also asked if Larned had a seperate section of psychiatric patients as well as Department of Corrections patients.

There was discussion that misdemeanor doesn't necessarily mean non-violent, and felony doesn't necessarily mean violent. It was suggested that it would be better to put the person crimes versus the non-person crimes, then the history; than to address misdemeanor and otherwise. It was asked how many times does a Judge say to take a person out of a facility even though the staff says he is not ready? A Committee member asked what the definition of staff is? One Committee member felt the bill should also include a person found not guilty by reason of insanity and committed to a security hospital, and the problem is the security hospital has the power to transfer that person to a non-security hospital without notice to court or anyone involved.

Chair Sebelius stated that the hearing on HB 3182 will be continued when Secretary Whiteman can come to Committee to answer questions.

Chair Sebelius asked the Committee to take action on SB 771.

Representative Sprague made a motion to report SB 771 favorable for passage. Representative Ramirez made a second to the motion which passed by a voice vote.

CONTINUATION SHEET

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

Chair Sebelius asked the Committee to take action on SB 234.

Representative Lane made a motion to move SB 234 off the table. Representative Sprague made a second to the motion which passed by a voice vote.

Representative Lane made a motion to report SB 234 adversely. Representative Allen made a second to the motion. Division is called after a voice vote. The motion passes by a vote of 11 in favor and 5 against.

HB 3188

Chair Sebelius explained that this bill deals with tax set-offs. She handed out to Committee members a balloon, Attachment #3, striking the line dealing with child support.

Representative Wagon made a motion to adopt the balloon amendment, Attachment #3, striking the inter-state child support debt. Representative Krehbiel made a second to the motion.

One Committee member asked if there would be any problems in regard to child support by moving the wording to be included in B.

Representative Hamilton made a substitute motion to take the interstate child support debt wording under section b, and move everything down. Representative Graeber made a second to the motion.

One Committee member pointed out that if you do that, you're giving priority to interstate child support collection over intestate child support collection, which is not desirable either. It was suggested that it might be better to just mention "child support" and not include "interstate child support".

Representative Hamilton clarified her motion stating the language is "child support debts and interstate child support debts. Representative Graeber agreed to the language as restated by Representative Hamilton.

Chair Sebelius asked for a vote on the motion as restated by Representative Hamilton, and seconded by Representative Graeber. Upon a voice vote, the motion passes.

Representative Wagon made a motion to report HB 3188 as amended favorable for passage. Representative Graeber made a second to the motion, which passed on a voice vote.

HB 3144

Representative Sprague made a motion to recommend HB 3144 for Interim Study. Representative Long made a second to the motion which passed on a voice vote.

HB 3085

Representative Wagon made a motion to report HB 3085 favorable for passage. Representative Graeber made a second to the motion.

One Committee member pointed out a three year sunset doesn't give us the economic advantages that we could have by having a longer sunset time.

Representative Long made a substitute motion to extend the sunset period by striking line 20 "1995" and substitute "1998". Representative Ramirez made a second to the motion.

There was discussion by the Committee about whether the extension was in the original bill, and was removed on the Floor of the Senate. Several Committee members expressed opposition to the passage of HB 3085.

Representative Long told the Committee that Mr. Decker explained to him that with the Lottery working under a 2-year sunset review, contracts are for two years. If the Lottery were under a longer sunset review, they could extend those contracts a little bit longer, and they wouldn't have to front end load the contract. This means the charge is a higher price for the shorter term of the contract. For example: the printing of tickets.

CONTINUATION SHEET

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

Upon a call for the question, the voice fails by a voice vote.

Chair Sebelius announced the motion on the table is to report HB 3085 favorable for passage. Division is requested after a voice vote. The motion passes 11 to 6 by a show of hands.

HB 2910

Representative Gjerstad made a motion to adopt the ballon amendment to HB 2910, Attachment #4. Representative Long made a second to the motion which passes on a voice vote.

One Committee member asked what is the penalty for operating a boat after you have already been found guilty of operating a boat under the influence of alcohol or drugs and have been suspended from operating a boat for three months?

Representative Gjerstad made a motion to report HB 2910 as amended favorable for passage. Representative Empson made a second to the motion.

There was Committee discussion about probable cause, field sobriety tests, and the penalties as compared to DUI penalties.

Chair Sebelius announced the motion on the table is to report HB 2910 favorable for passage which passed on a voice vote.

Chair Sebelius adjourned the meeting.

SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
TESTIMONY ON SB 771
(AMENDING THE KANSAS TRADING STAMP ACT)

APRIL 1, 1992

Madam Chairman, Members of the Committee:

I am Martha Jenkins representing Loyalty Management Group, a Delaware Corporation, seeking to do business here in Kansas. I appear before you today to request your support of SB 771 which amends the Kansas Trading Stamp Act, specifically KSA 21-2803.

KSA 21-2801, the Trading Stamp Act, makes it unlawful for any person or business to redeem stamps, coupons or other similar devices for merchandise or cash.

KSA 21-2803 provides certain exceptions to the prohibitions found in the Trading Stamp Act. The Act does not apply to coupons redeemed by manufacturers or packers for any of their products or redemption by manufacturers or packers in cash. Secondly, it does not apply to any coupon redeemed by retailers for their own products.

SB 771 amends current law to create a third exception to the Act's prohibitions by allowing a person or business to redeem coupons or other similar devices for travel and travel related services.

I'm sure you all are familiar with various airlines' "frequent flyer" programs and some of you may even belong to a program or two. Our client, Loyalty Management Group, will be marketing a similar program called Air Miles whereby customers are awarded credits for airline miles based on purchases of travel and travel related services. This is a national program and unfortunately Kansas is one of two states that may not be able to participate due to a prohibition in the Trading Stamp Act. SB 771 subsection (c) will allow Kansans to participate in the Air Miles program.

We believe that there are now many activities such as ours taking place lawfully or otherwise in Kansas. Various bank cards and charge/credit cards offer these services to their cardholders. American Express, for example, offers a mile for dollar credit for purchases made with its card.

*House Federal & State Affairs
April 1, 1992
Attachment #1*

Testimony - SB 771
April 1, 1992
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Like the American Express program, Loyalty Management Group is in the business of brokering airlines' excess seating for purposes of crediting individuals with Air Miles based on their purchases. We want to make certain that the Air Miles program falls squarely within the excepted provisions of the Trading Stamp Act. We believe the new language under subsection (c) accomplishes this.

We believe this amendment simply clarifies the law so that programs like ours can be offered to Kansas. We would greatly appreciate your support of this measure. Thank you very much.

HFSA
4/1/92
#1-2

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#1-3

AIRLINES

FORGET THE GREEN STAMPS— GIVE ME A TICKET TO MIAMI

The Air Miles program lets shoppers rack up free mileage

Remember those trading stamps that stores across the country used to hand out to win shoppers' loyalty? The simple lure of exchanging them for a toaster made S&H Green Stamps and hundreds of similar programs fixtures of consumer marketing in the 1950s and 1960s.

Some Midwestern consumers can still get Gold Bond stamps, but by and large, this ploy has gone the way of

The Milton Berle Show.

Soon, though, the essence of the trading-stamp idea—an incentive that is not a price cut—will get a very visible boost. In March, Boston-based Loyalty Management Group will use a \$50 million promotional and advertising campaign in the U.S. and Canada to launch Air Miles, a program that uses the promise of free travel to win shopper dollars for specific marketers. Marketing types expect big things of it. "This will have a huge impact in the '90s," says Richard G. Barlow, president of consultant Frequency Marketing Inc., which specializes in frequent-shopper programs.

Air Miles lines up one sponsor each in a range of businesses, from credit cards to gas-station chains, and retailers in separate territories. By patronizing these sponsors, consumers enrolled in Air Miles rack up "miles" that are good on United Airlines, American Airlines, USAir, or Air Canada. Air Miles buys seats from the carriers at a discount bulk rate and books members on their free flights. Air Miles gets a small percentage of every piece of business an Air Miles member gives a sponsor. It can also handle direct mail campaigns

that target the heaviest spenders from Air Miles records.

Airlines have been using frequent-flyer plans since 1980, of course. But many consumers feel left out. Sara Linnie Slocum, a lighting designer in San Francisco, has belonged to four such programs over 10 years—and has never racked up enough miles for a free ticket. "I have become extremely cynical" about the programs, says Slocum.

Keith Mills, Air Miles' founder, hopes his program will banish such cynicism by bringing free tickets within the grasp of people who don't travel on business. He says customers can rack up miles by, say, using a sponsor's credit card to pay for lodging at a sponsoring hotel, then phoning home on a sponsor's long-distance service. He says a typical customer could collect enough miles in a year to win a free trip from New York to Florida. Charged with the task of enrolling consumers is Marketing Vice-President Michael A. Miles Jr., who may have marketing in his blood (box).

According to industry sources, Air Miles already has such sponsors as AT&T, Citicorp, Sears of Canada, and

Time Warner, though none of those companies will comment. "By 1995," says Miles, "we'll have 2 million to 5 million consumers a year taking trips." The prospect of new customers pleases the airlines. "What's nice is, we can fill seats with a mechanism that isn't hurting pricing," says L. Anthony Bacci, a managing director at American. And since Air Miles doesn't target business travelers, it's unlikely to compete with the airlines' own frequent-flyer programs.

Those empty seats inspired the British-born Mills to dream up his plan. In 1988, the 41-year-old former adman persuaded British Airways PLC to back his idea—and fly 100 marketers to a castle in the Bordeaux region of France for a feast and sales pitch. Since then, the British Air Miles program has reached some \$40 million in revenues and picked up such sponsors as Shell, IBM, and Toshiba. One sponsor, National Westminster Bank PLC, figures Air Miles has helped it win a higher share of British Visa and Access credit card transactions.

BIG PAYOFF. The U.S. market is certainly ripe for such a program. Retailers and other marketers know they have to promote their products harder than ever. But most promotions involve price cuts, which tend to erode a brand's image and encourage shoppers to switch stores and brands in quest of the best deal. And



FREQUENT-BUYER MILES

1 Air Miles signs up one sponsor each in such categories as gas-station chains, bank credit cards, and department stores

2 Consumers enroll and rack up Air Miles for free trips by buying from sponsors

3 Air Miles collects a percentage fee on the business it generates for sponsors

4 Air Miles buys discounted blocks of seats from airlines, and awards them to members in exchange for their Air Miles

DATA: COMPANY REPORTS

TALK ABOUT BORN TO MARKET

As Air Miles' marketing chief, 30-year-old Michael A. Miles Jr. is in charge of recruiting shoppers to the frequent-buyer program. Educated at Yale University and Harvard business school, Miles spent six years at consultant Bain & Co. where he worked for such clients as Saatchi & Saatchi—before signing on with Air Miles. His father, who has always worked for law companies, didn't think much of the job. "He viewed my job at a startup with some trepidation," says Miles Jr.

So what does dad know? Well, he's Michael A. Miles, chairman and CEO of Phillips Morris Cos. and before that a top executive at Leo Burnett, Heublein, and Kraft General Foods. Miles Jr. clearly learned a thing or two about savvy marketing at his father's knee. He has already signed an innovative deal for Air Miles' \$30 million ad launch, agreeing to put all of his network ads on NBC. In exchange, the network is giving him unusual flexibility to change the timing and content of Air Miles ads based on response to previous spots.

with the growth of overall consumer spending slow, keeping a customer is more important than ever. A study by consultants Bain & Co. concludes that a company that improves customer retention by 2% can boost profits as much as if it had cut costs 10%. Dozens of marketers, from Waldenbooks Inc. to Volkswagen, are trying variations on buyers' clubs to secure such loyalty.

So Air Miles has a promising formula. But will it be a winner? A lot depends on

whether consumers find the program, which has to track mileage points from a variety of sources, easy to use. Remembering which store or brand is a sponsor can become a bother—and eventually a deterrent, says Joel C. Huber, associate professor of marketing at Duke University and a student of promotional plans. “Gradually, people come to realize what the real cost is and stop,” he says. And defection among sponsors could confuse customers. Burton Group PLC, a British apparel retailer, dropped Air Miles in 1990 after concluding it wasn’t a strong enough selling tool, especially in the recession.

And it’s not as though other programs aren’t out there. You can spend money using Citibank’s Visa card to rack up miles on American Airlines. Or you can use American Express to earn miles on several carriers in the Membership Miles program. U.S. Sprint Communications and Holiday Inns Inc. have mileage-ward programs, too.



MILES JR.: DAD HAD HIS DOUBTS

Mills figures that with a stable of up to 20 heavy-duty sponsors to start, his program will have a scope unmatched by any other loyalty plan. As for customer retention, he’s setting up an administrative center in Florida to make the program as painless as possible. It’s an impressive plan. The challenge is to make this clever version of trading stamps take wing.

By Gary McWilliams in Boston, with Mark Maremont in London

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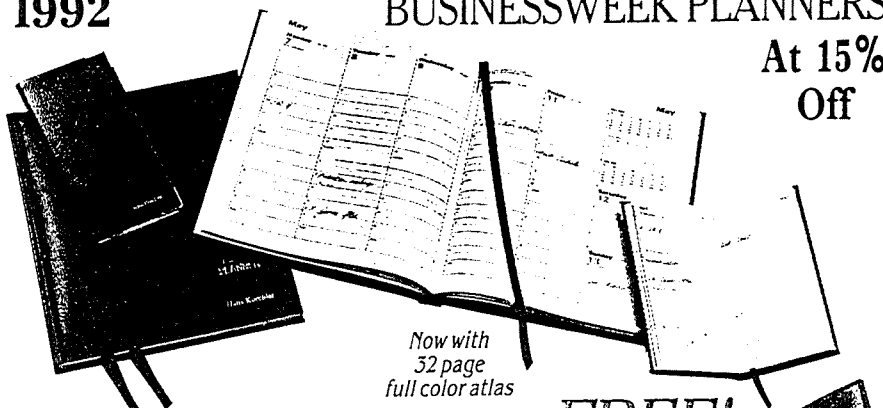
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#1-5

TESTIMONY ON HOUSE BILL 3182

PRESENTED TO:

HOUSE FEDERAL AND STATE AFFAIRS SUBCOMMITTEE

APRIL 1, 1992

SUBMITTED BY:

**DONNA WHITEMAN, SECRETARY
SOCIAL AND REHABILITATION SERVICES**

**GEORGE D. VEGA, ACTING COMMISSIONER
MENTAL HEALTH AND RETARDATION SERVICES**

*House Federal & State Affairs
April 1, 1992
Attachment #2*

ANALYSIS

Current system:

The state hospital system serves two types of forensic patients:

1. The Department of Corrections refers individuals serving criminal sentences who are in need of treatment for mental illness. These referrals are served at the Larned State Security Hospital.
2. District Courts refer individuals charged with crimes. Referrals are primarily for competency evaluations or referral for treatment in lieu of sentencing. Referrals are made to all three State Hospitals.

We estimate approximately 90% of forensic referrals to all state hospitals are felony-related. We collected the following data on forensic offenders residing in the state hospital system on March 20, 1992:

	TOTAL	# FELONY	% FELONY
Topeka St. Hosp.	32	17	50%
Osawatomie St. Hosp.	15	14	93%
Larned St. Hosp.	204	190	93%

Proposed Legislation:

The focus of the proposed legislation is to improve the safety of patients and staff at the open state hospital campuses in Topeka and Osawatomie by designating Larned State Security Hospital as the state institution to house all district court referrals charged or convicted of felonies. Misdemeanor-related referrals would involve no change from the status quo in that they would be optional.

We strongly support the proposed legislation. The legislation will accomplish its intent. For instance, referrals for evaluation will go directly to Larned State Hospital. Some referrals will return to the District Courts directly from Larned, without transferring to other hospitals. The legislation provides that other referrals may be transferred from Larned State Hospital to Topeka or Osawatomie State Hospitals UPON the recommendation of the LSH treatment team that the patient's condition no longer requires a security setting for treatment.

The result of the legislation for the Topeka and Osawatomie State Hospitals is that no felony-related forensic referrals will be housed on open wards without a review and recommendation for such by the treatment team.

It is important to recognize that, at some point, all security patients are eligible for release as their sentences expire or conditions improve. For an individual whose condition is not improved at the expiration of the sentence, involuntary commitment can continue inpatient treatment, provided the patient's condition meets the statutory requirements for involuntary commitment. This represents no change from the status quo.

EFFECT UPON LSH OPERATIONS AND RESPONSIBILITY:

It would be difficult for the Larned State Hospital program to accommodate additional workload under its current operational policies. However, Larned State Hospital has planned to undertake several initiatives to improve the current program's efficiency, thus minimizing the additional resources needed. For instance, collaborative planning with Department of Corrections, local law enforcement agencies, and courts could reduce the number of optional referrals and reduce the lengths of stay for individuals undergoing evaluation or treatment. This would result in greater turnover of beds, meaning that increased numbers of referrals could be handled by the current number of beds.

The current occupancy rate of the State Security Hospital is 89%. Delays in processing admissions and discharges account for the vacant beds. The proposed change would result in an estimated increase of 10 in the Average Daily Census, assuming lengths of stay remain unchanged. This would result in a higher occupancy rate as well.

Additionally, changes in program components may reduce or eliminate delays experienced with admissions and discharges. Unoccupied beds would be fewer and, as a result, the occupancy rate would be higher. To serve a higher occupancy rate, a reduction in budgeted shrinkage is necessary.

We would expect the occupancy rate to rise at least temporarily, as a result of this bill, until policies to reduce referrals and lengths of stay were fully implemented and working smoothly.

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#2-3

BUDGET IMPACT:

First year costs are estimated to be \$622,615 and are made up of the following items:

1. Staffing Expenditures:

LSH would need one additional social worker position for the evaluation ward. This position would be needed for information-gathering for evaluation of increased numbers of referrals. **(\$25,961)**

The staff shrinkage rate would need to be lowered from 5% to 3% to meet the staffing needs of increased bed occupancy. **(\$559,198)**

2. Indirect and support services expenditures:

An estimated increase of 10 in the Average Daily Census (94% occupancy rate) would require adjustment in the LSH budget allocation to cover the cost of serving additional security patients. Examples of services include physician, dental, physical therapy, and chaplaincy. **(\$37,456)**

These projections are based on the following assumptions:

- > collaborative initiatives with DOC and local agencies will be successful in reducing referrals and lengths of stay.
- > the Average Daily Census will exceed its current level of 196 but will not exceed the bed capacity of 220.

3. Receipts:

Security patients are generally served without reimbursement and thus account for a certain amount of disproportionate share federal dollars. We estimate that moving these individuals would be cost-neutral to the state--disproportionate share revenue would increase for LSH and would decrease, by an equal amount, at OSH and TSH.

We assume that the current amount of disproportionate share revenue will follow the patient.

LONG RANGE FISCAL EFFECT:

We anticipate that collaborative efforts to reduce referrals and lengths of

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stay will take some time to be put into place. Success may thus not be immediately realized. We anticipate that future fiscal years' staff shrinkage rate could be raised, provided that the occupancy rate will have fallen to its prior level.

It is reasonable to anticipate that, if referrals and lengths of stay are reduced in the second, third, and fourth fiscal years, the cost would stay constant or fall.

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STANDARD ONE-LINE REFERENCES TO COMMITMENT LAWS

- KSA 22-3219 - M'Naghten opinion.
- KSA 22-3302 - Evaluation of competence to stand trial.
- KSA 22-3303 - Commitment to State Security Hospital or Larned State Hospital for evaluation, care and treatment relative to being declared incompetent to stand trial.
- KSA 22-3428 - Commitment to State Security Hospital (with the possibility of eventual transfer to another facility) for safekeeping and treatment following a verdict of not guilty by reason of insanity.
- KSA-22-3429 - Presentence evaluation and report to court.
- KSA-22-3430 - Commitment to State Security Hospital or Larned State Hospital for care and treatment in lieu of confinement or imprisonment.
- KSA-22-3431 - Disposition upon completion of treatment under the provisions of KSA 22-3430.

(mm)

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#2-6

ALLOCATION OF BED SPACE

Larned State Security Hospital

Larned, Kansas

DILLON BUILDING:

<u>Ward</u>		<u>Capacity</u>
West I	District Court/Prison Referral	31
West II	District Court/Prison Referral	31
East I	District Court/Prison Referral	30
East II	District Court Referral	31

JUNG BUILDING:

Jung North CDRP - Male Prison Referral	43
Jung North - Female District Court/Prison Referral	12
Jung South - Male District Court/Prison Referral	42
TOTAL	220

HP/SA
4/1/92
#2-7

1 services recovery fund. *If a foreign state agency or municipality fails*
 2 *to remit the collection assistance fee as required by this subsection,*
 3 *the director may seek collection of such fee in such manner as may*
 4 *be allowed by law.*

5 (e) In cases involving the collection of debts arising from the
 6 employment security law, the entire amount collected shall be cred-
 7 ited to the employment security fund and the collection assistance
 8 fee shall be transferred from the special employment security fund
 9 to the accounting services recovery fund.

10 Sec. 10. K.S.A. 75-6211 is hereby amended to read as follows:
 11 75-6211. The priority in multiple claims by state agencies, *foreign*
 12 *state agencies and municipalities* for setoff under the provisions of
 13 this act shall be according to the time of filing with the director
 14 under K.S.A. 75-6208. *Notwithstanding the priority established*
 15 *in this section, collection of taxes shall have priority over other*
 16 *claims for collection by the setoff procedure. following priority*
 17 *of claims:*

18 (a) *Collection of taxes owed to agencies of the state of Kansas;*

19 (b) *claims for collection of debts which have been written off by*
 20 *assignment to the director;*

21 (c) *other claims according to the time of filing with the director*
 22 *under K.S.A. 75-6208 and amendments thereto; and*

23 (d) *notwithstanding subparagraph (c), claims for collection of*
 24 *~~interstate child support debts and tax liabilities of other states~~ shall*
 25 *have last priority according to the time of filing with the director*
 26 *under K.S.A. 75-6208, and amendments thereto.*

27 Sec. 11. K.S.A. 75-6212 is hereby amended to read as follows:
 28 75-6212. (a) Notwithstanding any provision of law prohibiting dis-
 29 closure by the department of revenue of the contents of taxpayer
 30 records or information and notwithstanding any confidentiality statute
 31 of any state agency, *foreign state agency or municipality*, all infor-
 32 mation exchanged among the department of revenue, any other state
 33 agency, *foreign state agency or municipality* and the debtor necessary
 34 to accomplish and effectuate the intent of this act is lawful.

35 (b) The information obtained by any other state agency, *foreign*
 36 *state agency or municipality* from the department of revenue in
 37 accordance with the exemption authorized by subsection (a) shall
 38 only be used by such other state agency, *foreign state agency or*
 39 *municipality* in the pursuit of its debt collection duties and practices.

40 person employed by, or formerly employed by, a state agency
 41 or than the department of revenue, *who is employed, or formerly*
 42 *employed by a foreign state agency or municipality, and who receives*
 43 information subject to the provisions of K.S.A. 79-3234 and amend-

House Federal State Affairs
 April 1, 1992
 Attachment #3

STATE OF KANSAS
DEPARTMENT OF ADMINISTRATION

JOAN FINNEY, Governor
JAMES R. COBLER, Director of Accounts and Reports
900 S. W. Jackson, Room 355
(913) 296-2311
FAX (913) 296-6841

MEMORANDUM

DATE: March 26, 1992

TO: Gloria Timmer, Director, Division of the Budget
ATTN: Mark Manning

FROM: James R. Cobler, Director *JRC*

SUBJECT: Fiscal Note Comments on House Bill 3188 -- concerning setoff against debtors of the state and municipalities; authorization of reciprocal agreements with other states

Analysis of Proposed Legislation:

House Bill 3188 amends the State's Debt Setoff Act to allow participation in the State Debt Setoff Program by municipalities (including counties, unified school districts, cities, townships, etc.) of Kansas and to authorize reciprocal agreements with other states to allow the setoff of tax liabilities of other states. The bill broadens the scope of the State's Debt Setoff Program and specifically authorizes the Secretary of Revenue and the Director of Accounts and Reports to enter into reciprocal agreements with other state agencies. It also amends the established debt setoff policy that state agencies cooperate in identifying not only debtors of the state of Kansas but debtors of Kansas municipalities and other states as well and establishes procedures for setting off against debtors owing to these municipalities and other states as well as debtors owing to the state of Kansas.

The bill allows the Director of Accounts and Reports to retain a reasonable amount as a setoff collection assistance fee from the gross proceeds of amounts setoff on debts owed to municipalities or other states as mutually agreed upon by the Director and the municipality or other state. The amount of the setoff collection assistance fee collected from municipalities and other states shall be deposited in the state treasury and credited to the accounting service recovery fund.

In the case of multiple claims against an amount setoff from a matched debtor the bill gives the priority that each claim shall have on the amount setoff to satisfy the claim:

- 1) Collection of taxes owed to agencies of the state of Kansas;
- 2) Claims for collection of debt which have been written off by assignment to the Director of Accounts and Reports;

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Joria Timmer, Director
ATTN: Mark Manning
March 26, 1992
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- 3) Other claims according to the time of filing with the Director under K.S.A. 75-6208 and amendments thereto; and,
- 4) Claims for collection of interstate child support debts and tax liabilities of other states shall have last priority according to the time of filing with the Director of Accounts and Reports.

Statement of Effects on Operations and Responsibilities:

This legislation would amend the State Debt Setoff Act to broaden the scope of the program and allow participation by Kansas municipalities. The degree of municipality participation would in part depend on the technical ability of the municipality to provide compatible and useful information about debtors to the setoff program. For example, many municipalities do not maintain debtor information that is associated to the debtor's social security number. This is a key element for matching debtors with state payment files. As more municipalities develop this information over time, the participation level would increase. Although there are approximately 4,000 municipalities in Kansas, we expect no more than 10% or about 400 municipalities to participate. The overall success of incorporating municipalities into the State Debt Setoff Program would also depend on what kind of debts the municipalities will certify to the Setoff Program and the ability to properly make matches for setting off against payments in progress based on the information supplied by the municipality. It is anticipated that material types of municipality debts would likely be from property taxes and utility payments.

Additionally, similar agreements of interstate cooperation at the state level would be possible under the State Debt Setoff Program as amended by HB 3188.

Dollar Effect on the Budget:

There is no anticipated need for additional staffing for FY 1993. After that time, experience will dictate whether more personnel will be needed.

There will be increased supplies and postage costs associated with municipalities starting to use the State Debt Setoff Program in FY 1993. The estimated cost of these items is less than \$1,000.

Assumptions for Cost Estimates and/or Anticipated Revenues:

The premise upon which the cost estimates above are based is that not many municipalities will use the State Debt Setoff Program during FY 1993, and that problems that do occur with the ones that do participate will be minimal.

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Gloria Timmer, Director
ATTN: Mark Manning
March 26, 1992
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Anticipated revenues that would be realized through the enactment of HB 3188 are not known. However, if it is assumed that the state will realize the same percent of revenue generated over direct expenditures incurred with the municipalities as it does with existing debt collections.

Implementation Needs:

No additional staffing or operating expenditure levels are anticipated over the approved FY 1993 levels because actual participation during the start up period in FY 1993 will be low. The supplies and postage costs can be accommodated by the approved FY 1993 budgeted expenditures.

Long Range Fiscal Effects:

The actual long range participation level by municipalities is not known. However, whatever additional costs to the State for municipalities' use can be financed by the increased collection fees that will be earned by the State Debt Setoff Program. Thus, the growth of the program to accommodate the municipalities will be self-financing. Staffing levels and additional expenditure levels for fiscal years beyond FY 1993 are not known due to the uncertain nature of participation.

JRC:MEE:cv

cc: Susan Seltsam
Secretary of Administration

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4/1/92
#3-4

HOUSE BILL No. 2910

By Committee on Energy and Natural Resources

2-10

8 AN ACT concerning boating; relating to operation of a vessel under
9 the influence of alcohol or drugs; amending K.S.A. 1991 Supp.
10 32-1131 and 32-1132 and repealing the existing sections.

11
12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. K.S.A. 1991 Supp. 32-1131 is hereby amended to read
14 as follows: 32-1131. (a) No person shall operate or attempt to operate
15 any vessel within this state while:

16 (1) The alcohol concentration in the person's blood or breath, at
17 the time or within two hours after the person operated or attempted
18 to operate the vessel, is .10 or more;

19 (2) under the influence of alcohol;

20 (3) under the influence of any drug or combination of drugs to
21 a degree that renders the person incapable of safely operating a
22 vessel; or

23 (4) under the influence of a combination of alcohol and any drug
24 or drugs to a degree that renders the person incapable of safely
25 operating a vessel.

26 (b) No person shall operate or attempt to operate any vessel
27 within this state if the person is a habitual user of any narcotic,
28 hypnotic, somnifacient or stimulating drug.

29 (c) If a person is charged with a violation of this section involving
30 drugs, the fact that the person is or has been entitled to use the
31 drug under the laws of this state shall not constitute a defense against
32 the charge.

33 (d) Violation of this section is a misdemeanor punishable:

34 (1) On the first conviction, by imprisonment of not more than
35 one year or a fine of not less than \$100 nor more than \$500, or
36 both; and

37 (2) on the second or a subsequent conviction, by imprisonment
38 for not less than 90 days nor more than one year and, in the court's
39 discretion, a fine not exceeding \$500.

40 (e) *In addition to any other penalties prescribed by law or rule*
41 *and regulation, any person convicted of a violation of this section*
42 *shall be required to satisfactorily complete a boater education course*
43 *of instruction approved by the secretary before such person sub-*



shall not operate or attempt
to operate any vessel for a
period of three months from
the date of conviction and

House Journal, State Affairs
April 1, 1992
Attachment #4

1 *sequently operates or attempts to operate any vessel.*

2 Sec. 2. K.S.A. 1991 Supp. 32-1132 is hereby amended to read
3 as follows: 32-1132. (a) Any person who operates or attempts to
4 operate a vessel within this state is deemed to have given consent,
5 subject to the provisions of this act, to submit to one or more tests
6 of the person's blood, breath, urine or other bodily substance to
7 determine the presence of alcohol or drugs. The testing deemed
8 consented to herein shall include all quantitative and qualitative tests
9 for alcohol and drugs. A person who is dead or unconscious shall
10 be deemed not to have withdrawn the person's consent to such test
11 or tests, which shall be administered in the manner provided by
12 this section.

13 (b) A law enforcement officer shall request a person to submit
14 to a test or tests deemed consented to under subsection (a) if the
15 officer has reasonable grounds to believe the person was operating
16 or attempting to operate a vessel while under the influence of alcohol
17 or drugs, or both, and one of the following conditions exists: (1) The
18 person has been arrested or otherwise taken into custody for any
19 offense involving operation or attempted operation of a vessel while
20 under the influence of alcohol or drugs, or both, in violation of a
21 state statute or a city ordinance; or (2) the person has been involved
22 in a vessel accident or collision resulting in property damage, per-
23 sonal injury or death. The law enforcement officer directing admin-
24 istration of the test or tests may act on personal knowledge or on
25 the basis of the collective information available to law enforcement
26 officers involved in the accident investigation or arrest.

27 (c) If a law enforcement officer requests a person to submit to
28 a test of blood under this section, the withdrawal of blood at the
29 direction of the officer may be performed only by: (1) A person
30 licensed to practice medicine and surgery or a person acting under
31 the supervision of any such licensed person; (2) a registered nurse
32 or a licensed practical nurse; or (3) any qualified medical technician.
33 When presented with a written statement by a law enforcement
34 officer directing blood to be withdrawn from a person who has ten-
35 tatively agreed to allow the withdrawal of blood under this section,
36 the person authorized herein to withdraw blood and the medical
37 care facility where blood is withdrawn may rely on such a statement
38 as evidence that the person has consented to the medical procedure
39 used and shall not require the person to sign any additional consent
40 or waiver form. In such a case, the person authorized to withdraw
41 blood and the medical care facility shall not be liable in any action
42 alleging lack of consent or lack of informed consent. No person
43 authorized by this subsection to withdraw blood, nor any person

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2 assisting in the performance of a blood test nor any medical care
3 facility where blood is withdrawn or tested that has been directed
4 by any law enforcement officer to withdraw or test blood, shall be
5 liable in any civil or criminal action when the act is performed in
6 a reasonable manner according to generally accepted medical prac-
7 tices in the community where performed.

7 (d) If there are reasonable grounds to believe that there is im-
8 pairment by a drug which is not subject to detection by the blood
9 or breath test used, a urine test may be required. If a law enforce-
10 ment officer requests a person to submit to a test of urine under
11 this section, the collection of the urine sample shall be supervised
12 by persons of the same sex as the person being tested and shall be
13 conducted out of the view of any person other than the persons
14 supervising the collection of the sample and the person being tested,
15 unless the right to privacy is waived by the person being tested.
16 The results of qualitative testing for drug presence shall be admissible
17 in evidence and questions of accuracy or reliability shall go to the
18 weight rather than the admissibility of the evidence.

19 (e) No law enforcement officer who is acting in accordance with
20 this section shall be liable in any civil or criminal proceeding in-
21 volving the action.

22 (f) (1) Before a test or tests are administered under this section,
23 the person shall be given oral and written notice that: (A) There is
24 no right to consult with an attorney regarding whether to submit to
25 testing; (B) refusal to submit to testing may be used against the
26 person at any trial on a charge arising out of the operation or at-
27 tempted operation of a vessel while under the influence of alcohol
28 or drugs, or both; (C) the results of the testing may be used against
29 the person at any trial on a charge arising out of the operation or
30 attempted operation of a vessel while under the influence of alcohol
31 or drugs, or both; and (D) after the completion of the testing, the
32 person has the right to consult with an attorney and may secure
33 additional testing, which, if desired, should be done as soon as
34 possible and is customarily available from medical care facilities and
35 physicians. After giving the foregoing information, a law enforcement
36 officer shall request the person to submit to testing. The selection
37 of the test or tests shall be made by the officer. If the person refuses
38 to submit to and complete a test as requested pursuant to this
39 section, additional testing shall not be given. The person's refusal
40 shall be admissible in evidence against the person at any trial on a
41 charge arising out of the alleged operation or attempted operation
42 of a vessel while under the influence of alcohol or drugs, or both.

43 (2) Failure of a person to provide an adequate breath sample or

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1 samples as directed shall constitute a refusal unless the person shows
2 that the failure was due to physical inability caused by a medical
3 condition unrelated to any ingested alcohol or drugs.

4 (3) It shall not be a defense that the person did not understand
5 the written or oral notice required by this section.

6 (g) Nothing in this section shall be construed to limit the ad-
7 missibility at any trial of alcohol or drug concentration testing results
8 obtained pursuant to a search warrant.

9 (h) Upon the request of any person submitting to testing under
10 this section, a report of the results of the testing shall be made
11 available to such person.

12 (i) *In addition to any other penalties prescribed by law or rule
13 and regulation, any person refusing to take a test or tests when
14 requested to do so by a law enforcement officer pursuant to this
15 section shall be required to satisfactorily complete a boater education
16 course of instruction approved by the secretary before such person
17 subsequently operates or attempts to operate any vessel.*

18 Sec. 3. K.S.A. 1991 Supp. 32-1131 and 32-1132 are hereby
19 repealed.

20 Sec. 4. This act shall take effect and be in force from and after
21 its publication in the statute book.

shall not operate or attempt
to operate any vessel for a
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