

Approved: 5-1-98
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Senator Lana Oleen at 1:05 p.m. on April 8, 1998, in Room 254-E of the Capitol.

All members were present.

Committee staff present: Mary Galligan, Legislative Research Department
Robin Kempf, Legislative Research Department
Theresa Kiernan, Revisor of Statutes
Midge Donohue, Committee Secretary

Conferees appearing before the committee:

Mr. Herb Taylor, Kansas Sportsmen's Alliance
Mr. Scott G. Hatstrup, Attorney at Law, Overland Park
Mr. Steve Williams, Secretary, Kansas Department of Wildlife and Parks
Mr. David L. Yearout, Kansas Association of County Planning and Zoning Officials, Wichita
Ms. Sheri Porter, Whispering Hills Subdivision, Lenexa
Mr. Timothy A. Hull, Whispering Hills Subdivision, Lenexa
Ms. Denise Huber, Whispering Hills Subdivision, Lenexa
Mr. Mike Taylor, Government Relations Director, City of Wichita
Mr. Don Moler, League of Kansas Municipalities, Topeka
Mr. Tom Schaefer, Assistant City Administrator, City of Lenexa
Representative Dennis McKinney
Corporal C. E. "Sonny" Scroggins, International Network of Freedom, Topeka
Dr. Hershel L. Stroud, Acting Commander, 1st Kansas Colored Volunteer Infantry, Topeka
Mrs. Marge Bradshaw, Topeka

Others attending: See attached list

Senator Oleen announced that **HCR 5052**, relating to the Kansas Voluntary Infantry Regiment mural, would be heard at 2:00 p.m. due to the number of conferees scheduled to appear before the committee today on **HB 2886**, pertaining to sport shooting ranges. She stated that time would be divided equally between proponents and opponents, allowing a total of approximately twenty minutes for each side of the issue. She suggested that conferees abbreviate their remarks so all would have an opportunity to speak.

The hearing was opened on:

HB 2886: An act concerning the regulation and application of state and local laws, rules, regulations and ordinances to sport shooting ranges; providing civil immunity to persons who operate or use such ranges.

Mr. Scott G. Hatstrup, an attorney from Overland Park and a certified firearms safety instructor, was recognized by the chair. He appeared to have difficulty in offering his remarks, so the chair excused his presence for another conferee and indicated she would return to him at an appropriate time.

Mr. Herb Taylor, chairman of the Kansas Sportsmen's Alliance, spoke in support of **HB 2886 (Attachment #1)**. He discussed the effect its passage would have on public safety issues, saying it would allow for safe and convenient ranges to promote participation in shooting sports, firearms and hunter safety education programs, and training of law enforcement personnel. Mr. Taylor pointed out the bill would protect existing ranges, government as well as privately owned, from nuisance lawsuits and local noise control ordinances as a result of encroaching development in surrounding areas. He referenced additional statements attached to his written testimony, along with a map detailing the number of states that have enacted similar legislation, and asked the committee to give favorable consideration to passage of **HB 2886**.

The chair returned to Mr. Scott G. Hatstrup, who spoke in support of **HB 2886, (Attachment #2)**. He addressed points raised in a memo circulated last week which he said incorrectly implied that **HB 2886** is an unconstitutional delegation of legislative authority to a nongovernmental body. He pointed out that this is not

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS, Room 254-E, Statehouse, at 1:05 p.m. on April 8, 1998.

only incorrect, but that laws similar to **HB 2886** are enacted regularly. Mr. Hattrup then discussed "generally accepted operation practices" and common law protection as they relate to the bill. He said the bill would preempt frivolous lawsuits against shooting ranges and urged the committee's support of **HB 2886**.

Steve Williams, Secretary of the Kansas Department of Wildlife and Parks told the committee the department supports this legislation because of potential benefits for its core constituents--sport shooters and hunters (Attachment #3). He explained that the bill would relieve shooting range operators who adopt "generally accepted operation practices" from certain civil liabilities and criminal prosecutions in circumstances involving noise or noise pollution resulting from range operation. Instead, he said the proposed legislation would require the department to adopt "generally accepted operation practices" for shooting ranges. He indicated that review and adoption of these operation practices would be by existing department staff, with assistance of appropriate outside expertise.

The chair asked Secretary Williams if he spoke for the Commission and if the Commission had taken a formal position on **HB 2886**? Secretary Williams indicated he was not speaking for the Commission; that its members had been informed of the legislation but had not focused or taken a position on it. Senator Oleen requested that he make the Commission aware of the proposed legislation and learn if it wishes to take a formal position on the bill.

The committee then turned to opponents of the bill.

Mr. Dave Yearout, principal planner with the Wichita-Sedgwick County Metropolitan Area Planning Department, appeared before the committee in opposition to **HB 2886** on behalf of the Kansas Association of County Planning and Zoning Officials, an associate member organization of the Kansas Association of Counties, (Attachment #4). Mr. Yearout explained that **HB 2886** could cause significant problems to city and county officials across the state in equitably and fairly administering local land use laws by proposing to extend special exemption status to a class of land uses, shooting ranges. He discussed current statutes pertaining to existing use of any building or land, which he pointed out extend a "grandfather" right to uses that are lawfully existing at the time of adoption of any local zoning laws. Further, he noted that non-conforming adult entertainment uses may be gradually eliminated by local government. Mr. Yearout told the committee that local elected officials in Kansas are extremely cautious about implementing any program that would eliminate any non-conforming use, regardless of type, because the local elected officials are closest to the citizens and business activity occurring within communities and hear directly from all interested parties in land use disputes. He said he failed to understand the need for **HB 2886** or the public purpose it would achieve, and he asked the committee to report the bill unfavorably.

Ms. Sheri Porter, a resident of Whispering Hills Subdivision in Lenexa, spoke in opposition to the bill, (Attachment #5). Ms. Porter told the committee she has lived in close proximity to the 7-10 Gun Club in Lenexa for approximately 12 years and, for the most part, a neighborly relationship existed. She said the harmonious relationship with the club has existed precisely because of current laws and regulations, and she could not imagine peaceful coexistence if shooting ranges are granted immunity from the law which **HB 2886** would do in its present form.

Mr. Timothy Hull, an opponent of **HB 2886**, (Attachment #6), is a resident of Whispering Hills Subdivision whose home is situated within earshot of the Kansas Field and Gun Dog Association, also known as the 7-10 Club. He said he was aware of the activity of the club when he built his home and accepted that a fair balance had been struck. He told the committee local government had prevailed in achieving that balance. Mr. Hull explained that the neighborhood was informed and remains confident that their city leaders will continue to enforce restrictions upon noise levels and hours of operation. He pointed out that enactment of the provisions of **HB 2886** could significantly disrupt the balance they had come to accept. He said it is conceivable that, with current restrictions lifted, the club could expand its facilities and hours of operation to allow shooting of more and louder guns every night of the week, and there would be no recourse. Mr. Hull urged the committee to allow local government to continue to maintain the ability to restrict noise and noise pollution by reporting unfavorably **HB 2886**.

Mrs. Denise Huber, an opponent of **HB 2886** (Attachment #7) and president of the Whispering Hills Home Association, spoke on behalf of Association members, as well as a private citizen. She provided a statement from the 202 property owners in Whispering Hills Subdivision attesting to their unanimous opposition to **HB 2886**. Mrs. Huber told the committee that they were not aware of the gun club when she and her family purchased their home in the subdivision in 1991 but found the noise was bearable. She related instances in which homes in the area were struck by stray bullets from the club and said the club eventually made changes to prevent ricocheting after the neighborhood petitioned the city to require the gun club to implement safety

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS, Room 254-E, Statehouse, at 1:05 p.m. on April 8, 1998.

recommendations made by an independent range assessor. According to Mrs. Huber, the residents of Whispering Hills have accepted the fact they can live with the current level of noise pollution, but she said this legislation would exempt the club from operating under the law, and she did not understand why a select group would be allowed to operate outside the boundaries of laws others must obey.

When asked by a committee member whether there was a movement underway by the Whispering Hills Home Association to get rid of the gun club, Mrs. Huber referenced remarks in her written testimony and responded that the Association's interest is seeing that the club is required to operate within existing laws.

Mr. Mike Taylor, Government Relations Director, City of Wichita, appeared as an opponent of **HB 2886**, (Attachment #8). In the interest of time, he kept his remarks brief and focused on a different concept, special interest. He indicated he wanted to raise that issue because **HB 2886** clearly offered a specific business special protection under the law, and he asked the committee to consider that aspect in its deliberations and report the bill unfavorably.

Mr. Don Moler, General Counsel for the League of Kansas Municipalities, spoke in opposition to the bill, (Attachment #9). Mr. Moler's testimony centered around what he termed "a number of things wrong with the bill". He pointed out that the nuisance law exists to protect the health, safety and welfare of the public and is typically known as the police powers of state and local government. He told the committee that, if local nuisance ordinances were preempted, it would set a bad precedent and allow activities that are potentially harmful to the public to continue without the ability of government at the local level to regulate that activity. Mr. Moler pointed out that **HB 2886** would also allow a nonconforming use which may be in violation of local nuisance ordinances and noise control ordinances. He suggested that the bill is an unwise piece of legislation and indicated he hoped the committee would conclude it would not be in the best interests of the public to statutorily allow nuisances that may adversely affect the health, safety and welfare of the public.

Mr. Tom Schaefer, Assistant City Administrator for the City of Lenexa, an opponent of **HB 2886**, (Attachment #10), stated that the City of Lenexa does not oppose sport gun ranges; that it fully recognizes the ongoing need for such facilities for law enforcement training and for instruction in safety gun ownership and the use of firearms for the general public. He said, however, that the city strongly opposes the preemption of local authority which would restrict state and local regulation of sport shooting ranges. Mr. Schaefer mentioned the impact the clubs have on residents of the area but pointed out they have worked cooperatively with the city and gun club for a peaceful coexistence which is tolerable and property rights on both sides are respected. He went on to say that **HB 2886** sets up special treatment which no other business interest has for a specific land use by exempting it from local land use and planning regulations, and that the City of Lenexa feels, if passed, the bill would be bad public policy.

Mr. Schaefer called attention to written testimony in opposition to the bill which was submitted by City of Lenexa Council member Diane Linver who could not be present today, (Attachment #15)

The following additional written testimony was entered into the record in support of **HB 2886**:

Mr. Michael Dann, President, Douglas County Rifle and Pistol Club, Lawrence (Attachment #11)
Mr. Donald Ross, Mill Creek Rifle Club, DeSoto (Attachment #12)

The following additional testimony in opposition to **HB 2886** was entered into the record:

Mr. Michael W. Lamb, Lenexa (Attachment #13)
Marion and Howard Stier, Lenexa (Attachment #14)
Ms. Diane Linver, Council Member, City of Lenexa (Attachment #15)
Ms. Rose M. Reicherts, Lenexa (Attachment #16)

The hearing was closed on **HB 2886**.

Senator Oleen then provided background information on **HCR 5052**, relating to placement of a mural in the Capitol honoring the 1st Kansas Voluntary Infantry Regiment. She explained that the resolution was introduced in the House and its chief sponsor would offer testimony today. She indicated the resolution was introduced in the House and did not go through committee hearings on the House side, but was directly referred to the House floor for action. She noted also there were no opponents scheduled to appear today.

Senator Oleen advised that her presence was required in another meeting, apologized for having to leave and turned the meeting over to Senator Harrington, Vice Chair.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS, Room 254-E, Statehouse, at 1:05 p.m. on April 8, 1998.

Prior to her departure, Corporal C. E. "Sonny" Scroggins of the International Network to Freedom Association, presented Senator Oleen commemorative stamps of the 1st Kansas (Colored) Voluntary Infantry Regiment.

Senator Harrington opened the hearing on:

HCR 5052: A concurrent resolution requesting the placement of a mural in the Capitol honoring the 1st Kansas (Colored) Voluntary Infantry Regiment

Representative Dennis McKinney, chief sponsor of **HCR 5052**, spoke in support of the resolution, explaining that it would start the planning process for a mural commemorating the 1st Kansas (Colored) Infantry Regiment (Attachment #17). He cited the movie "Glory" and said, contrary to what it portrayed, the 1st Kansas Infantry Regiment was the first African-American unit formed in the Civil War, the first to see action, and the first to have soldiers killed in action. Representative McKinney told the committee that this is an important piece of Kansas and United States history, worthy of commemoration on the walls of the State Capitol building.

Corporal C. E. "Sonny" Scroggins, a member of the International Network of Freedom Association, Topeka, noted for the record the support of the 1st Kansas Colored Infantry, the Bias Busters of Kansas, and the Guest-Guest Civil Rights Family Association for **HCR 5052**, (Attachment #18). He told the committee the resolution would encourage diversity, parity, preservation, commemoration and interpretation of "bleeding Kansas". Corporal Scroggins indicated the purpose of this legislation is close to the hearts of many Americans, given the level of interest seen, and said that a mural would provide a better understanding of the role of Kansas in the Civil War.

Herschel L. Stroud, DDS, Topeka, Acting Commander of the 1st Kansas Colored Volunteer Infantry, speaking in support of **HCR 5052**, (Attachment #19), gave a moving oratory of Kansas history, telling the committee that "where we have been dictates where we will go". Dr. Stroud suggested that the State of Kansas enrich its past by bringing to life another mural on the lower floor of the Capitol Building which would point to the cooperation of white, black and Indian people. He asked the committee to consider favorably **HCR 5052** to provide for commission of a new mural depicting these Kansans.

Mrs. Marge Bradshaw, Topeka, a proponent of **HCR 5052**, presented brief oral testimony. Mrs. Bradshaw related an incident involving a young black man who was surprised to learn that white, black and Indian people had joined together to fight for his future, and she spoke of the pride he took in that knowledge. She told the committee that Pathway to Freedom, a nation-wide program, selected Kansas as the first place settled that had significant history, and she urged the favorable consideration of **HCR 5052** to support this cause.

The hearing was closed on **HCR 5052**.

Senator Jones moved to report **HCR 5052** favorably to the full senate. Senator Gooch seconded the motion, and the motion carried.

Senator Gooch moved to approve the minutes of the April 1 regular and rail meetings and the minutes of the April 2 meeting. Senator Becker seconded the motion, and the motion carried.

The meeting adjourned at 2:30 p.m. The next meeting is scheduled for April 9, 1998.

SENATE FEDERAL & STATE AFFAIRS COMMITTEE
GUEST LIST

DATE: 4-8-98

NAME	REPRESENTING
DAVID YEAROUT	Ks. ASSOC. OF COUNTY PLANNING & ZONING OFFICIALS - ASSOC. OF KAC
Herschel L. Stroud	Citizen of Kansas
Constance Sawyer	Citizen of Kansas
Armand Thierry	" " "
HERB TAYLOR	Kansas Sportsman's Alliance
Tom Schaefer	City of Lenexa
Tim Hull	Citizen of Ks, resident of Lenexa
Candy Hull	City of Lenexa, Ks.
Denise Huber	Whispering Hills Homes Assoc. Lenexa, KS also as citizen of Ks, Lenexa resident
Deri-Porter	Citizen of Lenexa, Kansas
Judy Melin	Ks. Assoc of Counties
Pat Lehman	KS Fire Service Alliance
Don Melin	League of KS Muni.
H. Martin	Sedgewick County

April 8, 1998

Proponent Testimony for HB 2886, presented by Herb Taylor:

Chairman Oleen and Honorable members of the Senate Federal & State Affairs Committee, thank you for allowing me to address you this afternoon. My name is Herb Taylor and I am the Chairman of the Kansas Sportsmen's Alliance, an organization located in the Kansas 3rd Congressional District

I stand here today to urge your support of HB 2886, a "Range Protection and Preservation" bill that is badly needed in the State of Kansas. This bill would give significant support to the **Public Safety** issues espoused by the Kansas Sportsmen's Alliance and **all** law-abiding Kansas residents.

Range protection laws such as HB 2886 yield very broad public safety benefits. According to national statistics, one in two Kansas households may contain firearms and shooting ranges are where our law-abiding citizens learn about firearms safety and responsibility. Safe and convenient ranges promote participation in the shooting sports, allow for firearm and hunter safety education, and provide critically important training for law enforcement personnel.

HB 2886 would protect existing ranges, both privately run ranges or ranges owned by governmental agencies, from nuisance lawsuits and local noise control ordinances being brought to bear on the ranges as a direct result of encroaching development in the surrounding areas.

Kansas has a state mandate requiring all hunters to pass a hunter safety class and if private ranges are unable to provide the training the State will be forced to provide it.

One very significant use of the ranges in the Johnson County area is for law enforcement training. These ranges are used to keep our law enforcement personnel proficient with firearms while at the same time practicing the safe use of their equipment. This range time is normally leased to our law enforcement or governmental agencies at reduced costs. The most important issue here is that when law enforcement utilizes privately developed ranges, **they are saving the taxpayers significant amounts of tax dollars! Tax dollars that might otherwise be required for the building of ranges for their training needs.** If law enforcement personnel do not have range facilities available for training, they are either forced to forego training, which is clearly not an option, or they must travel great distances to available range facilities at taxpayer expense.

I might add that the Bullet Hole, a range in Overland Park, Kansas, provides range time to the police departments of Overland Park, Shawnee, Merriam, Mission, Leawood, Prairie Village and the Johnson County Sheriffs department plus many SWAT teams.

Sen. Federal & State Affairs Comm.
Date: 4-9-98
Attachment: #1

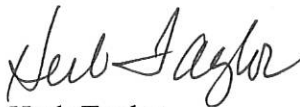
Ranges in Kansas are vitally important for teaching firearms safety to residents of all ages. We see Boy Scouts, women of all ages with concern for their personal safety and parents taking their children to the range; all with the same intent and that is to learn to safely handle and use firearms. Let's protect Kansas's ranges where safety comes first. Since the turn of the century the population in America has doubled and the number of lawfully owned firearms has quadrupled. While recognizing these two significant changes in the population and firearms ownership, fatal firearms accidents are at an all time national low! One reason for this decline may be that Americans seek out firearms training, if we do not protect our ranges we could possibly see a reversal of this trend of the safe use of firearms and that is not an acceptable alternative.

Prior to 1994 there were only 8 states in this country that had enacted "Range Protection" statutes, with our neighboring state of Missouri being one of that original 8. Today that number has more than tripled with 31 states now having range protection bills enacted and our neighboring state of Oklahoma is among that 31. Currently there are some 19 states, including Kansas, considering Range Protection bills.

In closing, as Chairman of the Kansas Sportsmen's Alliance and as a Kansas resident, I ask you to take positive action on HB 2886. Please pass this bill out of committee with a strong recommendation for passage and send it to the Senate floor for further action.

Thank you and I stand for questions.

Sincerely,



Herb Taylor
12317 West 74th Terrace
Shawnee, KS 66216
913-268-5667

HB 2886

THE KANSAS RANGE PROTECTION ACT

WHAT DOES THIS BILL DO?

- ★ HB 2886 protects existing ranges from nuisance lawsuits and local noise control ordinances brought as a result of encroaching development in the surrounding area.
- ★ HB 2886 recognizes that ranges are public safety resources, and protects those resources to assure continued access by law enforcement officers, hunters, and recreational shooters to ranges where safe, responsible gun ownership skills are imparted.

WHY ARE SHOOTING RANGES A VALUABLE COMMUNITY RESOURCE?

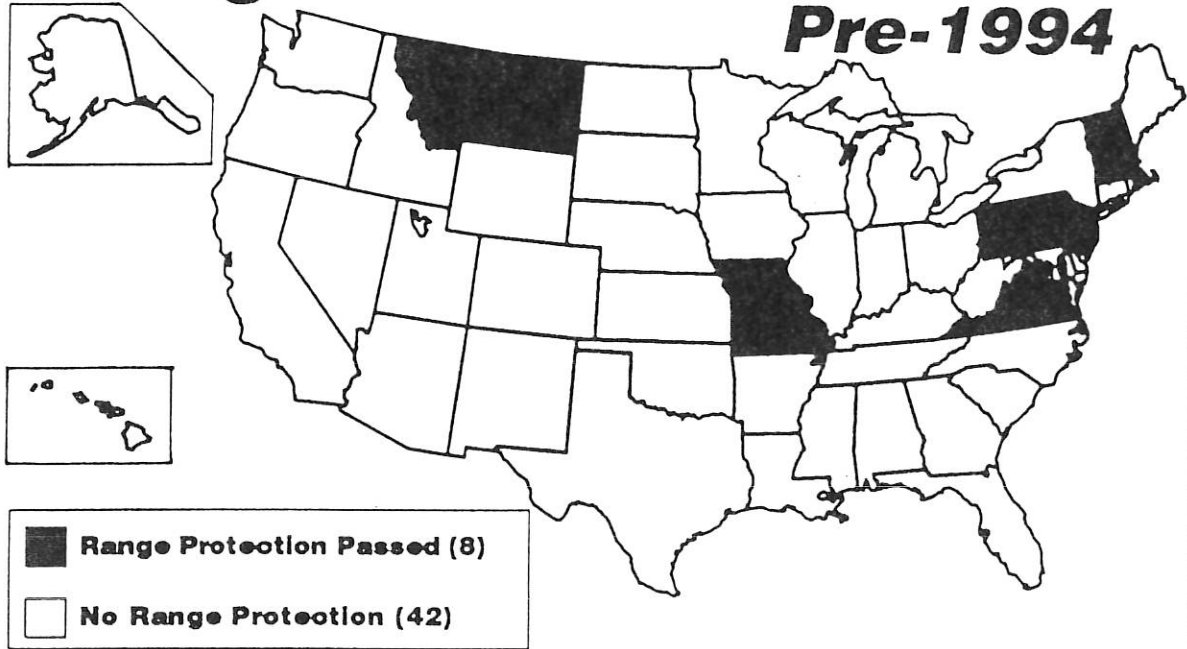
In many communities, a local shooting range may be available for:

- ★ Law Enforcement Training
- ★ Hunter Education and Training
- ★ Youth Programs
- ★ Historical Re-enactments
- ★ Self-Defense Training
- ★ Recreational Shooting

WHY PROTECT SHOOTING RANGES?

- ★ Encroaching new development in many areas has led to conflicts between shooting ranges and their neighbors, conflicts through which longstanding operations are threatened, and range use could be curtailed.
- ★ Ranges protect Kansas' long standing heritage of shooting activities, including marksmanship competition and hunting.
- ★ Many of these ranges have been in existence for decades and when first built were purposely located away from development. Today, people are building closer and closer to these existing ranges and then filing legal actions or threatening suit against these ranges - alleging that they are a nuisance. The cost of defending a single suit is often enough to shut down a range.
- ★ HB 2886 is fully supported by hunters, recreational shooters, and firearms enthusiasts throughout Kansas as a positive step to provide range owners and operators the protection they deserve as providers of a valuable community service.

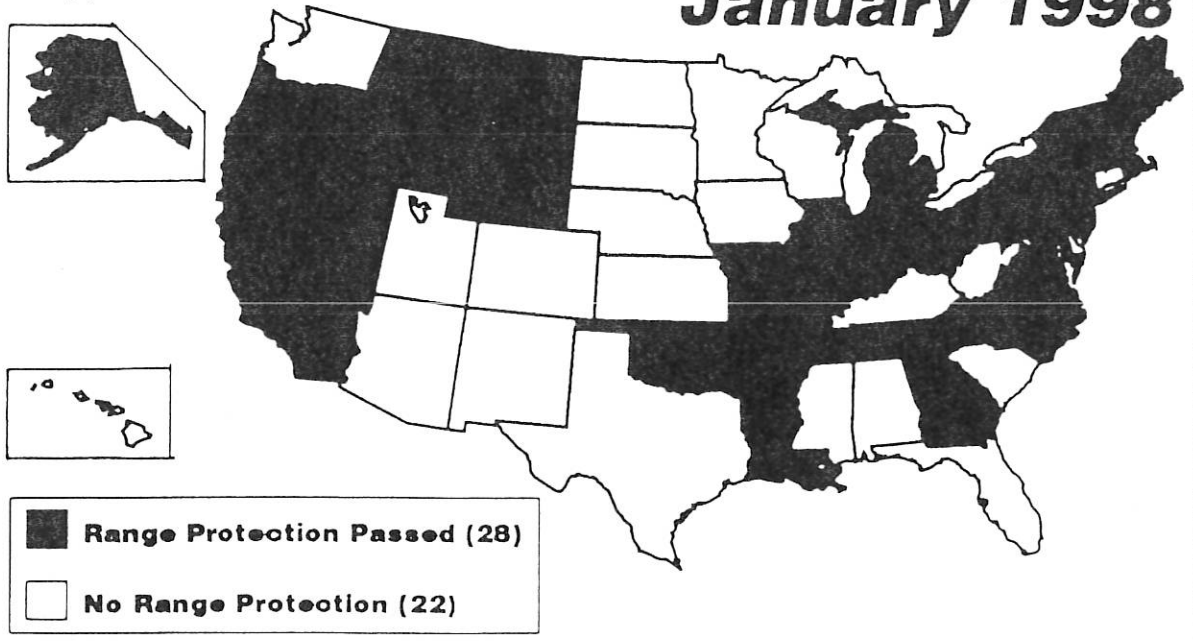
Range Protection Statutes Pre-1994



Since 1994, the number of states that have enacted shooting range protection legislation has more than doubled, jumping from eight to 28, as shown in these maps.

31

January 1998



SCOTT G. HATTRUP
ATTORNEY AT LAW
10901 LOWELL AVENUE, SUITE 120
OVERLAND PARK, KS 66210-2313
(913) 451-1946
FAX: (913) 451-1626

April 8, 1998

Honorable Members of the Senate Federal and State Affairs Committee:

Thank you for allowing me to speak to you today in support of HB2886. I am a Kansas attorney speaking as a concerned firearms owner. Besides being an attorney, I am also a certified firearms safety instructor, and a federally licensed collector of "curios and relics," which most people just know as old guns. I have written and published articles on firearms and try to keep up with the legal aspects of their ownership and usage. I am convinced that HB2886 is necessary for Kansas.

A. Nondelegation doctrine

A memo circulated last week with the subject "Unlawful Delegation of Legislative Authority," detailed what attorneys know as the "nondelegation doctrine." Briefly, the doctrine is that legislative power, or law-making authority, cannot be delegated to **non-legislative branch** organizations. The memo incorrectly states that legislative power cannot be delegated to nongovernmental groups. That is not the standard. Legislative power cannot even be given to the executive or the judicial branches of government.

The memo incorrectly implies that HB2886 is an unconstitutional delegation of legislative authority to a nongovernmental body. Besides using the wrong standard, the bill does nothing of the sort. Section 1(a) defines "generally accepted operation practices" as those adopted by the Kansas department of wildlife and parks, a governmental agency, and established by a national nonprofit group, of which at least three national groups qualify. Adopting those practices is an administrative action by the department.

The law-making on this bill happens in the Legislature. Wildlife and parks, by adopting rules and regulations within 180 days of enactment, simply carries out the intent of the bill. Laws similar to this one are enacted regularly. For example, the Boiler Safety Act of 1977 allows the Secretary of Human Resources to specifically incorporate the boiler and pressure vessel code of the American Society of Mechanical Engineers and the inspection code of the National Board of Boiler and Pressure Vessel Inspectors. K.S.A. 44-916(b)&(c) are included herein for your review. The acts for the admission of professionals such as attorneys, doctors, and accountants to practice in Kansas all use appropriate standards developed by nongovernmental groups. The Kansas Department of Human Resources and the Division of Social and Rehabilitation Services could not function without rule-making authority. Several other examples present themselves readily in the Kansas Statutes Annotated. In any event, HB2886 in its current form does not violate the nondelegation doctrine.

B. Effects of HB2886

Section 1 of the bill offers a definition for "generally accepted operation practices," which would codify standard safety training requirements currently used in hunter education and other shooter training programs. These safety requirements must be met before the protection of the bill could be invoked.

Section 2 codifies a common-law protection called "coming to the nuisance." One could no longer use noise or nuisance lawsuits to shut shooting ranges down. Briefly, coming to the nuisance is a protection offered in the courts as an affirmative defense against latecomers to the land.

Sen. Federal & State Affairs Comm.
Date: 4-8-98
Attachment: #2

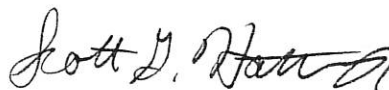
For example, a shooting range established fifty years ago has been in continuous operation since. It complied with all safety and noise regulations in effect at the time, as required in this bill. It also upgrades its equipment and facilities as time passes and technology allows in order to stay current. Real estate developers meanwhile buy land near the shooting range that is cheap because of the noise. The developers put in residential housing ten to fifteen years ago and tell the new residents the range will be shut down. The new residents to the area then complain about noise from the shooting range and try to shut it down. A court should dismiss the case since the range predated the residents, and they knew about the noise before moving there. The problem is that a lawsuit can take expensive legal fees to defend a range against such a suit since an "affirmative defense" cannot be asserted until after a lawsuit is filed. This bill preempts frivolous lawsuits against shooting ranges.

Unfortunately, the situation I presented to you is not a hypothetical one. The Kansas Field and Gun Dog Association at 83rd Street and Monticello Road in western Lenexa faces this situation right now. It may go the way of smaller clubs in Kansas which have already been shut down by later development, such as a club formerly located near Osawatomie.

You may hear from a representative from the city of Lenexa in opposition to this bill. If you do, please ask why property near a long-existing shooting range was allowed to be zoned for residential use. Please also ask why the city is considering putting a walking trail downrange of the Mill Creek Rifle Club, just outside the city limits. Both of the shooting ranges mentioned have worked with many different law enforcement departments in Johnson County for training purposes. Ask yourselves how safe the citizens of Kansas will be when law enforcement no longer has a place to safely train because the shooting ranges have been closed due to shortsightedness.

In closing, I urge your support for HB2886. It is sorely needed legislation. I will be available for questions at your request.

Respectfully,



Scott G. Hatrup



STATE OF KANSAS
DEPARTMENT OF WILDLIFE & PARKS

Office of the Secretary
900 SW Jackson, Suite 502
Topeka, KS 66612-1233
785/296-2281 FAX 785/296-6953



April 8, 1998

Senator Lana Oleen
Committee on Federal and State Affairs
State Capitol - Room 136-N
Topeka, Kansas 66612

Dear Senator Oleen:

Thank you for the opportunity to provide testimony regarding HB 2886, as amended, which proposes certain limitations on liabilities associated with the operation of sport shooting ranges. This bill would also require the Department of Wildlife and Parks to adopt generally accepted operation practices to be utilized by range operators. The department supports this proposed legislation, as it would appear to have benefits for sport shooters and hunters, who are among the department's core constituents.

The proposed legislation would relieve shooting range operators - those who adopt the generally accepted operation practices - from certain civil liabilities and criminal prosecutions, as well as the burden of certain local regulations and ordinances, in circumstances involving noise or noise pollution resulting from range operation. It would also allow the repair, remodel and reconstruction of existing range facilities where the referenced operation standards are utilized, if done in a timely manner (one year).

This proposed legislation would require the department to adopt "generally accepted (shooting range) operation practices" that are "established by a nationally recognized nonprofit membership organization that provides voluntary firearm safety programs..." General shooting range operational guidelines are available from various organizations that appear to fit the definition of this bill. Three national organizations - the National Rifle Association, the International Hunter Education Association, and the National Shooting Sports Foundation - have pending draft documents that may provide more specific operation practice prescriptions, should that be required under this proposed legislation.

The Wildlife and Parks Commission would be required to adopt and review the established operation practices at least every seven years. Review and recommendation for adoption would be conducted with existing department staff, with the assistance of appropriate outside expertise.

Sen. Federal & State Affairs Comm
Date: 4-8-98
Attachment: #3

Thank you for this opportunity to provide input. Please let me know if you need further information.

Sincerely,

A handwritten signature in cursive script that reads "Steve Williams".

Steve Williams, Secretary
Kansas Department of Wildlife and Parks

cc: Rob Manes

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HOUSE BILL No. 2886

Testimony of David L. Yearout, AICP

to the

Senate Federal and State Affairs Committee

on behalf of the

Kansas Association of County Planning and Zoning Officials

an Associate Member of the

Kansas Association of Counties

April 8, 1998

Senator Oleen and other distinguished Senators of the Federal and State Affairs Committee, thank you for the opportunity to testify before you today regarding House Bill 2886. My name is David Yearout. I am presently a Principal Planner with the Wichita-Sedgwick County Metropolitan Area Planning Department and have been a practicing planner in Kansas for over 25 years. However, I am appearing before you today on behalf of the Kansas Association of County Planning and Zoning Officials, an associate member organization of the Kansas Association of Counties. I am the immediate past president of that Association and have been asked to represent our membership before you today.

House Bill 2886, among other things, proposes to extend special exemption status to a class of land uses, namely shooting ranges defined very broadly, that could cause significant problems to city and county officials across the State in equitably and fairly administering local land use laws. The bill proposes to make shooting ranges that are conducted in conformance with “generally accepted operation practices”, which are promulgated by a private entity, totally exempt from the provisions of K.S.A. 12-758 (a), even if the shooting range is not in conformance with a locally adopted ordinance of a local unit of government (lines 23 and 24, page 2, HB2886).

K.S.A. 12-758(a) reads: “Except as otherwise provided by this section and K.S.A. 1997 Supp. 12-770 and 12-771, and amendments thereto, **regulations adopted** under authority of this act **shall not apply to the existing use of any building or land**, but shall apply to any alteration of a building to provide for a change in use or a change in the use of any building or land after the effective date of any regulations adopted under this act. **If a building is damaged by more than 50% of its fair market value such building shall not be restored if the use of such building is not in conformance with the regulations adopted under this act.**” (Emphasis added).

K.S.A. 12-758 clearly extends a “grandfather” right to any and all buildings and uses of land that are lawfully existing at the time of the adoption of any local zoning laws. However, it is clear that the statute recognizes that it may not be appropriate for uses that are “grandfathered” to remain forever. This is evident by both the emphasized language I just read about a building being damaged more than 50% of its fair market value being required to conform to the local zoning laws if the building use is to be reestablished; and by the provisions of K.S.A. 12-771 which authorizes local governments to provide for the gradual elimination of non-conforming uses. Further, K.S.A. 12-770 specifically provides that non-conforming adult entertainment uses may be gradually eliminated by a local government.

In practice, local elected officials in Kansas are extremely cautious in implementing any program that will “eliminate” any non-conforming use, regardless of type. I feel this is because the local elected officials are closest to the citizens and business activity occurring within their communities, and hear directly from all the interested parties in any land use dispute. Further, they recognize that their decisions are most often the ones first tested in court and do not act in haste when the issue before them is rife with varying opinions of what is “right” and what is “wrong”. Even when challenged after enacting a local law, the option is always available to quickly repeal that law if legal counsel advises it is in the best interests of the community to do so.

But the provisions of House Bill 2886, if enacted into law and found valid, would exempt a specific class of land use activity (shooting ranges as defined in the bill) from the provisions of local land use laws, as well as a litany of other provisions of law, both local and state. We fail to understand either the need for such a draconian action or the public purpose achieved by this act. There is not statement of purpose in the bill.

I know of no Kansas city or county that has prohibited the establishment of these activities. Many cities and counties have enacted local laws that address the local needs to mitigate the impacts associated with the establishment of new shooting ranges. And there have been local decisions made to deny zoning requests to establish shooting ranges. But the same can be said about retail stores, apartment complexes, convenience stores, restaurants, single-family developments, and a myriad of other land use changes. All these decisions are made based upon the facts before the local elected officials and reflect a deliberative analysis of those facts in order to protect the rights of all affected persons, not just one side.

Kansas has long recognized the value and benefit of granting the authority to its cities and counties to provide for local planning and zoning. This is not a mandatory action required of all cities and counties; but is an authorization extended to any city or county that locally decides to implement such laws to protect the health, safety and general welfare, and to preserve and protect the property values and property rights of all its citizens. The local rezoning process practiced in the city halls and county courthouses in Kansas extends those rights to its citizens to express openly and freely their feelings and concerns about the impacts of all proposed changes in the use of nearby land in advance of that change. This is true regardless of the nature of the proposed change, and should remain true for all proposed changes in the use of land.

On behalf of the Kansas Association of County Planning and Zoning Officials, I ask you today to kill House Bill 2886. Thank you, again, for the opportunity to appear before you today.

April 8, 1998

My name is Sheri Porter and I have lived directly behind the 7-10 Gun Club in Lenexa for almost 12 years. A patch of woods, a stream and a berm divides our properties.

For the most part, ours has been a neighborly relationship. I won't complain this Easter morning when the guns start popping at 9 a.m. They always shoot on Sunday morning. However, there have been occasional warm evenings, our bedroom windows open to the breeze, when my family has tossed and turned and fumed until 10:30 or 11 p.m. due to the noise created from tireless shooters. In those instances, we turn to the local authorities that dispatch officers to the gun club. A few years ago Whispering Hills requested that extra safety measures be taken at the 7-10 club. Because the city government intervened on our behalf, we no longer worry about stray bullets.

Whispering Hills lives harmoniously with this club precisely because of the existing laws and regulations. I cannot imagine residential neighborhoods and gun clubs peacefully coexisting if the clubs are granted immunity from the law. I cannot imagine the barrage of larger caliber weapons and extended shooting hours—seven days a week, 24 hours a day if they choose.

As a citizen, I would have no legal recourse. It would not take long under those conditions for powerless citizens to become frustrated, resentful and angry.

If this bill passes, I foresee waves of hostility brewing across Kansas, turning once harmonious relationships into hostile ones.

I am strongly opposed to HB 2886.

Sincerely,



Sheri G. Porter
8614 Deer Run
Lenexa, KS 66220

(913) 422-7341

Sen. Federal & State Affairs Comm
Date: 4-8-98
Attachment: # 5

April 8, 1998

To Chairperson Oleen and other members of the Federal and State Affairs Committee, Nancey Harrington, Rich Becker, Laurie Bleeker, Keith Schraad, Ben Vidricksen, Sherman Jones, Don Biggs and U.L. Gooch,

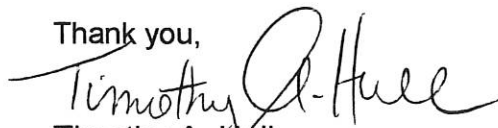
Thank you for allowing me to be heard today. My name is Timothy A. Hull and I am a resident of Lenexa, KS. My home is situated in a subdivision known as Whispering Hills, which is within earshot of a sport shooting range known as the Kansas Field and Gun Dog Association, also known among locals as the "7-10 Club", or more commonly simply as the "gun club". As you know, this club began operating in 1949, a few years before I was born and long before I built my home. Even though I knew of the existence of the club when I built my home, I considered it acceptable to have to listen to the occasional barking of shotguns, pistols and high power rifles in exchange for the more common pleasant country solitude we would get to experience when those guns fell silent. We accepted that a fair balance had been struck and that our local government had prevailed in achieving it. Furthermore, we were informed and remained confident that our city leaders would continue to enforce restrictions upon noise levels and hours of operation. I believe this notion runs through the minds of most of my neighbors.

If enacted, the legislation you are considering (HB No. 2886) could significantly disrupt the balance that we have all come to accept. It is conceivable that with current restrictions lifted, the gun club could and would expand its facilities and/or hours of operation to allow shooting of more and/or louder guns every night of the week. Our city will simply not allow this now, but would be powerless to prevent it if this bill becomes law. I am certain that every member of this committee can easily imagine such a scenario and that each of you would acknowledge that the only way to squelch it is by maintaining effective local police enforcement.

For a number of reasons, I believe that it would be in the best interests of the City of Lenexa, the surrounding neighbors, future homeowners and park users for the gun club to find other, more distant environs. However, recognizing that several forces conspire to forestall that inevitability, at the very least you must allow the local governments to maintain their ability to restrict noise and noise pollution. While no noise is clearly preferable, at least the current level of noise is tolerable. Releasing the reins on noise control to satisfy the interests of a very small group of enthusiasts might not only shatter our mostly peaceful surroundings, it could stifle desirable residential growth, enjoyment and use of some of the most desirable living space in the county.

Please snuff the life out of this bill now.

Thank you,



Timothy A. Hull
8301 Bridle Dale Circle
Lenexa, KS 66220

Sen. Federal & State Affairs Comm
Date: 4-9-98
Attachment: #6

April 8, 1998


This is a Statement addressed to The Federal and State Affairs Committee of the Kansas Senate on behalf of the 202 property owners of Whispering Hills subdivision, Lenexa, Kansas, regarding Senate Bill 2886

This is to attest to the fact that a Regular Monthly Board Meeting of the Board of Directors of Whispering Hills was held on Monday evening, April 7, 1998, at the home of director Al Lozier at 7:00 p.m.

One of the items on such meeting's agenda was the examination of Senate Bill #2886. After discussion, a motion was made, seconded and approved to authorize Denise Huber, as president of the Homes Association, to present a decision to the State Senators regarding this bill.

As president of the Whispering Hills Homes Association, I am here today to inform you that the decision was *unanimous* by the eleven-member board to go on record in *firm opposition* of this bill.

I respectfully ask that the members of the Federal and State Affairs Committee respect the wishes of the 202 property owners and residents of the State of Kansas represented here and "kill" this bill.



Denise Huber, President, Whispering Hills Homes Association
21005 Whispering Drive, Lenexa, Kansas 66220
Phone: (913) 441-1949

Sen. Federal & State Affairs Comm.
Date: 4-8-98
Attachment: #7

April 8, 1998

The Honorable Lana Oleen, Chairperson, and all of the members of the Federal and State Affairs Committee of the Kansas Senate:

My name is Denise Huber, and I have been a resident of Lenexa, Kansas, for the past seven years. When my husband and daughter and I bought our home in 1991, we were not aware of the existence of the gun club approximately one half mile from our home.

To make a long story short, the noise emanating from the gun club was aggravating, but in our opinion, bearable.

Over a period of time I learned the history of the gun club and I learned of the fact that two separate homes bordering the perimeters of the club had been struck by bullets. Although it was never subsequently proven that the bullets originated from guns at the club, it was also extremely hard to believe that someone would place themselves between the firing range and the homes and fire toward the homes.

I was serving on the homes association board in January of 1992, when a third home was hit. At that time the residents of Whispering Hills petitioned the City of Lenexa to require the gun club to implement safety recommendations that were made by an independent range assessor hired by the City in 1988, but never addressed. Namely, extending the pistol and rifle range berms in a horseshoe fashion, placing baffles along the perimeter of the ranges and adding additional berming up towards the firing position. Again, to make a long story short, the club eventually complied and made changes which included covering bolts on targets to prevent ricocheting and constructing additional side baffles to eliminate "blue sky".

Also during this time, the soil at the club was tested by the Kansas Department of Health and Environment and the high levels of lead content were of serious concern, but were not migrating off the site at that time. We were told that no clean-up of the site would be required unless migration was detected. The KDHE recommended that the club create an escrow account to pay for eventual clean-up and required the club to provide annual stream samplings to monitor the lead levels.

Noise levels emanating from the club have also been measured and monitored over the years; and although there is some controversy regarding the procedures used, the residents of Whispering Hills have accepted the findings and live with the level of noise pollution, even though it has increased.

The point I am trying to make here is that while it is my wish and the wish of many of my neighbors that the gun club and all its noise and safety concerns simply go away, we are all law-abiding citizens and have been obligated to live with the laws in force in the City of Lenexa.

This bill, if enacted, would in effect, exempt this gun club from operating under the law. And once again, to make a long story short, I cannot conceive why you would consider letting a select group of armed individuals be allowed to operate outside the boundaries of the laws that the rest of us have to abide by.

I respectfully ask that you "kill" this bill and not allow it to make it to the Senate floor. I am providing you with copies of this testimony as well as copies of a unanimous decision made by the Whispering Hills Homes Association Board at its monthly meeting last evening. You will see that the board members, representing all 202 property owners, ***unanimously opposed this bill.***

Thank you for your time and consideration.

APR 1 1998

March 31, 1998

The Honorable Lana Oleen
State Capitol
Topeka, Kansas 66612

Re: Senate Bill 2886

Dear Senator Oleen:

I am writing to state my opposition to Bill #2886, providing civil immunity to persons who operate or use sport shooting ranges.

The proposed bill exempts ranges from liability in regard to noise pollution if the range is in compliance with noise ordinances in place at the time of its construction. I live less than a mile from the 7-10 Gun Club in Lenexa. At the time it was established in 1949, there were no noise ordinances in existence. The club was then in "the middle of nowhere". The development I live in was established in the late 60's. At that time the noise at the club was minimal and bearable. Over the past 30 years, the club has expanded its membership and operating hours and the noise continues to grow louder and louder and is a nuisance. The range used to have just small caliber guns. Now it has added shotguns and black powder guns that make an extremely loud "shaboom" noise that vibrates the windows!

Why should the residents of the 200 homes surrounding the gun club have to put up with this?

The proposed bill would have the clubs virtually exempt from current ordinances that limit noise, lighting, berming and landscaping. I know from experience that the club only erected a single berm east of its rifle range because two separate homes in our neighborhood were struck by bullets from the club. It has been two homes that were struck so far; will it take two humans struck by bullets to stop this madness?

The proposed bill would allow the club to expand even further without regard to any existing zoning laws or ordinances! Why is it that I as an individual citizen have to obey laws in regard to building, ordinances, zoning, etc., yet a club full of armed people would not have to obey those same laws?

I urge you and the Federal and State Affairs Committee to squash this insane bill without further consideration.

Sincerely,



Denise Huber
21005 Whispering Drive
Lenexa, Kansas 66220



City of Wichita

Testimony

By Mike Taylor, Government Relations Director

HOUSE BILL 2886

DELIVERED TO
SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
APRIL 8, 1998

House Bill 2886 is a special interest bill on behalf of the National Rifle Association and operators of existing shooting ranges. It is bad public policy which would preempt local authority, sacrifice the public health and safety, and give shooting ranges protections and privileges beyond those given to any other business.

House Bill 2886 would generally delegate governance of "sport shooting ranges" in Kansas to the National Rifle Association. "Sport shooting ranges" would include areas operated for use of all types of firearms, including black powder weapons and all types of archery. The Wildlife and Parks commission would be required to adopt "generally accepted operation practices" within 180 days of the effective date of the act. The "generally accepted operation practices" are to be established by "a nationally recognized nonprofit membership organization that provides voluntary firearm safety programs which include training individuals in the safe handling and use of firearms." In other words, the National Rifle Association.

The bill would insulate sport shooting ranges which follow the "generally accepted operation practices" from civil or criminal actions regarding noise pollution ordinances. They would also be protected from common lawsuits for nuisance. Section 3 strikes down all ordinances that prohibit or regulate any aspect of existing shooting ranges. In effect, nothing the shooting range wants to do could be prohibited if the NRA says it is "a generally accepted operating practice." The bill also provides an apparent statutory "assumption of risk" defense for operators of shooting ranges, as to anyone who participates in sport shooting at the range and is injured. It doesn't seem to matter whether or not the injury is firearm related. There isn't a single business in business that wouldn't want that kind of immunity.

If this bill were proposed by any other industry group, how would the Legislature react? Would it give the "National Salvage Yard Association" unprecedented protections from lawsuits and enforcement of nuisance laws against junk yards? What about a proposal from a landlords association to allow all rental property meeting some organization guidelines complete protection against local building codes and nuisance regulations? Discussion over this bill by many has focused on the pro-gun/anti-gun argument. That's not it at all. The question you need to answer is this: does this industry deserve to be put above the law and given special protections beyond those you would grant other types of businesses?

Sen. Federal & State Affairs Comm.
Date: 4-8-98
Attachment: #8



League of
Kansas
Municipalities

Legal Department
300 S.W. 8th
Topeka, Kansas 66603
Phone: (785) 354-9565/ Fax: (785) 354-4186

TESTIMONY

TO: House Federal and State Affairs Committee
FROM: Don Moler, General Counsel
DATE: March 8, 1998
RE: Opposition to HB 2886

First I would like to thank the Committee for allowing the League to testify in opposition to HB 2886. Specifically, the League opposes HB 2886 because of its preemptive nature and the fact that it contradicts typical nuisance law which has been in place in Kansas since statehood. Nonconforming uses are allowed to continue when zoning is placed on a property or the property and use exist prior to the modification of a zoning ordinance. Prohibiting the use of nuisance law sets a very bad precedent which we believe is unwise.

Nuisance law exists to protect the health, safety and welfare of the public. This is typically known as the "police powers" of state and local government. Typically, they are used when an otherwise lawful use becomes hazardous to the general welfare of the public. We believe that to preempt all local nuisance ordinances sets a very bad precedent and would allow activities which are potentially harmful to the health, safety and welfare of the public to continue without the ability of government at the local level to regulate the activity. Essentially this legislation excuses a variety of nuisance behaviors when they are undertaken as part of a "sport shooting range" or "range" in the state. Further, it goes far beyond the current nonconforming use statute, which provides that when a structure is destroyed that it cannot be rebuilt as a nonconforming use, to indicate that despite damage to any structure involved at a sport shooting range, it may be rebuilt and the use may continue if done within one year of the damage.

HB 2886 would also allow a nonconforming use, which may well be in violation of local nuisance ordinances and noise control ordinances, to legally expand or increase the size and scope of the facilities and activities which may further increase the hazard to the general public. We would suggest that this is an unwise piece of legislation. We would hope that the Committee would conclude that it is not in the best interests of the public to statutorily allow nuisances which may adversely affect the health, safety or welfare of the public.

Thank you once again for allowing the League to testify on this subject.

Sen. Federal & State Affairs Comm.
Date: 4-8-98
Attachment: #9



**TESTIMONY BEFORE THE SENATE
FEDERAL AND STATE AFFAIRS COMMITTEE**

RE: HB No. 2886

April 8, 1998

Madame Chairman and Members of the Committee:

Good morning. My name is Tom Schaefer and I am the Assistant City Administrator for the City of Lenexa. Thank you for the opportunity to appear today to express opposition to HB 2886. At the outset it should be noted that the City of Lenexa is not universally opposed to sport gun ranges per se. In fact, we fully recognize the ongoing need for such facilities for law enforcement training and for instruction in safe gun ownership and the use of firearms for the general public.

However, the City of Lenexa is strongly opposed to the bill passed in the House in that it would severely restrict state and local regulation of sport shooting ranges. The bill as written "grandfathers" sport shooting ranges from any state or local regulation from both an operational and land use standpoint. HB No. 2886 causes the City alarm for a number of reasons which shall be outlined below, but of particular concern is the special treatment that it sets up for a specific land use, exempting it from the City's exercise of its police powers in regulating inherently dangerous and harsh land uses.

1. The proposed bill exempts ranges from civil and criminal liability, including nuisance suits, for any matter relating to noise or noise pollution resulting from range operation if the range is in compliance with any noise control ordinances that applied to the range and its operation at the time of construction or initial operation.

As a practical matter, the majority of gun club operations affected by this legislation were established in what were then rural, sparsely populated areas. Many of these areas did not have noise regulations in existence at the time the use was established. Therefore, this legislation will effectively permit many gun clubs to operate without any noise regulation, and while doing so, be immune from suit. The noise at the property line associated with gun clubs can be significant and routinely exceeds permitted and safe noise levels.

Local government is charged in state statute with exercising its police powers to provide for the public health, safety, and welfare through its planning and zoning authority. Cities routinely adopt zoning regulations, including performance standards addressing noise, odor, vibration, light levels, etc. in an effort to protect the general health and safety of the public. To permit a land use, such as a gun club, to operate without any noise regulation, would be potentially detrimental to citizens' health and welfare.

noise ordinances in existence. Nearly forty years later, in 1986, the Club was annexed into the City of Lenexa. The Club is neighbor to a large residential subdivision called Whispering Hills that is located immediately east of the property. This subdivision was already developed at the time the city annexed the area in 1986. Under this bill, this gun club COULD operate at a substantially higher, and potentially damaging level, than that permitted for any other land use in Lenexa. Moreover, pursuant to the other provisions of this bill, the operation could INTENSIFY and even EXPAND its current operation, thereby increasing the existing noise level, and still be afforded immunity from suit. Proponents of the bill would argue that these residences were established after the gun club and therefore they knowingly assumed the risk of such noise. I would argue that at a minimum, these residents were entitled to rely upon the City's noise standards and regulatory authority at the time they purchased their homes.

2. The proposed bill permits gun clubs to continue operating even if the operation does not conform to new ordinances or amendments to existing ordinances.

This provision precludes the City from adopting or amending any ordinances with application to the gun club. For example, it would preclude zoning ordinances that set noise standards, lighting standards, berming or landscaping standards, etc. It would also not permit the lawful amortization of this use. Ironically, this legislature as recent as the last legislative session specifically recognized the right of local governments to utilize amortization or other laws for the gradual elimination of nonconforming uses. The proposed legislation would preempt this amortization authority.

Section 4 of the proposed legislation provides that "except as otherwise provided, the provisions of this act shall not prohibit a local unit of government from regulating the location, use, operation, safety and construction of a sport shooting range". This provision, however, is ESSENTIALLY MEANINGLESS with regard to the approximately 50 operations already in existence.

3. The proposed bill permits the expansion or increase of a nonconforming use.

A well-recognized policy of zoning law is that nonconforming uses should be gradually eliminated. As mentioned above, the Kansas legislature recently recognized this policy with the adoption of K.S.A 12-771 which provides that nothing in the Planning & Zoning Act is intended to prevent cities or counties from enforcing local laws, enacted under other legal authority, for the gradual elimination of nonconforming uses. The law is that the original nature and purpose of a nonconforming use must remain unchanged. Thus, an operation constituting a nonconforming use cannot be expanded AS OF RIGHT. This proposed legislation would be contrary to well established law.

4. The bill is very broad and applies to any "sport shooting range" defined to include "an area designed and operated for the use of archery, rifles, shotguns, pistols, semiautomatic firearms, skeet, trap, black powder or any other similar sport".

It is my understanding that there are approximately 50 operations in Kansas that have at least minimum facilities that are eligible to obtain insurance through the National Rifle Association (NRA) for operation of a shooting range. Of these 50, approximately 20 are professional gun club operations. The remaining operations are generally individuals who have designated a portion of their property for target shooting, with perhaps a bench and a few other minor improvements. Under this bill, these "backyard" operations would also be exempt from regulation. However, unlike the professional gun clubs it is my understanding that these operations were not built to any particular standards, nor do they necessarily adhere to any generally accepted operation practice.

5. Legislation adopted in other states is generally much less restrictive.

The NRA and other proponents of this legislation will point out that a number of other states have adopted range protection statutes. However, a review of several states will show that what, in fact, was adopted is substantially different than what has been proposed to this committee. The majority of states I reviewed, including our sister state to the east, have only addressed noise protection, not the additional immunity from other ordinances, nor the expansion of nonconforming uses. On our southern border, Oklahoma enacted range noise protection legislation, but their statute only applies immunity provided the noise at the property line of the range does not exceed 150 decibels. Thus, ranges exceeding 150 decibels are subject to civil and criminal suits. The Oklahoma statute does not address any other aspects of range operation.

We ask that you consider these factors and vote to preserve local authority to regulate these type of operations. Thank you for your time and consideration. I'll be happy to try to answer any questions committee members may have.

Chairwoman Oleen, Members of the Committee and others present,

My name is Michael Dann, and I have been President of the Douglas County Rifle and Pistol Club (DCR&PC), located in Lawrence, for 2 1/3 years. I am a member of two other ranges and an NRA Certified Instructor in Pistol and in Personal Protection. I chair the Safety and Training Committee for SWARM, and am Treasurer of the Kansas Sportsmen's Alliance. My comments today are based on my roles as an officer of a range, a firearms instructor, and a strong believer in public safety.

DCR&PC has operated a shooting range for over 15 years in Lawrence, and is the only facility for shooting handguns and smallbore rifles within a 15 mile radius. It has five shooting stations, and an average annual membership of 80 persons. In addition, we have over 100 persons shoot each year under a guest category. In all the years of operation, there has never been a shooting related injury.

When I became President, I contacted all 7 stores in Lawrence that sell firearms with my name and phone number, and suggested that they suggest that new or unfamiliar gun buyers call me to request information on the range and shooting instruction. The city also has my name and number, to direct inquiries about the shooting facility to me. I began logging these calls in late October, 1995 upon taking office.

For this past 29 month period, I have received an average of 2.3 calls per week with questions about the range. These 278 phone calls were broken down approximately as follows:

- 50% - experienced shooters, current gun owners looking for a local place to shoot.
- 42% - new gun owners looking for a place to shoot and varying degrees of help in learning to shoot
- 8% - persons not currently owning a firearm, but expecting to purchase one soon and wanting help in the selection of a firearm for their circumstances, and instruction.

These figures tell us that over 275 persons have found the only safe, for them and the public, place to shoot handguns and rifles in our community. One-half of these people were not familiar with or comfortable enough with a firearm to shoot it without making the effort to secure help before doing so. Thank goodness they did. From working with them, I sincerely believe that some of these citizens would likely have hurt themselves, family, or someone else while shooting without the club's assistance and the safety built into the facility.

This bill promotes the safety of all Kansans by helping to insure safe places to shoot, where help and assistance is made available to firearm owners and those lawfully purchasing a firearm for the first time.

Thank you for your attention. I urge passage of this bill.

HB 2886

Chairman, Members of the Committee,

My name is Donald Ross. I am a resident of Lenexa and I appear before you on behalf of Mill Creek Rifle Club (MCRC) in support of HB 2886. MCRC is located 2 1/2 miles east and 1 1/2 miles north of Desoto, KS. Facilities consist of 3 rifle and 4 pistol outdoor ranges. Club membership is approximately 725.

MCRC has existed at this location for 25 years and public services provided include law enforcement training, firearms and related safety training, weekly competitive shooting matches of various types and an annual rifle sight-in service. Presently, 8 law enforcement agencies use MCRC for all or part of their training and practice. Firearms and related safety courses have been provided to over 1000 personnel in the last 25 years. Annual attendance at competitive shooting events exceeds 2100. The annual sight-in week end hosts approximately 175 people.

Like other groups represented here today, and other ranges throughout Kansas, we fear for our continued existence. The potential for frivolous lawsuits citing noise pollution or other irritations is a serious financial threat. In addition, inquiry by two communities and a state sponsored study indicate there is a possibility of reallocating use of our river front land for other recreational purposes.

We are currently working with Johnson County, Lenexa and Shawnee law enforcement agencies on plans to expand the MCRC law enforcement training facility. If completed, it will provide the only tactical training facility in this area, and will serve as the primary firearms training facility for the Law Enforcement Academy. All this will be at considerable expense to both the club and the law enforcement agencies involved. The provisions of HB 2886 enhance the probability of MCRC's continued existence and completion of this project.

Recently, MCRC polled the 24 other privately held ranges in Kansas and found that 18 had adequate facilities to provide police and firearms safety training. Of these, 11 currently make their facilities available to local law enforcement personnel and 4 more would do so if requested. In addition, 14 indicated that they make firearms safety training available to the general public. All 18 provide sight-in facilities.

The passage of HB 2886 insures the continuation of these valuable public services as well as the lawful and safe pursuit of firearm sports for a great many Kansans. We urge your prompt passage of this legislation.

I would be pleased to answer any questions you may have.

Sen. Federal & State Affairs Comm.
Date: 4-8-98
Attachment: #12



WEALTH MONITORS, INC.

April 7, 1998

TO: Chairperson Oleen and Committee Members
FAX: (785) 296-6718
RE: Opposition to House Bill No. 2886

Dear Senators:

I have lived next to the 7-10 Gun Club in Lenexa for nearly eleven years. Whispering Hills is home for nearly 200 homeowners and was annexed by the City of Lenexa along with the gun club.

We have learned to live together with the noise, bright lights and the occasional stray bullet finding its way into someone's home or car. The gun club, under the city's direction, has constructed mounds and other structures to increase the safety for our families and help us exist in close proximity.

I strongly oppose House Bill No. 2886 which gives this type of facility an unusual amount of latitude in its ability to grow and self-regulate. This bill should be unacceptable to any controlling municipality or any homeowner. I urge the members of this committee to vote against giving virtually unlimited power to a gun club to expand its facility, lengthen its hours or allow the noise level to increase. It has taken a long time to achieve proper balance. This bill, if passed, will upset what we have achieved over the past decade.

Sincerely,

Michael W. Lamb
President

MWL:sld

Michael W. Lamb
21035 W. 89th Terrace
Lenexa, KS 66220

Chairman Olsen and Members of the Committee:

We would like to urge you to vote against HB #2886 because, if passed, this bill would permit gun clubs such as the one which is next to our subdivision to increase it's noise level, hours of operation, and lighting level to whatever it chooses, even if potentially damaging; without regard to zoning ordinances, public safety or health, and be immune to regulation by the city.

Thank you —

Marion and Howard Stier
20802 Whispering Drive
Lenexa, Kansas 66220



TESTIMONY BEFORE THE SENATE
FEDERAL AND STATE AFFAIRS COMMITTEE

Re: HB No. 2886

April 8, 1998

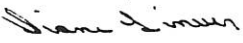
Honorable Senator Oleen and Committee Members:

I'm providing written testimony in opposition to HB2886. I will be testifying first as a Lenexa, Kansas, elected city council member, and also as a resident of Whispering Hills Subdivision which has the 7-10 Gun Club operating on our western boundary.

The bill as proposed is a "one size fits all" proposition. To say the bill is very broad is an understatement. Included in the approximately fifty "sport shooting range" operations you have about twenty professional gun clubs, and the rest are nothing more than a target shooting area designated by a property owner, with few, if any improvements.

One of the most important obligations of any city is to provide for the health, safety, and well being of its citizens. The question has to be asked, "Why would anyone propose a bill that pre-empts a city from doing those very things?" Proponents of this bill would have you believe that the houses should never have been allowed to be built near a gun club. The 7-10 Gun Club, of which I am most familiar with was established in 1949, and in 1986 was annexed to the City of Lenexa. The Whispering Hills subdivision was also established before annexation. The city is seeing rapid growth in this whole area. Nothing is the same as it was in 1949. We all have to adapt and accommodate change, whether it is the gun club or the residential homeowners, or the farmer who finds himself surrounded by development. What was once rural is now being urbanized, no matter how much we might want to, we couldn't turn back the clock. We have all heard the hue and cry that the federal government should quit telling state and local government what to do and interfere less with our ability to govern and maintain our communities as we see fit. The same sound logic applies here. A city and not the state should have the right to regulate the operation of any shooting range/gun club located within its borders.

I thank you for this opportunity to testify and I strongly encourage you to vote no on HB2886. If you have any questions, please contact me at (913) 477-7562.

Respectfully submitted,
Diane Linver 
Council Member, Lenexa, KS

Sen. Federal & State Affairs Comm.
Date: 4-8-98
Attachment: #15

April 8, 1998

The Honorable Lana Olsen:

Dear Chairperson Olsen & members of the Committee:

I would like to urge you to vote against HB 2886. Under this provision the 7-10 gun club would be permitted to increase its noise level, lighting, & hours of operations. These actions would ~~be~~ be a detriment to the health & welfare of the residence of Whispering Hills subdivision adjacent to the 7-10 gun club.

Sincerely,
Rose Reicherts
Rose M Reicherts
20505 Cricket Lane
Lenexa KS 66220-
3313

DENNIS MCKINNEY
 REPRESENTATIVE, 108TH DISTRICT
 612 S. SPRUCE
 GREENSBURG, KS 67054
 (316) 723-2129

STATE CAPITOL, ROOM 278-W
 TOPEKA, KS 66612-1504
 (785) 296-7658



TOPEKA

HOUSE OF
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS
 RANKING MINORITY MEMBER
 UTILITIES
 MEMBER
 ENVIRONMENT
 FISCAL OVERSIGHT
 TRANSPORTATION

April 8, 1998 Statement to
 Senate Federal & State Affairs Committee
 House Concurrent Resolution 5052

Thank you for the opportunity to appear on HCR5052.

Frequently Kansas has been on the cutting edge of United States History. We have a heritage of which to be proud.

HCR 5052 starts the planning process for a mural commemorating the 1st Kansas (Coloured) Infantry Regiment. Contrary to what we were led to believe in the movie Glory, the 1st Kansas was the first African-American unit formed in the Civil War, the first to see action, and the first to have soldiers killed in action.

However, the walls in our Capitol commemorate only a few of the events in Kansas history. While numerous events in Kansas history are missed completely, we have many bare walls in our Capitol. HCR 5052 presents us an opportunity to start to rectify this omission.

Visitors to the Missouri Capitol see many walls lined with Thomas Hart Benton murals. They are a tremendous asset to that Capitol. Kansas should enjoy the same.

Perhaps the Historical Society could conduct a contest to solicit and evaluate a variety of mural proposals.

Again, my primary point is that the formation and action of the 1st Kansas (Coloured) Infantry Regiment is an important piece of Kansas and United States history worthy of being commemorated on otherwise bare walls in this building.

Thank you very much.

Sen. Federal & State Affairs Comm.
 Date: 4-8-98
 Attachment: #17

Busters of Kansas/Kansas Fever Committee - 2000

C.E. "Sonny" Scroggins, President/Founder

3730 SE Truman Ave. • Topeka, Kansas 66609 • 785-267-5381

STATEMENT APRIL 8, 1998

GOOD MORNING HONORABLE CHAIR, YOU KNOW ME WELL, MY NAME IS SONNY SCROGGINS, AND I AM A MEMBER OF THE INTERNATIONAL NETWORK TO FREEDOM ASSOCIATION. I WOULD LIKE TO TAKE THIS TIME TO THANK YOU AND THE COMMITTEE FOR THE OPPORTUNITY TO TESTIFY ON BEHAFE OF HOUSE CONCURRENT RESOLUTION 5052, IT'S SPONSOR THE HONORABLE STATE REPR., THE HONORABLE DENNIS MCKINNEY AND THE HONORABLE KANSAS SENATOR ANTHONY HENSLY. AS A REPR. OF OUR BELOVED COMMANDER, AND MY MENTOR, MAJOR DR. HERSHELL STROUD, AND THE FIRST KANSAS COLORED INFANTRY, BIAS BUSTERS OF KANSAS, THE GUEST-GUESS CIVIL RIGHTS FAMILY ASSOCIATION, I WOULD LIKE TO NOTE FOR THE RECORD OUR FULL SUPPORT FOR H-5052. WE BELIEVE THAT THIS BILL ENCOURAGE DIVERSITY, PARITY, PRESERVAION, COMMEMORATION, AND INTERPRETATION OF BLEEDING KANSAS. WE COMMEND THIS COMMITTEE FOR YOUR LEADERSHIP ON THIS MEASURE, AND WE GREATLY APPRECIATE YOUR POSITIVE RESPONSE. SENATOR OLEEN, I HAVE HAD THE PLEASURE OF WORKING ON THIS ISSUE NOW SINCE 1979, ADVOCATING MURALS AND DESERGATION OF OUR STATE HOUSE WALLS WITH THE PRESENT AND FORMER EXECUTIVE DIRECOTS OF THE HISTORICAL SOCIETY, FORMER GOVERNOR'S, AND THE FORMER SEC. OF STATE. IT IS AN ISSUE CLOSE TO MY HEART, AND GIVEN THE LEVEL OF INTEREST WE HAVE SEEN, IT IS CLOSE TO THE HEARTS OF MANY AMERICANS. THIS IS A POWERFUL STORY, IT IS A NATIONAL TREASURE, A STORY THAT PROMOTES FREEDOM, JUSTICE AND THE TRUE GOODNESS OF THE AMERICAN SPIRIT. THIS MUREL WILL PROVIDE OUR YOUTH

WITH A BETTER UNDERSTANDING OF THE ROLE OF KANSAS IN
THE CIVIL WAR.

THIS CONCLUDES MY TESTIMONY, AND I AM HAPPY
TO ANSWER ANY QUESTIONS YOU MAY HAVE.....

/FROM PR NEWSWIRE LOS ANGELES 213-626-5500/

[STK]

[IN]

[SU]

TO BUSINESS EDITOR:

Commemorative U.S. Postal Stamps Offered as Part of Ceremony to Honor Black Civil War Servicemen in July;

Bias Busters of Kansas/Kansas Fever Committee - 2000 Announces Proceeds Will Benefit Friends of the Free State Capitol

WASHINGTON, April 7 /PRNewswire/ -- Bias Busters of Kansas/Kansas Fever Committee - 2000 released the following today:

A commemorative stamp collection for the U.S. Colored Troops will be offered by the United States Postal Service as part of the ceremonies in July "98" in Washington, D.C. to observe the contribution of thousands of black soldiers and sailors in the Civil War. These soldiers will be portrayed as part of a special cachet that will be printed on the envelopes to be sold at the dedication and unveiling of the African-American Civil War Memorial in Washington, D.C.

The first Kansas (Colored) Voluntary Infantry Regiment, organized August 4, 1862 by the Honorable James H. Lane, was the first unit of Americans of African descent to fight in the Civil War. Early settlers arrived from the eastern seaboard, in 1854 and later, with a purpose of making Kansas a free state. They were the first to defend their freedoms from pro-slavery forces in the prelude to the Civil War in Kansas.

"Constitution Hall," was later enveloped by the First Free State Capitol and used as such until 1870, and these buildings became the headquarters for the "Topeka Freedom Movement," which assisted fugitive slaves entering the Lane Trail in route to Canada, and was the birthplace for the Free State Constitution later adopted at Wyandotte, making the State of Kansas a Free State, which was the pivotal point that led to the abolishment of slavery in the United States.

Bias Busters of Kansas/Kansas Fever Committee - 2000 are proud and privileged to announce that the net proceeds from the sale of these envelopes will be donated to Friends of the Free State Capitol to assist them in the purchase, preservation and restoration of these buildings located at 427-429 Kansas Avenue, Topeka, Kansas, which are in danger of demolition.

Tax Free Donations for Friends of the Free State Capitol Incorporated may be sent to:

Friends of the Free State Capitol
PO Box 2551
Topeka, KS 66601

Visit our Web Site: <http://www.oldkansascapitol.com>

Coordinated by C.E. "Sonny" Scroggins, Corporal, First Kansas Colored Re-Enactor's Unit.

For more information contact C.E. "Sonny" Scroggins 785/267-5381; or Harold Lane 785/232-3610.

SOURCE Bias Busters of Kansas

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04/07/98

/CONTACT: C.E. "Sonny" Scroggins, Corporal, First Kansas Colored Re-Enactor's Unit, Bias Busters of Kansas, 785-267-5381; or Harold Lane for Bias Busters, 785-232-3610/

Topekan coordinates stamp cancellation

Ceremony to honor black Civil War servicemen.

By STEVE FRY
The Capital-Journal

Nine black soldiers stand in a row, all wearing the uniforms of the Union army and gripping their rifles in front of them.

Some wear their kepis at a jaunty angle, while the billed caps set squarely on the heads of others.

The nine soldiers will appear on a pictorial stamp cancellation as part of ceremonies in July in Washington, D.C., to observe the contributions of thousands of black soldiers and sailors in the Civil War.

The soldiers are part of a special cachet that will be printed on the bottom of envelopes to be distributed at the dedication and unveiling of the African American Civil War Memorial. Printed in block letters are the initials "U.S.C.T.," which stand for "U.S. Colored Troops."

The cachet also has an American flag bearing the words, "U.S.C.T. Their Time Has Finally Come."

Coordinated by C.E. "Sonny" Scroggins, the cancellation will be postmarked "African American Civil War Memorial Station, Washington, D.C., 20001, July 15, 1998."

Scroggins, a Topeka civil rights activist, is a re-enactor in the 1st Kansas Colored Infantry.

"It's a great honor. I'm humbled to do this," Scroggins said of the stamp cancellation.

Scroggins worked with Dr. Isabell Masters, Herschel Stroud, head of the 1st Kansas re-enactors' unit, and Jerry Barker, printer. Lyndia Grant, memorial project director, authorized the cancellation.

The cachet of the soldiers is based on a large photograph of two ranks of South Carolina troops standing in front of a building

That portion of the cancellation symbolizes "courage, freedom and the American way," Scroggins said. "I'm inspired because it's the way Americans of African descent passed from property to personhood. It's due to the 1st Kansas Colored and the Honorable James Henry Lane," a Kansas military and political leader and a recruiter of troops in that regiment.

The 1st Kansas Colored was the first black regiment to fight during the Civil War.

Scroggins said he was related to Alfred Guest, a soldier in Company A of the 1st Kansas Colored, also known as the 79th U.S. Colored Infantry. Guest was a brother of Scroggins' great great great-grandfather, Pleasant Guest, he said.

Alfred Guest, a slave, had fled a plantation in the Red River Bottom country of Texas because of the promise of early emancipation if he served as a soldier, Scroggins said. He traveled to Kansas.

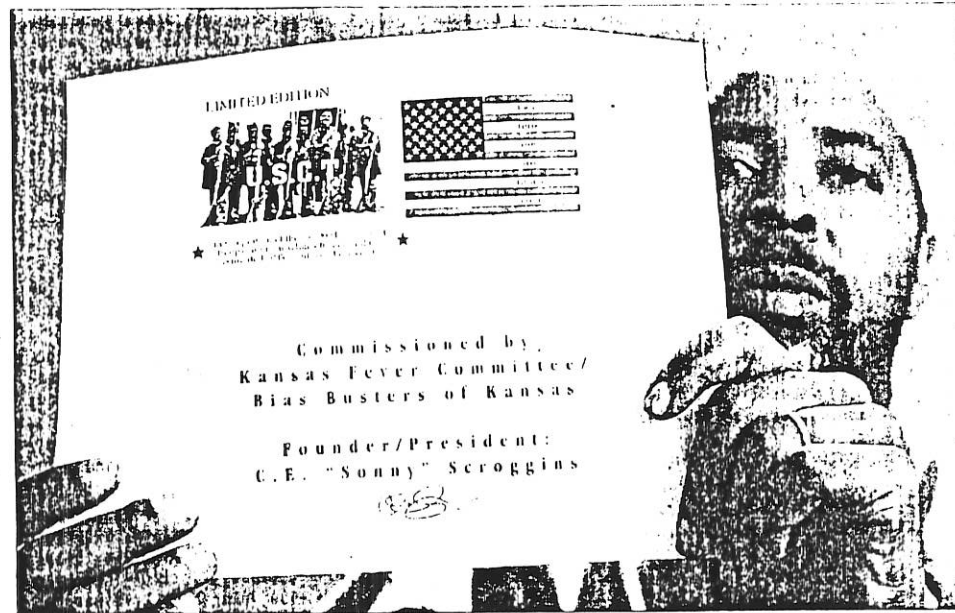
According to U.S. pension records, Alfred Guest, a tanner born in Kentucky, enlisted for a three year term in the 1st Kansas Colored on Aug. 10, 1862, in Lawrence.

However, he was ill much of the time he was in the Army, and on Sept. 22, 1865, Alfred Guest, 20, died in a post hospital at Pine Bluff, Ark., according to pension records.

Scroggins said members of the 1st Kansas Colored re-enactors' group hoped to travel to the memorial dedication if funding can be raised.

The memorial plaza will include a 9-foot bronze sculpture, "The Spirit of Freedom," and plaques engraved with the names of black troops and their white officers.

Sponsored by the African American Civil War Memorial Freedom Foundation, ceremonies will be July 15-18. Events will



— Michelle Paulman /The Capital-Journal

C.E. "Sonny" Scroggins held a copy of the commemorative stamp cancellation for the U.S. Colored Troops.

include a sunrise tribute at Arlington National Cemetery to black soldiers and sailors, a symposium at Howard University about black soldiers and sailors, programs at Ford Theater and the Smithsonian American History Museum, and a parade of re-enactors ending at the dedication and unveiling of the sculpture.

Black soldiers fought in 449 engagements in the war, including 39 major battles. Seventeen black soldiers and four sailors received the Medal of Honor. About 37,300 blacks died while in the Union army.

According to "Historical Times Illustrated Encyclopedia of the Civil War," nearly 200,000 blacks served in the Union army and navy.



—Contributed art

Above is a lithograph of South Carolina troops under Gen. David Hunter. This was used to create a stamp cancellation to honor black servicemen who fought in the Civil War.

DENNIS MCKINNEY
REPRESENTATIVE 108TH DISTRICT
612 S SPRUCE
GREENSBURG, KS 67054
(316) 723-2129

STATE CAPITOL, ROOM 27B-W
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TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
RANKING MINORITY MEMBER
UTILITIES
MEMBER
ENVIRONMENT
FISCAL OVERSIGHT
TRANSPORTATION

April 3, 1998

Mr. C. E. Scroggins
3730 SE Truman Ave.
Topeka, KS 66604

Dear Mr. Scroggins,

The Senate Federal & State Affairs Committee has scheduled hearings on House Concurrent Resolution 5052. The hearings are scheduled for Wednesday, April 8, at 11:00 a.m. in room 254-E of the Capitol. If you would like to testify you should call Senator Oleen's secretary, Midge, at 296-4336 and be scheduled to testify.

Remember, the resolution just starts the planning process for a mural.

I truly enjoyed meeting you today at the Capitol. I hope we have the opportunity to have fellowship together sometime.

Sincerely,

A handwritten signature in cursive script that reads "Dennis McKinney". The signature is written in dark ink and is positioned below the word "Sincerely,".

Dennis McKinney

DMcK/lm

SENATE CONCURRENT RESOLUTION NO. _____

By Senator Hensley

A CONCURRENT RESOLUTION requesting the Statehouse Art and History Committee to consider placing a mural in the Capitol honoring the 1st Kansas (Colored) Voluntary Infantry Regiment and the Honorable Kansas Senator James Henry Lane, a Kansas military and political leader and a recruiter of troops in that regiment.

WHEREAS, On August 4, 1862, the Honorable James H. Lane, U.S. Senator from Kansas, appointed Captains James M. Williams and H. C. Seaman, U.S. Army, to recruit a regiment of infantry for the U.S. Army to be composed of "men of African descent." They were mustered into the regular army on January 13, 1863; and

WHEREAS, In the year 1862, members of the 1st Kansas (Colored) Infantry Regiment were the first African-American troops of the Civil War to be engaged in combat--on October 28 and 29 at Island Mound, or Toothman's Mound, near the town of Bulter in Bates County, Missouri; and

WHEREAS, The intrepid 1st Kansas (Colored) Infantry's contribution at Toothman's Mound helped prompt President Abraham Lincoln to issue the Emancipation Proclamation and inspired hundreds of thousands of other African-American men to take up arms in the cause of union and free soil--undoubtedly influencing the outcome of that war and perhaps proving decisive in the preservation of government of the people, by the people and for the people in the world as we know it; and

WHEREAS, African-American soldiers held the middle of the lines while fighting alongside white troops in the historic Civil War battle of Honey Springs on July 17-18, 1863, north of Checotah, Oklahoma, near Rentiesville, a battle that is referred to as the "Gettysburg of the West." The battle of Honey Springs was fought on the Old Texas Road, the main prewar transportation

route connecting Indian Territory with Kansas, Missouri, Arkansas and Texas. It was the largest and most decisive of the Civil War in Indian Territory; and

WHEREAS, The 1st Kansas (Colored) Infantry Regiment is extremely important to American history, and it is important that the 1st Kansas (Colored) Infantry Regiment be remembered. It is essential to preserve and teach all youth about the rich heritage of the 1st Kansas (Colored) Infantry Regiment: Now, therefore,

Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein: That the 1st Kansas (Colored) Voluntary Infantry Regiment and the Honorable Kansas Senator James Henry Lane, a Kansas military and political leader and a recruiter of troops in that regiment should be honored by placement of a memorial mural in the Capitol; and

Be it further resolved: That the Secretary of State be directed to provide an enrolled copy of this resolution to the Secretary of Administration, as chairperson of the Statehouse Art and History Committee, and to C.E. "Sonny" Scroggins, the President of Bias Busters of Kansas/Kansas Fever Committee.

/FROM PR NEWswire LOS ANGELES 213-626-5500/

[STK]

[IN]

[SU]

TO BUSINESS EDITOR:

Commemorative U.S. Postal Stamps Offered as Part of Ceremony to Honor Black
Civil War Servicemen in July;

Bias Busters of Kansas/Kansas Fever Committee - 2000 Announces Proceeds Will
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the dedication and unveiling of the African-American Civil War Memorial in
Washington, D.C.

The first Kansas (Colored) Voluntary Infantry Regiment, organized
August 4, 1862 by the Honorable James H. Lane, was the first unit of Americans
of African descent to fight in the Civil War. Early settlers arrived from the
eastern seaboard, in 1854 and later, with a purpose of making Kansas a free
state. They were the first to defend their freedoms from pro-slavery forces
in the prelude to the Civil War in Kansas.

"Constitution Hall," was later enveloped by the First Free State Capitol
and used as such until 1870, and these buildings became the headquarters for
the "Topeka Freedom Movement," which assisted fugitive slaves entering the
Lane Trail in route to Canada, and was the birthplace for the Free State
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Coordinated by C.E. "Sonny" Scroggins, Corporal, First Kansas Colored
Re-Enactor's Unit.

For more information contact C.E. "Sonny" Scroggins 785/267-5381; or
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SOURCE Bias Busters of Kansas

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04/07/98

/CONTACT: C.E. "Sonny" Scroggins, Corporal, First Kansas Colored
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Bias Busters of Kansas/Kansas Fever Committee - 2000

C.E. "Sonny" Scroggins, President/Founder

3730 SE Truman Ave. • Topeka, Kansas 66609 • 785-267-5381

PRESS RELEASE

Ceremony to Honor Black Civil War Servicemen

A commemorative stamp cancellation for the U.S. Colored Troops will be offered as part of the ceremonies in July in Washington, D.C. to observe the contribution of thousands of black soldiers and sailors in the Civil War. These soldiers will be portrayed as part of a special cachet that will be printed on the envelopes to be sold by Friends of the Free State Capitol for \$2.00 at the dedication and unveiling of the African-American Civil War Memorial in Washington, D.C.. The cancellation will be postmarked: African-American Civil War Memorial.

Just as the 1st Kansas (Colored) Voluntary Infantry Regiment was the first unit of African descent to fight in the Civil War in 1862, the early settlers who arrived from the eastern seaboard, in 1854 and later, to make Kansas a free state were the first to defend their freedoms from the pro-slavery forces prior to Kansas statehood and the beginning of the Civil War in 1861.

It was in 1855 that those early settlers built the building, since known as Constitution Hall, that was used in the territorial period prior to statehood for the purpose, among others, of debating the issue of whether Kansas should be a free or a slave state, and it was there that a constitution was submitted that rejected the pro-slavery provisions. That document was later incorporated in the Wyandotte Constitution that was adopted by Congress and permitted the admission of Kansas into the Union in 1861.

It was one year after the 1st Kansas Colored Voluntary Infantry Regiment was organized that additions were built onto Constitution Hall in what is now downtown Topeka, Kansas, to become the seat of the temporary capitol from 1863 through 1869.

Those buildings located at 427 and 429 S. Kansas Ave. are scheduled to be demolished by their owner unless \$95,000. can be raised before May 29, 1998 by Friends of the Free State Capitol Incorporated to acquire them.

Send your tax-deductible check today to:

Friends of the Free State Capitol
P.O. Box 2551
Topeka, KS 66601

to preserve the historic landmark that played an important role in changing the United States to a free, and away from a slave economy.

Coordinated by C.E. "Sonny" Scroggins, Corporal, First Kansas Colored Re-Enactor's Unit.

For more information contact: C.E. "Sonny" Scroggins 785-267-5381; or Harold Lane 785-232-3610.

18-10

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By STEVE FRY
The Capital-Journal

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The cachet also has an American flag bearing the words, "U.S.C.T. Their Time Has Finally Come."

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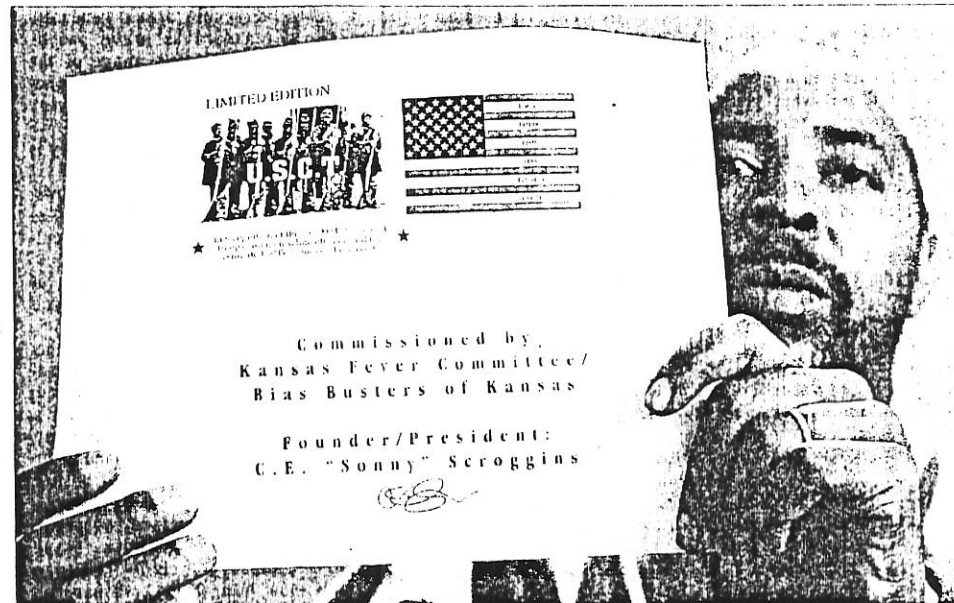
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Sponsored by the African American Civil War Memorial Freedom Foundation, ceremonies will be July 15-18. Events will



— Michelle Paulman /The Capital-Journal

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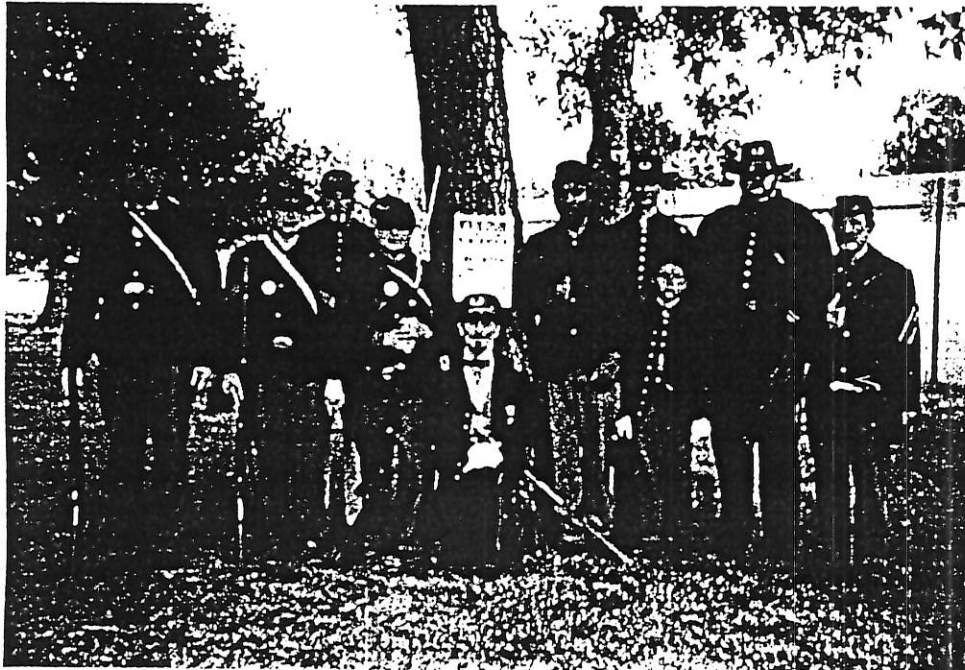


—Contributed art

Above is a lithograph of South Carolina troops under Gen. David Hunter. This was used to create a stamp cancellation to honor black servicemen who fought in the Civil War.



Special Thanks To:



ANNUAL CROSSROAD CELEBRATION

CUSHINBERRY PARK

JULY 19, 1997

C.E. (SONNY) SCROGGINS

FIRST KANSAS VERY FIRST RECRUIT (OFFICIALLY RECRUITED AS WM. SMITH,
COMPANY A), MAJOR HERSCHELL STROUD, COMMANDER

FEDERAL MUSTERING MEMORIAL & RECRUITMENT PROGRAM

18-12

IN MEMORY OF
LAURENCE O. LANE
1910-1997

LANE'S BARBEQUE & MUSEUM
1306 S. KANSAS AVE.
6:00 P.M.

JANUARY 13, 1998
PRESIDING OFFICER M.J. "BOO" HODGES, M.D.
COLONEL COMMANDING NATIONAL FRONTIER BRIGADE



"LANES Black Diamonds"

135TH ANNIVERSARY OF THE FEDERAL MUSTER OF

THE FIRST KANSAS COLORED

JANUARY 13, 1863 TO JANUARY 13, 1998

Presented in part by

- First Kansas Colored Infantry Re-enactment Regiment,
- Bias Busters of Kansas/ Kansas Fever Committee,
- The Kansas Martin Luther King, Jr. Memorial Committee,
- National Frontier Brigade, Guess-Guest Family Association,
- Friends of Old Constitution Hall, Friends of the First Kansas Colored
Infantry Auxilliary, Checotah, OK, First Sgt. Robert Young
54th Mass. Comp. "B", The Oklahoma Historical Society,
- The Kansas History Center, and Coach Ed Lee



BRIEFLY IN TOPEKA

PRESS CONFERENCE

■ Press Conference to focus on African American Kansas Pioneers

— A press conference at 11 a.m. Friday will address the call to recognize the efforts of African Americans in Kansas' history and in the Civil War. The conference is being sponsored by the Kansas Bias Busters of Kansas, the Kansas Fever Committee, The Great Plains Association, the Kansas City and Leavenworth Chapter of the 9th and 10th Horse Cavalry Association and The Sheldon Kindergarten Anniversary Committee, pre-conference sponsors, are encouraging legislators and historians to recognize the role of the Buffalo Soldiers in the battle of Arikaree depicted in a mural on the first floor in the Kansas Capitol. The pre-conference will be at the mural in the Capitol. The organizations have commissioned artist George Mayfield, Kansas City, Kan., to paint portraits of the Buffalo Soldiers and the Charles Sheldon Kindergarten Class, the first black kindergarten west of the Mississippi, to be on permanent display in the Capitol.

State Rep. L. Candy Ruff, D—Leavenworth, will be the featured speaker at the press conference on the south steps of the Capitol. In his efforts to push the displays through the legislature next year, Ruff joins Gov. Joan Finney, former governor Mike Hayden; U.S. Congressman Jim Slattery; Secretary of State Bill Graves; Rep. Carol Dawson, R—Russell; Sen. Bud Burke, R—Olathe; and Sen. Lana Oleen, R-Manhattan, in pressing for recognition of the African Americans in Kansas History.

WE ARE SCHEDULED TO ADDRESS THE KANSAS SENATE STATE AND FEDERAL AFFAIRS COMMITTEE, CHAIR BY SENATOR LANA OLEEN, NOVEMBER 22, 1993, AT 10:00AM. IN ROOM 527 IN THE STATE CAPITOL. PLEASE SUPPORT OUR EFFORTS BY ATTENDING. ABRAHAM LINCOLN SAID "THE PROBABILITY THAT WE MAY FAIL IN THE STRUGGLE OUGHT NOT TO DETER US FROM THE SUPPORT OF A CAUSE WE BELIEVE TO BE JUST."

FOR MORE INFORMATION CALL C.E. "SONNY" SCROGGINS (913) 267-5381.

Invocation

Welcome & Greetings

Union

Confederate

Master & Mistress of Ceremony Wayne and Dr. Tolly Wildcat
Music provided by Ronnie Cushinberry

Remarks Colonel "Boo" Hodges
Harold Lane
Martha Parker

Special Presentation Video Post Shane Seley
Ed Leydecker

Jeff LaCrone

Special Guest:
Civil War Radio Hour
Matt Matthews
Brian J. Orloff
Marge Bradshaw
Orville Johnson
Vickie Divers
Dale Anderson
George Bernheimer

Benediction

LAWRENCE & STATE



TOPEKA

Activist proposes Capitol mural subjects

An activist is proposing that the state honor one of its two first U.S. senators and the first unit of black troops to go into battle during the Civil War with a Capitol mural.

Sonny Scroggins plans to kick off his campaign with a ceremony at 6 p.m. Monday in honor of James Henry Lane, who served in the Senate in 1861-66.

The event is sponsored by the Kansas Fever Committee, an organization Scroggins founded to promote Kansas history, particularly the accomplishments of minorities. The event will be held at a local restaurant, Lane's Barbeque.

Kansas became a state in January 1861. Lane was born in 1814 and died in 1866.

Decoration on the Anniversary of the First Kansas Colored Infantry Regiment Formation January 13, 1998.

Being resolved that we should remember on this day the efforts of our forefathers in founding the First Kansas Colored Infantry Regiment. This was the first infantry of Afro-Americans formed on the continent of the United States and they were without a doubt the best infantry regiment from the state of Kansas. They suffered the most casualties. They were in brisk fighting throughout their existence, and paid in their own blood for the freedom of their brethren.

Also be it resolved that we should endeavor in modern life to carry on their work, that the goals that they had of equality and freedom for all should be foremost in our minds in the future. Also be it resolved that we should with glad hearts and with great enthusiasm carry on their memory and rejoice in the fact that in our blood flows the blood of heroes and that as direct descendants of their sacrifice, we enjoy the fruits of liberty and the equal opportunity under the law.

Also, we should remember warmly in our hearts GENERAL JIM LANE who had the foresight to see these facts before it became apparent to most everyone else in this country. Circa 1-15-1861. Respectfully submitted.

Your obedient servant,

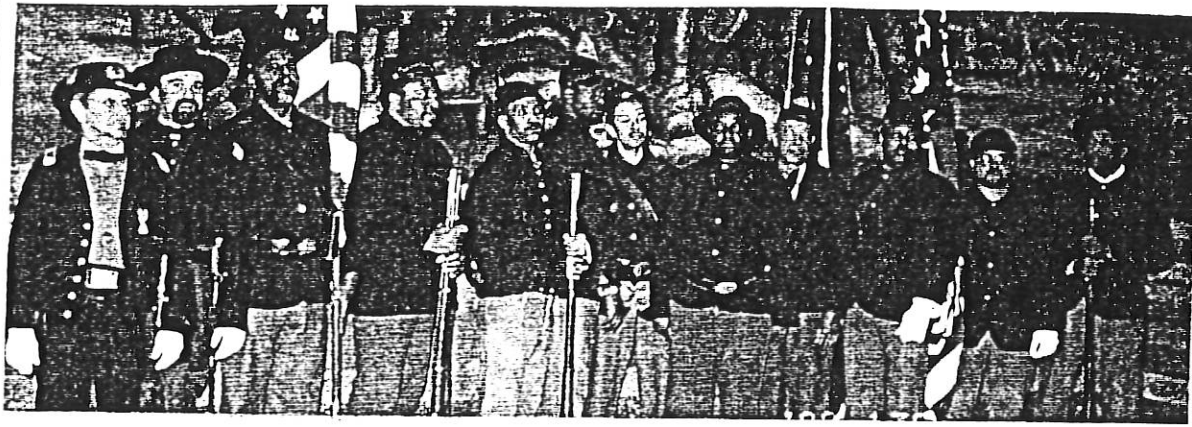
M.J. "BOO" HODGES, M.D.
COLONEL COMMANDING NATIONAL FRONTIER BRIGADE

CG. G.E. (SONNY) SCROGGINS
FIRST KANSAS VERY FIRST REGIMENT

3730 SE TRUMAN AVE.

TOPEKA, KS 66609

(785) 267-5381



First Kansas Colored Infantry Re-Enactment Unit

JOIN US IN CELEBRATION

The Kansas Fever Committee Presents

The 1998 Kansas Fever Black History Month Center Piece Topeka's All Colored Fire Unit 1882-1963

Topeka Performing Arts Center • Hill's Festival Hall
4 p.m. - 6 p.m.
February 28, 1998

Share the stories of the Black men who helped
shape the course of the Topeka Fire Department.
You owe it to yourself and your family to relive the moment.

Jack Alexander, Jr. will deliver the Keynote Address.
Feature Presentation by Dr. Clayton Brice, Jr. of Arizona. There will be a
Pictorial Cancellation for the Nation's First All Colored Fire Fighting Unit
commissioned by the Kansas Fever Committee.
Refreshments will be served.

Special thanks to the city of Topeka, city of Wichita, city of Kansas City,
Embroidery Plus, Randy Currie, Downtown Auto Plaza, Dillions Store
Division, Inc., the Guess - Guest Family Association, History Professor
Bill Wagnon and First Kansas Colored Infantry Re-Enactment Unit.

For more information contact C.E. "Sonny" Scroggins, 785-267-5381



The International Network to Freedom Association

March 21, 1998

Mr. C.E. "Sonny" Scroggins
3730 SE Truman Avenue
Topeka, KS 66609

Dear Mr. Scroggins:

You are among the network of educators, historians, heritage tour operators or persons we have met with extensive interest and sensitivity to the story of the Underground Railroad. As such, we have contacted you about the Network To Freedom Interpretive Studies Program.

A conference at which I have been invited to speak will bring me to the Midwest for one day, April 7. Since you were unaware or unable to attend the Network To Freedom Educational Roundtable hosted in Atlanta recently, I would like to seize this opportunity to meet with you and others who are within a reasonable driving distance.

The meeting will provide everyone with an opportunity to fully understand the Network To Freedom Program, Region I (Missouri, Nebraska, Iowa, Kansas), how each person can assist us in preparations and implementation for 1999 and how we can work together to authenticate and preserve the story of the Underground Railroad for youth in your state.

The meeting will be held at the **Crowne Plaza Hotel, 4445 Main Street, Kansas City, Missouri. The time will be 6 - 9pm.** Since there is a short suspense period between now and the date of my brief visit to the Midwest, please do not delay in contacting our office to confirm your availability and interest in meeting.

With this correspondence is a copy of the proposed agenda. In addition, we are providing a Hertz membership discount card for the Network To Freedom which will entitle you to a 10% discount to use as you deem necessary on most rentals as a result of your connection to our program.

Having said all of this, we look forward to meeting with you on April 7th.

Sincerely,

Addie Richburg
National Director

PROPOSED AGENDA

1. Introductions
2. Overview of Program
3. Role of national partners
4. Implementation process
5. Roles of historians, site and heritage tour operators, educators
6. Recruitment
7. Financial matters
8. Questions/Answers

PETITION TO SUPPORT THE NETWORK TO FREEDOM ACT
H.R. 1635 AND S.887

On May 15, 1997, H.R. 1635, The National Underground Railroad Network To Freedom Act of 1997 was introduced in the House of Representatives by Louis Stokes (D-OH) and Rob Portman (R-OH), followed shortly by the introduction of S.887 by Carol Moseley-Braun (D-IL) and Mike Dewine (R-OH).

If passed, both bills will authorize the National Park Service to link together hundreds of Underground Railroad sites, stories, programs and activities for the benefit, education and enjoyment of all Americans.

The Underground Railroad played a major role in the evolution of American History. It was an experience that bridged the divides of race, religion and nationality. Many enslaved men, women and children found their way to freedom aboard this historical movement.

We, the undersigned, are in support of passage and adequate funding for H.R. 1635 & S.887 to authorize the National Park Service to implement a program that will work with federal, state and local agencies to identify, document, educate and preserve the structures and people associated with the Underground Railroad Movement.

Please indicate name clearly	Street or Mailing Address	City, State and Zip Code
C.E. "Sammy" Scroggins	3130 SE Truman Ave.	Topeka, Ks., 66609
Dee Puff	2410 SEWARD	Topeka KS 66616
COOPER C. WOODRING	45 RANDOLPH SQ., SW	TOPEKA, KS 66611-2045
HAROLD J LANE	1328 S. KANAW	Topeka, Ks. 66612
Brian R Thompson	5624 SW 15	Topeka, KS 66604
ROBERT S JOHNSON	#6 Pepper Tree Ln.	Topeka KS 66611
CAROL McDOWELL	#7 WESTBORO PL.	TOPEKA KS 66604
Donald R. Toombs	1912 SW Buchanan	Topeka, KS, 66604

NANCY SPARKS 1137 E Glendale DR Topeka KS 66604

Chris Meinhart	1019 Fillmore	Topeka, KS 66604
Constance Sawyer	1024 S.W. Woodward Ave.	Topeka, KS 66604
John Simmons	1312 SW, Weston	Topeka, KS 66604
Freda M. Anderson	1821 SE Maryland Ave	Topeka, KS 66607
Dolene Weston	4932 Indian Creek	Topeka, KS 66617
Margaret J. Bradshaw	3910 Parlington	Topeka, KS 66610

WHERE WE ARE GOING DEPENDS ON WHERE WE HAVE BEEN

From the sweeping wooded hills of the east, cross the rolling undulations of the middle, to the high plains of the west, Kansas was a land that would not wait. The native Indians of Kansas and those transplanted here had no chance to withstand the surge of the movement west. The land of Kansas became a territory in 1854. Kansas became a state in 1861. Kansas was the pivotal point of free-state, slave-state conflict between the opposing forces that eventually resulted in armed conflict between the two viewpoints.

John Stuart Curry's famous mural on the second floor of the State Capitol Building captures much of the struggle from 1854 to 1861. Interestingly, this same mural is depicted prominently at the National Park Service site at Harper's Ferry, West Virginia, where John Brown made his fated date with destiny in October of 1858.

The term "Bleeding Kansas" could describe the territory from 1854 to 1861 when statehood was achieved. One of our first U.S. senators has been called by some the "man who created Kansas". He was James Henry Lane who in the 1850's formed Kansas militia units to protect Kansas citizens from Missouri "Border Ruffians", and himself led bands of Kansas Free-stater raids into Missouri. He can be called the man who became known as the first Jayhawk and his band of raiders to become known as Jayhawkers.

After taking up residence in Washington, D.C. as a U.S. senator from Kansas in the Spring of 1861, Lane responded to the Confederate attack and subsequent surrender of Fort Sumter in South Carolina by recruiting the "Kansas Frontier Guards" who stationed

themselves at the White House to provide security and protection to the capital and to President Abraham Lincoln.

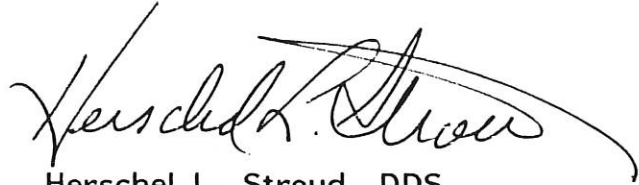
Becoming Lincoln's friend, Lane asked and was given permission to return to Kansas to raise volunteer regiments for the Union Army. He raised not only white regiments, but raised two regiments of black troops as well. The zeal of this Kansas abolitionist resulted in the recruitment of Indian Home Guard Infantry Regiments to work against the strategy of the Confederacy which signed a treaty with the Five Civilized Tribes of the Cherokee Nation -- Cherokee, Creek, Choctaw, Chickasaw, and Seminole.

The stage is set for completion of the historical birth of the State of Kansas. Where we have been does dictate where we will go.

Jim Lane, the senator, the abolitionist, the Free-stater, the military man was the pivotal point which created what became the Kansas National Guard of today. He was the pivot which created the 1st Kansas Colored Volunteer Infantry Regiment that became the first black Union troops to engage the Confederate Army at the Battle of Island Mound, or Toothman's Mound, October 27-28, 1862. He was the pivot which led to the formation of the 1st Indian Home Guard Infantry Regiment, originally commanded by John Richie, the early Topeka settler. These regiments have the distinction of being the first to fight side by side -- white, black, and Indian -- at the Battle of Cabin Creek, Oklahoma Indian Territory, July 1-2, 1863.

Let the state of Kansas enrich its past by bringing to life another mural on the lower floor of our Topeka Capitol Building, pointing out the cooperation of white, black and Indian peoples.

Let this depiction be the guide to the future by being the trail
to the past. Let a new mural depicting these Kansans be
commissioned.

A handwritten signature in black ink, appearing to read "Herschel L. Stroud". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

Herschel L. Stroud, DDS
3640 SW Drury Lane
Topeka, Kansas 66604
Tel: 785 272 0620

31 January 1998

1st KANSAS COLORED VOLUNTEER INFANTRY

August 4th, 1997

WHY SHOULD ANYONE CARE ABOUT WHAT HAPPENED IN KANSAS DURING THE AMERICAN CIVIL WAR.

That soul wrenching conflict was the pivotal point which decided the issue of freedom of self, and the elimination of owning another human being - SLAVERY. It was the beginning of the journey toward equality and harmony of all citizens of a "Union of States" that we now know as our nation.

Simply put, the Civil War preserved the Union and freed the slaves. We today wrestle with states rights and the road to equality is still being travelled.

I feel that knowing from whence we came makes our journey more bearable and gives those on the road more understanding of the importance of the trip.

I feel that the history that can be retold by recreating people who lived in the Civil War era is justification enough to become involved in something that can benefit all of us on that road toward understanding, equality, and unity.

I feel that YOU can make the road less bumpy and rock littered by being a part of a reenacting historical group, famous in the past, and potentially famous in the present and into the future.

I feel that it is important for the 1st Kansas Colored Volunteer Infantry Regiment to be brought back to life, to throw off the dust of years of inactivity, to breathe again, and once more be a vehicle to help shape the future toward the goals that 19th century abolitionists and former slave activists, like Fredrick Douglas, held so dear.

I ask YOU to give your time, your energy, and your talent to make the drums beat again, the bugles sound, and the proud heritage of the 1st Kansas live once more as proof that our nation lives free, strong, and equal.

HERSCHEL L. STROUD
Acting Commander
1st Kansas Colored Volunteer Inf.

