

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Chairperson Representative Tony Powell at 1:30 p.m. on February 15, 2000 in Room 313-S of the Capitol.

All members were present.

Committee staff present: Theresa Kiernan, Revisor of Statutes
Russell Mills, Legislative Research
Mary Galligan, Legislative Research
Winnie Crapson, Secretary

Conferees appearing before the committee:

Proponents

Dan Hermes, Director of Governmental Affairs, Office of the Governor

Opponents

Scott Hattrup, Kansas Sportsman's Alliance

Written Testimony

Melvin Grandstaff and concerned citizens in opposition

Others attending: See attached list.

Chairman Powell announced a change in the announced agenda. Some last minute issues have delayed discussion on **HB 2687** until a later committee meeting. Others attending:

Hearing was opened on

HB 2868, Disposition of firearms seized for payment of delinquent tax.

Dan Hermes, Director of Governmental Affairs of the Office of the Governor, presented testimony in support of the bill (Attachment #1). The bill would eliminate the requirement for the Department of Revenue to sell firearms to pay tax liabilities of individuals that have property seized by local law enforcement. It has no impact on any law that provides the powers to seize property but relates only to method of disposing of it to reduce tax debt. It provides that firearms would first be offered to the State Historical Society and then to the local law enforcement agency that seized the weapon. If these agencies do not claim the firearm, the Department would destroy the weapon. The taxpayer will be credited with the appraised value of the firearm. In 1992 law enforcement agencies were prohibited from selling confiscated weapons. This bill would extend that prohibition of the Department of Revenue.

In response to questions, Mr. Hermes stated that in fiscal 1998 the Department of Revenue sold 231 firearms: 54 handguns and 177 rifles. He did not know how many of the firearms sold had been use din crimes.

In response to question about recovery of the firearms if tax liability is satisfied, Mr. Hermes stated it would depend upon the time frame. If they had not already been sold, they could be returned.

Representative Morrison said it was her understanding no other state has implemented this type of program.

Phil Wilkes, Attorney for the Department of Revenue, said firearms are presently sold at auction and can be purchased only by licensed gun dealers. To receive a bid number they must show their license and a picture ID to the auction clerk.

CONTINUATION SHEET
MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS
February 15, 2000

Scott Hatstrup presented testimony in opposition to **HB 2868** (Attachment #2). He noted that at all times the disposition of seized firearms is controlled by a judge under the state code of criminal procedure and at no time does control shift to the Department of Revenue. He believes the practical effect of this bill will be to increase the expenses of dealing with seized property with no offsetting benefits. Currently firearms seized as part of a tax levy are sold at auction to licensed dealers resulting in a net benefit to state taxpayers. He noted that when forfeiture laws were set up the intent was to obtain the financial benefit of assets seized and sold for either law enforcement or the state general fund. In response to questions Mr. Hatstrup described the process for declaring taxes delinquent.

Written testimony of Melvin Lee Grandstaff and some concerned citizens was distributed (Attachment #3).

Hearing on HB 2868 was closed.

Fiscal Note: **HB 2868** Kansas Association of Counties indicates could present some additional costs for counties but amount cannot be estimated.

The meeting adjourned. The next scheduled meeting is February 17.

STATE OF KANSAS

BILL GRAVES, *Governor*
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OFFICE OF THE GOVERNOR

LEGISLATIVE TESTIMONY

TO: Chairman Tony Powell and Members of the House Committee on Federal and State Affairs

FROM: Dan Hermes, Director of Governmental Affairs

DATE: February 15, 2000

SUBJECT: HB 2868

Mr. Chairman and members of the committee, thank you for the opportunity to appear today to discuss the Governor's proposal on the disposition of firearms.

This bill would eliminate the requirement for the Department of Revenue to sell firearms to pay tax liabilities of individuals that have property seized by local law enforcement. The bill has no impact on any law that provides the powers to seize property. It only relates to the method for disposing of the property to reduce tax debt.

Under the bill, firearms would be first offered to the State Historical Society and then offered to the local law enforcement agency that seized the weapon. If these agencies do not claim the firearm the Department would destroy the weapon. The taxpayer will be credited with the appraised value of the firearm against the outstanding tax liability.

In 1992, the legislature prohibited law enforcement agencies from selling confiscated weapons, but did not apply the provisions to the Department of Revenue in the tax code. This bill extends that prohibition. The Governor has said that it's in the best interest of the state to give up the dollars from these gun sales to make sure that the guns don't end up in the wrong hands.

I would be happy to respond to any questions.

House Fed. &
State Affairs
Date 2/15/00
Attachment No. 1
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SCOTT G. HATTRUP
ATTORNEY AT LAW
11925 W. 92ND TERRACE
LENEXA, KS 66215-3823
(913) 492-8812
FAX: (913) 492-8836

February 15, 2000

Honorable Members of the House Federal and State Affairs Committee:

Thank you for allowing me to speak to you today in opposition to HB 2868. I would like to share some "real world" information about firearm seizures as they relate to this issue. I am an attorney whose practice includes criminal defense. Some of my clients have had firearms seized as part of an investigation into certain crimes. Sometimes my clients were found guilty of these crimes, other times not. I have also consulted with other attorneys on the issue of firearms seizure, and presented continuing legal education to the Johnson County Bar Association including this issue. Sometimes firearms are returned after seizure, other times not. At all times, however, the disposition is controlled by a judge under the state code of criminal procedure, K.S.A. 22-2512(3)(e). At no time does control shift to the department of revenue.

HB 2868 has been presented to the media and the public as a way of ensuring that guns seized from drug dealers do not return to the streets. The bill states that firearms in the control of the department of revenue will no longer be sold as surplus, but will be evaluated for historical significance or suitability for law enforcement, then appraised by a licensed dealer, and finally destroyed. As I have already explained, the judicial system has control over firearms seized from drug dealers. The state department of revenue does not have control of most drug related seizures, only of those firearms seized as part of a general tax levy. HB 2868 relates only to firearms seized for taxes owed, not for drugs sold.

The practical effect of this bill will be to increase the expenses of dealing with seized property with no offsetting benefit. Currently, if firearms are seized as part of a tax levy, they are sold at auction to licensed dealers, resulting in a net benefit to state taxpayers. When these dealers resell the firearms, a background check is done on the buyers to ensure that these firearms are not later misused. HB 2868 proposes to do away with the free market auction for firearms and replace it with a system where a licensed dealer under contract with the state will appraise the firearms at a value which will never be realized.

Most dealers do not appraise firearms without charge. If they are interested in buying a firearm for resale, they will bid for it. The first real world effect of HB 2868 will be to cause the state to spend money for appraisals which will not be recovered at a sale since the firearms will shortly thereafter be destroyed. The state then may have to spend additional money having the firearms destroyed. The second effect is that the department of revenue will then be in the asset wasting business, rather than collecting revenue. Firearms can be valuable pieces of property. To simply put a mythical appraised value on one and then chop it to bits, rendering it valueless, deprives all taxpayers of that asset. When the forfeiture laws were set up, the intent was to obtain the financial benefit of assets seized and then sold for either law enforcement or the state general fund. HB 2868 wastes these assets and will actually cost money.

In closing, I urge your opposition to HB 2868. I will be available for questions at your request.

Respectfully,



Scott G. Hatrup

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State Affairs
Date 2/15/00
Attachment No. 2
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J. J. Torrey
Del
Larry Bore
Tom Sommer
Robert J. Benyer

FEBRUARY 15, 2000

TO: FEDERAL AND STATE AFFAIRS COMMITTEE

FROM: MELVIN LEE GRANDSTAFF
8010 S.E. 29TH
TECUMSEH, KS. 66542

DEAR COMMITTEE,

WE WOULD LIKE TO VOICE OUR OPPOSITION TO HOUSE BILL NO. 2868.

1. WE ARE CERTAINLY AGAINST ANY MORE GUN LEGISLATION OF ANY KIND
2. THIS BILL CERTAINLY SEEMS LIKE ANOTHER PLOY TO GET RID OF FIREARMS
3. WHY WOULD FIREARMS BE DISTINGUISHED FROM OTHER REAL PROPERTY
4. WE ALREADY HAVE MORE FIREARM LAWS THAN IS INDEED NECESSARY
5. WHY SHOULD WE ADD TO THE COST BY DESTROYING RATHER THAN SELLING
6. WE DO NOT TELL SOMEONE THAT DOES NOT OWN OR WANT A FIREARM THAT THEY MUST HAVE ONE. ON THE OTHER HAND, WE DO NOT WANT SOMEONE, WHETHER IT BE AN INDIVIDUAL OR GOVERNMENT TO TELL US THAT WE CAN NOT HAVE OR OWN FIREARMS.
7. ISN'T IT ABOUT TIME TO QUIT HIDING GUN LEGISLATION IN WITH OTHER ISSUES
8. I REALLY CAN NOT BELIEVE THAT THE GOVERNOR OF OUR GREAT STATE OF KANSAS WOULD EVEN CONSIDER SUCH A BILL. HAS HE FORGOTTEN ABOUT THE CONSTITUTION OF THE UNITED STATES OF AMERICA? AND THE SACRIFICES THAT OUR FOREFATHERS HAVE MADE IN ORDER FOR US TO LIVE IN A FREE COUNTRY.

Ramon C. Garcia
Mawin Grandstaff Dale Edward
James Parson
William A. DeCock Mark Wilson
Maurice W. ...
Bruce ...
D. Co. ...
Bill ...
Manuel P. Carr
Mark ...
Alroy ...
Mark ...
W. ...
Billy ...

SINCERELY
Melvin Lee Grandstaff
MELVIN LEE GRANDSTAFF & SOME
VERY CONCERNED CITIZENS
Robert ...
Ken W. Faine
Shawn ...
J.P. ...
W.M. ...
R. E. ...
Gerald W. ...
Charles ...
Larry ...
Lonnie B. ...
K.L. ...
David L. ...
Red ...
S.U. ...
Louis ...
John ...