

Approved Feb 8, 2000
Date

MINUTES OF THE SENATE JUDICIARY COMMITTEE.

The meeting was called to order by Acting Chairperson Pugh at 10:10 a.m. on February 7, 2000 in Room 123-S of the Capitol.

All members were present except: Senator Emert (excused)
Senator Oleen (excused)

Committee staff present:

Gordon Self, Revisor
Mike Heim, Research
Jerry Donaldson, Research
Mary Blair, Secretary

Conferees appearing before the committee:

Gregory Gardner, Kansas Adjutant General
Elwaine Pomeroy, Kansas Credit Attorney's Association and Kansas Collectors
Association, Inc. (KCAA)
Kyle Smith, Kansas Bureau of Investigation (KBI)

Others attending: see attached list

The minutes of the February 3rd regular meeting were approved on a motion by Senator Bond, seconded by Senator Goodwin. Carried.

SB 526—allocation of forfeited property

Conferee Gardner testified in support of **SB 526**, a bill which he stated would allow the Kansas National Guard (KNG), as a legal LEA for limited purposes of drug interdiction, a share in asset forfeiture monies for the purpose of supporting their counterdrug program. He presented a brief overview of the KNG's mission and counterdrug program along with statistics on asset intake and current account balance. (attachment 1) Discussion followed.

SB 504—concerning civil procedure for limited actions; relating to judgment and costs

Conferee Pomeroy testified in support of **SB 504**, a bill which he stated would amend K.S.A. 61-2309 by adding certain eviction action language. He further stated that a bill to rewrite Chapter 61 was introduced into the House this year and if passed it would negate the need for **SB 504**. (attachment 2)

SB 423—concerning courts; relating to laboratory analysis fees

Conferee Smith testified in support of **SB 423**, a bill which he stated would provide additional resources for the operation of the KBI, who has, along with other agencies, faced budget cuts this year. He discussed the bill stating that it will assess forensic laboratory fees against a criminal who is convicted, in part, through the use of forensic laboratory evidence. He stated that the statute has been expanded to include all DUI cases that have resulted in a conviction. He further stated that the statute sets out restrictions on how the money can be spent. (attachment 3)

On a call by the Acting Chair, Senator Vratil moved to pass SB 526 out favorably, Senator Harrington seconded. Carried. Senator Vratil moved to pass SB 504 out favorably and place it on the consent calendar, Senator Petty seconded. Carried. No action was taken on **SB 423** at this time.

The meeting adjourned at 10:33 a.m. The next scheduled meeting is February 8.

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Maj General (KS) Greg Gardner Adjutant General

Testimony on SB 526
Amends 60-4117 Allocation of Forfeited Assets
Senate Judiciary Committee
Feb 7, 2000



Who we are

Mission

What we do

Professionals:

- Providing military capability for our nation
- Protecting life and property in our state
- Adding value to our community.

Kansas National Guard Counterdrug Program

- ◆ Two Sections
 - ◆ Drug Demand Reduction
 - ◆ Drug Supply Reduction
- ◆ \$1.75 million Federal funds
 - ◆ 87% Pay & Allowances
 - ◆ 13% Operations & Maintenance

Drug Demand Reduction

- 1999 Missions
 - 73 Schools
 - 250,000 Red Ribbons
 - 27 Community
 - 7 Workshops
 - 12 Fly-ins
 - 50 Awareness
 - 6 Support Coalitions



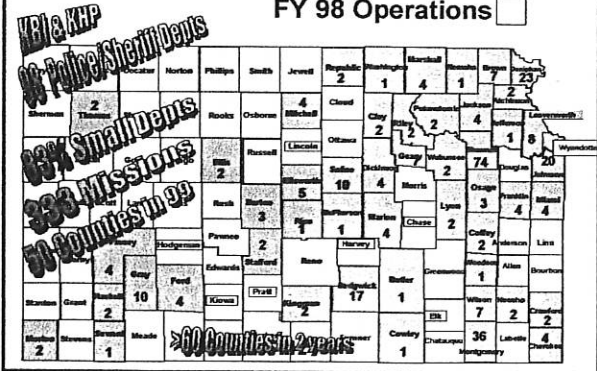
Supply Reduction Results

Fiscal Years 91-99

Seized	Value
Cocaine/Crack	\$31 mil
Marijuana	\$33 mil
Methamphetamine	\$ 2.5 mil
Total	\$66.5 mil

FY 99 Operations

FY 98 Operations



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Supply Reduction

- **FY 99 Operations**
 - Intelligence analysis, transportation, operational support, training, liaison, etc
- **15 Fed Agencies**
 - FBI, HUD, FAA, DEA (KC, Wichita, Topeka, Garden City)
 - US Postal Service, US Customs, etc

Federal Asset Sharing

- ◆ **Kansas Attorney General opinion # 97-7**
 - ◆ Kansas National Guard is law enforcement agency for limited purpose of drug interdiction
- ◆ **Department of Justice (DOJ) Program**
 - ◆ Approved Kansas National Guard counter-drug participation July 2, 1998

Federal Asset Sharing

- ◆ **We do NOT compete with state LEAs**
 - ◆ Share based on support %
 - ◆ Compare hours expended
- ◆ **Asset forfeiture \$ designed to enhance not replace LEA resources**
 - ◆ Funds we receive will benefit state LEAs & community organizations

DOJ Permitted Use of \$

- **Drug Detection Dogs**
 - Deterrent to drug use at Annual Training
 - Enhance our support of small rural LEAs
- **Drug Demand Reduction Programs**
- **Buy Equipment (radios, vehicles, etc)**
- **Facility Support**
- **LEA Training**
- **Travel in support of LEAs**

Summary

- ◆ **Forfeited Asset Account balance = \$20k**
 - ◆ \$132k potential (cases filed with DOJ)

**Request You Amend
K.S.A. 60-4117**

- ◆ **Add Kansas National Guard counter drug state forfeiture fund**
 - ◆ To existing funds for KBI, KPP, KDOC



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**Maj Gen (KS) Greg Gardner
Adjutant General
greg.gardner@ks.ngb.army.mil**

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REMARKS CONCERNING SENATE BILL 504

SENATE JUDICIARY COMMITTEE

FEBRUARY 7, 2000

Thank you for introducing SB 504 and giving me the opportunity to appear in support of the bill on behalf of the Kansas Credit Attorneys Association, which is a state-wide organization of attorneys whose practice includes considerable collection work, and Kansas Collectors Association, Inc., which is an association of collection agencies in Kansas.

At the request of these two organizations, the 1999 Legislature passed HB 2222, which amended K.S.A. 61-2305, to provide that in eviction actions, the original action can be simply for eviction, and a subsequent action can be brought for the amount plaintiff claims to be due from the defendant as rent. That was passed to eliminate compliance problems with the Federal Fair Debt Collection Act.

When we requested HB 2222 to be introduced, and passed, we overlooked the fact that an amendment should also have been made to K.S.A. 61-2309. SB 504 makes the necessary amendment to K.S.A. 61-2309. As you can see, the statute presently requires the judge to enter judgment against the defendant for the amount of rent which the judge finds to be due the plaintiff. If the action had been brought simply for possession, to evict the tenant from the premises, the plaintiff would not have included a request for judgment of the rent due. The heart of the bill is the language added on lines 30 and 31, "*if the plaintiff sought judgment for such rent due in the petition*". The other

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changes in the bill are simply clean up amendments designed to make the statute read more smoothly.

As I mentioned when I appeared before you requesting introduction of this bill, our groups hope that the bill introduced at the request of the Kansas Judicial Council, HB 2697, passes the Legislature this year. HB 2697 is a complete revision of Chapter 61. If HB 2697 is passed, the bill before you would not be needed. However, in the event that HB 2697 does not pass, we feel that SB 504 should move forward.

Elwaine F. Pomeroy
For Kansas Credit Attorneys Association
And Kansas Collectors Association, Inc.



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Kansas Bureau of Investigation

Larry Welch
Director

Carla J. Stovall
Attorney General

TESTIMONY
BEFORE THE SENATE JUDICIARY COMMITTEE
KYLE G. SMITH, ASSISTANT ATTORNEY GENERAL
IN SUPPORT OF SB 423
JANUARY 27, 2000

Mr. Chairman and Members of the Committee:

I am Kyle Smith, Assistant Attorney General and Special Agent with the Kansas Bureau of Investigation (KBI), and appear today in support of SB 423. As every member of this committee is painfully aware, the state is facing a severe financial shortfall and significant cuts have imposed in a number of agency budgets. The KBI has been cut approximately 4.6% of its general fund money for FY 2000, and is facing substantial shortages for next year as well.

Repeatedly, in the reviews of our budget by the Budget Division and in previous contact with legislators, we have been encouraged to seek alternative funding sources, other than state general funds. In response, the KBI has not only pursued and obtained millions of dollars in federal grants, but we have explored fee funding when appropriate, to provide additional resources for the operation of the KBI.

K.S.A. 28-176 is the outgrowth of one of those initiatives. It shifts some of the costs for doing forensic laboratory examinations from the taxpayers of Kansas to those persons who are convicted of criminal activity by, in part, those scientific exams. For example, the rapist who is convicted in part from the DNA analysis done by the KBI is assessed with a \$150 separate court cost which goes to a special forensic laboratory materials fee fund. These costs are only assessed

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when individuals are convicted. The primary use of this fund in the past has been as match money in obtaining federal grants, so this alternate funding source turns into even more alternate source funding. The statute sets out restrictions on how the money can be spent. The fee has proven a useful source of funds for purchasing and maintaining equipment and providing necessary educational training for laboratory personnel.

SB 423 expands the types of convictions for which these fees may be assessed to include all driving under the influence cases. Currently, only those DUI cases that are based on misuse of drugs or controlled substances are covered. Last year the KBI conducted just over 2,500 blood analyses for alcohol DUI investigations. By striking the limiting language in line 20, section 1, in those cases resulting in convictions, the court costs could be assessed. Obviously, not every test that is conducted is positive, nor are all positive tests followed with a conviction, nor do all convicted criminals pay their court costs. However, an assessment of the examinations conducted in the chemistry division of the KBI lab, indicates approximately 25% of lab tests result in payment of the lab fee. Applying that same ratio to the case of the 2,500 alcohol DUI cases, this legislation could provide approximately \$94,000 for the forensic laboratory materials fee fund.

As mentioned previously, the statute sets out restrictions as to how the money may be spent, but let me assure the committee that the money is desperately needed, particularly in these tough economic times. I would be happy to answer any questions. With me is Larry Mann, who supervises the toxicology division of the KBI forensic lab, to answer any technical questions.