

MINUTES OF THE SELECT COMMITTEE ON KANSAS SECURITY.

The meeting was called to order by Chairperson Rep. Lee Tafanelli at 8:30 a.m. on January 24, 2003 in Room 243-N of the Capitol.

Committee staff present: Robert Waller, Legislative Research Department
Bruce Kinzie, Revisor of Statues]
Gina Bowes, Committee Secretary
Carol Doel, Acting Committee Secretary

Conferees appearing before the committee: Robert Waller, Senior Analyst
Legislative Research Department

Others attending: See attached list

The meeting was called to order at 8:33 a.m. by the Chairperson Lee Tafanelli.

Chairperson Tafanelli passed out Rules for Committee to all members and staff. Chairperson Tafanelli introduced Rep. Carl Krehbiel as Vice-Chairperson and Rep. Joe Shriver as Ranking Minority member, as well as introduction of staff. Chairperson Tafanelli decided the Select Committee on Kansas Security would meet every Friday morning at 8:30.

Chairperson Tafanelli proposed to examine the federal dollars that are coming into the state that are in support of anti-terrorism or homeland security from all those agencies and determine from those agencies on what those funds are, how they are being used and what oversight and coordination efforts are being made to ensure that we're meeting the entire spectrum in providing security. Chairperson Tafanelli will have staff contact those persons knowledgeable about those issues for presentation before the committee.

Chairperson Tafanelli would like the committee to look into Agri-terrorism this year. Agri-terrorism is a big issue and would have devastating effects not only in Kansas, but on a national and global scale. Robert Waller presented an interim committee report on Kansas security issues (Attachment 1) Robert addressed the committee on the conclusions and recommendations of that report.

Robert Waller stood for questions.

Chairperson Tafanelli asked for introduction of bills. There were none.

With no further business to come before the committee, Chairperson Tafanelli adjourned the meeting at 8:56 a.m.

Report of the
Special Committee on Kansas Security
to the
2003 Kansas Legislature

CO-CHAIRPERSON: Representative Carl Krehbiel

CO-CHAIRPERSON: Senator Jay Scott Emler

OTHER MEMBERS: Senators Jim Barone, Dave Jackson, Nick Jordan, and Derek Schmidt;
Representatives Dan Johnson, Bill Levinson, Joe Shriver, and Lee Tafanelli

STUDY TOPICS

Terrorism and Terroristic Activity (HB 2986)

January 2003

Select Committee on Kansas
Security

Attachment 1-1

Date 1-24-03

Special Committee on Kansas Security

REPORT

CONCLUSIONS AND RECOMMENDATIONS

The Committee recommends:

- The contents of 2002 HB 2986 be referred to an appropriate committee during the 2003 Legislative Session for further review.
- The Legislative Coordinating Council (LCC) develop a contingency plan for the continuity of government activities for the Legislative and Judicial Branches.
- The 2003 Legislature authorize and fund a position of Deputy Adjutant General or Special Assistant to the Adjutant General to assist in duties undertaken by the Adjutant General.
- The 2003 Legislature authorize and fund a position of Intelligence Analyst to analyze intelligence data being submitted to the Adjutant General's Office.
- The development of language for a possible concurrent resolution to be created in the event the Environmental Protection Agency (EPA) continues its practice of withholding information pertaining to the vulnerability of certain facilities and infrastructure.
- A study of Capitol Area Police Officer staffing levels.
- The LCC contact the Kansas Congressional Delegation regarding federal terrorism funding and the mandate that state and local entities provide funding in the amount of 25 percent to access federal funds beginning in CY 2003.

The Committee further wishes to acknowledge and express appreciation for the effort put forth by the Adjutant General's Office and other state agencies in assisting the Committee in conducting its study.

Proposed Legislation: None

BACKGROUND

The LCC granted the Special Committee on Kansas Security two meeting days to discuss 2002 HB 2986, which would have created several new felony crimes for acts of terrorism, terroristic threat, criminal use of a weapon of mass destruction, hindering prosecution of terrorism, false reporting of a weapon of mass destruction, interception or disclosure of intercepted information, and knowing receipt of proceeds derived from terror-

ism. Under the bill, prosecution for terrorism would not have had a statute of limitations, and would have been subject to prosecution as a capital crime. The bill also would have allowed statements in support of search warrants to be conveyed electronically.

Additionally, in fulfilling its duties as the Special Committee on Kansas Security, the Committee held hearings on:

- The continuity of government;
- Staffing levels of Capitol Area Police

- Officers;
- The Department of Homeland Security;
- The receipt by state agencies of various federal grants relating to terrorism;
- The West Nile Virus;
- The creation of the Kansas State University Food Safety and Security Complex; and
- The security plans for the Capitol restoration project.

COMMITTEE ACTIVITIES

In evaluating HB 2986, the Committee heard testimony from various agencies relating to the provisions of the bill, and discussed the effects which recently-passed federal legislation would have upon the citizens of Kansas. Also, the Committee heard testimony from state agencies relating to security measures currently being implemented, continued threats and vulnerabilities, federal funding to combat terrorism, and various diseases that threaten the welfare of the state. In conducting particular meetings and due to the nature of the information being discussed, the Committee invoked the use of Joint Rule 5 which allowed for closure of meetings from the public to discuss matters of security. Therefore, the testimony and information presented during those meetings is not documented within this Report.

The following conferees addressed the aforementioned topics with the Committee.

The Deputy Attorney General overseeing the Criminal Division of the Attorney General's Office and an agent from the Kansas Bureau of Investigation (KBI) discussed provisions of HB 2986. The Deputy Attorney General explained sec-

tions 1 through 7, including the severity levels regarding these crimes and the privacy provision. The KBI agent continued testimony by explaining sections 8 through 25, relating to recently-passed federal legislation.

The Acting Secretary of the Department of Corrections provided testimony on HB 2986 and its impact on inmate capacity. The Acting Secretary informed the Committee of the number of additional correctional beds that would be needed if the bill was passed in its current form.

The Executive Director of the Kansas Sentencing Commission also addressed HB 2986 and its impact on the sentencing grid. The Executive Director furnished the Committee with information listing key assumptions used in projecting prison admissions under this bill. In addition, he concluded that given the nature of the new felonies, there would be a limited number of offenders convicted under the new felonies in this proposed state legislation. The conferee stated that there would be very little impact on prisons from this bill because of the lengthy sentences for these crimes.

A representative from the Kansas Bar Association (KBA) presented testimony in opposition to the proposed legislation due to intrusions on 4th Amendment rights. The conferee stated that KBA had concerns with the definition of terrorism within the bill, and noted that the proposed definition was too broad. Also, the conferee questioned the reform of vast sections of criminal code predicated on a small number of people that are predicted to be convicted over the next ten years.

A representative from the Kansas Trial Lawyers Association (KTLA) also opposed

the passage of provisions contained in the bill. Concern was raised due to the broad and vague language, and the possibility of the provisions being applied to nonviolent acts such as civil disobedience. It was noted that crimes intended for prosecution under this statute are likely covered elsewhere in the criminal law, and were better left for prosecution under existing statutes.

The Statehouse Architect from the Department of Administration gave a presentation on the Statehouse renovation project, and informed the Committee that 90 percent of the excavation work on the parking garage was completed. The Committee was provided additional information on work currently being done, the proposed security system reviewed by the Division of Facilities Management, meetings conducted with the Capitol Police in regard to the proposed security system, and architect drawings of the renovation project. The conferee noted that the Docking Building would remain the primary monitoring station for the Statehouse. The conferee also discussed the construction of a visitor's center which is to include security machines to check people as they come into the building.

The Captain of the Capitol Area Security Patrol gave a brief historical review of the structure of the Patrol and its functions, and showed a video of the Patrol's duties and responsibilities in the Capitol Area Complex. Included in the presentation was information covering various training classes developed and conducted for state employees, security staffing needs due to the increased threats of terrorism since September 11, 2001, and the security enhancement requirements throughout the Capitol Complex area.

The Director of Legislative Adminis-

trative Services (LAS) discussed issues relating to the continuity of government and what the Legislature's alternatives would be if the Statehouse would become uninhabitable for any reason. The Director provided the Committee with a checklist for the continuity of government obtained from the National Conference of State Legislatures, and explained that in working with the Highway Patrol and the staff from the Division of Emergency Preparedness, it was ascertained that there was a plan, but it had not been updated and appeared to not have any legislative input. Also appearing was the Chief Clerk of the House of Representatives and the Secretary of the Senate to discuss the issue.

The Administrator of the Division of Emergency Management (DEM) commented that there were plans developed by the Adjutant General's Office to reconvene the Executive Branch and the State Finance Council at an alternate site in case of an emergency. However, the conferee stated that DEM had not created procedures to address the needs of the Legislature in case of evacuation. The conferee added that the difficulty was to determine who was in charge and making the decisions. He commented that evacuating the Executive Branch was much easier than evacuating the Legislature.

The Director of State Affairs with the White House Office of Homeland Security provided Committee members with copies of the National Strategy for Homeland Security. The Director discussed the current status of the Department of Homeland Security (DHS), and explained the organizational chart for the agency, as well as what was contained in the strategy document which was distributed to members of the Committee. The Director explained that DHS was created to bring

together 22 federal agencies that would work together for the purpose of protecting the homeland. The Director indicated that by centralizing the agencies, it would save time and resources in providing information for homeland security issues. The Director emphasized that it was very important for state and local governments to have a single point of contact in order to access information and resources.

The Associate Vice Provost for Research Compliance and University Veterinarian, Kansas State University (KSU) gave an update and overview of the new Food Safety and Security Research Facility at KSU. The Committee was informed that these laboratory buildings would be built to protect the employees and the citizens within the surrounding areas from various biological agents and so that infectious diseases are not introduced into the community. The conferee stated that implementing these measures increases the cost of construction. The Committee viewed the site where the new complex would be built on the KSU campus, discussed the security system to be installed within the new facility, was informed of the types of experiments to be conducted, and was told of the types of regulations imposed on such a facility. Additionally, last year's scare of Foot and Mouth Disease in Holton was discussed as well as how this facility would operate to help determine the validity or invalidity of an outbreak.

A professor in the Diagnostic Laboratory of the College of Veterinary Medicine at KSU gave a presentation on West Nile Virus (WNV). The conferee discussed the first outbreak of WNV in the United States and in Kansas. The Committee learned that the main target species are humans, horses, and birds of which humans and horses are dead-end hosts, as

opposed to birds which are amplifying agents and spread the virus. The professor explained how the new facility would help in diagnosing diseases in a safe environment and discussed the future research that would be conducted within the facility and the BL-3 diagnostic room. The professor noted there would be a decrease in turnaround time in acquiring results. It also was noted that it is very difficult to distinguish the difference between a natural or intentional introduction of micro-organisms during an emergency incident in a short amount of time. The Deputy State Epidemiologist for the Kansas Department of Health and Environment (KDHE) and representatives from Wildlife and Parks also commented on the issue.

The Secretary of the Kansas Department of Agriculture (KDOA) discussed the federal grant received for plant protection and weed control programs relating to Homeland Security. The Secretary noted that KDOA has initially purchased computer equipment with the grant, and, upon receiving the remainder, a coordinator would be hired to coordinate survey work. The Secretary also provided an example of an incident, and noted that with the information the grant will provide, disease patterns can be recognized thus allowing for quicker analysis of an outbreak.

The Livestock Commissioner of the Kansas Animal Health Department (KAHD) testified on policies implemented to protect the livestock industry from accidental or intentional introduction of foreign animal diseases. The Commissioner explained the development of the Emergency Animal Disease Plan to combat Foot and Mouth Disease (FMD), and noted that an outbreak of FMD would destroy both the state and national econo-

mies. A grant received by KAHD in June from the federal Homeland Defense Fund was discussed. The Commissioner noted that those dollars are being utilized for disease surveillance and emergency planning, as well as for a pilot Emerging and Foreign Animal Disease Syndromic Disease Surveillance Project.

The KDHE Director of Health spoke to the Committee on bioterrorism grant programs administered by the Department. The Director explained that the first federal bioterrorism grant administered by KDHE was designated the Public Health Preparedness and Response to Bioterrorism Cooperative Agreement, and was administered at the federal level by the Centers for Disease Control and Prevention (CDC). The second grant was a bioterrorism grant administered by KDHE designated the Bioterrorism Hospital Preparedness program, and administered at the federal level by the Health Resources and Services Administration (HRSA).

The Administrator of the Division of Emergency Management (Adjutant General's Office) gave an overview of a Federal Emergency Management Agency grant which is a 100 percent federally funded terrorism program. The Administrator stated that 75 percent of the grant was required to be passed through to the local governments. However, due to federal revisions, the grant will no longer be 100 percent funded, thus obligating state and local entities to provide 25 percent matching money.

The Captain of the Kansas Highway Patrol (KHP) Emergency Operations Section gave a presentation on the U.S. Department of Justice Domestic Preparedness Support Equipment Grant Program. The Captain updated the Committee on

the progress and activities of this program, and noted that 90 of the 105 counties have completed the required assessment of threats, vulnerabilities, and capabilities, and are grant participants. He also included a list of the 15 counties not participating in this program. He explained that the Department of Justice requires that at least 80 percent of the grant funds be passed through to local jurisdictions.

CONCLUSIONS AND RECOMMENDATIONS

The Committee recommends that:

- The provisions of 2002 HB 2986 be referred to an appropriate committee during the 2003 Legislative Session for further review. Due to the passage of the U.S. Patriot Act, the creation of the Department of Homeland Security, and other federal legislation addressing terrorism, the Committee recommends the bill be reviewed to ensure its compliance with federal legislation.
- The LCC develop a contingency plan for the continuity of government activities for the Legislative and Judicial Branches. Currently, in the event of an anthrax outbreak or other disaster occurring in the Capitol Building or the surrounding area, there is no plan to ensure the safety and whereabouts of Legislators. Correspondingly, an alternate location has not been secured to continue the execution of legislative business. The Committee notes its concern relating to an emergency incident occurring and having no plan to respond to the event.
- Due to the increased duties performed by the Adjutant General, the 2003

Legislature authorize and fund a position of Deputy Adjutant General or Special Assistant to the Adjutant General to assist in duties performed by the Adjutant General.

- Due to the passage of federal legislation relating to the dissemination of information to state and local entities regarding terrorism and security issues, the 2003 Legislature authorize and fund a position of Intelligence Analyst within the Adjutant General's Office to analyze intelligence data being submitted to the agency.
- There be the development of language for a possible concurrent resolution to be issued in the event the EPA continues its practice of withholding information pertaining to the vulnerability of certain facilities and infrastructure. During testimony, the Committee was informed by the Adjutant General that the EPA withholds certain information pertaining to the vulnerability of certain facilities and infrastructure for security reasons from state and local officials. Concerns were raised because local and state officials are the first responders to an emergency incident and are responsible for the devel-

opment of plans and procedures to protect critical or vulnerable sites.

- That there be a study of staffing of the Capitol Area Security Patrol by the 2003 Legislature to ensure that it is at an adequate level to provide services to the Capitol Area Complex. Although, the Committee does not recommend the addition of more Capitol Area Police Officers, due to the increased workload, security issues, and federal legislation pertaining to terrorism it does recommend the study of staffing.
- The LCC contact the Kansas Congressional Delegation and recommend the suspension of the 25 percent non-federal match, due to the fiscal crisis faced by the state and the inability of many local entities to acquire matching funds. The Committee had been informed that at the beginning of CY 2003, that federal terrorism grant funding distributed to states will mandate a 25 percent non-federal match to access the federal dollars.

The Committee wishes to acknowledge and thank the Adjutant General's Office and the various state agencies in helping the Committee conduct its study.