

Approved:
Date 5-1-04

MINUTES OF THE SELECT COMMITTEE ON KANSAS SECURITY

The meeting was called to order by Chairman Lee Tafanelli at 1:05 p.m., March 19, 2004 in Room 423-S of the Capitol.

All members were present except:

Representative Andrew Howell, Excused

Committee staff present:

Robert Waller, Senior Fiscal Analyst, Legislative Research Department

Bruce Kinzie, Office of Revisor of Statutes

Cathy Conn, Committee Secretary

Conferees appearing before the committee:

Ken North, North & Associates, Shawnee Mission

Others in attendance were:

Ron Seeber, Hein Law Firm

Rob McKnight, The Ad Astra Group

Jared Holster, Rep. Johnson

Chairman Tafanelli requested that staff give a brief summary of **SB 387**.

SB 387: **AN ACT relating to public security; concerning the interlocal agreement act; relating to the powers and duties of public agencies requiring certain information for homeland security as part of budget estimates.**

Written testimony from Senator Jay Emler in support of **SB 387**, by Ken North of North and Associates was presented. Senator Emler's proposed changes in **SB 387** would pose to create new opportunities for creative and synergistic approaches to community public safety, by allowing for the creation of inter-local agreements for security purposes. (Attachment #1)

There were no opponents to the bill.

Chairman Lee Tafanelli closed the hearings on **SB 387**.

Rep. Don Dahl presented an amendment to **SB 387** which would add the tracking and reporting

of federal funds by the Division of Budget to various legislative committees, seconded by Rep Sydney Carlin. (Attachment #2) Motion passed.

Discussion followed.

Rep Holland made a motion to move **SB 387**, as amended, out of committee favorably, seconded by Rep. Sydney Carlin. Motion passed.

Rep Joe Shriver made a motion to approve the minutes of Feb. 20, 2004, seconded by Rep Tom Thull. Motion passed.

Chairman Tapanelli adjourned the meeting at 2:45 PM.



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SB 387

By Senator Jay Emler

Testimony before the Special Committee on Kansas Security Of the Kansas House

- Ken North

Overview

There is a pervasive if unarticulated assumption that the “war on terror” will ultimately be won by Federal leadership, strategy, and resources. The Federal Government itself is clearly shackled to the belief that it alone has the methods and means to effectively embrace the terrorist threat.

Nothing could be further from the truth.

The prospect of a distant victory rides on the collective outcome of innumerable engagements won or lost at the local level. The identity of the Oklahoma City bomber was not established through “echelon” surveillance software. Eric Rudolph was not located through advanced Key Hole satellite reconnaissance. Their respective apprehensions were instead secured by uniform patrol officers working their districts as they always work them – continuously alert to the subtle indicators of suspicious activity.

Providing enlightened support to local law enforcement constitutes the abiding prerequisite for public safety in the twenty-first century.

Two years after the events of September 11th, however, Police Chiefs and Sheriffs in Kansas have not received relevant “action plans” from the State or Federal Government.

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Strategic Support Services

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Attachment 1

With specific reference to local needs, the Federal Department of Homeland Security can only be characterized as “intellectually bankrupt”.

No design, no template, no conceptual framework for local law enforcement has been forthcoming from that Department or any other federal agency. The vast percentage of local police departments have, at best, limited experience in implementation of practical “threat assessments” for critical community assets. That is simply not a traditional law enforcement skill-set taught at a police academy or learned at seminars.

In the long term, increasingly less should be expected in federal resources for State and local law enforcement units. Spiralling federal deficits will eventually generate shrinking Homeland Security Department funding. **The 2005 federal budget submission for Homeland Security contemplates a 32% reduction in funding for local law enforcement.** What funding does survive will be largely dominated by aerospace, software, and defense industry lobbyists with technology-intensive programs and products.

It is thus painfully evident that any community antiterrorism program must be built from the ground up – flowing *inductively* from State and local law enforcement initiatives.

The intrinsic ability to confront emerging security challenges pivots on essentially two organizational factors:

- ◆ The flexibility or “elasticity” of internal department resources; and
- ◆ The availability of external resources that can readily complement department needs, particularly in a crisis scenario.

Stated simply, law enforcement **training**, staff **reconfiguration**, and “**mutual aid**” agreements are the principal components of this solution.

For over sixty years, the Kansas Legislature has systematically expanded this range of options. This commitment represents a resilient foundation for cohesive and integrated antiterrorism programs. With the submission of Senate Bill 387 by Senator Jay Emler, the Kansas Legislature has an unprecedented opportunity to further focus and refine this endeavor.

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Attachment 1-2

SB 387 effects two timely revisions in Kansas Statutes:

1. creates new opportunities for antiterrorism programs;
2. communicates a coherent vision - and attendant expectations - for antiterrorism activities to local units of government.

A. Proposal Objective:

The Kansas "interlocal cooperation act" was an extraordinarily far-sighted initiative when it was passed by the 1957 Kansas Legislature. It is particularly noteworthy given the fact that this legislation was conceived during an era of both traditional and rigidly hierarchial organizational designs.

Although its potential benefits are largely underutilized by local units of government, the Act clearly places a premium upon creativity and innovation in the provision of public services.

This law, which incorporates "police protection" as a prospective use, was utilized in 1978 with the approval of the "Wyandotte-Johnson Police Mutual Aid Pact". That agreement formalized protocols for the exchange of law enforcement services between the Kansas City, Kansas Police Department and virtually all of the police agencies in Johnson County. There had been numerous prior instances when these agencies exchanged services on an ad hoc basis, including the tumultuous 1977 closing of the Kansas Savings and Loan Association in Roeland Park. Kansas City, Kansas Police units were on standby to assist Johnson County authorities with crowd management at that locale.

The 1975 police strike in Kansas City, Kansas represents another compelling illustration of police mutual aid resolving a public safety crisis. During that labor dispute, Kansas City, Kansas was protected by less than forty officers from a three hundred strong department. A quiet contingent of K.B.I. agents, Kansas Highway Patrol troopers, and stationed Kansas National Guard units covered the community for a number of days.

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Although legislative intent with reference to “police protection” is undoubtedly somewhat expansive, the evolving threat environment for State and local units of government clearly suggests that inclusion of more specific security applications would be beneficial.

B. Proposed Revisions:

K.S.A. 12-2904. Interlocal agreements by public agencies; specifications; approval of attorney general, exceptions.

(a) Any power or powers, privileges or authority exercised or capable of exercise by a public agency of this state including but not limited to those functions relating to economic development, public improvements, public utilities, police protection, ***public security including but not limited to intelligence, antiterrorism, and disaster recovery***, libraries, data processing services . . . upon a public agency.

Summary

The Kansas interlocal cooperation agreement act is the baseline statute for mutual aid initiatives in Kansas. Senator Emler’s proposed changes in S. B. 387 will clearly create new opportunities for creative and synergistic approaches to community public safety.

Within the law enforcement arena, this proposal will enable both state and local agencies to forge more responsive programs to confront antiterrorism challenges throughout the state. Given the current and projected budget realities for law enforcement in Kansas, these tools are both timely and essential.

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PROPOSED AMENDMENT TO HOUSE BILL NO. 2687

Sec. _____. K.S.A. 2003 Supp. 75-3717 is hereby amended to read as follows: 75-3717. (a) As provided in this section, each state agency, not later than October 1 of each year, shall file with the division of the budget its budget estimates for the next fiscal year, and all amendments and revisions thereof, except that, in lieu of such annual filing, each agency listed in subsection (f), not later than October 1, 2000, and every two years thereafter, shall file budget estimates for the next fiscal year and for the ensuing fiscal year thereafter. Each agency listed in subsection (f) may file adjustments to such agency's budget that was approved by the legislature during a prior fiscal year. All such budget estimates shall be in the form provided by the director of the budget. Each agency's budget estimates shall include:

(1) A full explanation of the agency's request for any appropriations for the expansion of present services or the addition of new activities, including an estimate of the anticipated expenditures for the next fiscal year and for each of the three ensuing fiscal years which would be required to support each expansion of present services or addition of new services as requested by the state agency; and

(2) a listing of all programs of the agency that provide services for children and their families and the following information regarding each such program: Of the amount of the agency's request for appropriations to fund the program, that amount which will be spent on services for children or families with children and the number of children or families with children who are served by the program; and

(3) a listing of the sources and amounts of all federal funds received or budgeted for by a state agency for the purpose of homeland security or for the purpose of sustaining, enhancing or improving the safety and security of the state, the amount of such funds budgeted for expenditure on administrative cost and

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the amount of such funds budgeted for expenditure on aid to each unit of local government.

(b) At the same time as each state agency submits to the division of the budget a copy of its budget estimate, and all amendments and revisions thereof, each such state agency shall submit a copy of such estimate, and all amendments and revisions thereof, directly to the legislative research department for legislative use.

(c) The director of the budget shall require the agencies to submit a sufficient number of copies of their budget estimates, and all amendments and revisions thereof, to the director's office to satisfy the requirements of such office and one additional copy for legislative use which shall be retained in the division of the budget until the budget of the governor is submitted to the legislature. On or before the day that such budget is submitted to the legislature such legislative use copy, posted to reflect the governor's budget recommendations, shall be submitted to the legislative research department for use by the ways and means committee of the senate and the committee on appropriations of the house of representatives. Following presentation of the governor's budget report to the legislature, the legislative research department may request and shall receive detailed information from the division of the budget on the governor's budget recommendations.

(d) The director of the budget may prepare budget estimates for any state agency failing to file a request.

(e) As used in this section, "services for children and their families" includes but is not limited to any of the following services, whether provided directly or made accessible through subsidies or other payments:

(1) Financial support for children and families with children or enforcement of the obligation to support a child or a family with one or more children;

(2) prenatal care, health care for children or immunizations for children;

- (3) mental health or retardation services for children;
- (4) nutrition for children or families with children or nutritional counseling or supplements for pregnant or nursing women;
- (5) child care, early childhood education or parenting education;
- (6) licensure or regulation of child care or early childhood education programs;
- (7) treatment, counseling or other services to preserve families;
- (8) care, treatment, placement or adoption of children without functioning families;
- (9) services to prevent child abuse and to treat and protect child abuse victims;
- (10) services for children who are pregnant, substance abusers or otherwise involved in high risk behavior;
- (11) services related to court proceedings involving children; and
- (12) youth employment services.

(f) On a biennial basis, the following state agencies shall file budget estimates under the provisions of subsection (a): Abstracters' board of examiners, behavioral sciences regulatory board, board of accountancy, board of examiners in optometry, board of nursing, consumer credit commissioner, Kansas board of barbering, Kansas board of examiners in fitting and dispensing of hearing aids, Kansas dental board, Kansas real estate commission, Kansas state board of cosmetology, office of the securities commissioner of Kansas, real estate appraisal board, state bank commissioner, state board of healing arts, state board of mortuary arts, state board of pharmacy, state board of technical professions, state board of veterinary examiners, governmental ethics commission and state department of credit unions.

Sec. _____. K.S.A. 2003 Supp. 75-3721 is hereby amended to read as follows: 75-3721. (a) On or before the eighth calendar day of each regular legislative session, the governor shall

submit the budget report to the legislature, except that in the case of the regular legislative session immediately following the election of a governor who was elected to the office of governor for the first time, that governor shall submit the budget report to the legislature on or before the 21st calendar day of that regular legislative session.

(b) The budget report of the governor shall be set up in three parts, the nature and contents of which shall include the following:

(1) Part one shall consist of a budget message by such governor, including the governor's recommendations with reference to the fiscal policy of the state government for the current fiscal year and the ensuing fiscal year, describing the important features of the budget plan for each of the fiscal years included, embracing a general budget summary setting forth the aggregate figures of the budget so as to show the balanced relation between the total proposed expenditures and the total anticipated income for the current fiscal year and the ensuing fiscal year, with the basis and factors upon which the estimates were made, and the means of financing the budget plan for the each of the fiscal years included, compared with the corresponding figures for at least the last completed fiscal year, and the director of the budget shall prepare the figures for the governor for such comparisons.

(A) The budget plan shall not include (i) any proposed expenditures of anticipated income attributable to proposed legislation that would provide additional revenues from either current or new sources of revenue, or (ii) any proposed expenditures of moneys in the ending balance in the state general fund required by K.S.A. 75-6702, and amendments thereto.

(B) The general budget summary may be supported by explanatory schedules or statements, classifying the expenditures contained therein by state agencies, objects, and funds, and the income by state agencies, funds, sources and types. The general budget summary shall include all special or fee funds as well as

the state general fund, and shall include the estimated amounts of federal aids, for whatever purpose provided, together with estimated expenditures therefrom.

(2) Part two shall embrace the detailed budget estimates for each of the fiscal years included, both of expenditures and revenues, showing the requests of the state agencies, if any, and the incoming governor's recommendations thereon. It shall also include statements of the bonded indebtedness of the state, showing the actual amount of the debt service for at least the last completed fiscal year, and the estimated amount for the current fiscal year and for each of the ensuing fiscal years included, the debt authorized and unissued, and the condition of the sinking funds.

(3) Part three shall consist of a draft of a legislative measure or measures reflecting the incoming governor's budget for all of the fiscal years included in the budget report.

(c) The division of the budget shall compile a children's budget document consisting of the information contained in agency budget estimates regarding programs that provide services for children and their families. Such document shall be provided to the ~~Kansas---commission---on---children,---youth---and---families, established-by--the--governor's--executive--order--number--91-145~~ Kansas children's cabinet established by K.S.A. 38-1901, and amendments thereto, and other persons or entities on request.

(d) The division of the budget, upon request, shall furnish the governor or the legislature with any further information required concerning the budget.

(e) Nothing in this section shall be construed to restrict or limit the privilege of the governor to present supplemental budget messages or amendments to previous budget messages, which may include proposals for expenditure of new or increased sources of revenue derived from proposed legislation.

(f) The budget estimate for the judicial branch of state government as submitted to the director of the budget pursuant to K.S.A. 20-158, and amendments thereto, shall be included in the

governor's budget report.

(g) The division of the budget shall compile a Kansas homeland security budget document consisting of the information contained in agency budget estimates under subsection (a)(3) of K.S.A. 75-3717, and amendments thereto. Such document shall be provided to the house of representatives committee on appropriations, the senate committee on ways and means and such other committees upon request.