

MINUTES OF THE HOUSE APPROPRIATIONS COMMITTEE

The meeting was called to order by Chairman Melvin Neufeld at 9:00 A.M. on March 16, 2006 in Room 514-S of the Capitol.

All members were present.

Committee staff present:

J. G. Scott, Legislative Research Department
Becky Krahl, Legislative Research Department
Matt Spurgin, Legislative Research Department
Michele Alishahi, Legislative Research Department
Amy Deckard, Legislative Research Department
Amy VanHouse, Legislative Research Department
Jim Wilson, Revisor of Statutes
Mike Corrigan, Revisor of Statutes
Nikki Feuerborn, Administrative Assistant
Shirley Jepson, Committee Secretary

Conferees appearing before the committee:

Denny Stoecklein, Kansas State Fair
Karl McNorton, State Fire Marshal Office
Gary Hibbs, Facilities Planning Manager, Facilities Management, Department of Administration
Melissa Wangerman, Secretary of State's Office

Others attending:

See attached list.

- Attachment 1 Budget Committee report on **HB 2818**
- Attachment 2 Testimony on **HB 2818** from Roger Werholtz, Secretary, Department of Corrections
- Attachment 3 Budget Committee report on **HB 2967**
- Attachment 4 Testimony on **HB 2991** by Denny Stoecklein
- Attachment 5 Testimony on **HB 2991** by Karl McNorton
- Attachment 6 Testimony on **SB 394** by Melissa Wangermann

Representative Schwartz moved to introduce legislation regarding the swine industry. The motion was seconded by Representative Powell. Motion carried.

Discussion and Action on HB 2818 - Increasing the limit of settlement authority of the secretary of corrections from \$500 to \$2500.

Representative Light, Chair of the Public Safety Budget Committee, presented the Budget Committee report on **HB 2818** and moved for the adoption of the Budget Committee recommendation (Attachment 1). The motion was seconded by Representative Sharp. Motion carried.

A letter from Roger Werholtz, Secretary, Department of Corrections, in support of **HB 2818**, was distributed to the Committee (Attachment 2).

Responding to a question from the Committee with regard to the funding source, the Budget Committee stated that the Department of Corrections will make the determination on which account or special revenue fund they deem appropriate.

Discussion and Action on HB 2967 - Reimbursement of political subdivisions for health insurance of employees on state active duty in the national guard.

Representative Light, Chair of the Public Safety Budget Committee, presented the Budget

CONTINUATION SHEET

MINUTES OF THE House Appropriations Committee at 9:00 A.M. on March 16, 2006 in Room 514-S of the Capitol.

Committee report on **HB 2967** and moved for the adoption of the Budget Committee recommendation (Attachment 3). The motion was seconded by Representative Tafanelli. Motion carried.

Representative Tafanelli moved to recommend **HB 2967** favorable for passage. The motion was seconded by Representative Bethell. Motion carried.

Hearing on **HB 2991 - Exempting certain buildings from certain fire protection code provisions.**

Michele Alishshi, Legislative Research Department, explained that **HB 2991** would exempt certain buildings on the grounds of the Kansas State Fair from any statute, rule or regulation adopted by the State Fire Marshal's office that would require the installation of a sprinkler system when a fire alarm system, exit and emergency lighting are installed in compliance with the Kansas Fire Prevention code. The exception would apply to any canopy, open-air exhibition or agricultural building of non-combustible construction which is less than 70,000 square feet located on the grounds of the Kansas State Fair.

Chairman Neufeld recognized Denny Stoecklein, Kansas State Fair, who presented testimony in support of **HB 2991** (Attachment 4).

Responding to questions from the Committee, Mr. Stoecklein stated that the facility in question is an addition of approximately 5,000 square feet to the existing sheep barn, of steel construction with sidewalls on the east/west, open on the north/south with a roof. The Division of Facility Management considers this project a remodeling of the existing facility requiring fire walls and sprinkler system. An alternate plan would be to relocate the building to the swine barn area; however, this would put two exhibition buildings adjacent to each other and cause problems when there were shows in each arena at the same time.

The Chair recognized Karl McNorton, Fire Marshal's Office, who presented testimony on **HB 2991** (Attachment 5). Mr. McNorton stated that passage of this legislation may set a precedent for other types of facilities to request exemption from life safety provisions.

Responding to a question from the Committee, Mr. McNorton noted that when they inspected and reviewed the plans for the structure, they found no issue with the construction and felt there was adequate ventilation. Mr. McNorton indicated that the Kansas Fire Prevention Code includes the 1991 Life Safety Code and several editions of documents from the National Fire Protection Association. If the addition was placed under the State Fire Marshal's fire prevention code, it would require only fire alarm and emergency lighting.

Chairman Neufeld recognized Gary Hibbs, Manager, Division of Facilities Management, Department of Administration, who presented testimony in opposition to **HB 2991**. Mr. Hibbs stated that his department follows the International Building Code and is responsible for code compliance and safety of the citizens. Because the sheep structure at the Kansas State Fair is a state-owned facility, designed to hold 553 attendees, as well as being tied to another structure, the Division of Facilities Management does not support the exempting of the building from the State's fire safety code.

The Committee noted that the language in the bill may need to be amended.

The hearing on **HB 2991** was closed.

Chairman Neufeld appointed a Subcommittee to review issues and possible revisions to **HB 2991**:
Representative Light, Chairman; Representative Feuerborn; Representative Tafanelli;
Representative Sawyer; Representative Bethell

Hearing on **SB 394 - Rules and regulations - approval of publication by State Rules and Regulations Board.**

CONTINUATION SHEET

MINUTES OF THE House Appropriations Committee at 9:00 A.M. on March 16, 2006 in Room 514-S of the Capitol.

J. G. Scott, Legislative Research Department, explained that **SB 394** would change the State Rules and Regulation Board meeting date from December 15, to after January 1 of each year to determine which rules and regulations filed during the calendar year are to be published in the KAR volumes or supplements.

The Chair recognized Melissa Wangerman, Legal Counsel, Secretary of State, who presented testimony in support of **SB 394** (Attachment 6).

The hearing on SB 394 was closed.

Representative Feuerborn moved to recommend **SB 394** favorable for passage and because the Committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar. The motion was seconded by Representative Pottorff. Motion carried.

SB 490 was referred to the Social Services Budget Committee.

The meeting was adjourned at 10:00 a.m. The next meeting of the Committee will be held at 9:00 a.m. on March 17, 2006.



Melvin Neufeld, Chairman

HOUSE APPROPRIATIONS COMMITTEE

March 16, 2006

9:00 a.m.

NAME	REPRESENTING
Shelby Starr	KDOC
Amber Shumate	Ottawa University
Jenna Reeves	Ottawa University
Guzie Grella	Ottawa University
Stephanie Hoover	Ottawa University
Sharee Joyner	Ottawa University
Matthew Barney	Ottawa University
Ron Seelber	Kein Law Firm
Mikala Allen	Ottawa University
Kathy Prasko	Ottawa University
MARK BOZANZYAK	CAPITOL STRATEGIES
Brenda MacDaul	KSFMO
Karl MacDaul	KSFMO
Jan McLaughlin	KSFMO
Jack Alexander	KSFMO
Jim Rubbers	KSF.F.A
Tonia Salvini	Ottawa University
Jack Alexander	KSF.M

HOUSE PUBLIC SAFETY BUDGET COMMITTEE

HB 2818



Representative Bill Light, Chair



Representative Mitch Holmes



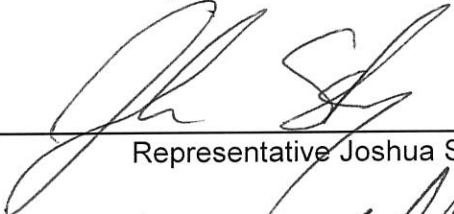
Representative Melvin Neufeld



Representative Mary Pilcher-Cook



Representative Bonnie Sharp



Representative Joshua Svaty



Representative Lee Tapanelli

HOUSE APPROPRIATIONS

DATE 3-16-2006

ATTACHMENT 1

House Public Safety Budget Committee

Recommendation on HB 2818

Brief

HB 2818 would amend current law to allow the Department of Corrections to pay claims in amounts up to \$2,500. Current law allows payments up to \$500 by the Department of Corrections for inmates; claims above that amount are submitted to the Joint Committee on Claims Against the State. HB 2818 would allow the secretary of corrections to authorize claim payments up to \$2,500 for personal injury or property damage to inmates which the secretary of corrections deems are due to negligence on the part of the state.

Background

A representative of the Kansas Department of Corrections testified in support of HB 2818. There were no opponents who testified at the Budget Committee hearing. The last change in the claim limit was made by the 1988 Legislature which increased the amount the Secretary of Corrections could authorize as payment for a claim from \$250 to the current \$500 limit.

The fiscal note prepared by the Division of the Budget indicates that the bill would not create a fiscal impact on the Department of Corrections, but may result in fewer claims being sent to the Joint Committee on Claims Against the State.

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Kansas Legislative Research Department

March 14, 2006

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KANSAS

KANSAS DEPARTMENT OF CORRECTIONS
ROGER WERHOLTZ, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

Testimony on HB 2818
to
The House Public Safety Budget Committee

By Roger Werholtz
Secretary
Kansas Department of Corrections

March 9, 2006

HB 2818 amends K.S.A. 46-920 to increase from \$500 to \$2,500 the authority of the Secretary of Corrections to pay claims for personal injury and property damage. Increasing the claim settlement authority of the Secretary to \$2,500 would be identical to the claim settlement authority currently provided to the University of Kansas Medical Center pursuant to K.S.A. 46-922.

The department has in place an administrative remedy procedure that must be exhausted prior to the initiation of litigation for claims for personal injury and property damage. Under current law, the authority of the Secretary to settle such claims is capped at \$500. In instances where the claim cannot be settled administratively, litigation is typically pursued entailing the expenditure of the state's resources in litigation defense costs and judicial resources. Additionally, in actions brought under the Federal Civil Rights Act, the state is exposed to payment of the claimant's attorney's fees. Increasing the settlement authority of Secretary to \$2,500 would save the cost of litigation expenses, negate the potential of a higher damage award through an adverse verdict if accepted, and prevent the award of attorneys fees in situations where a firm settlement offer is tendered but rejected and the verdict is for an amount less than offered.

While exhaustion of the department's administrative claim procedure is required before litigation can be commenced, claimants may also seek redress through the Joint Committee on Special Claims Against the State. However, submission of a claim to the Joint Committee is not a prerequisite to bringing litigation. The department, however, believes that the history of claims awarded by the Joint Committee provides an indication of the frequency and types of claims that would be settled by the Secretary if HB 2818 was adopted.

In 2005, the Joint Committee approved awards of \$1,000 to each of five inmates who were injured on various work details. These injuries consisted of significant burns to inmates working in kitchens, finger amputations, and a broken hip. HB 2818 would allow these claims to be

settled by the department without the expenditure of resources in either processing the claim to the Joint Committee or in litigation.

HB 2818 would also provide the State with a valuable tool when litigation is brought in either state or federal court pursuant to the federal Civil Rights Act. State defendants are at a distinct disadvantage in federal civil rights litigation in that plaintiffs that prevail in some aspect of the litigation are entitled to have the defendants paying the plaintiffs' attorney fees. The ability to have the defendants pay the fees of the plaintiff's attorney of course is taken into consideration by the plaintiffs bar in evaluating the settlement potential of a lawsuit. The only way to stop attorney fees from accruing is for the defendants to make a firm settlement offer and if the subsequent verdict is for a lesser amount, the plaintiff may not recover his or her attorney fees that accrued after the settlement offer was made. Under current law, the Secretary may not make a firm settlement offer for over \$500. Additionally, while litigation has been settled by the State through the State Finance Council, state attorneys in negotiating proposed settlements must make it clear to the plaintiff that final approval of any settlement is contingent upon approval of the Finance Council. Thus, attorney's fees would not be tolled while the settlement proposal is pending before the Finance Council.

The advantage of the Secretary having the authority to make a firm settlement offer up to \$2,500 may have been beneficial in a civil rights action that was eventually settled by the Finance Council for \$6,250. A firm settlement offer by the Secretary earlier in the litigation may have been accepted since the plaintiff's attorney would know that the defendant's liability for attorney fees after that point could be extinguished if a verdict was returned in an amount less than was offered.

The Department urges favorable consideration of HB 2818.

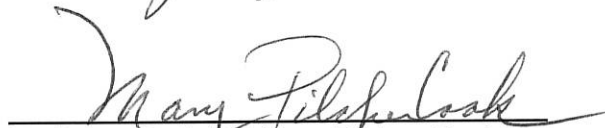
HOUSE PUBLIC SAFETY BUDGET COMMITTEE

HB 2967



Representative Bill Light, Chair

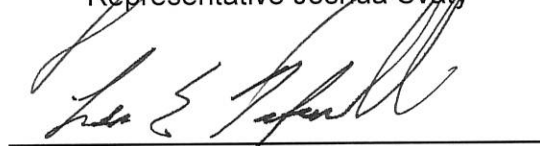

Representative Mitch Holmes


Representative Melvin Neufeld


Representative Mary Pilcher-Cook


Representative Bonnie Sharp


Representative Joshua Svaty


Representative Lee Tafanelli

HOUSE APPROPRIATIONS

DATE 3-16-2006
ATTACHMENT 3

House Public Safety Budget Committee

Recommendation on House Bill 2967

Brief

HB 2967 allows the Adjutant General's Department to reimburse political subdivisions for the cost of health insurance for members of the Kansas National Guard who are activated for state active duty beyond 30 days. The bill strikes language directing the Director of Accounts and Reports to transfer State General Funds to the employer for the cost of the health insurance. The bill adds language allowing the State Finance Council to provide funds for this purpose.

Background

HB 2967 was introduced by the House Committee on Federal and State Affairs. The Comptroller for the Adjutant General's Department testified favorably on the bill. She indicated that this bill would make a technical correction to legislation passed by the 2005 Legislature.

The fiscal note prepared by the Division of the Budget indicates that this bill would have no fiscal impact.



March 10, 2006

To: Representative Neufeld, Chairman, and members of the
House Appropriations Committee

From: Denny Stoecklein, Kansas State Fair

Subject: House Bill 2991

As most of the committee is aware, the Kansas State Fair began an extensive Master Plan renovation in 2001.

Since this time, significant renovations and improvements have taken place to the majority of the facilities on the fairgrounds.

We are now nearing the end of the projects to be funded by the 2001 legislation. There are currently projects taking place involving the grandstand, an enhanced entrance for our fairgoers, and Ye Old Mill. Another project we expected to be working on involves the sheep/swine barns.

I believe the proposed legislation is the result of our report to the Joint Committee on State Building Construction on February 13. We expressed concern to the committee over the inability to obtain an approved code footprint and move forward with the planned renovations.

Our initial budget on this project was approximately \$330,000; current estimates exceed \$900,000.

I think it is important to point out to the committee that since our meeting with the Joint Building Committee on February 13, we have met twice with the Division of Facilities Management, who has suggested an alternate plan that may not require a sprinkler system.

We met with our local architect regarding the plan. He has reviewed the proposal and developed an estimate of approximately \$1.2 million.

2000 North Poplar Street
Hutchinson, KS 67502-5598

TEL. 620 669 3600

HOUSE APPROPRIATIONS

DATE 3-16-2006
ATTACHMENT 4

This plan was presented to the State Fair Board on Tuesday, March 7. It is the consensus of the Board that spending \$1.2 million on this facility is not a prudent use of resources when a new facility can be building for approximately \$1.2 million more.

The Board came away from it's meeting with two possible alternatives:

- 1) Leave the existing facility as it is – this is not the favored alternative. Sheep and swine exhibit numbers have grown significantly in recent years prompting the need for added space. While doing nothing to the facility will not trigger the need to meet code requirements, it will be doing a disservice to our exhibitors. Failing to address needs to improve their show experience at the Fair will likely have a negative impact on numbers and cause long-term harm to the shows.
- 2) Obtain State funds to replace the facility – if action could be taken during this session to permit this alternative, a new facility can be constructed in time for the 2007 State Fair. A new facility will position the sheep and swine shows for continued growth and will address other code compliance issues, such as the restroom facilities, which are currently closed due to their lack of compliance.



K A N S A S

F.S. JACK ALEXANDER
FIRE MARSHAL

OFFICE OF THE KANSAS STATE FIRE MARSHAL

KATHLEEN SEBELIUS
GOVERNOR

House Appropriations Committee

HB 2991

March 16, 2006

Written testimony of Jack Alexander Kansas State Fire Marshal

The Kansas State Fire Marshal's Office stands as a proponent of HB 2991. The bill as proposed will not impact this agency. However passage of a bill similar to this may set precedence for other facilities to request exemption from life safety provisions. We serve as an advocate for the occupants of buildings where people work, live or congregate.

We would like the committee to understand the state fire marshal's office has only adopted a building code for the new construction or remodel of school buildings not for other buildings. The Kansas Fire Prevention Code only includes the 1991 Life Safety Code and several editions of documents from the National Fire Protection Association.

We work as partners with Division of Facilities Management of the Department of Administration to insure, as you would expect, that our citizens are secure from the ravages of fire in state owned and operated buildings. All fire protection systems are designed to provide life safety for all occupants.

HOUSE APPROPRIATIONS

700 SW JACKSON STREET, SUITE 600, TOPEKA, KS 6660
Voice 785-296-3401 Fax 785-296-0151 www.accesskansas

DATE 3-16-2006
ATTACHMENT 5

RON THORNBURGH
Secretary of State



Memorial Hall, 1st Floor
120 S.W. 10th Avenue
Topeka, KS 66612-1594
(785) 296-4564

STATE OF KANSAS

TESTIMONY OF THE SECRETARY OF STATE TO THE HOUSE APPROPRIATIONS COMMITTEE ON SB 394

March 16, 2006

Chair and Members of the Committee:

The Secretary of State appreciates the opportunity to testify on SB 394, a bill concerning publication of regulations by the State Rules and Regulations Board.

The Secretary of State is responsible for publication of the Kansas Administrative Regulations. He publishes all regulations filed during the calendar year in the K.A.R. volumes or a supplement. The cutoff date for filing regulations to be included in the next year's volumes or supplement is December 31.

Current law requires the State Board to meet after December 15 to consider which rules and regulations are to be published. SB 394 moves this date after January 1 so that all the previous year's regulations may be considered for publication.

I appreciate your consideration and support of SB 394.

Melissa A. Wangemann, Legal Counsel
Deputy Assistant Secretary of State

HOUSE APPROPRIATIONS

DATE 3-16-2006
ATTACHMENT 6