

Approved: May 10, 2005  
Date

## MINUTES OF THE SENATE WAYS AND MEANS COMMITTEE

The meeting was called to order by Chairman Dwayne Umbarger at 10:30 A.M. on March 1, 2005 in Room 123-S of the Capitol.

All members were present except:

Senator David Wysong- excused

Committee staff present:

Jill Wolters, Senior Assistant, Revisor of Statutes  
Alan Conroy, Director, Kansas Legislative Research Department  
J. G. Scott, Kansas Legislative Research Department  
Susan Kannarr, Kansas Legislative Research Department  
Becky Krahl, Kansas Legislative Research Department  
Matt Spurgin, Kansas Legislative Research Department  
Judy Bromich, Administrative Analyst  
Mary Shaw, Committee Secretary

Conferees appearing before the committee:

Frank Smith, Volunteer Field Organizer of the Private Corrections Institute  
Peter Ninemire, Midwest Regional Trainer/Organizer, Families Against Mandatory Minimums  
(written)  
Roger Werholtz, Secretary, Kansas Department of Corrections  
Patrick Hurley, on behalf of Jim Gilliam, Corrections Corporation of America  
Senator Derek Schmidt (written)  
Gary Rowden, Regional Director, Central Region, The GEO Group  
Sheila Lampe, Sunflower Solutions Task Force Chairman  
Vernon Burkhart, Mayor, City of Yates Center (written)  
Andy Sanchez, Executive Director, Kansas Association of Public Employees  
Rusty Arnold, Superintendent of Schools, Woodson Unified School District 366 (written)

Others attending:

See attached list.

### **Bill Introduction**

Senator Emler moved, with a second by Senator Teichman, to introduce a bill providing for the issuance of bonds by the Kansas Development Finance Authority for Kansas energy projects (5rs1063). Motion carried on a voice vote.

Chairman Umbarger opened the public hearing on:

**SB 242--The state is prohibited from entering into contracts for the placement of inmates in a private prison outside of Kansas**

Staff briefed the committee on the bill.

The Chairman welcomed the following conferees:

Senator Derek Schmidt submitted written testimony as neutral on **SB 242 (Attachment 1)**.

Frank Smith, Volunteer Field Organizer of the Private Corrections Institute, Bluff City, Kansas, testified in favor of the intent of **SB 242 (Attachment 2)**. Mr. Smith explained that there might slight technical problems with the language of the bill which he detailed in his written testimony. He noted that he does oppose placement of Kansas prisoners in any for-profit facility outside Kansas.

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Roger Werholtz, Secretary, Kansas Department of Corrections, testified in opposition to **SB 242** (Attachment 3). Secretary Werholtz urged the committee to reject the bill because he felt it was bad policy and feels it has the potential to cost the State money and close off options that have served the State well in the past. He noted that currently there are no prisoners house outside of the State of Kansas. In closing, Secretary Werholtz mentioned that **SB 242** would remove the flexibility to utilize an option for the housing of inmates at a very competitive rate that is also subsidized by a federal grant. Committee questions and discussion followed.

Pat Hurley, on behalf of Jim Gilliam, Senior Director, Business Development, Corrections Corporations of America (CCA), testified in opposition to **SB 242** (Attachment 4). Mr. Hurley, on behalf of CCA, expressed concern that the passage of **SB 242** would have the unintended consequences of hindering the State's flexibility, punishing taxpayers, and potentially compromising public safety. This is detailed in the written testimony.

Written testimony was submitted by Peter Ninemire, Midwest Regional Organizer for Families Against Mandatory Minimums (FAMM) (Attachment 5).

There being no further conferees to appear before the committee, the Chairman closed the public hearing on **SB 242**.

Chairman Umbarger opened the public hearing on:

### **SB 243--Allowing construction and operation of private prisons**

Staff briefed the committee on the bill.

Written testimony was submitted by Senator Derek Schmidt in support of **SB 243** (see Attachment 1 under testimony for **SB 242**).

Gary Rowden, Regional Director, Central Region, The GEO Group, Inc., testified in support of **SB 243** (Attachment 6). Mr. Rowden provided the background of The GEO Group, Inc., formerly known as the Wackenhut Corrections Corporation. He mentioned that the Kansas Department of Corrections and the GEO Group have the same objectives and the primary goal is the interest of public safety, the safety of staff, prisoners in the institutions. Details are found in Mr. Rowden's testimony.

Sheila Lampe, Chairman, Sunflower Solutions Task Force, Woodson County, testified in favor of **SB 243** (Attachment 7). Ms. Lampe indicated that the City of Yates Center has continued to work and plan toward the formation of this project. She noted that struggling for economic survival, they have witnessed not only the employment opportunities take a down trend, but the tax base has also plummeted. Ms. Lampe explained that location of a privatized correctional facility within the city limits of Yates Center would provide employment for local citizens and the surrounding communities. Ms. Lampe distributed copies of Sunflower Solutions, A Private Prison Task Force (Attachment 8).

Jack Newcomb, Sunflower Private Prison Task Force, Woodson County, testified in support of **SB 243**. Mr. Newcomb explained that, in regard to economic development, if there is a willingness to spend those monies out of state, there should be a willingness to consider at possibilities of spend monies in the state. He noted that there is a lot of accountability in the bill in regard to what the contractor will do and urged the Committee's support of **SB 243**. (No written testimony was submitted.)

Janie Massoth, Sunflower Private Prison Task Force, Woodson County, testified in support of **SB 243**. Ms. Massoth noted that she has been in the community for many years and has witnessed their population drop and the valuation dropped 1 mill for the city of Yates Center. She explained that, if a privatized or state-owned prison, were to be built in their community it would provide employment opportunities that all of the surrounding counties could support. (No written testimony was submitted.)

Jay Leedy, Sunflower Private Prison Task Force, Woodson County, spoke in testified of **SB 243**. Mr. Leedy

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mentioned that he is the Mayor of Neosho Falls and noted that little towns tend to be forgotten. He explained that often drug dealers migrate to small towns and that becomes a problem. Mr. Leedy addressed getting a prison facility with training in the prison system regarding drug intervention. (No written testimony was submitted.)

Vernon D. Burkhart, Mayor, City of Yates Center, testified in support of **SB 243** and explained that the location of a privatized correctional facility within their city would more than triple the tax base, provide employments for local citizens and surrounding communities. Mr. Burkhart noted that they are strongly committed to their original offer in 1985 to provide the land and infrastructure for the needed facility (Attachment 9).

Written testimony was submitted by Rusty Arnold, Superintendent of Schools, Woodson Unified School District 366 (Attachment 10).

Frank Smith, Volunteer Field Organizer of the Private Corrections Institute, testified in opposition to **SB 243** (Attachment 11). Mr. Smith explained that he felt passage of the bill would certainly expose Kansas to immense liability in far more escapes, inmate-on-inmate assaults and inmate-on-inmate assaults, and provided details in his written testimony. He noted that for-profit prisons do not save hosting states any money.

Andy Sanchez, Executive Director, Kansas Association of Public Employees, spoke in opposition to **SB 243** (Attachment 12). Mr. Sanchez explained that their opposition to the bill is fundamentally based on incarceration being a responsibility to be carried out by government. He noted that they support this claim for the following reasons:

1. Corporations create a risk to public safety in their pursuit of profits.
2. Private prisons target rural areas with empty promises of economic development.
3. Legal responsibility, or the lack of indemnification is an inherent flaw of for-profit prisons.

Pat Hurley, on behalf of Jim Gilliam, Senior Director, Business Development, Corrections Corporations of America (CCA), testified in opposition to **SB 243** (See Attachment 4 under the testimony presented for **SB 242**). Mr. Hurley explained that CCA opposes the bill because by restricting and hampering the ability to site, build and operate a correctional facility in Kansas, the bill has the unintended consequence of shutting the door on economic development for communities. It was noted in the testimony to achieve the full benefit of privatization, the vendor must be allowed to implement best practices within a reasonable set of contractual parameters.

Written testimony was submitted by Peter Ninemire, Midwest Regional Organizer for Families Against Mandatory Minimums (FAMM), in opposition to **SB 243** (See Attachment 5 under the testimony presented for **SB 242**).

Roger Werholtz, Secretary, Kansas Department of Corrections, testified as a neutral regarding **SB 243** (Attachment 13). Secretary Werholtz explained that the bill provides statutory authority for the construction and operation of private prisons that would be available for the incarceration of out of state prisoners. He mentioned that while the Kansas Department of Corrections, on its own as well as in conjunction with Layette County, has contracted with private entities for the construction and/or operation of conservation camps, minimum security community residential centers and day reporting centers, the use of those facilities has been limited to offenders convicted of felony crimes committed in Kansas. The Secretary explained that **SB 243** would permit use of privately constructed and operated correctional facilities for the incarceration of offenders from other states, thus providing an exception to K.S.A. 75-52,133.

Secretary Werholtz also addressed, in considering the issue of private prisons, the Department believes that it is important to distinguish between prisons in which only Kansas offenders are placed as opposed to prisons which would house prisoners from other states. In regard to the former, he explained that the Secretary of Corrections has the ultimate control over the type of inmate that will be incarcerated at a private facility and whether the facility would be used at all. He explained that, in effect, this allows the Secretary

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of Corrections to control such private facilities virtually to the same extent as state correctional facilities relative to the myriad of operational issues that confront the management and operation of a correctional facility.

The meeting adjourned at 12:35 p.m. The next meeting is scheduled for March 2, 2005.