

Approved 2/4/85  
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by EDWARD F. REILLY, JR. at  
Chairperson

11:00 a.m./~~p.m.~~ <sup>XXXX</sup> On January 29, 19<sup>85</sup> in room 254-E of the Capitol.

All members were present ~~except~~ <sup>XXXXXX</sup>

Committee staff present:

Fred Carman, Assistant Revisor of Statutes  
Russ Mills, Legislative Research  
Emalene Correll, Legislative Research  
June Windscheffel, Secretary to the Committee

Conferees appearing before the committee:

Karen McClain, Director of Governmental Affairs, Kansas Association  
of Realtors, Topeka, Kansas  
Dr. Donald R. Levi, Kansas Chair of Real Estate, Wichita State  
University, Wichita, Kansas  
Gene Yockers, Director, Kansas Real Estate Commission, Topeka, Kansas  
Jim Kaup, Staff Attorney, League of Kansas Municipalities, Topeka, Kansas  
Howard Klink, Director, Crime Victims Reparations Board, Topeka, Kansas  
Joseph W. Snell, Director, Kansas State Historical Society

Karen McClain, Kansas Association of Realtors, was recognized by the Chairman. Ms. McClain appeared to request the Committee to introduce legislation dealing with post-licensing education requirements for real estate salespersons and with educational requirements for brokers. Her written statement is Attachment #1 of these Minutes and Attachment #2, is 5 RS 0499, the proposed bill. Dr. Donald R. Levi, who has a Chair of Real Estate at Wichita State University, was the next conferee. He spoke in favor of the proposed legislation. A copy of his statement is Attachment #3.

Senator Morris moved that the proposed legislation 5 RS 0499, be introduced as a Committee bill. 2d by Senator Martin. The motion carried.

Gene Yockers, Kansas Real Estate Commission, was the next conferee. He spoke in favor of proposed legislation concerning amending the real estate brokers' and salespersons' licenses act in regard to fees for licensure. He asked that the Committee introduce proposal 5 RS 0358, concerning the matter, as a Committee bill. The proposal is Attachment #4.

Senator Morris moved that the proposed legislation 5 RS 0358 be introduced as a Committee bill. 2d by Senator Vidricksen. The motion carried.

The Chairman introduced Jim Kaup, of the League of Kansas Municipalities who presented proposed legislation to amend the law enforcement training act. He said the primary purpose of the League's proposed amendment is to remove any question that certain types of municipal officers and employees are not subject to the requirements of the law enforcement training act. In addition the proposed bill would address a special question concerning municipal employees who serve arrest warrants. A copy of his statement along with the proposed legislation is Attachment #5 of these Minutes.

Senator Arasmith moved the Committee introduce the proposed legislation requested by the League of Municipalities. 2d by Senator Daniels. Motion carried.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS,  
 room 254-E, Statehouse, at 11:00 a.m. ~~XXX~~ on January 29, 1985

Howard Klink, Director of the Crime Victims Reparations Board, appeared to ask the Committee to introduce a bill concerning the amount of reimbursement to crime victims. They are limited to \$750 reimbursement for funeral expense and feel that this amount of reparation is not adequate.

Senator Morris moved that the proposed legislation concerning the reparation for crime victims be introduced as a Committee bill. 2d by Senator Anderson. Motion carried.

The Chairman distributed a request for proposed legislation from the Legislative Committee of the Kansas Association for the Blind and Visually Impaired, Inc. A copy of their request is Attachment #6. The Chairman said that Mr. Michael J. Byington had requested this be introduced as a Committee bill. It deals with guide dog access and includes amending K.S.A. 39-1101 to include "and rental and sale housing," as shown on the attached.

Senator Anderson moved that the proposed legislation requested concerning guide dog access be introduced as a Committee bill. 2d by Senator Daniels. Motion carried.

The Chairman requested Russell Mills, Staff, to review SB20 for the Committee. Mills said that SB20 had come about as a result of an Interim Study Proposal No. 44. He said there is no rationale stated in the Committee report why they chose to recommend this bill. It would amend the Open Records Act and add a new section to those acts. Senator Daniels stated that the Interim Committee felt the proposal should be looked at further; Senator Morris agreed. The Chairman announced that hearings would be scheduled on the proposal.

The Chairman then asked Mr. Mills to review SB47 for the Committee. Mills said that the bill would rescind the authority of the Kansas State Historical Society to charge admittance fees at historic sites and properties. Charging admission began July 1, 1983, as part of a 2-year experiment. Properties at Osawatomie and Hays were chosen. A Fiscal Note for Senate Bill No. 47 by Senator Norvell is part of these Minutes as Attachment #7.

Joseph W. Snell, Director, Kansas State Historical Society was present and was asked the position of the Society. Mr. Snell said they were requested to do this by the Legislature two years ago; they picked their most attended site and their least attended site.

There was discussion by the Committee about the definition of hazardous waste.

The Chairman said that the Sub-Committee Report for tomorrow has postponed and meeting for the rest of the week are subject to Call of the Chairman.

The meeting adjourned at 11:50 a.m.

TESTIMONY BEFORE  
THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

Attachment #1  
1/29/85

JANUARY 29, 1985

BY

KAREN MCCLAIN

KANSAS ASSOCIATION OF REALTORS®

MR. CHAIRMAN AND MEMBERS OF THE SENATE COMMITTEE ON STATE AND FEDERAL AFFAIRS.

MY NAME IS KAREN MCCLAIN, DIRECTOR OF GOVERNMENTAL AFFAIRS OF THE KANSAS ASSOCIATION OF REALTORS®.

I APPEAR TODAY TO REQUEST THIS COMMITTEE TO INTRODUCE THE PIECE OF LEGISLATION BEFORE YOU. THIS LEGISLATION PROPOSES TWO CHANGES.

THE FIRST CHANGE DEALS WITH THE POST-LICENSING EDUCATION REQUIREMENTS FOR REAL ESTATE SALESPERSONS. THE SECOND CHANGE DEALS WITH EDUCATIONAL REQUIREMENTS FOR BROKERS.

FIRST, POST-LICENSING EDUCATION FOR ALL LICENSEES. THE CURRENT STATUTE REQUIRES A PERSON TO HAVE 8 HOURS OF CONTINUING EDUCATION PRIOR TO THE RENEWAL OF THEIR REAL ESTATE LICENSE. THE CURRENT LICENSURE PERIOD IS FOR TWO YEARS, SO A SALESPERSON NEEDS TO HAVE 4 HOURS OF CONTINUING EDUCATION HOURS PER YEAR.

THE PROPOSED LEGISLATION REQUIRES 30 HOURS OF CONTINUING EDUCATION DURING THE FIRST 12 MONTHS OF LICENSURE, 20 HOURS DURING THE SECOND 12 MONTHS OF LICENSURE, AND 6 HOURS PER 12 MONTHS THEREAFTER.

SECOND, EDUCATIONAL REQUIREMENTS FOR BROKERS. THE CURRENT STATUTE PERMITS A PERSON TO BECOME A REAL ESTATE BROKER IF THEY:

1) HAVE BEEN LICENSED AND ACTIVELY ENGAGED IN BUSINESS AS A SALES PERSON FOR A PERIOD OF AT LEAST 2 YEARS DURING THE 5 YEARS IMMEDIATELY PRECEDING THE DATE OF THE APPLICATION, AND

2) PASS THE BROKER'S EXAMINATION.

THE PROPOSED CHANGE REQUIRES 24 HOURS OF CONTINUING EDUCATION BEFORE A PERSON CAN BE LICENSED AS A BROKER. THOSE 24 HOURS ARE TO BE APPROVED BY THE KANSAS REAL ESTATE COMMISSION AND ARE TO BE RECEIVED WITHIN 12 MONTHS PRIOR TO LICENSURE.

YOU MAY BE WONDERING WHY WE, AS A PROFESSIONAL ASSOCIATION WOULD BE WANTING TO INCREASE THE EDUCATIONAL REQUIREMENTS PLACED UPON OUR MEMBERS BY STATE STATUTE.

THE KANSAS ASSOCIATION OF REALTORS® IS INTERESTED IN INSURING THAT THE PERSONS WHO SELL REAL ESTATE IN THE STATE OF KANSAS ARE WELL EDUCATED AND KNOWLEDGEABLE INDIVIDUALS. THIS KNOWLEDGE IS NECESSARY IN ORDER TO PROTECT THE PUBLIC WHEN THEY ARE DEALING WITH PEOPLE'S LIFE SAVINGS. WE VIEW OURSELVES AS PROFESSIONALS IN THE SAME MANNER AS DOCTORS, NURSES, TEACHERS, ACCOUNTANTS, ETC. ACCORDINGLY, WE SEEK TO DO WHATEVER IS NECESSARY TO INSURE THAT THE PEOPLE IN OUR BUSINESS CONDUCT THEMSELVES AS PROFESSIONALS. THE PROPER EDUCATIONAL BACKGROUND IS A MUST IN PROFESSIONAL TRAINING.

THE ASSOCIATION RECEIVES REGULAR COMPLAINTS FROM THE PUBLIC ABOUT TWO PARTICULAR PROBLEMS, THOSE WITH NEWLY LICENSED SALESPERSONS AND THOSE WITH NEWLY LICENSED BROKERS.

IN THE CASE OF NEWLY LICENSED SALESPERSONS WHAT OFTEN OCCURS IS THAT A SALESPERSON MAY HAVE COMPLETED THE 30 HOURS OF PRE-LICENSE CLASSES, HOWEVER, THE STUDYING DONE PRIOR TO SITTING FOR THE EXAM WAS CENTERED ON FIGURING OUT HOW TO PASS THE EXAM, RATHER THAN ACTUALLY LEARNING THE PRINCIPLES OF REAL ESTATE. AND SO TO ASSIST THE NEW SALESPERSON AND, MORE IMPORTANTLY, TO PROTECT THE PUBLIC, WE DEVELOPED THE PROPOSAL IN FRONT OF YOU TO PROVIDE INTENSIVE EDUCATION AT THE FRONT OF THEIR CAREER I.E. DURING THE FIRST TWO YEARS OF LICENSURE.

IN THE CASE OF NEWLY LICENSED BROKERS WE FOUND THAT THOUGH A PERSON MAY HAVE BEEN SELLING REAL ESTATE FOR TWO OR MORE YEARS AS REQUIRED BY LAW, THESE SALESPERSONS HAVE NOT HAD ANY ACTUAL TRAINING IN THE DAY TO DAY OBLIGATIONS OF THE BROKER, SUCH AS: THE MANAGEMENT OF TRUST ACCOUNTS; THE PROPER COMPLETION OF A CLOSING FORM AND THE OVERALL SUPERVISION OF A BROKER'S OFFICE. AND SO WE FELT THAT A PERSON SEEKING TO BECOME A BROKER SHOULD BE REQUIRED TO RECEIVE 24 CONTINUING EDUCATION HOURS RELATED TO THE OBLIGATIONS OF A BROKER.

THAT IS AN EXPLANATION OF WHAT IT IS WE ARE WANTING FROM THIS BILL AND WHY WE ARE ASKING FOR ITS INTRODUCTION. I WILL ANSWER QUESTIONS. HOWEVER, I SUGGEST THAT YOU WAIT UNTIL DR. DON LEVI AND GENE YOCKERS, DIRECTOR OF THE REAL ESTATE COMMISSION HAVE GIVEN THEIR TESTIMONY, AS I THINK THEY WILL ANSWER MANY QUESTIONS YOU MIGHT HAVE. THANK YOU.

SENATE BILL NO. \_\_\_\_\_

By Committee on Federal and State Affairs

AN ACT amending the real estate brokers' and salespersons' license act; educational requirements; amending K.S.A. 58-3039, 58-3040 and 58-3046a and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 58-3039 is hereby amended to read as follows: 58-3039. (a) Any person desiring to act as a broker or salesperson must file a written application for a license with the commission. The application shall be in such form and detail as the commission shall prescribe and shall be accompanied by the appropriate license fee.

(b) A license to engage in business as a broker or salesperson shall be granted only to a person who is ~~eighteen~~ 18 or more years of age and who has a high school diploma or its equivalent.

(c) In addition to the requirements of subsection (b), each applicant for an original license as a broker shall have been licensed and actively engaged in business as a salesperson, in this or another state, for a period of at least two ~~two~~ years during the five ~~five~~ years immediately preceding the date of the application for a license. The commission, in its discretion, may accept proof of experience deemed by the commission to be equivalent to two years' experience as a salesperson. In addition to the other requirements of this section, on and after July 1, 1985, each applicant for an original license as a broker shall have received 24 hours of education approved by the commission, and such education shall have been received within the 12 months immediately preceding such licensure as a broker.

(d) Except as provided in K.S.A. 58-3040 and amendments

thereto, each applicant for an original license shall be required to pass a written examination covering generally the matters confronting brokers or salespersons, and no license shall be issued on the basis of such an examination which was administered more than four (4) months prior to the date that the applicant's application is filed with the commission. The examination may be given by the commission or any person designated by the commission. Each person taking the examination shall pay the examination fee prescribed pursuant to K.S.A. 58-3063 and amendments thereto, which fee the commission may require to be paid to it or directly to the testing service designated by the commission. The examination for a broker's license shall be different from or in addition to that for a salesperson's license.

(e) The commission, prior to granting an original license, shall require proof that the applicant has a good reputation for honesty, trustworthiness, integrity and competence to transact the business of broker or salesperson in such manner as to safeguard the public interest.

(f) An application for an original license as a salesperson shall be accompanied by the recommendation of the broker with whom the salesperson is to be associated, or by whom the salesperson is to be employed, certifying that the applicant is honest, trustworthy and of good reputation.

Sec. 2. K.S.A. 58-3040 is hereby amended to read as follows: 58-3040. (a) A nonresident of this state may be granted a broker's license if:

(1) The nonresident is licensed as a broker in the nonresident's state of residence; and

(2) Such nonresident meets all requirements imposed by this act on Kansas residents for licensure as a broker, except that the commission may waive the education requirements and the examination requirement for a nonresident who has received education equivalent to that required by Kansas, and has passed an examination equivalent to that given to Kansas residents and

whose state of residence has entered into a reciprocal agreement with the commission as to the issuance of reciprocal licenses.

(b) A nonresident salesperson or associate broker employed by or associated with a broker licensed pursuant to this act may be granted a salesperson's or broker's license under such broker, if:

(1) The salesperson or associate broker is licensed as a salesperson or associate broker in the salesperson's or associate broker's state of residence; and

(2) Such salesperson or associate broker meets all requirements imposed by this act on Kansas residents for licensure as a salesperson or broker, except that the commission may waive the examination requirement for a nonresident salesperson or associate broker who has passed an examination equivalent to that given to Kansas residents and whose state of residence has entered into a reciprocal agreement with the commission as to the issuance of reciprocal licenses.

(c) Prior to the issuance of a license to a nonresident, the applicant shall file with the commission a designation in writing that appoints the director of the commission as the applicant's agent, upon whom all judicial and other process or legal notices directed to the applicant may be served in the event such applicant becomes a licensee. Any process or legal notices to a nonresident licensee shall be directed to the director, accompanied by a fee of ~~three dollars (\$3)~~ \$3, and, in the case of a summons, shall require the nonresident licensee to answer within ~~forty (40)~~ 40 days from the date of service on such licensee. A summons and a certified copy of the petition shall be forthwith forwarded by the clerk of the court to the director, who shall immediately forward a copy of the summons and the certified copy of the petition to the nonresident licensee. Thereafter, the director shall make return of the summons to the court from which it was issued, showing the date of its receipt by the director, the date of forwarding and the name and address of the person to whom the director forwarded a copy. Such return

shall have the same force and effect as a return made by the sheriff on process directed to the sheriff.

(d) Prior to the issuance of a license to a nonresident, the applicant must agree in writing to abide by all provisions of this act with respect to the applicant's real estate activities within the state and submit to the jurisdiction of the commission and the state in all matters relating thereto. Such agreement shall be filed with the commission and shall remain in force for so long as the nonresident is licensed by this state and thereafter with respect to acts or omissions committed while licensed as a nonresident.

(e) A nonresident licensed under this section shall be entitled to the same rights and subject to the same obligations as are provided in this act for Kansas residents, except that revocation or suspension of a nonresident's license in the nonresident's state of residence shall automatically cause the same revocation or suspension of such nonresident's license issued under this act. No hearing shall be granted to a nonresident licensee where license is subject to such automatic revocation or suspension except for the purpose of establishing the fact of revocation or suspension of the nonresident's license by the nonresident's state of residence.

Sec. 3. K.S.A. 58-3046a is hereby amended to read as follows: 58-3046a. (a) Any person who applies for an original license in this state as a salesperson after July 1, 1982, shall submit, at the time of the original application, evidence, satisfactory to the commission, of attendance of a principles of real estate course, of not less than 30 hours of instruction, approved by the commission.

(b) Until July 1, 1986, any person licensed in this state as a broker or salesperson shall submit, at or prior to the time such person makes application for each license renewal ~~after July 1, 1982,~~ evidence, satisfactory to the commission, of attendance of not less than eight hours of additional instruction during the period preceding the application for renewal of the license. From

and after July 1, 1986, any person licensed in this state as a broker or salesperson shall submit, at or prior to the time such person makes application for each license renewal, evidence, satisfactory to the commission, of attendance of not less than six hours of additional instruction in 1985 and each year thereafter preceding the application for renewal of the license. Any person who obtains an original license as a salesperson after July 1, 1982, provided such original license expires less than six months after issuance, shall not be required to submit evidence of attendance of not less than ~~eight~~ six hours of instruction during the first 12 months of licensure period. Any person who has accumulated hours of instruction which are on record with the commission shall receive credit for those hours to apply toward subsequent licensing renewal periods. ~~Any person who has hours of instruction that are not on record with the commission shall report those hours to the commission by January 1, 1983.~~ Any person who applies for an original license as a salesperson after July 1, 1985, is hereby required to receive 30 hours of instruction approved by the commission during the first 12 months of licensure, 20 such hours during the second 12 months of licensure and six such hours during each 12 months thereafter.

(c) For the purpose of this section, one hour of instruction shall mean 50 minutes of classroom instruction or the equivalent thereof in correspondence study as determined by the commission.

(d) Courses of instruction required by this section shall be courses approved by the commission and offered by:

(1) An institution which qualifies as an eligible institution for the federal guaranteed loan program under the higher education act of 1965 (P.L. 89-329), as amended;

(2) an area vocational or vocational-technical school as defined by K.S.A. 72-4412 and amendments thereto;

(3) a proprietary school which has been issued a certificate of approval pursuant to the Kansas proprietary school act;

(4) the Kansas association of realtors, the national association of realtors or any affiliate thereof, the Kansas bar association or the American bar association;

(5) any agency of the state of Kansas; or

(6) a similar institution, approved by the commission, in another state.

(e) The commission shall publish annually a list of educational institutions and entities and the courses offered by them in this state which are approved by the commission.

(f) No license shall be issued or renewed unless the applicable requirements set forth in this section are met within the time prescribed.

Sec. 4. K.S.A. 58-3039, 58-3040 and 58-3046a are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

Attachment #3  
1/29/85

Testimony of  
Dr. Donald R. Levi  
before the  
Federal & State Affairs Committee  
of the  
Kansas Senate  
January 29, 1985

My name is Don Levi. I live at 1408 Deer Trail in Derby, Kansas. I am a professor of real estate and holder of the Kansas Chair of Real Estate and Land Use Economics at Wichita State University. I have previously served as President of the Kansas Real Estate Educators Association, and currently am on the Board of Directors of the National Real Estate Educators Association. In addition, I am a licensed real estate broker and a member of the Kansas Association of Realtors. In appearing before you today, I would emphasize that I am exercising my rights as a private citizen and am not representing Wichita State University.

When I appeared before this committee in 1982, I spoke in support of a pre-license educational requirement as being in the best interest of the general public by increasing the level of professionalization in the industry. In 1980, Kansas ranked 50th nationally with respect to its percentage pass rate on the salespersons examination, at approximately 37%. In contrast, the average salesperson pass rate in Kansas for 1983-84 was 49%. As a measure of professionalization, this data suggests that your 1982 action has had a positive effect on the industry.

In appearing before you today, I am speaking in support of the introduction of a bill that would continue this trend toward greater professionalization, and in doing so would be in the best interests of the general public. In support of this proposed bill, let us briefly review what is happening nationally with respect to post-license (continuing education) requirements.

The map on the following page shows those states which have adopted post-licensure educational requirements, as well as the level of such requirements. The list of states adopting pre-license and post-license requirements has been expanding each year, supporting the trend to greater professionalization.

Since you are now considering a bill to increase the number of mandatory post-licensure educational hours, perhaps it is instructive to first review where we are now. As of December 31, 1985, some 22 states plus the District of Columbia had some form of continuing education requirement. The average number of hours required, in annual terms, is 8.3. With our 4 hour annual requirement, only two states with mandatory continuing educational requirements rank lower (New Hampshire with 1.5 and Georgia with 3).

Clearly, there is no way to precisely determine what might constitute an "ideal" annual post-license educational requirement for licensees. Of course, the whole concept behind licensing and mandatory continuing education requirements is that these requirements are in the best interests of the general public whom licensees are serving. In its simplest form, this is to say that increasing the level of professionalization among licensees also benefits those buyers, sellers, landlords, tenants and others



with whom licensees deal.

It is my opinion that this proposed Senate Bill contains a logical method of structuring educational requirements. That is, it would seek to achieve acceptable competency levels quickly after licensure, which can be argued to be in the best interests of the public. The much smaller on-going (continuing) education requirement for all licensees would make it possible for them to meet their educational requirement by taking a single annual course which could include a multitude of different topics which involve recent changes with which licensees should be aware. In my opinion, in a typical year, a single 6-hour continuing education course would be sufficient to cover the recent developments of which a competent licensee should be aware. These recent developments might include such things as new income or property tax laws, new financial instruments and concepts, economic outlook for both mortgage interest rates and various types of real estate investments, and the like. In this way, it seems to me that there is some significant sense to a requirement which puts most of the continuing education requirements "up front", and then has only an a minimal annual continuing requirement to keep licensees up to date.

This proposed Senate Bill also calls for a pre-license requirement of 24 hours for those seeking to become real estate brokers. Arguably, it is in the public's interest that those supervising salespersons be in every way knowledgeable about real estate and real estate transactions. Currently, Kansas is one of only six states which do not have pre-license educational requirements for real estate brokers. Our broker examination pass

rate of 47% reportedly is below the national average for all states. Given the increase in salesperson examination pass rates following the adoption of salesperson pre-license requirements in 1982, together with the fact that 44 states already have broker pre-license educational requirements, I am strongly supportive of this portion of the proposed bill.

*broker  
related*

My position on real estate education requirements generally can be summarized as follows:

1. Real estate licensing laws exist for the protection of the general public, so mandatory educational requirements should be consistent with the goal of protecting the interests of the general public.
2. The broker pre-license requirements, the requirement of significant educational hours shortly after licensure, and the idea of a small annual continuing education requirement for all licensees helps ensure that the public will not suffer losses because of the actions of incompetent or uneducated licensees.

When considering mandatory licensee educational requirements concerns often are expressed about the quality, relevance, cost, and convenience of educational courses. It is my opinion that:

1. The Kansas Real Estate Commission can and does help ensure relevant course content, school and instructor quality through the enforcement of legislative standards. These legislative standards do contribute to the quality of the educational experience.
2. It is more inconvenient and costly for licensees in rural areas to meet mandatory education requirements. When approved courses are not available locally, expenses for travel, lodging, meals, and lost income while out of the office all may be significant. At the same time, the general public in rural areas should be able to expect the same level of professional expertise from licensees as their urban counterparts.

The challenge is to deliver quality educational courses to rural areas at reasonable costs. Some of the newer educational course delivery systems that may be utilized for this purpose

include the TELENET system operated by the Regents' institutions and headquartered at Kansas State University, the increasing use of video tapes, slide-tape presentations, and correspondence courses.

The experience of the last two years has shown that greater coordination does enable the rural areas to be served better than they have been in the past by scheduling the same course to be taught at different locations on successive days. Clearly, this helps minimize delivery costs for the seminar provider.

In conclusion, let me simply say that I believe it is possible to structure mandatory real estate educational requirements that are significant, reasonable, and relevant, both from the standpoint of licensees and the general public. It is my opinion that the Senate Bill being considered for introduction contains the basic framework for sound educational requirements, and will help establish Kansas as a leader in this field.

DONALD R. LEVI  
Biographical Sketch

Donald R. Levi comes from a family of abstracters, real estate brokers, and appraisers. He earned his B.S. and J.D. degrees from the University of Missouri, and his Ph.D. from Washington State University.

Dr. Levi has held academic positions at the University of Missouri, Texas A&M University, and Wichita State University. Previous to coming to Wichita, he served as the Associate Director of the Texas Real Estate Research Center.

Dr. Levi is the author or co-author of nine books related to real estate, as well as several journal articles. A member of the Bar in Missouri and Texas, he currently holds the Kansas Chair of Real Estate and Land-Use Economics at Wichita State University. In that position he provides leadership for both the academic and public service real estate programs offered by WSU.

SENATE BILL NO. \_\_\_\_\_

By Committee on Federal and State Affairs

AN ACT amending the real estate brokers' and salespersons' license act; concerning fees for licensure; amending K.S.A. 58-3063 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 58-3063 is hereby amended to read as follows: 58-3063. (a) The commission shall adopt rules and regulations fixing the amounts of the fees provided for by this act, subject to the following:

(1) For any examination required for licensure, a fee in an amount equal to the actual cost of the examination and the administration thereof.

(2) For an original salesperson's license, a fee based on an annual amount not exceeding fifteen-dollars-(\$15) \$30.

(3) For an original broker's or associate broker's license, a fee based on an annual amount not exceeding twenty-five-dollars (\$25) \$50.

(4) For ~~annual~~ renewal of a salesperson's license, a fee based on an annual amount not exceeding fifteen--dollars--(\$15) \$30.

(5) For ~~annual~~ renewal of a broker's or associate broker's license, a fee based on an annual amount not exceeding twenty-five-dollars-(\$25) \$50.

(6) For reinstatement of a license which has been deactivated or which has been canceled pursuant to subsection (d) of K.S.A. 58-3047, and amendments thereto, or by reason of termination of a salesperson or associate broker, an amount not exceeding ~~fifteen-dollars-(\$15)~~ \$15.

(7) For reinstatement of all licenses canceled pursuant to subsection (e) of K.S.A. 58-3047, and amendments thereto, an amount not exceeding ~~fifteen-dollars-(\$15)~~ \$15 for each license

canceled or an amount not exceeding ~~one-hundred-dollars-(\$100)~~ \$100 for all licenses canceled, whichever is less.

(b) Subject to the limitations of this section, the commission shall fix the fees provided for by this section in the amounts necessary to administer and enforce this act.

(c) The fees provided for by this section shall be applicable regardless of the type of license.

Sec. 2. K.S.A. 58-3063 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.



**League  
of Kansas  
Municipalities**

Attachment #5  
1/29/85

**PUBLISHERS OF KANSAS GOVERNMENT JOURNAL/112 WEST SEVENTH ST., TOPEKA, KANSAS 66603/AREA 913-354-9565**

TO: Members of Senate Federal and State Affairs Committee  
FROM: Jim Kaup, Staff Attorney, League of Kansas Municipalities  
RE: Proposed Legislation Amending the Law Enforcement Training Act

The primary purpose of the League's proposed amendment is to remove any question that certain types of municipal officers and employees are not subject to the requirements of the law enforcement training act. Many cities employ persons whose duties are law enforcement related, but do not involve crime detection or crime prevention. The League does not believe it was the intent of the Legislature to mandate the extensive, and expensive, educational requirements of the law enforcement training act upon such persons as animal control officers, building and health code inspectors, parking control officers and zoning administrators.

In a June, 1984 opinion (A.G. No. 84-62) Attorney General Stephan stated that parking service officers at the University of Kansas, who engage in traffic control as a part of their duties, are within the definition of law enforcement officers under K.S.A. 74-5602 (e) and due to such, that they are subject to the training provisions of the law enforcement training center act (74-5601 et seq.). The Attorney General said that such officers, if employed for 1,000 or more hours per year, are considered full-time employees for the purposes of the act, despite the fact that they perform traffic control duties only as an incidental part of their overall duties. This opinion has raised concerns regarding the broad wording, and interpretation, of the terms "police officer" and "law enforcement officer" as used in the training act. The following amendment is offered to pre-empt any contention that municipal code enforcement officers--e.g. animal control officers, building and health inspectors, parking control officers and zoning administrators--are or should be subject to the training act. The proposed language would specifically exempt from the scope of the definition those officers and employees who are not engaged in crime prevention or detection or in the enforcement of criminal or traffic laws. The proposed amendment would exempt from K.S.A. 74-5602 (e) full-time or part-time officers or employees whose duties involve the issuance of citations, or the issuance of a notice to appear so long as that officer or employee is not authorized to effect an arrest of an individual, and if that officer or employee is not authorized to carry firearms in the performance of his or her duties.

The proposed amendment to K.S.A. 74-5602 (e), if passed, would not in and of itself allow cities to use non-law enforcement officers to serve notices to appear issued by municipal courts. K.S.A. 12-4207 requires a notice to appear to be served by a "law enforcement officer". Because K.S.A. 12-4207 is part of the municipal court procedure act--an act which is subject to charter ordinance--cities must use their home rule power to "charter out" from K.S.A. 12-4207 before they can permit non-law enforcement personnel to serve notices to appear.

The proposed bill also would amend K.S.A. 1984 Supp. 74-5607a to address a special question concerning municipal employees who serve arrest warrants. The League believes that while such employees bear a closer resemblance to police officers than they do to building inspectors, etc., nonetheless their duties do not require the same level of law enforcement training as is necessary for a police officer engaged in crime detection and prevention. Accordingly, the proposed language would try to suit the level of training to fit the duties of the officer. It is our suggestion that the appropriate number of the hours of training for an officer authorized to serve arrest warrants, take people into custody and transport them to the municipal court or jail should be 80 hours.

SENATE BILL No. \_\_\_\_\_

By \_\_\_\_\_

AN ACT amending the Kansas law enforcement training act; concerning the persons subject to the act; amending K.S.A. 1984 Supp. 74-5602 and 74-5607a and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 1984 Supp. 74-5602 is hereby amended to read as follows:

As used in the Kansas law enforcement training act, unless the context otherwise requires:

- (a) "Training center" means the law enforcement training center within the division of continuing education of the university of Kansas, created by K.S.A. 74-5603 and amendments thereto.
- (b) "Commission" means the Kansas law enforcement training commission, created by K.S.A. 74-5606 and amendments thereto.
- (c) "Director" means the dean of the division of continuing education of the university of Kansas.
- (d) "Associate director," as such position is created in K.S.A. 74-5603, and amendments thereto, means the associate director of the division of continuing education of the university of Kansas who shall serve as the director of police training at the law enforcement training center.
- (e) "Police officer" or "law enforcement officer" means a full-time or part-time salaried officer or employee of the state, a county or a city, whose duties include the prevention or detection of crime and the enforcement of the criminal or traffic laws of this state or of any municipality thereof. Such terms shall include, but not be limited to, the sheriff, undersheriff and full-time or part-time salaried deputies in the sheriff's office in each county; game protectors in the employ of the fish and game commission; park rangers under the jurisdiction of the park and resources authority; campus policemen at all state colleges and universities; law enforcement agents of the director of alcoholic beverage control; deputies and assistants of the state fire marshal having law enforcement authority; capitol area security guards, existing under the authority of K.S.A. 75-4503 and amendments thereto; and railroad policemen appointed pursuant

to K.S.A. 66-524. Such term shall not include any elected official, other than a sheriff, serving in the capacity of a law enforcement or police officer solely by virtue of such official's elected position; any attorney-at-law having responsibility for law enforcement and discharging such responsibility solely in the capacity of an attorney; any employee of the secretary of corrections or the secretary of social and rehabilitation services; ~~or~~ any deputy game protector provided for in K.S.A. 74-3302 and amendments thereto. Such term shall include any officer appointed or elected on a provisional basis.

(f) "Full-time" means employment requiring at least 1,000 hours of work per year.

(g) "Part-time" means employment on a regular schedule or employment which requires a minimum number of hours each payroll period, but in any case requiring less than 1,000 hours of work per year.

(1)  
(2)  
(3)  
(4)  
or (5) any full-time or part-time salaried officer or employee whose duties include the issuance of a citation or notice to appear or the serving of a warrant when such officer or employee is not vested by law with the authority to make an arrest for violation of the laws of this state or any municipality thereof, and is not authorized to carry firearms when discharging the duties of his or her office or employment.

Sec. 2. K.S.A. 1984 Supp. 74-5607a is hereby amended to read as follows: 74-5607a.

(a) No person shall receive a permanent appointment as a full-time police officer or law enforcement officer, unless such officer has been awarded a certificate attesting to satisfactory completion of a course of not less than 320 hours of accredited instruction at the training center or at a certified state or local law enforcement training school or has been awarded such a certificate for not less than the number of hours of instruction required by the Kansas law enforcement training act at the time such certificate was issued or received a permanent appointment as a full-time police officer or law enforcement officer prior to July 1, 1969, or was appointed a railroad policeman pursuant to K.S.A. 66-524 on or before January 1, 1982. No person shall receive a permanent appointment as a part-time police officer or law enforcement officer, unless such officer has been awarded a certificate attesting to the satisfactory completion of the basic course of 80 hours of accredited instruction in law enforcement at the training center or at a certified state or local law enforcement training school.

(b) Beginning the second year after certification, every full-time police officer or law enforcement officer shall complete an

(b) No person shall receive a permanent appointment as a full-time or part-time officer having as a primary responsibility the serving of warrants unless such officer has been awarded a certificate attesting to satisfactory completion of a course of not less than 80 hours of accredited instruction at the training center or at a certified state or local law enforcement training school. Such course of instruction shall be developed by the director specifically for officers assigned the responsibility of serving warrants. The course of instruction of any such officer who is authorized to carry a firearm shall include specific instruction in the use of such firearm. Any person serving in the capacity of such officer on the effective date of this act shall receive an appointment as such officer on a provisional basis for a period of not more than two years for the purpose of permitting such person to complete the required training to comply with the requirements of this act.

(c)

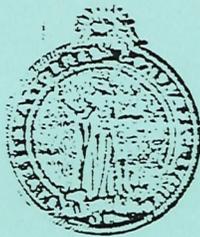
[described in subsection (a)]

nually 40 hours of law enforcement education or training in subjects relating directly to law enforcement. Failure to complete such training shall be grounds for suspension from work without pay until such training is completed. The associate director with the approval of the commission shall adopt rules and regulations regarding such education or training. Every city, county and state agency shall annually send to the associate director certified reports of the completion of such education or training. The associate director shall maintain a record of the reports in the central registry.

(c) Any person who is appointed or elected as a police officer or law enforcement officer who does not hold a certificate as required by subsection (a) may be elected or appointed as an officer on a provisional basis for a period of not more than one year. Any person appointed as a police officer or law enforcement officer on a provisional basis who does not receive the certificate required under subsection (a) within one year following the date of their original election or appointment shall forfeit such office or position at the end of such one-year period. Any person appointed as a police officer or law enforcement officer on a provisional basis who does not receive the certificate required under subsection (a) within one year following such original appointment shall not be reappointed as a police officer or law enforcement officer on a provisional basis within one year following the date on which such person last served as a police officer or law enforcement officer. The associate director may extend the one-year time period when it is shown that the failure to comply with the requirements of subsection (a) was not due to the intentional avoidance of the law. (d)

Sec. 3. K.S.A. 1984 Supp. 74-5602 and 74-5607a are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the Kansas register.



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN  
ATTORNEY GENERAL

MAIN PHONE: (913) 295-2215  
CONSUMER PROTECTION: 296-3751

June 29, 1984

ATTORNEY GENERAL OPINION NO. 84- 62

Ann Victoria Thomas  
General Counsel  
Office of the General Counsel  
The University of Kansas  
Strong Hall  
Lawrence, Kansas 66045

Re: State Boards, Commissions and Authorities -- Law Enforcement Training Center -- Definition of Full-time and Part-time Officers

Synopsis: Parking service officers at the University of Kansas who engage in traffic control as part of their duties are contained within the definition of police officer or law enforcement officer found at K.S.A. 1983 Supp. 74-5602(e), and so are covered by the training provisions of the Law Enforcement Training Center Act, K.S.A. 1983 Supp. 74-5601 et seq. If such officers are employed by the University for 1,000 or more hours per year, they are full-time employees for the purposes of the act, despite performing traffic control as only a small part of their duties, and therefore must comply with the instructional requirements of the act for full-time employees. Cited herein: K.S.A. 8-1450, K.S.A. 1983 Supp. 74-5602, 74-5604a.

\* \* \*

Dear Ms. Thomas:

As general counsel for the University of Kansas, you request the opinion of this office concerning whether a full-time state employee with limited law enforcement duties can be classified as a part-time law enforcement officer for purposes of the Law Enforce-

ment Training Center Act. That act, found at K.S.A. 1983 Supp. 74-5601 et seq., concerns the training of full-time and part-time police officers and law enforcement officers. You inquire whether employees at the University of Kansas whose principal duties concern regulation of parking, but who also perform occasional traffic direction duties, may be classified as part-time employees under the act.

According to K.S.A. 1983 Supp. 74-5602(e), a "police officer" or "law enforcement officer" is any full-time or part-time officer or employee of the state, whose duties include prevention or detection of crime and enforcement of criminal or traffic laws. We note that there is nothing in this subsection which indicates that such persons must have only these duties, which would leave the door open for individuals such as the parking service officers to be considered as police officers or law enforcement officers. Further, under K.S.A. 8-1450, the term "police officer" includes every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

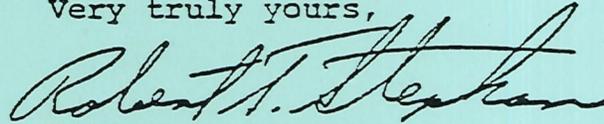
Accordingly, there can be little doubt that parking service officers who direct traffic, even as a very small part of their employment, would be police officers under the above definitions. While the positions which are specifically enumerated in K.S.A. 1983 Supp. 74-5602(e) do not specify parking services officers (although campus policemen are mentioned), this list is not inclusive. The only question which remains, therefore, is whether such officers can be considered full-time or part-time, as those terms are defined by subsections (f) and (g) of K.S.A. 1983 Supp. 74-5602.

The distinction made in these subsections between part-time and full-time lies in the number of hours of work per year in the person's employment, with full-time requiring at least 1,000 hours, with part-time being anything less than that. It is important to note that the definition is not couched in terms of hours of law enforcement or crime detection or prevention duties, but rather simply in terms of employment. In that the parking services officers are full-time employees, in our opinion they cannot be classified as part-time under this statute, even though their actual law enforcement duties take up only a small fraction of their time, and may indeed be less than 1,000 hours a year. While this change would not be difficult to amend into the statute, at the present time we cannot read it into the law, especially given the legislative history for the 1983 amendments to K.S.A. 74-5602 and 76-5604a, which indicate a legislative intent to broaden and strengthen law enforcement training in Kansas. While this is not to say that the number of hours required by K.S.A. 1983 Supp. 74-5604a for part-time officers

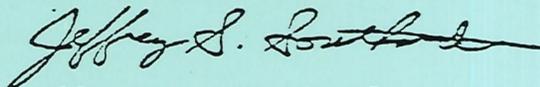
(80 hours) would not be sufficient for the parking service officers, at present the statutes do not contemplate a distinction made on the basis of duties, rather than on hours of employment.

In conclusion, parking service officers at the University of Kansas who engage in traffic control as part of their duties are contained within the definition of police officer or law enforcement officer found at K.S.A. 1983 Supp. 74-5602(e) and so are covered by the training provisions of the Law Enforcement Training Center Act, K.S.A. 1983 Supp. 74-5601 et seq. If such officers are employed by the University for 1,000 or more hours per year, they are full-time employees for the purposes of the act, despite performing traffic control as only a small part of their duties, and therefore must comply with the instructional requirements of the act for full-time employees.

Very truly yours,



ROBERT T. STEPHAN  
ATTORNEY GENERAL OF KANSAS



Jeffrey S. Southard  
Deputy Attorney General

RTS:JSS:crw

1/29/85  
Attachment #6

# Kansas Association for the Blind and Visually Impaired, Inc.

January 24, 1985

TO: Senator Edward Reilly  
Senate Federal and State Affairs

From: Legislative Committee, Mary Adams, Chair  
Michael J. Byington, Lobby  
Robert L. Tabor member and Counsel

SUBJECT: Guide dog access

Last year, your committee was so kind as to introduce at the request of our organization a bill which added eating establishments and food sales establishments to a list of public places contained in K.S.A. 39-1101 (2). This assured blind, visually impaired, and physically handicapped individuals the right to enter and be served in these places, and most specifically, assured blind persons using guide dogs the right to be accompanied by such dogs into these places. This year, we are again asking your committee to introduce legislation in reference to K.S.A. 39-1101. We anticipate this being the last request we will find it necessary to make in reference to this body of law.

Over the past year, we have learned of cases where blind individuals using guide dogs have found it difficult to secure rental housing. The renting agent either has attempted to charge a pet deposit, which is inappropriate considering that the dog in question is not a pet but rather a mobility aide, or the agent has simply stated that the property in question does not allow pets at all, and has again inappropriately defined the guide dog in the same category as a pet. To solve this problem, we would like a bill amending K.S.A. 39-1101 (3) so it may read, "other places to which the general public is invited, and rental and sale housing, subject to the conditions and limitations established by all and applicable alike to all persons". The words underlined are the ones proposed for addition.

We think this change would be fair to all concerned. It would stop housing discrimination against guide dog users but would still afford protection to rental housing providers as such protection is already featured in K.S.A. 39-1102 which reads, "Every totally or partially blind person shall have the right to be accompanied by a guide dog, especially trained for the purpose, in or upon any of the places listed in K.S.A. 39-1101 without being required to pay an extra charge for the guide dog provided that such person shall be liable for any damage done to the premises or facilities by such dog." Through this section, clearly the renter does not need to charge the tenant a deposit for having the guide dog, or does not need to prohibit housing of the dog, because there is legal assurance that any damage done by the dog must be compensated.

K.S.A. 39-1107 establishes precedence for the above proposal. It

already gives dogs trained for the assistance of the hearing impaired the same protection as is proposed above in reference to housing discrimination. It also gives the housing provider the same protections as are specified in K.S.A. 39-1102.

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Fiscal Note  
1985 Session  
January 29, 1985

1/29/85  
47  
Bill No.  
Attachment #7

The Honorable Ed Reilly, Chairperson  
Committee on Federal and State Affairs  
Senate Chamber  
Third Floor, Statehouse

Dear Senator Reilly:

SUBJECT: Fiscal Note for Senate Bill No. 47 by Senator  
Norvell

In accordance with K.S.A. 75-3715a, the following fiscal note concerning Senate Bill No. 47 is respectfully submitted to your committee.

Senate Bill No. 47 rescends the authority for admittance fees to state historic sites and property and transfers all monies in the Historic Properties Fee Fund to the State General Fund.

Currently the State Historical Society charges fees at John Brown Museum in Osawatomie and at Frontier Historical Park in Fort Hays. \$5,892 was collected in FY 1984 and \$5,550 is estimated for collection in FY 1985. As of January 29, 1985, \$4,457 has been collected at the sites. In FY 1986 \$5,500 is estimated in receipts. Expenditures in FY 1986 are estimated at \$4,194.

In summary it is estimated that if Senate Bill No. 47 is enacted \$4,194 in state general funds would be needed above the amounts authorized in the FY 1986 Governor's Budget Report or expenditures would need to be reduced by \$4,194.

*Alden K. Shields*  
Alden K. Shields  
Director of the Budget

AKS:SKS:sr