

Approved: 3-8-93  
Date

## MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Chairperson Clyde Graeber at 1:30 p.m. on February 24, 1993 in Room 526-S of the Capitol.

All members were present except:

Committee staff present: Mary Galligan, Legislative Research Department  
Lynne Holt, Legislative Research Department  
Mary Ann Torrence, Revisor of Statutes  
June Evans, Committee Secretary

Conferees appearing before the committee: Jim Clark, Executive Director, Kansas County and District Attorney Association  
Kyle G. Smith, Assistant Attorney General, Kansas Bureau of Investigation

Others attending: See attached list

The Chairperson opened the hearing on HB 2293 which was requested by Representative Garner.

Jim Clark, Executive Director, Kansas County and District Attorney Association, representing Ann L. Smith, Montgomery County Attorney, requested that K.S.A. 16-720(b) be amended to clarify the duties of a pawnbroker concerning stolen property the dealer has purchased. Pawnbrokers are not required to determine ownership before purchase. (See Attachment #1)

Senator Sherman Jones opposed HB 2293 stating it creates a problem with people in urban areas. There is nothing in the bill that says someone else in the family could come to a pawn shop and say that the belongings belong to them. Sometimes the pawn shops are left holding the bag.

Lanny Ellis, Kansas Pawnbrokers Association, opposed HB 2293 stating if stolen property is given to the police department or the owners and the owners don't prosecute, then they have to pay to get the property returned to them. It is felt there are loopholes in this bill and the pawnbrokers becomes the victims.

The Chairperson closed the hearing on HB 2293.

The Chairperson opened the hearing on HB 2426.

Kyle G. Smith, Assistant Attorney General, Kansas Bureau of Investigation, appeared in support of HB 2426, stating this bill would hopefully resolve the difficult problem faced in the preparation and presentation of background investigations for the Kansas Racing Commission.

The Kansas Racing Commission determined it needed access to criminal intelligence and background information to make knowledgeable decisions on who would be granted the original licenses. HB 2426 should make it clear to the courts, the racing commission and law enforcement, that the intelligence information and background information provided will not be disclosed, thus enabling us to provide it once again to the Racing Commission (See Attachment #2)

The Chairperson closed the hearing on HB 2426.

The Chairperson opened the hearing on HB 2427.

Kyle G. Smith, Assistant Attorney General, Kansas Bureau of Investigation, testified in favor of HB 2427.

## CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS, Room 526-S  
Statehouse, at 1:30 p.m. on February 24, 1993.

This bill seeks to clarify that the KBI agents can pursue such an investigation in all it's aspects. This could simplify investigations wherein an investigation eventually reveals that the violation is regulatory rather than criminal in nature. Rather than the KBI having to stop the investigation to locate Racing Commission security personnel under the provisions of this bill the KBI's Racing Division agents could go ahead and complete the investigation. (See Attachment #3)

The Chairperson closed the hearing on HB 2427.

The Chairperson stated if the committee takes final action on these three bills that were heard today and the sub-committee bill, the committee would not have to meet on Thursday, February 25.

It was asked if the committee wanted to take any action on HB 2293. The consensus of the committee was to not take any action on HB 2293.

Representative Rock moved and Representative Robinette seconded to move HB 2426 out of committee favorably. The motion carried.

Representative Kline moved and Representative Ruff seconded to move HB 2427 out of committee favorably. The motion carried.

Representative Sebelius requested bill introductions on the following:

- (1) Institute a federal grant tracking system in the state of Kansas. The bill would establish a three-person committee, within the Division of the Budget, responsible for researching federal grants, notifying the appropriate state agency, coordinating grant applications and monitoring federal grant awards.
- (2) Federal mandates placed on the state. This statute would require a yearly analysis broken down by agency and program of mandates imposed on the state of Kansas by the federal government. This yearly analysis would also identify state matching funds for federally mandated programs. (See Attachment #4)

Representative Sebelius stated that Gloria Timmer, Division of the Budget, could come give a briefing on these topics.

Representative Krehbiel moved and Representative Rock seconded the two bills introduced be accepted as committee bills. The motion carried.

The meeting was adjourned at 2:45 PM.

Date: 2/24/93

FEDERAL and STATE AFFAIRS COMMITTEE

NAME	ORGANIZATION	ADDRESS
LANNY ELLIS	KS PAWN BROKERS	Topeka
BRUCE R. HARRIS	KS PAWN BROKERS	WICHITA
DARRELL G JOHNSON	KS. PAWN BROKERS ASSN.	Topeka
STEVEN WALSH	KS Gov. Consulting	Lawrence
Donald Johnson	Intern	McPherson
DANA NELSON	KS. THOROUGHBRED ASSOC	KC, K
Kyle Smith	KBI	Topeka
Jim Clana	KC PAA	Topeka
Nancy Anderson	KRC	Topeka
Teal Clark	KBI	Topeka

# Office of County Attorney

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February 24, 1993

Jim Clark  
KCDAA  
FAX #913-357-6352

Our office requests that K.S.A. 16-720(b) be amended to clarify the duties of a pawnbroker concerning stolen property the dealer has purchased. Pawnbrokers are not required to determine ownership before purchase.

The statute as it is currently worded places all the responsibility on crime victims to recover their stolen property when it has been sold to a pawnbroker who refuses to release it.

Most pawnbrokers cooperate with law enforcement officers when those officers identify stolen property that has been pawned and voluntarily let law enforcement take the property into custody, or release it to a victim who can identify it.

The Kansas Code of Criminal Procedure provides for law enforcement officers to take stolen property into their custody.

However, a problem has arisen in our jurisdiction where a pawnbroker refuses to release property to either law enforcement or victims without Court intervention.

It is my position that loss from purchasing stolen property is a risk that should be born by the pawnbroker and not by the victim whose property is stolen.

Pawnbrokers are regulated by this statute, but the wording of it is vague.

I am requesting it be amended to make it clear that when property is identified by law enforcement officers as stolen, the pawnbroker should voluntarily relinquish custody of it to law enforcement officers.

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Atch #1

A pawnbroker who has lost money purchasing stolen property can submit a claim as a victim in a criminal case.

Sincerely,



ANN L. SMITH  
MONTGOMERY COUNTY ATTORNEY  
Judicial Center  
300 E. Main  
Independence, Kansas 67301

ALS:bc

**16-720.** Transactions in precious metals, requirements; refusal to redeliver stolen property to owner, effect. (a) A precious metal dealer shall require of every person from whom the dealer purchases precious metal for resale:

- (1) Proof of identification; and
- (2) a signed statement saying that the seller is the legal owner of the precious metal or is an agent of the legal owner who is authorized to sell such metal and stating when, where and in what manner such metal was acquired by the seller.

(b) When converted or stolen property has been pawned or sold to a precious metal dealer and the pawnbroker or dealer refuses to redeliver such property to the rightful owner upon demand and presentation of a bill of sale or other proper evidence of ownership by the owner, and legal action by the rightful owner to recover the property becomes necessary, the court may assess the pawnbroker or dealer for reasonable attorneys' fees incurred by the rightful owner if the court finds that the pawnbroker or dealer wrongfully withheld the converted or stolen property.

**History:** L. 1972, ch. 51, § 15; L. 1981, ch. 91, § 9; July 1.



ROBERT B. DAVENPORT  
DIRECTOR

# KANSAS BUREAU OF INVESTIGATION

DIVISION OF THE OFFICE OF ATTORNEY GENERAL

STATE OF KANSAS

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ROBERT T. STEPHAN  
ATTORNEY GENERAL

TESTIMONY  
KYLE G. SMITH, ASSISTANT ATTORNEY GENERAL  
KANSAS BUREAU OF INVESTIGATION  
BEFORE THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE  
REGARDING HOUSE BILL 2426  
FEBRUARY 24, 1993

Mr. Chairman and Members of the Committee:

I am appearing today on behalf of the Kansas Bureau of Investigation (KBI) and it's Director Robert Davenport in support of House Bill 2426. Director Davenport regrets that he is unable to attend personally, but I hope I can answer your questions.

House Bill 2426 will hopefully resolve the difficult problem we have faced in the preparation and presentation of background investigations for the Kansas Racing Commission.

In the early stages of the application and licensing period, the Kansas Racing Commission determined it needed access to criminal intelligence and background information to make knowledgeable decisions on who would be granted the original licenses. However, the Kansas Racing Commission was concerned that any information obtained would be subject to the Open Records Act and in January, 1988, requested an Attorney General Opinion as to whether they could maintain the confidentiality of such reports. Attorney General Opinion 88-3 issued on January 9, 1988, stated that the Kansas Open Records Act would apply to any such reports that were obtained and therefore would be subject to public disclosure. During the 1988 session the legislature amended K.S.A. 74-8804, the same statute we are dealing with here today, with the intent to make it clear that such

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reports were not to be disclosed. Based upon that language, the Kansas Racing Commission felt that it was statutorily prohibited from releasing background information and proceeded with the licensing process.

This position was challenged in the Kansas Racing Management v. Kansas Racing Commission case, which opinion was filed February, 1989. In that case the Kansas Supreme Court interpreted the statutory language to make disclosure of confidential information discretionary with the Kansas Racing Commission. In other words, if certain criteria were met, the Racing Commission had the discretion to release confidential information.

At that point, the KBI was placed in a difficult position wherein we could no longer assure individual sources and other agencies that the intelligence information they provided us would not be disclosed. Without assurances of confidentiality, the decision was made not to provide the Racing Commission with additional intelligence information on background investigations. Fortunately, at that point, most of the major licenses had already been granted. Now, with a track at Pittsburgh on the horizon, the problem has again come to the forefront.

House Bill 2426 should make it clear to the courts, the racing commission and law enforcement, that the intelligence information and background information provided will not be disclosed, thus enabling us to provide it once again to the Racing Commission.

The KBI has been able to access for the Racing Commission, not only our own intelligence files, but those of other law enforcement agencies, and gain the cooperation of individuals close to the applicants, largely because the KBI was able to provide assurances that the information would not be made public and get back to the individual under investigation.

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Our investigations, both criminal and background, are enhanced by our working relations with federal agencies such as the FBI, DEA, other state law enforcement agencies, racing commissions and local law enforcement agencies. They allow us access to their intelligence information and we reciprocate because there is an agreement that such information will not be disclosed. If the information is disclosed, even what seems like innocuous and trivial information can jeopardize or destroy the cooperation of an informant, an agency, or endanger the life of an undercover agent.

The scope of disclosure for background investigations needs to be defined by the legislature.

We believe that in the balance of the public's right to know versus the need for complete and thorough background investigations, this bill will assure the integrity of racing in Kansas.

#099

FISA  
2-24-83  
2-3





ROBERT B. DAVENPORT  
DIRECTOR

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## TESTIMONY

KYLE G. SMITH, ASSISTANT ATTORNEY GENERAL  
KANSAS BUREAU OF INVESTIGATION  
BEFORE THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE  
REGARDING HOUSE BILL 2427  
FEBRUARY 24, 1993

Mr. Chairman and Members of the Committee:

On behalf of the Kansas Bureau of Investigation (KBI) and it's Director Robert Davenport, I am here today to testify in favor of passage of House Bill 2427.

This bill arises out of the experiences of the Gaming Unit at the KBI in dealing with investigations at the paramutuel racing facilities. Frequently an incident will lead to an investigation which may be in violation of both Kansas Racing Commission (KRC) regulations as well as criminal statutes, or what starts out as a criminal investigation turns out to be only a regulatory violation.

This bill seeks to clarify that the KBI agents can pursue such an investigation in all it's aspects. This could simplify investigations wherein an investigation eventually reveals that the violation is regulatory rather than criminal in nature. Rather than the KBI having to stop the investigation to locate Racing Commission security personnel under the provisions of this bill the KBI's Racing Division agents could go ahead and complete the investigation.

The Kansas Racing Commission has suggested an addition to the language of HB 2427 as shown in the balloon attached to this testimony, clarifying that the KBI's jurisdiction extends not just to criminal violations of the racing act, but to all criminal violations. While we feel that is self-evident, we agree with them that it would be best to keep the language consistent, and so request the balloon amendment to HB 2427.

We currently have excellent working relations with KRC and it is my understanding they have no objection to HB 2427. I would be happy to answer any questions.

#100

F&SA  
2-24-93

Atch #3

## HOUSE BILL No. 2427

By Committee on Federal and State Affairs

2-10

8 AN ACT amending the Kansas parimutuel racing act; relating to  
9 investigations of certain violations; amending K.S.A. 74-8807 and  
10 repealing the existing section.

11  
12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. K.S.A. 74-8807 is hereby amended to read as follows:  
14 74-8807. (a) Employees of the Kansas racing commission designated  
15 by the executive director, with the approval of the commission, are  
16 hereby vested with the power and authority of law enforcement  
17 officers in the execution of the duties imposed upon the commission  
18 by the provisions of this act.

19 (b) Employees designated pursuant to subsection (a) shall have  
20 the authority to:

21 (1) Make arrests, conduct searches and seizures and carry fire-  
22 arms while investigating violations of this act and during routine  
23 conduct of their duties as determined by the executive director;

24 (2) make arrests, conduct searches and seizures and generally  
25 enforce all criminal laws of the state as violations of such laws are  
26 encountered by such employees during the routine performance of  
27 their duties; and

28 (3) issue notices to appear pursuant to K.S.A. 22-2408 and  
29 amendments thereto.

30 (c) No employee of the commission shall be certified to carry  
31 firearms under the provisions of this section without having first  
32 successfully completed the firearms training course or courses pre-  
33 scribed for law enforcement officers under subsection (a) of K.S.A.  
34 74-5604a and amendments thereto. ~~(d)~~ The commission may adopt  
35 rules and regulations prescribing other training required for such  
36 employees.

37 (d) *It shall be the duty of the Kansas bureau of investigation to*  
38 *be an investigative agency of criminal violations of this act, and* ~~or other suspected criminal activity at a racetrack facility~~  
39 *violations of the rules and regulations adopted hereunder. Such duty*  
40 *may be performed independently of or in conjunction with employees*  
41 *of the commission designated pursuant to this section. Employees of*  
42 *the commission shall report immediately any criminal violations of*  
43 *this act or other suspected criminal activity at a racetrack facility*

2-24-93  
FSA

## HOUSE OF REPRESENTATIVES

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OFFICE OF THE MINORITY WHIP

COMMITTEE ASSIGNMENTS  
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AFFAIRS COMMITTEE  
MEMBER: JOINT COMMITTEE ON CHILDREN &  
FAMILIES  
KANSAS FILM COMMISSION  
KANSAS SENTENCING COMMISSION

February 23, 1993

## MEMORANDUM

TO: Federal &amp; State Affairs Committee

FROM: Kathleen Sebelius

RE: Bill Introductions

I. The first request is for a bill that would institute a federal grant tracking system in the state of Kansas. The bill would establish a three-person committee, within the Division of the Budget, responsible for researching federal grants, notifying the appropriate state agency, coordinating grant applications and monitoring federal grant awards. The program has been developed in Wisconsin and is extremely effective.

II. The second request deals with federal mandates placed on the state. This statute would require a yearly analysis broken down by agency and program of mandates imposed on the state of Kansas by the federal government. This yearly analysis would also identify state matching funds for federally mandated programs.

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