

Approved: Jan. 18, 1994
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Chairman Lana Oleen at 11:05 a.m. on January 12, 1994 in Room 254-E of the Capitol.

All members were present

Committee staff present: Mary Galligan, Legislative Research Department
Mary Ann Torrence, Revisor of Statutes
Jeanne Eudaley, Committee Secretary

Conferees appearing before the committee:
None

Others attending: See attached list

Sen. Oleen welcomed committee members to the first meeting this session. She then referred to the Interim Minutes dated November 22-23, 1993 (Attachment 1). Sen. Ramirez apologized for not making this correction earlier and called attention to Page 4, Paragraph 3, morning session. The first sentence, "Senator Ramirez stated that he receives complaints on the Commission's operating expenses, and the fact that each Commissioner is paid \$2,000 per year, ", should be changed to "\$24,000" per year. Sen. Ramirez made a motion the change be made, and it was seconded by Sen. Papay; the motion passed, and the Minutes were approved.

Sen. Oleen referred to the Interim Committee Report (Attachment 2), and there were no additions or corrections to it.

Sen. Oleen stated the committee spent considerable time in the interim working on new bills for introduction. Those bills have now been introduced in the Senate and referred. Bills are as follows:

- SB 467- regarding legal holidays- referred to Federal & State Affairs;
- SB 468 - regarding purchasing domestic beer and wine by credit card - referred to Fed. & State;
- SB 469 - regarding sheriff qualifications - referred to Local Government;
- SB 470 - regarding Film Commission districts - referred to Governmental Organization.

Sen. Oleen explained the committees' interim work on the confirmations bill (SB 434), and the fact that there were numerous changes to the bill and that the committee consensus was to create a new bill. She announced it will be ready for introduction this week and recommended the committee vote on the introduction of the new bill so that a hearing may be scheduled as soon as possible. Sen. Vidricksen made a motion the new confirmations bill be introduced as a committee bill, and it was seconded by Sen. Praeger; the motion passed. Sen. Walker made a motion SB 434 be reported adversely, and it was seconded by Sen. Jones; the motion passed.

Sen. Oleen announced the agenda for the committee next week, and pointed out ABC will appear before the committee on Tuesday to request introduction of two bills and also brief the committee on instant bingo. She also reviewed bills remaining in the committee from last year. She asked members to visit with her regarding introductions of bills or other bills. Committee members discussed the fact that legislation relating to the Racing Commission and gambling have been introduced in the House and referred to the House Federal and State Affairs Committee, who will hold hearings on them.

Sen. Oleen recognized staff members and told of her appreciation for their work last session and during the interim. She also introduced pages from French Middle School of Topeka.

Meeting adjourned at 11:20.

GUEST LIST

COMMITTEE: Senate Federal & State Affairs

DATE: JAN. 12, 1994

[illegible]

**PRELIMINARY
MINUTES**

SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

November 22-23, 1993
Room 527-S -- Statehouse

Members Present

Senator Lana Oleen, Chair
Senator Ben Vidricksen, Vice-Chair
Senator Sherman Jones, Ranking Minority Member
Senator U. L. "Rip" Gooch
Senator Anthony Hensley
Senator Lillian D. Papay
Senator Sandy Praeger
Senator Alfred Ramirez
Senator Carolyn Tillotson
Senator Doug Walker

Member Absent

Senator Mark V. Parkinson

Staff Present

Mary Galligan, Kansas Legislative Research Department
Mary Ann Torrence, Revisor of Statutes Office
Theresa Kiernan, Revisor of Statutes Office
Mike Heim, Kansas Legislative Research Department
Randy Tongier, Legislative Division of Post Audit
Jeanne Eudaley, Committee Secretary

Others

See attached list.

S Fed and State
1-12-94
Attachment 1

November 22, 1993
Morning Session

The meeting was called to order by Chairman Lana Oleen at 10:00 a.m. on November 22, 1993 in Room 527-S of the Statehouse. Senator Oleen reviewed the agenda.

The Chair recognized Clarence E. "Sonny" Scroggins, who presented testimony (Attachment 1) requesting the display of a portrait of Buffalo Soldiers, and a portrait of the Charles Sheldon Kindergarten Class, the first Black kindergarten west of the Mississippi. His testimony also requested that the Legislature establish an African-American Affairs Advisory Committee.

Mr. Scroggins recognized several Buffalo Soldiers who attended the meeting. Mr. Scroggins introduced Shirley Norris, from Topeka, who read a letter from Robert Starling Pritchard, recommending the two portraits be displayed in the Statehouse (copy of letter not available). He also introduced Charles Sheldon Sudduth, who represented the Sheldon family and the Festival Choir of Ft. Wayne and Allen County, Indiana. Mr. Sudduth requested display of the two portraits and gave background information relating to the Buffalo Soldiers and the Charles Sheldon Kindergarten class. Mr. Scroggins also introduced Hattie Norman, of Topeka, the widow of a Buffalo Soldier, who supported the Buffalo Soldier Memorial.

O'Dell Jones, from Topeka, appeared before the Committee to support the memorial for the Buffalo Soldiers and asked the Committee to establish an Advisory Commission on African-American Affairs. Senator Ramirez asked Mr. Jones if he would object to the establishment of an Advisory Commission on Human Affairs (to represent all groups in the state), and Mr. Jones replied he would not object. Ricky Spence, representing the Coalition of Community Organizations, gave testimony supporting the establishment of an Advisory Commission on African-American Affairs. Mr. Scroggins ended the presentation by quoting from Abraham Lincoln.

Senator Gooch made a statement supporting the memorials (portraits) and the Advisory Commission and said he will continue to fight for the Advisory Commission as long as he is in the Senate. Senator Vidricksen stated he has recommended that tourists visit the monument at Ft. Leavenworth depicting a Buffalo Soldier. Senator Vidricksen also stated it would be advantageous to make a decision on the painting after it has been done. Senator Oleen stated she is committed to having the art work in the Statehouse and said there is no policy for displaying art in the Statehouse and that is part of the problem. In regard to the African-American Advisory Committee, Senator Oleen asked Mr. Scroggins if he would support an all-inclusive group, which would represent all ethnic groups in the state. He answered that he would be in favor of that approach, but would not want to take away from the Hispanic Advisory Commission established several years ago.

The Chair asked each Buffalo Soldier to introduce himself. The Buffalo Soldiers, from the 9th and 10th Horse Calvary Association, told a brief history of their service in the army, and Robert McKay made brief remarks supporting a memorial to the Buffalo Soldiers. Senator Jones stated his support for the memorials. The artist, George Mayfield from Kansas City, Kansas, was also recognized.

Senator Oleen recognized Kenneth Francisco, who has been appointed by the Governor to the State Racing Commission (Attachment 2). Mr. Francisco introduced himself and discussed his background with the Committee. He then made a brief statement. Committee members questioned Mr. Francisco. Senator Vidricksen asked about the problem surrounding the Breeders' Cup race and the fact that it could not be simulcast at the Wichita Greyhound track. He stated he

represents Abilene, where many dog breeders are located, and that they are very unhappy with the situation. Mr. Francisco stated he is aware of the problem and that it has been discussed at Commission meetings. He explained that simulcasting at Wichita Greyhound Park was vetoed by the Chairman of the greyhound owners' group, who lives in Boston. Mr. Francisco stated that there is no mechanism in place for another election to replace this person. He also stated this issue will be addressed in the Racing Commission's legislative package this session (see minutes of Joint Committee on Federal and State Affairs, September 16, 1993). Senator Oleen asked Mr. Francisco if he was given an orientation after his appointment to the Racing Commission, and Mr. Francisco stated he studied materials furnished by the Chairman of the Commission and by its Executive Director and had read the Racing Commission International Manual. He stated he has attended several meetings -- he was appointed July 1, 1993 -- and has visited tracks to observe facilities and activities.

Senator Gooch commented on appointees who are serving for some time on boards and commissions without confirmation, and Senator Oleen stated that the Committee will hear a briefing on S.B. 434, regarding confirmation of appointments, later during this meeting. She stated the Committee will vote on Mr. Francisco's confirmation early next session, or, if there is strong support, a vote could be taken today.

Senator Oleen recognized Randy Tongier, Legislative Division of Post Audit, who reviewed the November, 1993 Compliance and Control Audit of the Racing Commission (Attachment 3). He stated that an annual statewide financial audit is conducted by a CPA firm. The Racing Commission Audit presented here is one of the type conducted once every three years for every state agency. Those audits are designed to examine in greater depth elements of agency financial management that might not rise to the level of being noticed as part of the statewide audit.

Mr. Tongier explained that this audit focuses on four major areas: (1) receipts; (2) expenditures; (3) management of state property; and (4) expenditures and purchases exempted from normal state purchasing procedures. Mr. Tongier reviewed the four major areas audited and stated the audit found that the Racing Commission does not have an adequate system of record keeping for parimutuel taxes collected at the tracks and went into detail on how parimutuel taxes are documented, collected, transferred, and reported. He also stated that the law requires the Commission to conduct an annual inventory of state property held by the Commission, and that the inventory has not consistently been done. As part of the audit process, recommendations for improvements have been sent to the Commission. Mr. Tongier stated that the Commission has indicated they have implemented changes or will correct procedures as recommended in the audit.

Committee members questioned Mr. Tongier regarding records that had been lost and management of revenues by the Commission. Ms. Galligan noted that there is a bill in this Committee (1993 H.B. 2519) that would require annual financial audits of the Racing Commission. Mr. Tongier explained what is included in a financial audit. Senator Oleen stated the Post Audit Committee is looking at legislation which would require more accountability by all state agencies, and she asked what type of an audit showed the problem with KPERS. Mr. Tongier answered it is a statutory requirement to audit KPERS and that it was a performance audit of the direct placement funds which identified losses to the fund a few years ago.

Senator Oleen stated there is a statewide audit report coming from the Post Audit Committee which examines financial statements of many state agencies prepared by the Division of Accounts and Reports in the Department of Administration.

Mary G. will take care of -

Senator Oleen recognized Janet Chubb, Executive Director of the Racing Commission. She stated the Commission was not aware of revenue collection procedure problems until it saw the audit report, nor was she aware of them while serving as the Commission's Attorney, prior to being appointed to be Executive Director. She also stated that the report has been discussed by the Commission and it realizes that written procedures were not in place and that they are now being established and implemented. Written procedures will be implemented to account for all funds. She has established deadlines for development of those procedures. The Commission is discussing the possibility of having an independent audit of the agency every six months, or quarterly. Ms. Chubb introduced Art Neuheidel, Inspector of Parimutuels and Ken Harjo, Auditor for the Commission.

Senator Gooch asked whether an independent financial audit of the Commission had ever previously been conducted. Mr. Tongier answered there had been only the general statewide audit and the Compliance and Control Audit, which is conducted every three years.

Senator Ramirez stated that he receives complaints on the Commission's operating expenses, and the fact that each Commissioner is paid \$2,000 per year, and asked Ms. Chubb if she believes the pay is justified. Ms. Chubb explained that the Commission holds numerous hearings aside from attending Commission meetings each month. She stated it is a "hands on" Commission as contemplated by the Racing Act. It would take a massive amendment of the Act to take authority away from the Commission. She further stated that Kansas law is different from other states' laws as it relates to the Racing Commission.

Afternoon Session

Senator Oleen reconvened the Committee meeting and announced that staff would review 1993 S.B. 434, which was introduced during the 1993 Legislative Session. She stated that the Governor's Office has voiced concern about the bill, but assured the Committee that the bill was not politically motivated. The bill proposes changes to the confirmation process so that appointees can be confirmed in a more timely manner. She stated that it appears some changes to the bill will have to be made and asked Committee members to note those changes as the bill is being reviewed.

Senator Oleen recognized Theresa Kiernan, Assistant Revisor of Statutes, to review the bill for the Committee. Committee members discussed the appropriate legislative entity to give "temporary" approval to an appointee until such time as the Senate convenes and a confirmation vote could be held. Senator Hensley questioned whether the bill would conflict with the *Constitution*. Ms. Kiernan stated that the *Constitution* provides that the "Legislature shall approve" Some members object to giving that authority to the Legislative Coordinating Council (LCC), as the bill would do, since it includes House members. Senator Oleen suggested that the Confirmations Oversight Committee could meet during the interim and consider appointments. Senator Gooch stated reluctance to having appointees go through a hearing before the LCC for "temporary" approval, then having them appear before a Senate Committee for confirmation approval, when the appointment is to an unexpired term which may be for a year or less. Senator Tillotson stated she does not want to give up the right to vote on confirmations, but the Committee needs to consider giving that authority during the interim so as not to cripple boards and commissions. Senator Oleen pointed out that S.B. 434 changes expiration dates of appointments so they can be made and considered while the Legislature is in session. She pointed out that the appointments refer to boards and commissions only and are staggered for continuity.

Ms. Kiernan stated that the bill would require that LCC vote to give "temporary" approval to an appointee by a majority vote. Other actions of the LCC require agreement of five of the seven members. Ms. Kiernan continued to review the bill, section by section. Discussion ensued regarding whether an appointee continues to serve at the end of a term until another appointee is named. Senator Praeger asked whether language in current law means that an appointee is obligated to serve after the term expires. Senator Oleen stated she believes it is general practice to serve on a board or commission until another appointment is made. However, she believes this Committee should make a policy decision in this regard. Senator Oleen referred to a chart of appointees subject to Senate confirmation, and that chart (Attachment 4) was furnished to Committee members.

Committee members also discussed whether the LCC or another entity should be authorized to give "temporary" approval to appointees filling unexpired terms. Senator Walker pointed out that is not common practice. An alternative suggested by Senator Oleen and supported by other members would be to give that authority to the Confirmation Oversight Committee during the interim and expand membership of that committee from three to five. Senator Vidricksen moved that an amendment be drafted for the bill expanding the Confirmation Oversight Committee to five members (appointed by the Organization, Calendar and Rules Committee), and it be given authority to "temporarily" approve appointments in the interim; that it would require a majority vote (3-2) to approve an appointment. That motion was seconded by Senator Ramirez.

Senator Hensley made a substitute motion that membership of the Confirmation Oversight Committee be appointed as follows: three members appointed by the Majority Leader of the Senate and two members appointed by the Minority Leader. That motion was seconded by Senator Vidricksen, and it passed.

Senator Gooch stated his support for having the approval of the Confirmation Oversight Committee to an appointee be permanent, if that appointee will serve less than one-half of the term. After discussion, Senator Gooch moved that staff prepare an amendment for S.B. 434 which includes that provision. Motion was seconded by Senator Jones, and the motion passed.

After further discussion, Senator Papay made a motion staff be authorized to draft necessary clean-up amendments to the bill. Senator Vidricksen seconded the motion, and it passed.

Senator Jones moved that an amendment to the bill include the language that an appointee serve until a successor is appointed and confirmed. That motion was seconded by Senator Vidricksen, and the motion passed.

Senator Vidricksen moved that staff be authorized to make necessary technical corrections to the bill, and it was seconded by Senator Walker. The motion passed. Senator Oleen stated she would like to have these amendments prepared in balloon format and ready to consider during hearings that will be scheduled early during the 1994 Session.

Senator Oleen recognized Mary Torrence, who distributed two bill drafts, 3 RS 1428 and 3 RS 1440. She explained that these bills were drafted as a result of the Committee's action at its September meeting. She also stated that 3 RS 1428 relates to state legal holidays, and 3 RS 1440 would make the discretionary holiday statutorily available for all state employees each year. Committee discussion centered around the confusion between paid days off which state employees are entitled to each year and those that are legal public commemorative days.

Senator Oleen stated that the issue came before the Committee as a result of the discrepancy between holidays observed by the Executive Branch and those observed by the Judicial Branch. Senator Oleen recognized Paul Shelby, who appeared before the Committee in September. Mr. Shelby stated that the Chief Justice's desire was to establish a holiday schedule so that the Judicial Branch and Executive Branch would observe the same days off. He also stated that Kansas statutory holidays are not the same as federal holidays.

Ms. Torrence stated the holiday schedule, promulgated by the Governor for the Executive Branch and adopted by the LCC for the Legislative Branch, includes eight paid holidays in 1994, not including New Year's Day, which will be observed as a paid holiday in 1993 (Attachment 5). 3 RS 1428 would designate nine statutory holidays. Senator Ramirez stated he had no intention of adding an additional day when this was discussed in September, and Senator Vidricksen stated he will not vote for more days than are being observed now. Senator Tillotson recalled requesting information on the cost of an observed day off and asked staff if those figures were available. Staff responded that the Department of Administration had not provided those figures. Staff explained that statutory holidays are not necessarily paid holidays for state employees. The Governor, LCC, and the Supreme Court have discretion to designate paid holidays for the Executive, Legislative, and Judicial branches of state government, respectively.

Senator Oleen referred to the Committee minutes of September 15, 1993, page 2, to recall Committee discussion of this matter. She said that the reason for considering this legislation was to bring about equity among the branches of state government. After considerable discussion, the Committee concluded that state employees currently get ten paid holidays, including the discretionary day. Under the bill, nine days would be designated as state holidays. Senator Tillotson moved that 3 RS 1428 be introduced as a Committee bill. The motion was seconded by Senator Papay. The motion passed.

The Committee decided it would not consider 3 RS 1440.

Senator Oleen called the Committee's attention to the Committee minutes for September 15 and 16, 1993. Senator Jones moved that the minutes be approved. The motion was seconded by Senator Tillotson. The motion passed.

Senator Oleen referred to the confirmation hearing held this morning for Kenneth Francisco for Racing Commissioner and explained that since standing committees were meeting this interim, the Committee may take action on the confirmation prior to the 1994 Legislative Session. Senator Gooch referred to Mr. Francisco's confirmation questionnaire, No. 9, and asked when the Committee receives a confirmation to consider, if it has been determined that appointee meets statutory requirements and if, as in this case, the KBI check has been completed and is satisfactory. Senator Oleen stated that when the Committee receives an appointment to consider, the appointee has met all requirements, including the KBI clearance. Senator Gooch made, and Senator Papay seconded, a motion that Mr. Francisco be recommended to the Senate for confirmation as a Racing Commissioner.

Senator Oleen asked that bills in the Committee be reviewed by staff tomorrow. She also announced that Mike Heim, Legislative Research, will review gun control laws, and the Committee report will be discussed as well as bills which the Committee members may want to have introduced by this Committee. She also will set aside some time for an open discussion.

Senator Papay stated she has been approached by the Sheriffs' Association for a bill outlining qualifications for sheriffs. Senator Oleen requested she bring that to the meeting tomorrow for discussion.

The Committee adjourned at 4:30 p.m. until 9:30 a.m. November 23.

November 23, 1993

The meeting was called to order by Chairman Lana Oleen at 9:30 a.m. in Room 527-S of the Statehouse.

Senators Tillotson and Walker were excused.

Senator Oleen reviewed the agenda and recognized Mike Heim, who reviewed current law (Attachment 6) relating to juveniles and guns and the Wichita City ordinance and Colorado law. Mr. Heim believes there will be several bills introduced in the 1994 Legislative Session dealing with this issue and the juvenile code, since the present law leaves sentencing for juvenile crimes to the discretion of the judge.

Senator Oleen stated that the Judiciary Committee will hold an additional meeting in December to discuss these subjects. Also to be discussed is a package of bills being prepared by Senator Parkinson. An additional problem which needs to be addressed, she believes, is the overcrowding of juvenile facilities, such as YCAT, where youth serving sentences for property crimes are incarcerated with those who have committed violent crimes.

Mr. Heim continued by reviewing the Wichita City ordinance and Colorado law and answering questions from the Committee. He pointed out that parts of the Colorado law are now being challenged in court. Senator Hensley stated that the Shawnee County delegation held a news conference recently to announce a package of 12 bills, some relating to juveniles and the weapons problem, parents' responsibility, and educational issues. He stated that YCAT is at capacity and there is a need to establish a maximum security juvenile prison system to separate the violent from the nonviolent juveniles.

Senator Papay explained a bill draft (Attachment 7), which sets out requirements for sheriffs. She stated it has been requested by the Sheriffs' Association. Senator Jones stated the bill will limit the number of people who could run for the office of sheriff, and he suggested training be substituted for the five years' experience as set out in the draft. Senator Papay anticipates that members of the Sheriffs' Association will come forward to testify on the bill after it is introduced and referred to a committee. Senator Jones moved and Senator Papay seconded a motion that the bill be introduced as a Committee bill. The motion passed. Senator Oleen requested that this bill and the one voted on yesterday (regarding state holidays) be prefiled.

Senator Hensley furnished copies of a news release, dated October 27, 1993, regarding the Shawnee County delegation juvenile crime package which was discussed yesterday (Attachment 8). Senator Jones stated his strong support for prosecuting adults who are selling guns to juveniles, and he asked whether the Shawnee County delegation package includes such a provision. Senator Hensley answered that it was included in the package.

Senator Oleen referred to a listing of bills (Attachment 9) in this Committee at the end of the 1993 Session. She then asked Mary Galligan to review 1993 H.B. 2519. Ms. Galligan stated that the bill would require an annual financial audit of the Racing Commission. Existing law requires such an audit of the State Lottery. This bill would give authority to the Legislative Post Audit Committee to determine whether the required audit would be conducted by the Division of Legislative Post Audit or by an outside firm. She commented that the Post Audit staff is not structured for financial audits at this time, so the audit would probably be conducted by an outside firm.

Senator Jones questioned whether the audit would include auditing licensees of the Commission, and he pointed out that in Wyandotte County, the organization licensee is a nonprofit organization. Ms. Galligan stated the bill would include language authorizing the Post Audit Committee to include as part of the annual audit a review of the financial status of organization, facility owner, and facility manager licensees. Kansas law and federal tax code regulate the relationship between the organization licensees and the other two primary licensees. She pointed out that it is required by statute that the Racing Commission will oversee the tracks, and that would involve the financial condition of its licensees. Senator Oleen stated that the Committee needs to know what areas will be reviewed and the scope of the audit. She also stated she is aware that Post Audit has numerous audits to complete, without adding another one to its list. Senator Vidricksen stated that one of the only areas an audit of this type could be concerned with is if the licensee is paying sales tax to the state, and he stated he would not support the bill in its present form, as he does not see a reason to audit the facility owner licensee. Ms. Galligan stated the bill requires an audit of the Racing Commission to see if it is doing its job and if it is in compliance with the statute. That would include accurate record keeping and an assessment of its financial condition, but that under the bill, licensees would not be audited *per se*.

Senator Oleen stated the Committee will hold hearings on the bill during the 1994 Session and requested drafting of an amendment to the bill that would require the Post Audit Committee to contract for an outside firm to conduct the financial audit of the Racing Commission.

Senator Oleen asked Committee members whether they have drafts of bills for the Committee to discuss for introduction. Senator Gooch stated he is having a bill drafted which would amend the Federal Re-Investment Act to include a Community Re-Investment Group dedicated to keeping money in the community and not allow large conglomerates to take money out of the state, but rather, invest it in the community where the business is located. Another proposal for Committee consideration is also being drafted that would give authority to landlords to force tenants to move off the property, after being charged with the third criminal action. He explained this is a result of numerous arrests in a neighborhood, most of them rental properties, some owned by absentee landlords, which has disrupted others living in that neighborhood (also known as "party shack" legislation). He asked for Committee support when these two bills have been drafted. Senator Oleen reminded the Committee there are similar bills being drafted by the Shawnee County delegation.

Senator Vidricksen requested a draft of a proposal which would allow the use of a bank credit card for the purchase of domestic wine at a farm winery and in liquor stores. There was some objection to including liquor stores in the legislation, because of confusion it might cause by allowing only domestic wines to be purchased on credit, and Senator Vidricksen agreed to limit the proposal to purchases at wineries only. Senator Vidricksen made, and Senator Papay seconded, a motion to introduce the proposal as a Committee bill. The motion passed. Senator Oleen stated credit cards can be used in microbreweries for on-premise sales. Senator Vidricksen said that his motion would include microbreweries if credit cards cannot be used for off-premise sales now.

Senator Vidricksen also requested the Committee introduce a bill which would amend the Film Commission Act and to change the regions from five to six, with the new region being the North Central Region. He explained this legislation would be to update provisions for the Commission. Senator Vidricksen made a motion such amendments be drafted and introduced as a Committee bill, and it was seconded by Senator Ramirez. The motion passed.

Senator Vidricksen stated he wanted to wait on the simulcast proposal, since the Racing Commission will be proposing that change in their legislation. He also will bring a draft of a bill to Committee at a later time which would allow the press in a designated area only in the Senate chamber. He stated he believes Kansas is the only state that allows the press to roam at will on the Senate floor when the Senate is in session.

Senator Gooch stated that a number of states permit their legislators to use identification auto tags and asked the Committee if this has been discussed. Senator Oleen answered that it has been discussed, and some legislators do not want special auto tags. Each legislator is able to order special tags, if that is their wish.

Senator Jones would like to have a proposal introduced as a Committee bill which would remove arrest and criminal information off the computer if a person is released because of lack of evidence or is found innocent of the crime. He explained National Crime Information Communications (NCIC) is a national network which makes this information available; however, arrest information is left on the computer, even though the person is found innocent or is not prosecuted. Mary Torrence stated this provision would relate to the Criminal Records Information Act and that she would like to research it further and talk to some law enforcement agencies before drafting it. Senator Jones agreed to wait until a later date to discuss the matter.

Committee members discussed the Committee report, and Ms. Galligan stated it will be in a different format this interim. Members agreed the Committee report should include:

- Buffalo Soldiers memorial;
- Charles Sheldon kindergarten class;
- confirmation hearing and approval of Kenneth Francisco -- appointment to Racing Commission;
- compliance and control audit -- Racing Commission;
- S.B. 434, confirmation process to boards and commissions;
- state holidays;
- juveniles and weapons; and
- H.B. 2519, audit of Racing Commission.

Also discussed:

- Advisory Commission on African-American Affairs; and

- Advisory Commission on Human Affairs.

Bills for Introduction:

- qualifications for Sheriff;
- use of credit cards for off-premise domestic wine and beer purchases; and
- Film Commission Act -- amendments.

Committee members discussed supporting the establishment of an Advisory Commission on African-American Affairs, or an Advisory Commission on Human Affairs, which would include all ethnic groups. Senator Jones told the history of establishment of the Hispanic Affairs Commission during Governor Hayden's term, and stated he believes both sides oppose the Advisory Commission on Human Affairs. Senator Ramirez stated his support for an Advisory Commission on Human Affairs, and both Senators Jones and Gooch stated their support for the Commission on African-American Affairs. Ms. Galligan informed the Committee that H.B. 2543, which would establish an Advisory Commission on African-American Affairs, was introduced last session and is in the House Committee on Governmental Organization and Elections.

Meeting adjourned at 11:55 a.m.

Minutes prepared by Jeanne Eudaley
Minutes edited by Mary Galligan

Approved by Committee on:

(date)

Att 7/26/94 2

SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

COMMITTEE MEETINGS

The Committee met on September 15 and November 22. The Committee met jointly with the House Committee on Federal and State Affairs on September 16.

COMMITTEE ACTIVITIES

The Committee reviewed designated state holidays, received an update by the Human Rights Commission on its backlog of cases, attended the oral argument of *State v. Finney* before the Kansas Supreme Court and received an update from Legislative Research on the military retirement taxation issue. The Committee received a presentation regarding display of a painting of buffalo soldiers and a painting of the Sheldon Kindergarten class and establishment of a state African-American Advisory Committee. The Committee also conducted the confirmation hearing of a newly appointed member of the Kansas Racing Commission, and received staff briefings on 1993 S.B. 434, concerning the Senate confirmation process, and existing Kansas statutes regarding juveniles and guns. In joint session with the House Committee on Federal and State Affairs, the Committee received a briefing from the Kansas Racing Commission regarding its requests for amendments to the Kansas Parimutuel Racing Act and a briefing on existing liquor laws and implementation of those laws by the Division of Alcoholic Beverage Control.

All staff memoranda are available from the Kansas Legislative Research Department. Written testimony submitted by conferees is part of Committee meeting minutes and is available from Legislative Administrative Services.

State Holidays

The Committee received testimony from the Office of Judicial Administration regarding the perceived difficulty caused for the Judicial Branch by the difference between state holidays designated in statute (K.S.A. 35-107) and those days designated as holidays by the Governor under civil service personnel regulations. Both state lists of holidays differ from federal holidays. The Chief Justice has designated both state statutory holidays and those holidays designated by the Governor as holidays for Judicial Branch employees.

The Committee received testimony from the Division of Personnel Services of the Department of Administration regarding the impact on certain state agencies of designation of paid holidays. The Committee also was informed of the difference between official state holidays, such as those designated in statute, and a designated holiday on which state offices would be closed and employees who must work would be paid holiday pay. The latter are designated by the Governor, the Chief Justice, and the Legislative Coordinating Council (LCC) for the executive, judicial, and legislative agencies, respectively. Those designated paid holidays may or may not coincide with the statutory holidays at the discretion of the designating entity. For example, for many years the Governor has not designated as paid holidays Columbus Day and Lincoln's birthday both of which are statutory holidays; but has designated as paid holidays Martin Luther King, Jr.'s birthday and the day after Thanksgiving, neither of which are statutory holidays.

Conclusions and Recommendations. The Committee concluded that the statute designating state holidays should be amended, but that the Governor, Chief Justice, and LCC should retain discretion to designate those days on which state offices would be closed. The Committee recommended introduction of a bill that would amend K.S.A. 35-107 to eliminate Columbus Day from the statute, make Martin Luther King, Jr.'s birthday a state holiday, and to replace Lincoln and Washington's birthdays with President's day. The bill that

Senate Fed. & STATE
1-12-94

ATTACHMENT 2

would implement this recommendation was not available to publish with this report, but will be prefiled for introduction to the 1994 Legislature.

Human Rights Commission

The Committee received a briefing from the Human Rights Commission regarding its backlog of cases. The Committee was informed that the backlog has resulted in the agency losing some federal funds during the current fiscal year. As a result the agency will seek a \$167,000 supplemental appropriation for the current year and will request \$585,000 for 15 additional positions for FY 1995. The Committee expressed its concern that the backlog has impacted the federal funds and continues its interest in making certain that Kansans have an effective and timely process in place when discrimination allegations occur.

State v. Finney

The Committee attended the oral argument of *State v. Finney* (Finney II) before the Kansas Supreme Court. The case was brought pursuant to 1993 S.R. 1844 which directed the Attorney General to bring action that would enable the Supreme Court to clarify the meaning of "lottery" in the *Kansas Constitution* and to address how that definition affects the Indian gaming issue.

Alcohol Statutes

The Committee (in joint session with the House Committee on Federal and State Affairs) reviewed existing liquor laws in preparation for possible consideration of amendments during the 1994 Session. That briefing included a compilation of proposed liquor law amendments considered, but not adopted, since 1987. The Committee also received a briefing from the Division of Alcoholic Beverage Control regarding its duties and how it enforces Kansas' liquor laws.

Proposed Amendments to Parimutuel Racing Act

The Executive Director of the Racing Commission presented to the House and Senate Federal and State Affairs committees proposed amendments to the racing act that could be incorporated into 1993 S.B. 411 and S.B. 412. The committees took no action on the Racing Commission's proposals.

Confirmation Hearing

The Committee conducted the confirmation hearing for Ken Francisco who was appointed by the Governor to the Kansas Racing Commission on October 26, 1992.

Conclusions and Recommendations. The Committee recommended the appointment for confirmation by the Senate.

Compliance and Control Audit – Kansas Racing Commission

The Committee received a report of the findings of the Compliance and Control Audit of the Kansas Racing Commission published April, 1993. That audit identified a number of deficiencies in the accounting

and inventory controls of the Commission. The Commission's response was that corrective action would be taken immediately.

The Committee also reviewed H.B. 2519 which would require an annual financial audit of the Racing Commission. After discussion of the bill and its provisions, the Committee directed staff to draft an amendment that would require the Legislative Post Audit Committee to contract with a private firm for conduct of the financial audit of the Racing Commission that would be required by the bill. The Committee will hold a hearing on the bill during the 1994 Session.

Regarding Appointments and Confirmations – S.B. 434

The Committee received a staff briefing on 1993 S.B. 434. The bill would make three major policy changes in the appointment and confirmation process for selected state boards and commissions. First, the bill would require that members of those boards and commissions subject to confirmation be confirmed before they are eligible to exercise the authority of their office. Second, the bill would provide that in the case of appointments made to fill a vacancy created by a resignation or death, the LCC could authorize the appointee to exercise the powers, duties, and functions of the office until confirmed during the next regular or special session of the Legislature. Third, the bill would establish a term expiration date of either March 1 or December 31 for those positions subject to confirmation. The bill does not change the number of positions subject to confirmation.

Those boards and commissions that would be affected by the bill are the: Credit Union Council, Parole Board, State Board of Indigents' Defense Services, Employment Security Board of Review, Human Rights Commission, Corporation Commission, Board of Tax Appeals, Water Authority, Banking Board, Board of Regents, KPERS Board of Trustees, Export Loan Guarantee Review Committee, Crime Victims Compensation Board, Kansas, Inc., Kansas Technology Enterprise Corporation Board of Directors, Lottery Commission, Racing Commission, Kansas Development Finance Authority, Civil Service Board, Pooled Money Investment Board, and Public Employee Relations Board.

Conclusions and Recommendations. The Committee directed staff to draft amendments to the bill for consideration during the 1994 Session. Those amendments would create a five-member Confirmations Oversight Committee in the Senate that would be appointed by the Senate majority and minority leaders. That Committee would be composed of three members of the majority party and two members of the minority party. The Oversight Committee would fulfill the role created for the LCC in the bill as introduced. Appointees approved by the Oversight Committee to fill less than half an unexpired term would not have to be confirmed by the full Senate. Amendments requested also would provide that appointees continue to serve until their successors are appointed and confirmed, unless the successor is authorized to serve by the Oversight Committee. Existing statutory language provides that appointees serve until their successors are appointed and qualified. These provisions have been interpreted to permit appointees to exercise full authority prior to confirmation. The Committee will schedule a hearing on this bill during the 1994 Session.

Buffalo Soldier Recognition

The Committee received testimony from a coalition of community organizations advocating for display of two new paintings in the Statehouse. One painting would be of buffalo soldiers. The other would be of the Charles Sheldon kindergarten class, the first African-American kindergarten west of the Mississippi. The coalition of organizations has commissioned George Mayfield of Kansas City, Kansas to execute the paintings. Written material presented to the Committee indicated that the Statehouse Artwork Review Committee voted to offer to display the paintings temporarily in the Statehouse, then place them on permanent display in the Memorial Building.

Conferees also advocated establishment of an advisory committee on African-American affairs similar to the existing Advisory Committee on Hispanic Affairs.

Conclusions and Recommendations. The Committee supports the concept of memorializing the contribution to the state and the nation made by the buffalo soldiers and other African-Americans, but makes no specific recommendation regarding these requests. The Committee noted that 1993 H.B. 2543 which would create an Advisory Committee on African-American Affairs is in the House Committee on Governmental Organization and Elections.

Juveniles and Guns

The Committee received a briefing on existing Kansas statutes that address the possession and use of guns. The following statutes were included in the review: K.S.A. 21-4201 (L. 1993 Ch. 291, §146) Unlawful use of weapons; K.S.A. 21-4202 (L. 1993 Ch. 291, §147) Aggravated weapons violation; K.S.A. 21-4203 (L. 1993 Ch. 291, §148) Unlawful disposal of firearms; K.S.A. 21-4204 (L. 1993 Ch. 291, §149) Unlawful possession of firearms; K.S.A. 21-4205 (L. 1993 Ch. 291, §150) Defacing identification marks of a firearm; K.S.A. 21-4207 (L. 1993 Ch. 291, §151) Failure to register sale of explosives; and K.S.A. 21-4219 (L. 1993 Ch. 291, §158) Unlawful discharge of a firearm. The statutes are all part of the criminal code and describe unlawful acts for both adults and juveniles.

The review also included Wichita city ordinance 41-976 which was adopted in April of 1993. The ordinance prohibits the possession of firearms by a minor unless the minor is accompanied by a parent, grandparent, or legal guardian. Exceptions are provided for minors attending certain hunting and firearms instruction classes or transporting an unloaded gun to or from a lawful hunting expedition under certain circumstances. Minors who violate the ordinance are to be subject to the Juvenile Offenders Code (K.S.A. 38-1601, *et seq.*), with their guns confiscated. Guns confiscated under the ordinance are to be destroyed or forfeited to the Wichita Police Department when they are no longer needed as evidence. Staff noted that state law will need to be amended to make the Juvenile Offender Code applicable to violations of city ordinances.

The review also included discussion of Colorado H.B. 93S-1001 which specifically makes it a crime for juveniles to possess handguns. Staff noted that the bill, which was enacted during a recent special session of the Colorado Legislature, has been successfully challenged in a Colorado state trial court.

Other Bill Introductions

Several bills were approved for introduction as Committee bills upon the request of individual Committee members. Those bills were not available to publish with this report, but will be prefiled for introduction to the 1994 Legislature.

Qualifications for Sheriff. The Committee voted to introduce a bill requested by the Kansas Sheriff's Association. The requested amendments to existing law would create additional statutory qualifications for persons nominated, elected, or appointed to the office of sheriff. Those qualifications would include:

- five years' experience as a full-time police officer or full-time law enforcement officer as defined in statute; and
- having fulfilled statutory requirements for permanent appointment as a full-time police officer or full-time law enforcement officer.

The bill also would provide that persons serving as sheriff on the effective date of the act would be forever eligible for nomination, election, or appointment to the office.

Current law requires that persons nominated, elected, or appointed to the office of sheriff be U.S. citizens, and have a high school education or its equivalent. Persons who have been convicted of, or entered a plea of *nolo contendere* to a felony or any federal or state law or city ordinance relating to gambling, liquor, or narcotics are ineligible under current law to be nominated, elected, or appointed to the office of sheriff. Those provisions of existing law would be unchanged by the bill.

Use of Credit Cards to Purchase Liquor. The Committee voted to introduce a bill that would amend existing law to permit farm wineries, farm winery outlets, and micro breweries to accept bank credit cards for payment for off-premise sales of domestic wine or domestic beer.

Film Commission Regions. The Committee voted to introduce a bill that would amend existing law to recognize creation of an additional region from which members of the Film Commission are appointed.

HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS

COMMITTEE MEETINGS*

The Committee met on July 15-16 and September 17. The Committee also met jointly with the Senate Committee on Federal and State Affairs on September 16.

COMMITTEE ACTIVITIES

The Committee reviewed Kansas' laws regulating gambling and alcohol, received a briefing from the Racing Commission on its request for amendments to the Kansas Racing Act, and conducted an informational hearing on 1993 S.B. 380.

All memoranda presented to the Committee may be obtained from the Kansas Legislative Research Department. Written testimony presented by conferees who appeared before the Committee are part of Committee meeting minutes available at Legislative Administrative Services.

Gambling Regulation

The Committee examined the statutory structure of state oversight of gambling for those types of gambling currently legal in Kansas, *i.e.*, bingo, lottery, and parimutuel wagering. As part of that examination, each agency with primary responsibility for gambling oversight provided the Committee with information about how it fulfills its role. Those agencies are: the Kansas Racing Commission, the Kansas Lottery, the Department of Revenue (bingo), and the Kansas Bureau of Investigation. The Attorney General and his staff provided the Committee with an update on the status of litigation over state/tribal gaming compacts.

This review of gambling oversight was initiated in part in response to concerns that gambling oversight might be more efficient and effective if some or all functions are consolidated in a single agency. Concerns about oversight of gambling also were raised during discussions of expansion of legal gambling in Kansas through a constitutional amendment that would permit establishment of private casinos, through state/tribal gaming compacts, or both.

Conclusions and Recommendations. The Committee concluded that additional information is necessary prior to making a decision regarding consolidation of gambling oversight agencies. In order to obtain that information, the Committee requested an audit be performed by the Legislative Division of Post Audit. The requested audit would examine the effectiveness of enforcement of criminal and civil gambling laws, the adequacy of oversight agencies' audit capabilities, and whether there is sufficient structural separation of functions within oversight agencies to avoid internal conflicts. (A copy of the draft scope statement approved by the Committee can be obtained from the Kansas Legislative Research Department or the Legislative Division of Post Audit.)

The Committee also determined that the existing statute prohibiting gambling devices should be amended to conform to federal law. The amended definition would permit state law enforcement officials to apply the same standards currently used by federal officials to the determination of whether a machine is a gambling device. The Committee recommendations are included in H.B. 2560 which is part of this report.

* H.B. 2560 accompanies this report.

That bill would amend the existing statutory definition of "gambling device" to include any contrivance that is designed, manufactured, or altered primarily for use in connection with gambling. The bill would make certain elements of such a device prima facie evidence that the device is designed, manufactured, or altered primarily for use in connection with gambling. Those elements would include the ability of the device to accept multiple coins or dollar bills for the wager of more than one credit, the presence of or ability to accommodate the addition of a mechanism that enables accumulated credits to be removed from the device, or the presence of or ability to accommodate a mechanism to record the number of credits removed from the device. The bill would become effective upon publication in the *Kansas Register*.

Alcohol Statutes

The Committee (in joint session with the Senate Committee on Federal and State Affairs) reviewed existing liquor laws in preparation for possible consideration of amendments during the 1994 Session. Staff also provided the Committee with a compilation of proposed liquor law amendments considered, but not adopted, since 1987. The Committee also received a briefing from the Division of Alcoholic Beverage Control regarding its duties and how it enforces Kansas' liquor laws.

Proposed Amendments to Parimutuel Racing Act

The Executive Director of the Racing Commission presented to the House and Senate Committees on Federal and State Affairs proposed amendments to the racing act that could be incorporated into 1993 S.B. 411 and S.B. 412. The Committees took no action on the Racing Commission's proposals.

1993 S.B. 380 – Moneys Credited to Horse Breeding Development Fund

The Committee received a briefing from the Executive Director of the Racing Commission on the history and purpose of 1993 S.B. 380.

The bill, as amended by the Senate Committee on Federal and State Affairs, would amend existing law regarding disposition of funds in the Horse Breeding Development Fund. (Those funds are derived from breakage and unclaimed winnings.) The bill would require that moneys credited to the Fund be apportioned to categories corresponding to those breeds of horses participating in live and simulcast races conducted and displayed in Kansas. Each category would be entitled to receive an amount proportional to the breed's contribution to the Fund. The bill specifically would provide that the portion of the Fund derived from simulcast races be apportioned into categories corresponding to those breeds of horses participating in simulcast races displayed in Kansas.

Under current law, monies credited to the Fund are apportioned in proportion to participating breeds' contribution to the Fund. The Attorney General (AG Opinion 93-12) has interpreted current law to require that all moneys credited to the Fund, whether from live or simulcast races, be apportioned in proportion to the various breeds' participation in live races.

The Executive Director pointed out to the Committee that the disagreement over the interpretation of the law that led to introduction of S.B. 380 is currently being litigated, so the Commission has not taken a position on the proposed legislation. The Committee accepted testimony from opponents of S.B. 380. No proponents of the bill appeared.