

MINUTES OF THE SENATE WAYS AND MEANS COMMITTEE

The meeting was called to order by Chairman Stephen Morris at 10:40 a.m. on January 27, 2004, in Room 123-S of the Capitol.

All members were present except:

Senator David Kerr- excused
Senator Henry Helgeson- excused

Committee staff present:

J. G. Scott, Chief Fiscal Analyst, Kansas Legislative Research Department
Amy Deckard, Kansas Legislative Research Department
Susan Kannarr, Kansas Legislative Research Department
Becky Krahl, Kansas Legislative Research Department
Jill Wolters, Senior Assistant, Revisor of Statutes
Judy Bromich, Administrative Analyst
Mary Shaw, Committee Secretary

Conferees appearing before the committee:

Senator Derek Schmidt
Phill Kline, Attorney General, State of Kansas
Don Houston, Central Region Vice President for The GEO Group, Inc.
Mike Jennings, on behalf of Nola Foulston, District Attorney's Office, Sedgwick County
Roger Werholtz, Secretary, Kansas Department of Corrections
Frank Smith, Harper County Silver-Haired Legislature
David Wilkinson, Facilitator, AfterCare ACTION Initiative II: Ministry to the Formerly Incarcerated, Criminal Justice and Mercy Ministries
Peter Ninemire, Midwest Regional Trainer/Organizer for Families Against Mandatory Minimums
Andy Sanchez, Executive Director, Kansas Association of Public Employees
Kathy Gabara, Members of Kansas CURE (Citizens United for Rehabilitation of Errants)
Andy Sanchez, Executive Director, Kansas Association of Public Employees (written)

Others attending:

See Attached List.

Chairman Morris opened the public hearing on:

SB 275--Allowing private companies to construct correctional facilities

Chairman Morris welcomed the following conferees who testified on **SB 275**:

Senator Derek Schmidt testified in support of **SB 275** (Attachment 1). Senator Schmidt urged the committee to enact legislation such as **SB 275** which would authorize the construction of one or more private prisons in Kansas, under strict state regulation, as one part of the strategy to address the overcrowding of prisons in Kansas.

Phill Kline, Attorney General, State of Kansas, testified in support of **SB 275** (Attachment 2). Attorney General Kline mentioned that over 13 percent of federal inmates are housed in private facilities and just over 6 percent of state inmates around the nation are housed in private facilities. It is a tested approach. The Attorney General mentioned that he believes one could rest assured that the civil liberties and rights of inmates are protected, as it relates to private prisons, and there is accountability provided. He also encouraged allowing a flexible approach to the bed space problem in prisons which will come more acute.

Don Houston, Central Region Vice President for The GEO Group, Inc., (formerly known as Wackenhut Corrections) spoke in support of **SB 275** (Attachment 3). Mr. Houston explained that private correctional facilities in many states are now seen as an integral part of the corrections system. Low cost, high quality services help the Agencies in those states deal with expanding offender populations at a time when budgets are shrinking. He advised the committee to consider adding a requirement to **SB 275** that the Attorney

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General must review any contract that would bring out-of-state inmates to Kansas.

Mike Jennings, testified in support of **SB 275** on behalf of Nola Foulston, District Attorney for the Eighteenth Judicial District, Sedgwick County (Attachment 4). Mr. Jennings mentioned that the Department of Corrections system has been at capacity for bed space for some time, particularly for higher security, long term inmates. He explained that this has several adverse and costly consequences for the courts and jails in the Eighteenth Judicial District. It creates a shortage of bed space in the Sedgwick County Adult Detention Facility because it takes longer for the Department of Corrections to find space for new inmates and the delay requires an inmate to remain housed in a local jail until Department of Corrections space is available. Mr. Jennings noted that having the ability to use bed space at private facilities is a very promising solution to meeting the need for additional Department of Corrections bed space.

Roger Werholtz, Secretary, Kansas Department of Corrections, testified as a neutral conferee on **SB 275** (Attachment 5). The Department of Corrections is not taking a position on the policy of whether to authorize private prisons in Kansas. Secretary Werholtz shared some thoughts in regard to the best ways to implement **SB 275** should the policy be adopted. He explained that one of the significant factors for the use of private prisons for the incarceration of Kansas offenders is the State's ability to use Violent Offender Incarceration/Truth In Sentencing (VOI/TIS) federal grant funds to pay for 90 percent of the cost of the confinement of offenders in private facilities. Secretary Werholtz noted that the last Congressional appropriation for VOI/TIS grants was in 2001 and it is anticipated that Kansas will have spent its VOI/TIS grant by the end of FY 2005. In his testimony, the Secretary detailed information regarding two items for consideration in the Role of the Kansas Department of Corrections:

- State as Regulator
- Kansas Department of Corrections as a Consumer

Due to time constraints, Chairman Morris asked Secretary Werholtz to come back to the committee at a later date and he requested the balloon amendments that were suggested in Secretary Werholtz's testimony.

Frank Smith, Harper County's Silver Haired Legislature, spoke in opposition to **SB 275** (Attachment 6). Mr. Smith explained that private prisons have not been demonstrated to save taxpayer money and often cost the taxpayer far more money than would have otherwise. Mr. Smith mentioned that public policy is imperative. In his written testimony, Mr. Smith presented a list of typical problems with for-profit prisons.

David Wilkinson, Facilitator, AfterCare ACTION Initiative II: Ministry to the Formerly Incarcerated Criminal Justice and Mercy Ministries, testified in opposition to **SB 275** (Attachment 7). Mr. Wilkinson expressed concerns about the bill and the system itself holistically and the problem of 65 to 70 percent recidivism rates where the prison population will continue to grow. He explained that the recidivism rate is driven by the lack of support for the formerly incarcerated in their transition to freedom. Mr. Wilkinson mentioned that the United Methodist Church is formally and officially against private prisons because they feel it is ethically morally wrong and ask that the committee reject the bill.

Peter Ninemire, Midwest Regional Trainer/Organizer for Families Against Mandatory Minimums (FAMM), Wichita, testified in opposition to **SB 275** (Attachment 8). He explained that FAMM does not believe that crime should go unpunished, but rather that the punishment should fit the crime. One of their main focuses is on alternatives to the long-term incarceration of low-level, non-violent drug offenders. Mr. Ninemire expressed the need for long-term solutions. He distributed copies of Families Against Mandatory Minimum's Smart on Crime publication. Copies are on file in the Kansas Legislative Research Department.

Written testimony was submitted by Andy Sanchez, Executive Director, Kansas Association of Public Employees, in opposition to **SB 275** (Attachment 9). Due to time constraints, Chairman Morris invited Mr. Sanchez to testify in person at the next meeting when **SB 275** will be addressed again.

Written testimony was submitted by Kathy Gabera on behalf of the Members of Kansas CURE (Citizens for Rehabilitation of Errants) in opposition to **SB 275** (Attachment 10).

The Chairman held the hearing on **SB 275** open to be continued at a later date.

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The meeting adjourned at 12:05 p.m. The next meeting is scheduled for January 28, 2004.