

MINUTES

SPECIAL COMMITTEE ON KANSAS SECURITY

November 21-22, 2002
Room 519-S—Statehouse
and State Defense Building

Members Present

Senator Jay Scott Emler, Co-Chairman
Representative Carl Krehbiel, Co-Chairman
Senator Jim Barone
Senator Dave Jackson
Senator Nick Jordan (November 22)
Senator Derek Schmidt
Representative Joe Shriver
Representative Lee Tafaanelli

Member Absent

Representative Judy Loganbill

Staff Present

Robert Waller, Kansas Legislative Research Department
Paul West, Kansas Legislative Research Department
Bruce Kinzie, Revisor of Statutes Office
Lisa Montgomery, Revisor of Statutes Office
Dee Ann Woodson, Committee Secretary

Conferees

Bob Claus, Deputy Attorney General, Criminal Litigation Division
Kyle Smith, Special Agent, Kansas Bureau of Investigation
Roger Werholtz, Acting Secretary, Kansas Department of Corrections
Barbara Tombs, Executive Director, Sentencing Commission
Ed Collister, Kansas Bar Association

L. J. Leatherman, Kansas Trial Lawyers Association
Barry Gries, Kansas Department of Administration
Ray Gonzalez, Captain, Capitol Area Police Department
Jeff Russell, Director, Legislative Administrative Services
Janet Jones, Chief Clerk, House of Representatives
Pat Saville, Secretary of the Senate
Christopher Furlow, Director of State Affairs, White House Office of Homeland Security
Dr. Gerald P. Jaax, Associate Provost for Research Compliance and University
Veterinarian, Kansas State University
Dr. Sanjay Kapil, Associate Professor, College of Veterinary Medicine, Kansas State
University
Dr. Gale Hansen, Kansas Department of Health and Environment
George Teagarden, Livestock Commissioner, Kansas Animal Health Department
Jamie Clover-Adams, Kansas Department of Agriculture
Dr. Michael Moser, Director, Kansas Department of Health and Environment
Major General Gregory Gardner, Adjutant General's Office
Gene Kruse, Administrator, Division of Emergency Management, Adjutant General's
Office
Captain Tim Lockett, Kansas Highway Patrol

**Thursday, November 21
Morning Session**

Co-Chairman Carl Krehbiel called the meeting to order at 10:00 a.m., and asked that Committee members introduce themselves. Co-Chairman Krehbiel then asked Robert Waller, Kansas Legislative Research Department to review HB 2986, which would increase criminal penalties for criminal activities relating to terrorism ([Attachment 1](#)).

Committee questions included inquiries relating to pursuing state criminal charges in a terrorist act after federal charges have been levied and privacy issues in relating to emails and intercepting communications. Senator Jordan asked if the bill mirrored federal terrorism legislation. Mr. Waller responded that HB 2986 would update various disaster statutes and criminal codes to now include terroristic events, and provide law enforcement greater ability to investigate such activities.

Senator Barone asked for clarification on what was a terroristic threat. He inquired as to the difference between a terroristic threat and current criminal statutes relating to threats. Mr. Waller replied that the Attorney General's staff and representatives from the Kansas Bureau of Investigation (KBI) would be better able to provide the Committee with a definition and explain the laws that were currently on the books.

Co-Chairman Krehbiel asked Mr. Waller to what extent the provisions of this bill might have been addressed with the passage of the Homeland Security Bill. Mr. Waller responded that once the bill is re-introduced into the House Judiciary Committee the bill would more

than likely be amended to coordinate with federal laws. He added that in addition, the U.S. Patriot Act, passed before the Homeland Security Act, would also speak to terrorism issues.

Co-Chairman Krehbiel commented on the FBI's email monitoring device and the new database the Department of Defense is developing relating to the surveillance of email. He stated that articles on information technology and telecommunication relating to state laws (like the legislation passed by the 2002 Legislature) are impossible to implement due to the location of offenders making this a national issue. He questioned whether the State of Kansas should leave the issue to the purview of the federal government. Mr. Waller stated he was unsure of a state law rectifying the situation. However, the issue was addressed to some extent within the cyber security section of the Homeland Security Act.

Co-Chairman Krehbiel called upon Robert Claus, Deputy Attorney General for the Criminal Division of the Office of the Attorney General, to give a presentation and review of HB 2986 (Attachment 2). He discussed Sections 1 through 7 including the severity levels regarding these crimes and the privacy provision. Mr. Claus then asked Kyle Smith, Special Agent for the KBI, to give the Committee an overview of the remaining sections involving the criminal investigations. Mr. Smith explained that the bill provides greater access to intelligence gathering, the prevention of terrorism, or a domestic security problem. He reviewed Section 8 covering money laundering system; Section 9 regarding the collection of DNA samples; Section 10 involving the statute of limitations; and Sections 11-13 relating to technical amendments. He remarked that Section 14 amended the capital murder statute and sentencing issues, and Section 15 was legal language included to conform with sentencing guidelines. He stated that Sections 16 and 17 were existing federal law language on search warrants, and were included to assist in speeding up the response to such situations. He further explained that Sections 18-25 dealt with electronic surveillance which was an element of the Patriot Act of 2001.

Co-Chairman Emler asked if Sections 16 and 17 would amend the statutes for all crimes, and Mr. Smith answered in the affirmative. Co-Chairman Emler then questioned the wording in Section 21 "request for emergency assistance," and expressed concern relating to limiting liberty and privacy issues. Mr. Smith clarified that Section 21 only deals with wiretaps, and does not include emails or bank records. Co-Chairman Emler referred to Section 25 and questioned the potential for abuse regarding the 48-hours rule. Mr. Smith stated that it was a balancing situation, and the Supreme Court protects against unreasonable searches and seizures.

Committee questions and discussion included clarifying the definition of a terroristic threat and differences in criminal statutes today as compared to HB 2986.

Representative Shriver stated that items two and three should be addressed by the Judiciary Committees of the Legislature, and asked Mr. Claus if the Attorney General would object if the Committee recommended adding crimes of terrorism. He clarified that this meant the Security Committee would not address items two and three, and only focus on adding crimes of terrorism. Mr. Claus responded that the Attorney General's Office was concerned that law enforcement needs those items to respond to incidents and should be considered by the Committee.

Co-Chairman Krehbiel called upon Roger Werholtz, Acting Secretary of the Department of Corrections, to present testimony on the impact HB 2986 would have on inmate capacity at the Department of Corrections ([Attachment 3](#)).

Co-Chairman Krehbiel introduced Barbara Tombs, Executive Director, Kansas Sentencing Commission. She gave a presentation on the impact of HB 2986 on the sentencing grid. Ms. Tombs furnished the Committee with information listing key assumptions used in projecting prison admissions under this bill, and their findings. She concluded that given the nature of the new felonies, there would be a limited number of offenders convicted under the new felonies in this proposed state legislation. She stated that there would be very little impact on prisons from this bill because of the lengthy sentences for these crimes ([Attachment 4](#)).

Ed Collister, Kansas Bar Association (KBA), furnished copies of KBA's testimony before the House Judiciary Committee on February 25, 2002, wherein they did not support the proposed legislation due to intrusions on 4th amendment rights. He explained KBA's concerns with the definition of terrorism, and noted that the proposed definition was too broad. He questioned whether the State of Kansas wanted to reform vast sections of the criminal code to convict a small number of people that are predicted to be convicted over the next ten years. He noted that consideration should be given to budget cuts affecting the KBI, law enforcement, and the judicial system; and the fact that this bill is duplicating what the federal government has already done ([Attachment 5](#)).

Co-Chairman Krehbiel next recognized L. J. Leatherman, Kansas Trial Lawyers Association (KTLA), who testified that they were in agreement with the KBA in opposing the proposed bill. He said the definition of terrorism was especially too broad and vague, and could easily be applied to nonviolent acts such as civil disobedience. He stated that crimes intended for prosecution under this statute are likely covered elsewhere in the criminal law, and were better left for prosecution under existing statutes. He informed the Committee members that KTLA would welcome the opportunity to work with the Attorney General's office and others in crafting a bill that protects Kansas citizens from terrorist acts while punishing those who would perpetrate such crimes ([Attachment 6](#)).

Co-Chairman Krehbiel opened the floor for questions for all the conferees. Senator Jackson asked if McVey would have blown up Kansas' State Judicial Center is there currently a Kansas law to prosecute. Mr. Collister stated if people were killed, injured, or property damaged, then the various Kansas criminal laws would apply.

Representative Tafanelli inquired as to how much of the bill deals with investigative tools prior to a terroristic incident and those provisions that deal with a terrorist act after it is committed. Mr. Smith replied that the bill was composed of investigative tools including electronic surveillance, the other sections with punishment. He further explained that the issue depends on the actual crimes which were committed.

Co-Chairman Krehbiel expressed his appreciation to all the conferees who appeared before the Committee. He recessed the Committee at 12:00 p.m., for lunch break, to reconvene at 1:30 p.m.

Afternoon Session

Co-Chairman Krehbiel called the meeting to order at 1:30 p.m., and called upon Barry Gries, Statehouse Architect, Department of Administration, to give a presentation on the Statehouse renovation project. He informed the Committee that J. E. Dunn Construction Company, the construction manager, had 90 percent of the excavation work done for the parking garage. He updated the Committee members on work currently being done, the proposed security system which has been reviewed with the Division of Facilities Management, and meetings to be conducted with the Capitol Police in regards to the proposed security system. He stated that the Docking Building would remain the primary monitoring station for the Statehouse. However, the Statehouse would contain a complete secondary monitoring system in the Statehouse. Mr. Gries showed Committee members architect's drawings of the renovation project, and explained what would be located on the new lower level area on the north side. He explained that there would be a two-story parking garage consisting of 551 parking stalls available year round with controlled access. He also discussed the construction of a visitor's center including security machines to check people as they come into the building.

A question was asked if all public access to the Statehouse would be directed through the visitor's center and garage. Mr Gries replied yes, and explained that the idea was to have one central secure entrance, and that was through the visitor's center. He added that there will still be key card access to the first and second floor doors.

Co-Chairman Krehbiel inquired if all parking would be in the garage and there would be no surface parking around the Capitol. Mr. Gries stated that there would still be parking on the perimeter or historical drive around the Capitol.

Co-Chairman Krehbiel commented that he hoped that access via the drive around the Statehouse would be reviewed again with the Capitol Police because of the proximity of delivery vehicles to park within 80 feet of the Capitol. Mr. Gries noted that the loading dock area on the diagram was located next to the Capitol Police suite where all deliveries would take place and packages scanned by X-ray machine.

Senator Schmidt inquired if there was a plan to physically impede vehicles entering over the lawn areas. Mr. Gries replied that it had been discussed, but were waiting for direction from the State Architect. Co-Chairman Krehbiel urged them to give strong consideration for that type of protection for the Statehouse building, and discussed the California incident relating to a vehicle hitting the Capitol building and causing in excess of \$18 million worth of damage.

Representative Johnson asked what was the projected completion date and the amount of funding. Mr. Gries remarked that the completion date for the parking garage was June of 2004. He informed the Committee that as far as the schedule of funding, they are on target now for the projected funding for not only the short term but the long term of the project of \$135 million, with spending to date of \$10 million.

Co-Chairman Krehbiel questioned whether consideration had been taken relating to the introduction of chemical or biological agents into the heating, venting, and air conditioning system intake systems. Mr. Gries responded that those are very difficult to protect against, with the best protection being to place them 20 to 30 feet in air. However, that was not physically possible due to the historical designation of the Capitol.

Captain Ray Gonzalez, Capitol Police Department, gave a brief historical review of the structure of the Capitol Police and their functions ([Attachment 7](#)). He showed video of the Capitol Police's duties and responsibilities in the Capitol Complex area. After viewing the video, Co-Chairman Krehbiel suggested that the video be shown to the new representatives coming into the Legislature this next session as he felt it would be very educational and helpful in their orientation process.

Captain Gonzalez included in his presentation information covering various training classes that they developed and conduct for state employees. He also addressed the security staffing needs due to the increased threats of terrorism since September 11, 2001, and the security enhancement requirements throughout the Capitol Complex area.

Co-Chairman Krehbiel expressed the Committee's appreciation for the informative presentation. In regard to Captain Gonzalez's recommendation for increased staffing, he remarked that the Committee did have the ability to make recommendations to the Legislature. However, the recommendation would have to go through the budget process. Co-Chairman Krehbiel stated that he would be willing to make a motion that the Committee would recommend additional funding for Capitol Police officers if an exact recommendation could be made as to the number of positions needed. Captain Gonzalez said he did not know exactly what changes would occur. But, he would work with the Colonel of the Kansas Highway Patrol (KHP), and have that information provided to the Committee.

Jeff Russell, Director of Legislative Administrative Services (LAS), gave a presentation on the continuity of government and what the Legislature's alternatives would be if the Statehouse would become inhabitable for any reason ([Attachment 8](#)). He provided the Committee with a checklist for the continuity of government information obtained from the National Council of State Legislatures (NCSL) ([Attachment 9](#)). He explained that in working with the Highway Patrol and the staff from the Office of Emergency Preparedness, it was ascertained that there was a plan, but it had not been updated and appeared to not have any legislative input. In providing information to the Committee, he distributed a copy of Wisconsin's planning document for the continuation of government ([Attachment 10](#)).

Mr. Russell suggested that a basic plan of action for the Legislature was: to determine the required service levels and needs under both session and nonsession conditions; the off-site resources necessary to meet those service levels; and acquiring assistance from the Office of Emergency Preparedness in meeting location and resource needs. He commented that Janet Jones, Chief Clerk of the House of Representatives, and Pat Saville, Secretary of the Senate, had been very helpful in gathering information and ideas from meetings with their peers across the country.

Co-Chairman Krehbiel opened the floor for questions and comments from members of the Committee. General questions and discussion followed regarding possible sites within the state that could be used for an alternative site of operation. Senator Barone inquired if this responsibility covering the Legislature had been assigned, and Mr. Russell replied in the negative.

Co-Chairman Emler asked for clarification that the continuity of government and legislative plans have not been included in the Adjutant General's plans. Mr. Russell stated that was correct.

Co-Chairman Krehbiel discussed possible recommendations the Committee could make in regards to planning for the legislative continuity of government. Mr. Russell replied that LAS is available to work through scenarios to ensure the continuance of legislative business during an emergency situation. Mr. Russell commented that LAS had informally conducted some preliminary checking as far as security and the location in Topeka, acquiring cell phones with voice mail capabilities for communication purposes, accessing computer service, assessing secretarial needs, and ensuring the Revisor of Statutes Office and the Kansas Legislative Research Department can still provide sufficient services.

Co-Chairman Krehbiel asked Pat Saville and Janet Jones if they would like to address the Committee on these issues. Ms. Saville stated that in discussions with individuals from Washington state in regards to handling emergency situations they provided a system of accounting for everyone within their building. She added that personnel from Washington state did not have an alternative site set up for relocating in the case of a required evacuation. Rather, their leadership would convene to determine where to conduct official business. Ms. Saville commented that consideration should be given to such things as fire drills, evacuation procedures, the location of flashlights for use when electricity is unavailable, and general equipment needs for use during emergency situations. She stated that she did not know of any such instructions or plans covering these things that are in existence today.

Ms. Jones informed the Committee that the NCSL meetings have demonstrated the need to have a security plan for the Legislature to be up and running within 12 hours of an incident, and another plan to continue the legislative process due to an extended incident. She provided the Committee with a list of needs during an emergency including providing identification and security clearance for individuals, preparedness kits such as first aid kits, utilization of the medical emergency sled, computers with backup program discs, availability of general office supplies, and a communication system and a list to maintain contact with legislators, leaders, emergency personnel, and families. She added that the legislative sergeants and doormen needed to be trained in evacuation procedures to direct everyone where to go in an emergency situation, and to participate in practice drills so everyone is clear on the procedures.

Co-Chairman Krehbiel expressed his appreciation for the presentations on this subject.

Gene Krase, Administrator, Division of Emergency Management (DEM), commented that there were plans for other locations to bring the Executive Branch and the State Finance Council together at alternative sites by the Adjutant General's Office. He stated that DEM had not created procedures to address the needs of the Legislature in case of evacuation. He added that the difficulty was to determine who was in charge and thus making the decisions. He commented that evacuating the Executive Branch was much easier than the Legislature.

Senator Barone inquired about powers of authority the Governor and the State Finance Council had for an extended period of time. Mr. Krase explained the authority set out in KSA 48-925 and KSA 48-924 and noted that after a period of 30-45 days it would require a concurrent resolution by the Legislature to extend the authority.

Co-Chairman Emler discussed the possibility of Saline County being considered as a relocation emergency site due to the various facilities already in place. Mr. Krase agreed due to the existence of the Highway Patrol training center and National Guard facilities in the area.

Co-Chairman Krehbiel asked the presenters for opinions in regards to Committee recommendations pertaining to Legislative Branch continuity of government. Mr. Russell commented that worst case scenarios would need to be investigated, thereby prompting the Legislative Coordinating Council (LCC) to assign the administrators of the various legislative departments to provide information on how to continue services during an emergency. He opined that it should not be a difficult task once legislative needs are identified, and what is needed to accomplish legislative business.

Co-Chairman Krehbiel again expressed the Committee's appreciation for their input and ideas.

Mr. Waller distributed copies of last year's Interim Committee Report for the Special Committee on Kansas Security. He explained the format and what needed to be included in this Committee's Interim Report ([Attachment 11](#)).

Co-Chairman Krehbiel opened the floor for consideration of approval on two sets of minutes from previous meetings of the Committee in December and January.

Senator Jordan made a motion to approve the minutes as written for the December 7 and 8, 2001, meeting, motion was seconded by Senator Jackson, and the motion carried.

Senator Jordan made a motion to approve the minutes as written for the January 7 and 8, 2002, meeting, seconded by Representative Tafanelli, and the motion carried. Co-Chairman Krehbiel called for questions and discussion on HB 2986, and how to proceed.

Representative Shriver stated that he would not feel comfortable today with moving the bill forward because of testimony previously heard by the House Judiciary Committee during the 2002 Session. He commented that he was not opposed to the bill, rather opposed to making a recommendation to the 2003 Legislature on the bill.

Co-Chairman Emler commented that he agreed with Representative Shriver, but thought the Committee could recommend the bill for further study. He remarked that due to the recent passage and changes in the federal law, further study was needed due to the broad language within the bill. He further stated that if a recommendation was made, the Committee should look closely at federal legislation before conducting additional legislative hearings. As a matter of clarification, Mr. Kinzie of the Revisor of Statutes Office, stated that HB 2986, was dead at the end of last session. However, the subject matter could be recommended to the Speaker of the House and the President of the Senate for further study.

Representative Jackson moved that the Committee recommend that the President of the Senate and the Speaker of the House refer the subject matter of HB 2986 to appropriate committees during the 2003 Legislative Session for further study with emphasis on coordinating with recently passed federal legislation. Senator Jordan seconded the motion, and the motion carried.

Co-Chairman Krehbiel called for further discussion and recommendations on the issue of continuity in government. Co-Chairman Emler remarked that it appeared the Executive Branch had plans in place, as opposed to the Legislature, if there was a need to evacuate or relocate to continue legislative business. He recommended that the Committee suggest to the LCC that a contingency plan be developed to accomplish the essential functions of the Legislature during an emergency or disaster. Representative Tafanelli commented that the plan could be developed with the assistance of DEM, but consideration should also be given to the Judiciary Branch.

Senator Barone asked for clarification on the state statutes covering the first 45-day period of emergency, and the Governor's State Finance Council's granted authority during that period. Mr. Kinzie explained the statute covering this issue, and noted that an amendment to add the event of terrorist attack last session passed. He added that the conferees on the continuity of government activities were interested in having an emergency plan developed and in place for the Capitol building for evacuation and emergency purposes to provide for the relocation of people, services, and business functions.

Committee discussion continued regarding the issue of fire drills that are occasionally practiced one floor at a time when the Legislature was not in session, and did not involve the entire building. Committee members expressed concern that drills should be held during session to involve legislators, session employees, special interest groups, the disabled, etc. It was noted that this might not be included in the Committee's report, but should be discussed with leadership. Co-Chairman Emler noted that there were two separate issues here that needed to be addressed:

1. the existence of plans for first aid kits, fire drills, etc. and
2. the individuals granted authority to carry out the plans.

Additionally, he stated that the Committee report and the emergency plan developed should address scenarios in regards to an outbreak of anthrax, the contamination of the state complex buildings, and what would be done to evacuate and relocate state agencies and employees.

Representative Tafanelli asked if it was possible to get a copy of the plan that exists for the Executive Branch to see what level the details are contained therein. Co-Chairman Krehbiel responded that request probably would be best handled with the Adjutant General during the next day's meeting.

Representative Shriver made a motion that the Committee recommend to the LCC that a contingency plan for the continuity of government activities for the Legislative and Judicial Branches be developed. The motion was seconded by Representative Johnson, and the motion carried.

Co-Chairman Krehbiel suggested that Mr. Russell, Ms. Jones, and Ms. Saville discuss continuity plans with the Speaker of the House and President of the Senate, and request a plan be developed to address emergency incident issues discussed by the Committee.

The meeting was adjourned at 4:30 p.m., to be re-convened at 9:00 a.m., at the State Defense Building in Topeka.

Friday, November 22 Morning Session

Co-Chairman Krehbiel moved that the open meeting of the Special Committee on Kansas Security be recessed for a closed, executive meeting pursuant to Joint Rule 5 of the Joint Rules of the Senate and House of Representatives and subsection (b)(13) of KSA 2001 Supp. 75-4319, for the purpose of consulting with Major General Gregory Gardner, Adjutant General, other members of the staff of the Adjutant General and appropriate representatives of other state agencies regarding matters:

- 1. relating to the security of state officers or employees, or both, or the security of buildings and property under the ownership or control of the State of Kansas, or*
- 2. matters relating to the security of a public body or agency, public building, or facility or the information system of a public body or agency, which matters if discussed at an open meeting would jeopardize the security of such individuals, buildings, or facilities, public body or agency, property or information system, that the Special Committee on Kansas Security resume the open meeting in this room, the conference room of the State Defense Building, at 10:30 a.m., and that this motion, if adopted, be*

recorded in the minutes of the Special Committee on Kansas Security and be maintained as a part of the permanent records of the Committee; seconded by Senator Jordan. Motion passed at 9:01 a.m., on November 22, 2002 (Attachment 12).

The Committee designated George Teagarden, Livestock Commissioner, Kansas Animal Health Department; Jamie Clover-Adams, Secretary, State Department of Agriculture; David Lake, Administrator, Kansas Board of Emergency Medical Services; Lt. Col. Terry Maple, Kansas Highway Patrol; Agents Kyle Smith and Kirk Thompson, Kansas Bureau of Investigation; Dr. Michael Moser, Director of the Division of Health; and Dr. Ron Hammerschmidt, Director of the Division of Environment, Kansas Department of Health and Environment, as essential personnel to attend the presentation along with staff members, Robert Waller and Bruce Kinzie.

Co-Chairman Emler reopened the meeting to the public at 10:30 a.m., and introduced General Gregory Gardner, Adjutant General. General Gardner welcomed everyone in attendance and made introductions of Committee members for a conference call with Christopher Furlow, Director of State Affairs, White House Office of Homeland Security. Committee members received copies of the National Strategy for Homeland Security issued in July 2002 and of the overview of the Department of Homeland Security (DHS). (Copies available through the Legislative Research Department or on the website: www.ink.org/public/kdem.)

Mr. Furlow expressed his appreciation on behalf of the President and Governor Ridge to Governor Graves and General Gardner for the outstanding partnership established on the issue of Homeland Security. He stated that it was very important to have the ability to communicate effectively on various concepts whether it be exchanging threat information, developing policies, or discussing resources critical to state and local government.

Mr. Furlow gave an overview of the current status of DHS, and explained the organizational chart for DHS, as well as what was contained in the strategy document distributed. He stated that prior to the events of September 11, 2001, there were various federal government agencies working on Homeland Security. However, those agencies did not communicate effectively with one another. In reviewing DHS issues, many depleted programs were discovered, thus demonstrating a blockage with communication between agencies. Mr. Furlow explained that DHS was created to bring together 22 federal agencies that would work together for the purpose of protecting the homeland. He added that with the passage of the Homeland Security Act, it would create the largest government reorganization since WWII.

Mr. Furlow informed the Committee that by centralizing the agencies, it would save time and resources in providing information for homeland security issues. He emphasized that it was very important for state and local governments to have a single point of contact in order to access information and resources. He also spoke briefly about budget and funding concerns, and the effect of the new administration on Kansas.

Co-Chairman Emler opened the floor for questions and discussion. Representative Tafanelli asked if Mr. Furlow knew how many states were reorganized or considering reorganizing state agencies along the same lines as DHS. Mr. Furlow replied that some states have set up Homeland Security offices, *i.e.*, Alabama, Tennessee, and New York have an Office of Public Security which is essentially their Homeland Office, while, other states already had agencies dedicated to Homeland Security. He noted that a third of the states have an Adjutant General who may also head up the Office of Emergency Preparedness or Emergency Management in the state, or personnel in law enforcement, *i.e.*, State Police Superintendent, Department of Public Safety, or the Department of Law Enforcement at the state level are the officials responsible for "homeland" security within their respective states.

Co-Chairman Krehbiel informed Mr. Furlow that due to membership with the NCSL and its annual committee meetings being held in Washington, D.C. in mid-December, it would be a great opportunity for DHS staff to meet with a diverse group of state legislators. Mr. Furlow responded that DHS attempts to attend as many meetings as possible. Governor Ridge attended last year.

Co-Chairman Emler asked if there was anything particular in the Homeland Security legislation that Kansas needed to pay attention to or that would impact the state. Mr. Furlow remarked that patience was required on the part of the states due to the amount of time to get the department up and running. He encouraged the Legislature to assist General Gardner in a concerted effort to bridge state and local efforts in bringing law enforcement, fire and emergency services, and military operations together. He stated that if the traditional way of operating continued, there would not be enough resources to provide the security necessary. Therefore, a different approach was necessary post September 11, 2001. Mr. Furlow and General Gardner spoke briefly of the distribution of grant money to states, and the re-distribution of those funds to local governments.

Co-Chairman Emler expressed his appreciation to Mr. Furlow for his time and information he shared with the Committee.

Co-Chairman Krehbiel made a motion that the Committee report include a recommendation that the Legislature authorize and fund a position of Deputy Adjutant General or Special Assistant to the Adjutant General and a position of Intelligence Analyst who would work to fuse intelligence data obtained from multiple sources. The motion was seconded by Representative Johnson.

Committee discussion continued with General Gardner answering various questions about the position and whether the new Governor-Elect would continue the current position on Homeland Security. General Gardner stated that there were no staff dedicated to Homeland Security, and was using current staff when necessary. He explained responsibilities the position would handle in case of a terrorist attack or emergency situation in coordinating with other states and federal agencies the need for additional equipment, and supplies. He clarified that he thought the position was to be a Special Assistant, and would be a joint staff position between the Army and Air Force.

Co-Chairman Krehbiel requested staff to consult with General Gardner on the appropriate wording and position title that needed to be used in his motion. He felt that the Committee needed to make a statement of support for an additional position in the Committee report.

Representative Tafanelli suggested the motion could be made broader and recommended that the Committee provide dedicated support for Homeland Security matters in the Adjutant General's Office because there may be a need for additional personnel. He said this could be considered as a possible substitute motion if agreeable.

Co-Chairman Krehbiel responded that he would not disagree on that idea in the future, but was searching for immediate relief due to the current situation with the possibility of entering into war soon.

Co-Chairman Emler called for a vote of the motion. There were four (4) voting in favor, and four (4) abstentions. Motion carried. The abstentions recorded were: Senator Jackson, Senator Barone, Representative Tafanelli, and Representative Shriver.

Co-Chairman Krehbiel referred the Committee to the Capitol Police presentation from the previous day's meeting and asked for discussion regarding the Capitol Police providing security for the Capitol Complex. Mr. Waller explained the responsibilities and functions of the guards and Capitol Police officers, and the contracts through the Department of Administration and the Historical Society in paying for the Capitol Police and guards.

Committee discussion continued regarding the interim report including a recommendation that the 2003 Legislature investigate the need of additional Capitol Police personnel. Senator Barone commented that the general budget process should determine whether additional personnel should be added to the KHP. Mr. Waller explained that the KHP requested additional Capitol Police officers and trooper positions. He also clarified the composition of the agency's budget, the effect of the budget cuts, and the measures that were needed to make requested additions.

Co-Chairman Emler opened the floor for Committee discussion regarding tuition assistance and the Environmental Protection Agency (EPA) situation.

Co-Chairman Krehbiel reported that he had visited with General Gardner and was investigating other sources to address the tuition assistance issue. Paul West, Kansas Legislative Research Department, stated that the Board of Regents had not issued any enhancements to that program.

Committee discussion continued regarding EPA issues. The Committee had concerns relating to the sharing of information between the EPA and state agencies. The Committee recommended the creation of a possible joint resolution by the 2003 Legislature unless the issues were resolved.

Senator Barone made a motion to support possible language in regards to the creation of a joint resolution by the Legislature if the issue was not resolved in a timely fashion; the motion was seconded by Co-Chairman Krehbiel. Motion carried.

Co-Chairman Emler called for discussion on the EMS issue and having a viable state-wide communication system.

Mr. Waller gave a brief update covering the communication issue, and stated a statewide Communication Committee had been established. He stated that the Kansas Department of Transportation (KDOT) has a statewide system (with KHP utilizing the towers). However, the issue was purchasing the equipment by local entities to plug into the system. Mr. Waller also explained that due to recent FCC regulations, the state is being mandated to establish a committee to manage various changes to radio bandwidth.

Co-Chairman Emler recessed the Committee at 11:55 p.m., for a lunch break, to reconvene at 1:30 p.m.

Afternoon Session

Co-Chairman Emler called the meeting to order at 1:30 p.m., and called upon Dr. Jerry Jaax, Associate Vice Provost for Research Compliance and University Veterinarian, Kansas State University (KSU), to give an update and overview of the new Food Safety and Security Research Facility at KSU (Attachment 13).

Dr. Jaax informed the Committee that laboratory buildings are built to protect the employees and the citizens within the surrounding areas from various biological agents so infectious diseases are not introduced into the community. He explained that the reason the buildings are so complicated and expensive is due to the cost of containing contagious organisms. Dr. Jaax showed the Committee where the new complex would be built on the KSU campus and discussed the security system to be installed within new facility. He noted that the company selected to build the facility has constructed other bio-containment facilities both inside and outside of the United States.

Dr. Jaax also discussed the types of experiments that would be conducted within the facility, those being:

- Infectious animal diseases relating to food;
- A food science section that will study the processing, contamination, and production of food; and
- A plant pathology section.

He also briefly discussed the administrative support within the facility, and discussed in detail security and safety purposes. He provided the Committee with information on the regulation of such a facility and the guidelines and standards mandated by the U.S. Department of Agriculture, the Center for Disease Control, and others.

Committee discussion and questions followed regarding last year's scare of the foot and mouth disease in Holton, and how a facility such as this could help determine its validity or invalidity. He stated that the facility would give them significantly increased capabilities to help them prevent an incident such as that in Holton from occurring. He noted that determining quickly whether a case of foot and mouth disease has occurred, is very important in responding to an outbreak or a false alarm, so officials can make the decision whether to activate emergency responses.

Co-Chairman Emler called upon Dr. Sanjay Kapil, Professor in the Diagnostic Laboratory of the College of Veterinary Medicine at KSU to give a presentation on West Nile Virus (WNV) (Attachment 14).

Dr. Kapil explained that the first outbreak of WNV was in 1999, the first case of WNV in Kansas was diagnosed on August 8, 2002, and added that there had been about 800 cases in horses diagnosed this year in three months. The Committee learned that the main target species are humans, horses, and birds of which humans and horses are dead end hosts, as opposed to birds which are amplifying agents and spread the virus.

Dr. Kapil explained how the new facility would help in diagnosing diseases in a safe environment, and discussed the future research that would be conducted within the facility, the BL-3 diagnostic room, and the decrease in turn around time in acquiring results. Dr. Kapil noted that it was very difficult to distinguish the difference between a natural or intentional introduction of micro-organisms during an emergency incident in a short amount of time.

Questions and discussion followed Dr. Kapil's presentation. Representative Johnson asked if there was a vaccination for humans and animals that would protect them. Dr. Kapil replied that there was a vaccine for horses, however, the CDC predicted that a vaccine for humans would not be available for another three years. Co-Chairman Krehbiel inquired about media outlets reporting that WNV might have been intentionally introduced as opposed to emerging naturally. Dr. Jaax stated that he had no information to verify if it was a natural or intentional event. Dr. Gail Hansen, Deputy State Epidemiologist for the Kansas Department of Health and Environment (KDHE) also commented on this issue.

Representative Johnston inquired in reference to larger numbers of cattle in Kansas why it affects horses, but not cattle. Dr. Kapil said that the cattle are generically resistant.

Dr. Gail Hansen spoke briefly to the Committee about the cases of WNV in humans, of which there have been nine so far, and noted that it takes longer to diagnose and confirm in humans. She discussed the various state agencies that have worked with KDHE on WNV, and grant money made available to fund the studies. Lloyd Cox, Wildlife and Parks, was in attendance for any questions or discussion involving wildlife issues.

General discussion and questions followed on reducing the number of mosquitoes to help alleviate the spread of the disease.

Mr. Waller briefly reviewed the Committee's recommendations to be included in the interim Committee report, those being the development of continuity of business contingency plan for the Legislative and Judicial Branches; further study of HB 2986, including the review of federal legislation passed; authorization and funding to be provided for the position of Deputy Adjutant General or another titled position and an intelligence officer to coordinate and receive information; a joint resolution regarding the EPA, the release of information pertaining to the vulnerability of the infrastructure; and a bulleted item regarding the Capitol Police department that was reviewed by the Committee with no particular recommendation.

Co-Chairman Emler introduced Jamie Clover-Adams, Secretary of the Department of Agriculture (DOA), to discuss the federal grant received for plant protection and weed control programs relating to Homeland Security. She noted that DOA has initially purchased computer equipment, and upon receiving the remainder of the grant, a coordinator would be hired to coordinate survey work. She also provided the Committee with an example of an incident, and noted that with the information the grant will provide, disease patterns can be recognized thus allowing for quicker analysis of an outbreak.

Secretary Adams also noted that the Department had also received a small grant of \$20,000 for wheat bio-security, with only commercial seed being tested since Kansas law does not grant the Secretary authority over seeds saved by farmers.

Co-Chairman Emler called upon George Teagarden, Livestock Commissioner, Kansas Animal Health Department (KAHD), to testify on policies implemented to protect the livestock industry from accidental or intentional introduction of foreign animal disease (Attachment 15).

Mr. Teagarden explained the development of the Emergency Animal Disease Plan to combat Foot and Mouth Disease (FMD), the most contagious disease known to man. Mr. Teagarden stated that an outbreak of FMD would destroy both the state and national economies. Included in his written testimony was a table depicting the projected costs relating to an outbreak of FMD affecting one average size herd, and the number of people that would be needed to handle such an event. Also included in his written testimony was information relating to a cabinet level FMD exercise (Crimson Sky) in Virginia earlier this fall.

Mr. Teagarden discussed meetings held with producers in which the importance of bio-security plans for individual operations were stressed, and measures that needed to be implemented were debated. He spoke briefly about the grant KAHD received in June from the Homeland Defense Fund and the federal grant they received from the DOA. He stated that those dollars were being utilized for disease surveillance and emergency planning, and a large part of the funds had been committed to KSU's College of Veterinary Medicine for a pilot Emerging and Foreign Animal Disease Syndromic Disease Surveillance Project.

Committee questions and discussion followed regarding determining a location for outbreak burial pits, the state's authority for requisitioning private property on short notice, how long a burial pit would be contaminated, and when it could be farmed over again.

Co-Chairman Emler next called upon Dr. Michael Moser, Director of the Division of Health, KDHE, who spoke to the Committee on bioterrorism grant programs administered by KDHE (Attachment 16).

Dr. Moser explained that the first federal bioterrorism grant administered by KDHE was designated the Public Health Preparedness and Response to Bioterrorism Cooperative Agreement, and was administered at the federal level by the Centers for Disease Control and Prevention (CDC). He stated that KDHE had received the funds under the CDC program since its inception in 1999, and due to the events of September 11, 2001, and the subsequent anthrax incidents, Congress appropriated funds for a special 2002 supplement to the CDC grant. He pointed out that the only drawback of the CDC grant related to the difficulties pertaining to developing supplemental laboratory capacity outside Topeka for support of bioterrorism response.

Dr. Moser explained that the second grant was a bioterrorism grant administered by KDHE designated the Bioterrorism Hospital Preparedness program, and administered at the federal level by the Health Resources and Services Administration (HRSA).

Committee questions and discussion followed regarding how the grant process worked in terms of determining whether the requirements of insuring that we do not have competing agencies trying to fund similar activities.

Mr. Krase gave an overview of the FEMA grant which is a 100 percent federally funded terrorism program and requires no match. He stated that 75 percent is passed through to the local governments, which have to comply with all the federal requirements in order to qualify for receipt of funding. General Gardner commented that beginning in 2003, states will be required to provide a 25 percent match in order to receive funds. Mr. Krase said that some of the local communities would not be able to provide the 25 percent due to a lack of resources. However, DEM is working to help assist local entities in securing the grant funding (Attachment 17).

Co-Chairman Emler recognized Captain Tim Lockett, KHP's Emergency Operations Section, to give a presentation on the U.S. Department of Justice Domestic Preparedness Support Equipment Grant Program (Attachment 18).

Captain Lockett updated the Committee on the progress and activities of this program, and noted that 90 of the 105 counties have completed the required assessment of threats, vulnerabilities, and capabilities, and are grant participants. He also included a list of the 15 counties not participating in this program. He explained that the Department of Justice requires at least 80 percent of the grant funds be passed through to local jurisdictions, and the Patrol has passed through 101.7 percent of available funding.

Representative Johnson stated that one of the counties he represented was on the list and inquired if there was a reason for the nonparticipation. Captain Lockett explained the process, what counties had to do in order to participate, and how many times the Patrol had contacted the outstanding counties to urge them to get their required plans submitted in order to participate. He then informed the Committee what KHP would do in 2003 to get the outstanding counties to comply when they redo the assessments.

Co-Chairman Emler called for further Committee discussion on the interim report.

Representative Shriver made a motion to include a complementary statement to both General Gardner, who acted on behalf of the Governor, and all the state and local agencies who have stepped forward in helping this Committee do its work. The motion was seconded by Senator Jordan. Motion carried.

Senator Jackson made a motion that the LCC contact the state's Congressional delegation regarding the federal grant matching money issue given the budgetary circumstances of the state. The motion was seconded by Representative Tafanelli. Motion carried.

Co-Chairman Emler expressed the Committee's appreciation to General Gardner and his staff for allowing them to use the facilities for today's meeting, as well as to all the conferees for their participation.

The meeting was adjourned at 4:30 p.m.

Prepared by Dee Ann Woodson
Edited by Robert Waller

Approved by Committee on:

January 20, 2003