

# KANSAS REGISTER

State of Kansas

**BILL GRAVES**  
Secretary of State

Vol. 7, No. 20

May 19, 1988

Pages 943-986

## IN THIS ISSUE . . .

	Page
<b>State Employees Health Care Commission</b>	
Notice of Meeting .....	944
<b>Division of Services for the Blind Advisory Committee</b>	
Notice of Meeting .....	944
<b>Kansas Legislature</b>	
Notice of Committee Meetings .....	944
<b>Social and Rehabilitation Services</b>	
Public Notice .....	945
<b>Attorney General</b>	
Opinions No. 88-61 through 88-65 .....	945
Notice to Bidders for State Purchases .....	946
<b>Kansas Public Disclosure Commission</b>	
Advisory Opinions No. 88-11 through 88-14 .....	948
<b>Department of Health and Environment</b>	
Correction Notice .....	948
Notices Concerning Underground Injection Control Permits .....	949, 950
Notice Concerning Kansas Water Pollution Control Permit .....	950
<b>Kansas Council on Employment and Training</b>	
Notice of Meeting of Dislocated Worker Subcommittee .....	951
<b>State Corporation Commission</b>	
Notice of Motor Carrier Hearings .....	951
<b>Behavioral Sciences Regulatory Board</b>	
Notice of Hearing on Proposed Administrative Regulations .....	953
<b>Court of Appeals Docket</b> .....	954
<b>Department of Transportation</b>	
Notice to Contractors .....	960
<b>Notice of Bond Sale</b>	
City of Burlington .....	961
Lyon County .....	963
<b>New State Laws</b>	
Senate Bill 252, relating to state governmental ethics .....	966
Senate Bill 157, concerning the campaign finance act .....	967
Senate Bill 762, making and concerning appropriations .....	969
House Bill 3119, amending the Kansas parimutuel racing act .....	970
Senate Bill 753, authorizing the state board of regents to sell certain real property .....	975
House Bill 3079, concerning crimes, punishments and criminal procedure .....	977
Senate Bill 599, creating the agricultural value added processing center .....	983
House Bill 3117, concerning Kansas state university .....	984
Senate Bill 457, concerning community correctional services programs .....	984

State of Kansas  
**DEPARTMENT OF ADMINISTRATION**  
**STATE EMPLOYEES**  
**HEALTH CARE COMMISSION**

**NOTICE OF MEETING**

The Kansas State Employees Health Care Commission will meet at 2 p.m. Thursday, June 2, in the third floor conference room of the Kansas Insurance Department, 420 S.W. 9th, Topeka.

H. EDWARD FLENTJE  
 Chairman

Doc. No. 006601

State of Kansas  
**SOCIAL AND REHABILITATION SERVICES**  
**DIVISION OF SERVICES FOR THE BLIND**  
**ADVISORY COMMITTEE**

**NOTICE OF MEETING**

The Division of Services for the Blind Advisory Committee will meet at 10 a.m. Thursday, May 26, in the Rehabilitation Center for the Blind conference room, 2516 W. 6th, Topeka.

RICHARD A. SCHUTZ  
 Director, Division of  
 Services for the Blind

Doc. No. 006595

State of Kansas

**LEGISLATURE**

**NOTICE OF COMMITTEE MEETINGS**

The following legislative meetings have been scheduled during the period of May 23 through June 4:

Date	Room	Time	Committee	Agenda
June 2	531-N	10:00 a.m.	Commission on Access to Services	Agenda unavailable.
June 3	531-N	9:00 a.m.	for the Medically Indigent and the Homeless	
June 3	123-S	9:00 a.m.	Legislative Coordinating Council	Legislative matters.

Interim proposals and interim committee assignments have not been designated at this time. That information will be published as it becomes available.

WILLIAM R. BACHMAN  
 Director of Legislative  
 Administrative Services

Doc. No. 006581

The *Kansas Register* is an official publication of the State of Kansas, published by authority of K.S.A. 75-430. The *Kansas Register* is published weekly by the Kansas Secretary of State, State Capitol, Topeka, KS 66612-1594. One-year subscriptions are \$55. Single copies may be purchased, if available, for \$2 each. Second class postage paid at Topeka, KS. ISSN No. 0744-2254.

Postmaster. Send change of address form to *Kansas Register*, Secretary of State, State Capitol, Topeka, KS 66612-1594.

© Kansas Secretary of State 1988. Reproduction of this publication in its entirety or for commercial purposes is prohibited without prior permission. Official enactments of the Kansas Legislature and proposed and adopted administrative regulations of state agencies may be reproduced in any form without permission.

**PUBLISHED BY**  
**BILL GRAVES**  
 Secretary of State  
 2nd Floor, State Capitol  
 Topeka, KS 66612-1594



Phone: (913) 296-3489

State of Kansas  
**SOCIAL AND REHABILITATION SERVICES**

**PUBLIC NOTICE**

In compliance with K.S.A. 59-2006b(a), the per patient day costs for Parsons State Hospital and Training Center will be the basic maximum daily rate of \$120.24, effective May 1, 1988.

WINSTON BARTON  
 Secretary of Social and  
 Rehabilitation Services

Doc. No. 006596

State of Kansas  
**ATTORNEY GENERAL**

**Opinion No. 88-61**

**Laws, Journals and Public Information—Records Open to Public—Names and Salaries of Municipal Hospital Employees.** Otis W. Morrow, City Attorney, Arkansas City, May 4, 1988.

The Arkansas City Memorial Hospital is a "public agency" under the Kansas Open Records Act as it is an instrumentality of a political subdivision of the state. The KORA requires that the names of employees of public agencies and their salaries be disclosed to the public upon request. Cited herein: K.S.A. 14-601c; 14-602; 14-609; 45-215; 45-216; 45-217; 45-221. RLN

**Opinion No. 88-62**

**State Departments; Public Officers and Employees—Kansas Tort Claims Act—Liability of Governmental Entities for Damages.** Representative Henry Helgerson, 86th District, Wichita, May 4, 1988.

When the state operates an information network, it may be subject to liability for damages if liability would exist were the network operated by an individual. To state a cause of action for negligence, an injured party must show a duty, a breach of that duty, and damages which were caused by the breach of duty. The state, in operating an information network, may be gratuitously rendering services which are recognized as necessary for the individual's protection, thus giving rise to a duty. If negligence is established, the state may avail itself of exceptions from liability found in the tort claims act. Cited herein: K.S.A. 75-6101; 75-6103(a); K.S.A. 1987 Supp. 75-6104. MWS

**Opinion No. 88-63**

**Counties and County Officers—General Provisions—Home Rule Powers; Charter Resolutions; Tax Levy.**

**Counties and County Officers—County Commissioners—Ambulance Service.** Curtis E. Watkins, Kingman County Attorney, Kingman, May 4, 1988.

Pursuant to K.S.A. 1987 Supp. 19-101a(a)(11) and 19-101b, Kingman County may adopt a charter resolution to avoid applicability of all or part of K.S.A. 19-262. Cited herein: K.S.A. 10-1101 *et seq.*, K.S.A. 1987 Supp. 19-101a, 19-101b, K.S.A. 19-262, 79-2925 *et seq.* TMN

**Opinion No. 88-64**

**State Boards, Commissions and Authorities—Parimutuel Racing; Kansas Parimutuel Racing Act—Nonrefundable License Application Fees; Forfeiture of Deposit.** Alfred G. Schroeder, Chairman, Kansas Racing Commission, Topeka, May 4, 1988.

It is our opinion that: (1) A nonprofit organization applicant proposing to construct or own, or both, and manage a racetrack facility need only pay the application fee required by K.S.A. 1987 Supp. 74-8812(a) for an organization license; (2) a fair association or national greyhound association applicant proposing to construct or own, or both, and manage a racetrack facility need only pay the application fee established by the Racing Commission pursuant to K.S.A. 1987 Supp. 74-8814; (3) a for profit applicant proposing to construct or own, or both, and manage a racetrack facility must obtain a facility owner license and a facility manager license and pay an application fee for each as provided in K.S.A. 1987 Supp. 74-8815(c); (4) a facility owner license applicant seeking to construct or own, or both, racetrack facilities in more than one geographic location must pay multiple application fees to cover the costs associated with processing the information required relative to each location; (5) a facility owner or facility manager applicant may propose to construct, own and/or manage racetrack facilities in more than one county; and (6) if a facility owner license expires pursuant to K.S.A. 1987 Supp. 74-8815(i), the deposit required by subsection (d) of 74-8815 will be forfeited. Cited herein: K.S.A. 1987 Supp. 74-8801; 74-8810; 74-8813; 74-8814; 74-8815; K.A.R. 112-3-2; 112-3-6; 112-3-9; 112-3-10; 112-3-12; 112-3-13; 112-3-14 (Kan. Reg.) JLM

**Opinion No. 88-65**

**Taxation—Limitation on Tax Levies—Limit on Levies for County General Expenses.**

**Counties and County Officers—County Commissioners—Powers of Board of Commissioners.** Leonard Dix, Rooks County Attorney, Stockton, May 9, 1988.

County general funds, collected pursuant to the tax levy authorized by K.S.A. 79-1946, may be properly expended only "to meet and defray the current general expenses of the county and to pay a portion of the principal and interest on bonds." However laudable the purpose, funding a privately-owned non-profit corporation that offers horsemanship therapy to the disabled cannot be characterized as a current general expense of the county. It is therefore our opinion that such an enterprise cannot receive tax moneys collected pursuant to the general fund tax levy authorized by K.S.A. 79-1946. Cited herein: K.S.A. 12-1740, 19-212, 19-2698, 79-1946, and 79-2934. TMN

ROBERT T. STEPHAN  
 Attorney General

Doc. No. 006593

**State of Kansas**  
**DEPARTMENT OF ADMINISTRATION**  
**DIVISION OF PURCHASES**

**NOTICE TO BIDDERS**

Sealed bids for the following items will be received by the Director of Purchases, Landon State Office Building, 900 Jackson, Room 102, Topeka, until 2 p.m. C.D.T. on the date indicated, and then will be publicly opened. Interested bidders may call (913) 296-2377 for additional information.

**Tuesday, May 31, 1988**

#A-5857

Department of Transportation—REEROOF KANSAS HIGHWAY PATROL DIVISION IX HEADQUARTERS BUILDING, Olathe

#A-5859

Kansas School for the Visually Handicapped—IMPROVE ACCESSIBILITY TO HANDICAPPED OF HOME ECONOMICS CLASSROOM

#27157

Statewide—1989 CALENDARS

#72761-A

Parsons State Hospital and Training Center—PLATFORM BEDS

#73533-A

University of Kansas—FORK LIFT TRUCK

#74105

Kansas State University—TRENCHING MACHINE

#74106

Adjutant General's Department—FURNISH ALL LABOR AND MATERIALS FOR MODERNIZATION OF NATIONAL GUARD ARMORY, Troy

#74107

University of Kansas—AIRCRAFT REFURBISHING

#74108

Department of Transportation—LUMINAIRES AND POLES, Wichita

#74109

Department of Transportation—LUBRICANTS, various locations

#74113

Adjutant General's Department—FURNISH ALL LABOR AND MATERIALS FOR RENOVATION OF ORGANIZATIONAL MAINTENANCE SHOP #5, Sabetha

#74114

Adjutant General's Department—FURNISH ALL LABOR AND MATERIALS FOR RENOVATION OF ORGANIZATIONAL MAINTENANCE SHOP #1A, Hays

#74153

Kansas Insurance Department—ACTUARIAL REVIEW

**Wednesday, June 1, 1988**

#A-5790

Kansas Neurological Institute—STREET CONSTRUCTION

#27128

Statewide—FAMILY PLANNING PHARMACEUTICALS AND SUPPLIES

#27244

Department of Transportation—LUBRICANTS

#27516

Statewide—July (1988) MEAT PRODUCTS

#27518

Statewide—CANNED GOODS

#74115

Adjutant General's Department—FURNISH ALL LABOR AND MATERIALS FOR MODERNIZATION OF NATIONAL GUARD ARMORY, Hays

#74116

Adjutant General's Department—FURNISH ALL LABOR AND MATERIALS FOR MODERNIZATION OF NATIONAL GUARD ARMORY, Junction City

#74127

Department of Social and Rehabilitation Services—FURNISH ALL LABOR AND MATERIALS TO RETUBE BOILER, Salina

#74128

University of Kansas—FURNISH AND INSTALL DOORS

#74138

Kansas State Penitentiary—LUMBER AND PLYWOOD

#74141

Kansas State University—BROADCAST EQUIPMENT

#74142

Kansas State University—GRAIN

#74160

Department of Social and Rehabilitation Services—VIDEO PRODUCTION SYSTEM

#74161

Department of Transportation—SPREADERS, various locations

#74163

Department of Transportation—SNOW PLOWS, various locations

**Thursday, June 2, 1988**

#26972-A

Wichita State University—PATROL OFFICER UNIFORMS

#27557

Kansas State University—JULY (1988) MEAT PRODUCTS

#74110

University of Kansas—MAG TAPE SUBSYSTEM(S) FOR DG MV/20000

#74111

Kansas State University, Wichita State University, and University of Kansas Medical Center—GRAPHICS WORKSTATIONS

#74140

Department of Wildlife and Parks—FURNISH AND INSTALL FLOATING HANDICAPPED PIER W/BRIDGE, Douglas State Fishing Lake

#74172

Winfield State Hospital and Training Center—KITCHEN EQUIPMENT

#74173

Adjutant General's Department—SSB TRANSCEIVERS

#74174

Department of Administration—ELECTRONIC SIRENS

#74190

Department of Health and Environment—AUTOMATED FILE

Friday, June 3, 1988

#A-5950

Wichita State University—PERIMETER ROAD CONNECTING LINK

#72836-A

University of Kansas—MONOCHROME WORKSTATION

#74194

University of Kansas—COLOR GRAPHICS AND 386 BASED UNIX/DOS WORKSTATION

#74195

Department of Administration, Division of Architectural Services—PEN PLOTTER HARDWARE AND SOFTWARE

#74196

Department of Social and Rehabilitation Services—WORKSTATIONS AND PRINTERS

#74199

University of Kansas—BROADCAST EQUIPMENT

#74203

University of Kansas Medical Center—HEPA VACUUM

#74204

Department of Corrections—FORK LIFT, Ellsworth

#74217

Department of Corrections—CONCRETE BLOCKS AND CEMENT, Ellsworth

#74218

State Corporation Commission—CARPET

#74225

Department of Wildlife and Parks—PROFESSIONAL BROADCAST EQUIPMENT

#74227

Kansas State University—BROADCAST EQUIPMENT

#74228

Department of Corrections—ELECTRICAL SUPPLIES, Ellsworth

#74229

Kansas State University—LAB DIAGNOSTICS

#74232

Adjutant General's Department—FURNISH ALL LABOR AND MATERIALS FOR RENOVATION OF NICKELL ARMORY BASEMENT

#74233

University of Kansas Medical Center—AUDIO VISUAL EQUIPMENT

#74234

Kansas State University—AUDIO VIDEO EQUIPMENT

#74238

Department of Health and Environment—LAB EQUIPMENT

#74239

Kansas Technical Institute—ELECTRONIC TEST EQUIPMENT

#74240

Department of Corrections—PLUMBING MATERIALS, Ellsworth

#74241

Department of Transportation—DOZERS, SWEEPERS, ROLLERS, various locations

#74242

Department of Transportation—WOOD STOCKADE FENCE, Wichita

#74243

Kansas State University—LAB ANALYZER

#74244

Department of Health and Environment—LAB CENTRIFUGE

#74245

University of Kansas—HPLC, Kansas City

#74246

Department of Transportation—WOOD SIGN POSTS

#74247

Kansas Correctional Industries, Surplus Property Center—LEASE OF TRUCK TRACTOR AND DRIVER

#74248

University of Kansas Medical Center—ASBESTOS ABATEMENT SUPPLIES

#74268

Kansas School for the Deaf—HEARING AID ANALYZER

#74276

Kansas State University—DIAGNOSTIC ULTRASOUND SYSTEM

Tuesday, June 7, 1988

#74162

Department of Education—LAN, SERVER AND SOFTWARE

Thursday, June 9, 1988

#A-5948

Department of Administration—EXTERIOR STONE AND WINDOW REPAIRS, Docking State Office Building

Thursday, June 16, 1988

#A-5578

Rainbow Mental Health Facility—ADDITION AND REMODELING SPECIAL PURPOSE SCHOOL

Thursday, June 23, 1988

#74269

OIL AND GAS LEASE—The Kansas Department of Social and Rehabilitation Services has available for lease approximately 160 acres in Stafford County, described as follows: The S.W. ¼ of Section 24, Township 22 South, Range 13 West.

NICHOLAS B. ROACH  
Director of Purchases

Doc. No. 006591

## State of Kansas

DEPARTMENT OF HEALTH  
AND ENVIRONMENT

## CORRECTION NOTICE

This is notice that K.A.R. 28-19-53—Fugitive Particulate Emissions—was published in error. This regulation was not adopted by the Secretary of Health and Environment.

Questions concerning this regulation should be directed to L. C. Hinthner, Air Quality and Radiation Control, Kansas Department of Health and Environment, Building 740, Forbes Field, Topeka 66620, (913) 296-1576.

STANLEY C. GRANT, Ph.D.  
Secretary of Health  
and Environment

Doc. No. 006597

## State of Kansas

KANSAS PUBLIC DISCLOSURE  
COMMISSION

## Advisory Opinion No. 88-11

Written May 5, 1988, to Max L. Smith, Revenue Auditor III, Wichita.

This opinion is in response to your letter of April 13, 1988, in which you request an opinion from the Kansas Public Disclosure Commission concerning the definition of "designee" contained in K.S.A. 46-282.

We understand you request this opinion in your capacity as a Revenue Auditor III. In that capacity your job duties include:

"The duties and responsibilities of the auditor assigned to this position consist primarily of the preparation for and accomplishment of the field audits of all business enterprises to determine if taxes and fees administered by the Department of Revenue have been correctly remitted to the State of Kansas and the writing of reports as to the findings disclosed by such audits."

K.S.A. 46-282 states: "'Designee' means . . . (a)(5) responsible for inspecting, licensing or regulating any person or entity."

It is our opinion that your job constitutes an "inspection" under the above language and you therefore meet the definition of "designee."

## Advisory Opinion No. 88-12

Written May 5, 1988, to Robert D. Hannigan, Director, Kansas State Industrial Reformatory, Kansas Department of Corrections, Hutchinson.

This opinion is in response to your letter of April 15, 1988, in which you request an opinion from the Kansas Public Disclosure Commission concerning the definition of "designee" as that term is used in K.S.A. 46-282.

We understand you request this opinion in your capacity as director of the Kansas State Industrial Reformatory. You pose the following five factual situations and ask as to each whether the individual in that position is a "designee."

1. Canteen StoreKeeper—This position is required to contact vendors for prices and to submit through the busi-

ness manager for approval any supplies needed to stock the Canteen for the inmate population.

2. Automotive Mechanic—The incumbent contacts automotive parts houses and orders vehicle parts on emergency situations prior to the business manager's written approval.

3. Food Manager—The individual in this position is required to make recommendations on all food purchases to the business manager. These recommendations include the decisions on final menus, recommendations of vendors and/or suppliers and cost estimates for budgeting. The incumbent is also the department head over the kitchen.

4. Print Shop—This position is required to contact outside suppliers for estimates and to write specifications for contracts; all requisitions must be approved by the Accounting Office.

5. Corrections Supervisors II—The individuals occupying these positions are shift supervisors and for approximately 14 hours per day are the highest ranking official on duty and must make emergency decisions which could result in the purchase or procurement.

K.S.A. 46-282 defines designee as follows:

"(a) Any state officer, employee or member of any agency, department, division, bureau or other unit of state government who holds a position: (1) Defined as a major policy making position; (2) responsible for contracting, purchasing or procurement except persons whose sole responsibility is the purchasing of gasoline or emergency repair of a state vehicle assigned to them for their use or persons whose sole responsibility relating to purchasing or procurement includes only transactions pursuant to preexisting state contracts; (3) responsible for writing or drafting specifications for contracts; (4) responsible for awarding grants, benefits or subsidies; or (5) responsible for inspecting, licensing or regulating any person or entity.

(b) 'Designee' does not include any driver's license examiner of the department of revenue or any person performing ministerial functions."

It is our opinion that to be "responsible" for contracting, etc., the position must be one in which the discretionary decision to enter into the contract is made. Thus, as a general rule, merely obtaining prices and making recommendations does not constitute being "responsible." However, a person who writes or drafts specifications for contracts is a designee, but a person whose sole responsibility to purchasing is in relationship to presenting contracts is not a designee.

Applying these rules to each of your questions and based on the information provided to us, since the business manager makes the purchase decisions, the canteen storekeeper and food manager are not designees. The automotive mechanic is a designee unless the purchases are pursuant to a pre-existing contract. The print shop person is a designee since he drafts specifications. The corrections supervisors II are designees unless all contracts are already pre-existing.

## Advisory Opinion No. 88-13

Written May 5, 1988, to J. Sue Anderson, Executive Director, Kansas Independent Bankers Association.

This opinion is in response to your letter of March 23, 1988, concerning the Kansas Campaign Finance Act.

You ask this opinion on behalf of the Kansas Independent Bankers Association. You state that since July 15, 1985, regulated corporations, including banks and bank holding companies, have been permitted to make political donations on a state or local level. However, it appears this does not apply to national banks nor to holding companies that own national banks, because of federal laws prohibiting such activity.

Because of these federal restrictions, your INPAC committee has continued to refuse direct contributions from your national bank members and their holding companies, suggesting instead that personal contributions from officers, staff, and directors be made.

You ask whether national banks or holding companies may make campaign contributions to Kansas state-level candidates.

Nothing in the Kansas Campaign Finance Act prohibits the contributions you have described. We cannot, however, give any opinion on how federal law applies since that is outside our jurisdiction.

**Advisory Opinion No. 88-14**

Written May 5, 1988, to Derek J. Shafer, Wright & Shafer, Topeka.

This opinion is in response to your letter of April 7, 1988, in which you request an opinion from the Kansas Public Disclosure Commission concerning the definition of "general counsel" as that phrase is used in K.S.A. 46-247.

We understand you are an attorney who has signed an agreement with the Kansas Real Estate Commission serving as an independent contractor to provide the following service:

"It is understood between the parties that the Attorney will counsel the Commission at meetings, represent the Commission in actions and proceedings brought by or against it under the provisions of the Kansas real estate brokers' and salespersons' license act and the real estate recovery revolving fund act, and as otherwise directed by the Commission and permitted by statute."

You advise us that due to budgetary constraints, you will devote all of your time to preparation for and appearances at administrative hearings.

Although "general counsel" is not defined in the Act, we believe, as applied to this situation, an appropriate definition would be—the attorney to whom the agency turns for legal advice on pertinent legal questions faced by the agency. We agree with you that an attorney who represents an agency in only limited matters would not meet the definition. However, we cannot overlook the broad language of the contract and, since it contemplates the type of legal services described above, we feel constrained to opine that you meet the definition of "general counsel."

LOWELL ABELDT  
Chairman

Doc. No. 006594

**State of Kansas**

**DEPARTMENT OF HEALTH AND ENVIRONMENT**

**NOTICE CONCERNING UNDERGROUND INJECTION CONTROL PERMIT**

In accordance with K.A.R. 28-46-7 and the authority vested with the state by the administrator of the U.S. Environmental Protection Agency, a permit has been prepared for the construction of one standby non-hazardous disposal well within the state of Kansas for the applicant described below. This well will be constructed only if the existing well, which receives process wastewater and water from the groundwater cleanup project, is no longer functional.

Name and Address of Applicant	Well Number	Well Location
American Salt Company P. O. Box 498 Lyons, KS 67554 Rice County, Kansas	Well #2	NENESE 15-20-8W, Rice County, Kansas 2360' fsl and 330' fel of SE/4

Kansas Permit No. KS-01-159-004

Description of Facility: These wells are designed for disposal of saturated sodium chloride brines and water from the groundwater cleanup project.

Written comments on the proposed determinations may be submitted to Bethel Spotts, Permit Clerk, Department of Health and Environment, Division of Environment, Bureau of Water Protection, Forbes Field, Topeka 66620. All comments received prior to June 17 will be considered in the formulation of final determinations regarding this public notice. Please refer to the appropriate number (KS-EG-88-3) and name of applicant as listed when preparing comments. If no objections are received, the Secretary of Health and Environment will issue the final determinations.

The application, proposed permit, fact sheets as appropriate, comments received, and other information are on file and may be inspected at the Division of Environment offices from 8 a.m. to 4:30 p.m. Monday through Friday.

The documents are available upon request at the copying cost assessed by KDHE. Additional copies of this public notice may also be obtained at the Division of Environment.

STANLEY C. GRANT, Ph.D.  
Secretary of Health and Environment

Doc. No. 006599

## State of Kansas

DEPARTMENT OF HEALTH  
AND ENVIRONMENTNOTICE CONCERNING UNDERGROUND  
INJECTION CONTROL PERMIT

In accordance with K.A.R. 28-46-7 and the authority vested with the state by the administrator of the U.S. Environmental Protection Agency, permits have been prepared for the construction of two non-hazardous disposal wells within the state of Kansas for the applicants described below.

Name and Address of Applicant	Well Number	Well Location
American Salt Company P. O. Box 498 Lyons, KS 67554 Rice County, Kansas	Well #3	SWNWSW 18-20-7W, Rice County, Kansas 1390' fsl and 5180' fel of SE/4

Kansas Permit No. KS-01-159-005

Description of Facility: These wells are designed for disposal of sodium chloride contaminated groundwater resulting from an aquifer remediation project.

Name and Address of Applicant	Well Number	Well Location
American Salt Company P. O. Box 498 Lyons, KS 67554 Rice County, Kansas	Well #4	N/2N/2NWNW 29-20-7W, Rice County, Kansas 5180' fsl and 4620' fel of SE/4

Kansas Permit No. KS-01-159-006

Description of Facility: These wells are designed for disposal of sodium chloride contaminated groundwater resulting from an aquifer remediation project.

Written comments on the proposed determinations may be submitted to Bethel Spotts, Permit Clerk, Department of Health and Environment, Division of Environment, Bureau of Water Protection, Forbes Field, Topeka 66620. All comments received prior to June 17 will be considered in the formulation of final determinations regarding this public notice. Please refer to the appropriate number (KS-EG-88-4/5) and name of applicant as listed when preparing comments. If no objections are received, the Secretary of Health and Environment will issue the final determinations.

The application, proposed permit, fact sheets as appropriate, comments received, and other information are on file and may be inspected at the Division of Environment offices from 8 a.m. to 4:30 p.m. Monday through Friday.

The documents are available upon request at the copying cost assessed by KDHE. Additional copies of this public notice may also be obtained at the Division of Environment.

STANLEY C. GRANT, Ph.D.  
Secretary of Health  
and Environment

Doc. No. 006598

## State of Kansas

DEPARTMENT OF HEALTH  
AND ENVIRONMENTNOTICE CONCERNING KANSAS WATER  
POLLUTION CONTROL PERMIT

In accordance with state regulations 28-16-57 through 63 and 28-18-1 through 4, and the authority vested with the state by the administrator of the U.S. Environmental Protection Agency, tentative permits have been prepared for water pollution abatement facilities for the feedlots described below.

The tentative determinations for permit content are based on preliminary staff review, applying the appropriate standards and regulations of the state of Kansas and the EPA. The permit requires control of any existing or potential discharges to achieve the goal of "no discharge" whenever possible. The permit, upon issuance, will constitute a state water pollution control and national pollutant discharge elimination system permit.

Name and Address of Applicant	Legal Description	Receiving Water
Dale Weber Route 2, Box 178A Westphalia, KS 66093	NW/4 Section 5, Township 21S, Range 18E, Anderson County, Kansas	Marais des Cygnes

Kansas Permit No. A-MCAN-F003 Federal Permit No. KS-0086061  
The facility has capacity for approximately 60,000 chickens.

Wastewater Control Facilities: Wastewater is impounded for subsequent disposal upon agricultural land. Storage capabilities are provided in excess of minimum requirements.

Compliance Schedule: None, existing controls adequate.

Written comments on the proposed NPDES permit may be submitted to Bethel Spotts, Permit Clerk, Permits and Compliance Section, Department of Health and Environment, Division of Environment, Bureau of Water Protection, Topeka 66620. All comments received prior to June 17 will be considered in the formulation of final determinations regarding this public notice. Please refer to the appropriate application number (KS-AG-88-11) and name of applicant as listed when preparing comments.

If no objections are received, the Secretary of Health and Environment will issue the final determinations within 30 days of this notice. If response to this notice indicates significant public interest, a public hearing may be held in conformance with state regulation 28-16-61.

The application, proposed permit, special conditions, fact sheets as appropriate, comments received, and other information are on file and may be inspected at the KDHE offices, Building 740, Forbes Field, Topeka, from 8 a.m. to 4:30 p.m. Monday through Friday.

The documents are available upon request at the copying cost assessed by KDHE. Additional copies of this public notice may also be obtained at the Division of Environment.

STANLEY C. GRANT, Ph.D.  
Secretary of Health  
and Environment

Doc. No. 006600



**State of Kansas  
DEPARTMENT OF HUMAN RESOURCES  
KANSAS COUNCIL ON EMPLOYMENT  
AND TRAINING**

**NOTICE OF MEETING OF THE  
DISLOCATED WORKER SUBCOMMITTEE**

The Kansas Council on Employment and Training Dislocated Worker Subcommittee will meet at 9 a.m. Friday, June 10, in the third floor conference room of the Kansas Department of Human Resources administrative offices, 401 Topeka Blvd., Topeka.

The purpose of the meeting is to review and evaluate proposals to provide Title III Dislocated Worker Services in Service Delivery Area II during program year 1988 (July 1, 1988—June 30, 1989).

The meeting is open to the public.

DENNIS R. TAYLOR  
Secretary of Human Resources

Doc. No. 006582

**State of Kansas  
STATE CORPORATION COMMISSION**

**NOTICE OF MOTOR  
CARRIER HEARINGS**

Applications set for hearing are to be heard at 9:30 a.m. before the State Corporation Commission, Docking State Office Building, fourth floor, Topeka, unless otherwise noticed.

This list does not include cases previously assigned hearing dates for which parties of record have received notice.

Questions concerning applications for hearing dates should be addressed to the State Corporation Commission, 4th Floor, Docking State Office Building, Topeka 66612, (913) 296-3808 or 296-3364.

Your attention is invited to Kansas Administrative Regulations (K.A.R.) 82-1-228, "Rules of Practice and Procedure Before the Commission."

**Applications set for June 7, 1988**

**Application for Certificate of Convenience  
and Necessity:**

Hill Brothers ) Docket No. 160,654 M  
Transportation, Inc. )  
5824 Hamilton )  
Omaha, NE 68132 ) MC ID No. 125511

Applicant's Attorney: Arthur Cerra, 6824 Cherokee Lane, Mission Hills, KS 66208

*General commodities (except classes A and B explosives, household goods and commodities in bulk),*

Between all points and places in Wyandotte, Doniphan, Shawnee, Lyon, Sedgwick, Ford, Finney, Seward, Barton, Reno, Johnson, Douglas and Leavenworth counties, Kansas.

**Application for Certificate of Convenience  
and Necessity:**

Jeff Finley, dba ) Docket No. 160,652 M  
Levant's Corner )  
P.O. Box 56, Hwy. 24 )  
Levant, KS 67743 )

Applicant's Attorney: William Barker, 3401 Harrison, Topeka, KS 66612

*Grain, dry feed, dry feed ingredients, dry fertilizer and dry fertilizer ingredients,*

Between points in Cheyenne, Rawlins, Decatur, Sherman, Thomas, Sheridan, Wallace, Logan and Gove counties, Kansas, on the one hand, and on the other, all points and places in Kansas.

\*\*\*\*\*

**Application for Certificate of Convenience  
and Necessity:**

Robert F. Charles, dba ) Docket No. 160,651 M  
Phoenix Ag-Lines )  
Route 1, Box 122 )  
Jetmore, KS 67854 )

Applicant's Attorney: William Barker, 3401 Harrison, Topeka, KS 66612

*Grain, seed, dry feed, dry feed ingredients, dry fertilizer, dry fertilizer ingredients and salt,*

Between points on and west of U.S. 81, on the one hand, and on the other, all points and places in Kansas.

*Livestock,*

Between points on, west, and south of K-96 and U.S. 183, on the one hand, and on the other, all points and places in Kansas.

\*\*\*\*\*

**Application for Certificate of Convenience  
and Necessity:**

Robert H. Brenneman, dba ) Docket No. 160,646 M  
Brenneman's )  
812 W. 1st )  
Newton, KS 67114 )

Applicant's Attorney: None

*Motor vehicles as towing service,*

Between points and places in Harvey, Sedgwick, Reno, Marion, McPherson and Butler counties, Kansas.

\*\*\*\*\*

**Application for Certificate of Convenience  
and Necessity:**

Brown Transfer & ) Docket No. 160,653 M  
Storage Co. )  
P.O. Box 7 )  
920 S. 6th )  
St. Joseph, MO 64502 )

Applicant's Attorney: None

(continued)

*Household goods,*

Between all points and places in Doniphan, Atchison, Leavenworth, Wyandotte, Johnson, Shawnee, Saline, Geary, Douglas, Reno, Harvey, Sedgwick, Butler, Jefferson and Dickinson counties, Kansas.

\*\*\*\*\*

**Application for Certificate of Convenience and Necessity:**

St. Francis Mercantile ) Docket No. 160,655 M  
Equity Exchange )  
P.O. Box 545 )  
123 N. River St. )  
St. Francis, KS 67756 ) MC ID No. 115815

Applicant's Attorney: Arthur Cerra, 6824 Cherokee Lane, Mission Hills, KS 66208

*Petroleum products, fertilizer, agricultural chemicals, grain, feed, salt, poles, posts and farm machinery,*  
Between all points and places in Kansas.

\*\*\*\*\*

**Application for Abandonment of Contract Carrier Permit:**

Salt Transportation, Inc. ) Docket No. 60,865 M  
3112 N. Hendricks )  
Hutchinson, KS 67501 )  
MC ID No. 112905

Applicant's Attorney: None

\*\*\*\*\*

**Application for Certificate of Convenience and Necessity:**

Stuart Conklin Buick, ) Docket No. 160,645 M  
Inc., dba )  
Conklin Cars and Trucks )  
815 W. 4th )  
Hutchinson, KS 67504 )

Applicant's Attorney: None

*Wrecked and disabled motor vehicles, trailers, replacement vehicles, recreational vehicles, motorcycles and boats,*

Between points and places in Graham, Trego, Ness, Hodgeman, Ford, Clark, Comanche, Kiowa, Edwards, Pawnee, Rush, Ellis, Rooks, Osborne, Russell, Barton, Stafford, Pratt, Barber, Harper, Kingman, Reno, Rice, Ellsworth, Lincoln, Mitchell, Cloud, Ottawa, Saline, McPherson, Harvey, Sedgwick, Sumner, Cowley, Butler, Marion, Dickinson, Clay, Riley, Geary, Morris, Chase, Pottawatomie, Wabaunsee, Lyon, Greenwood, Elk, Shawnee, Osage, Coffey, Woodson, Wilson, Montgomery and Chautauqua counties, Kansas.

Also,

Between points and places in the above-described counties, on the one hand, and points and places in the state of Kansas, on the other hand.

**Application for Certificate of Convenience and Necessity:**

Super Valu Stores, Inc. ) Docket No. 160,643 M  
1983 Tower Road )  
Aurora, CO 80011 ) MC ID No. 123522

Applicant's Attorney: John Jandera, 1610 S.W. Topeka Blvd., P.O. Box 237, Topeka, KS 66612

*Foodstuffs, packinghouse products and by-products and material and supplies used in the production thereof,*  
Between all points and places in Kansas.

\*\*\*\*\*

**Application for Certificate of Convenience and Necessity:**

Keven E. Rodgers, dba ) Docket No. 160,649 M  
All-City Tow Service )  
15709 Allen )  
Belton, MO 64012 )

Applicant's Attorney: None

*Wrecked, disabled, repossessed and replacement motor vehicles and trailers,*

Between all points and places in Leavenworth, Johnson and Wyandotte counties, Kansas.

\*\*\*\*\*

**Applications set for June 14, 1988**

**Application for Certificate of Convenience and Necessity:**

Pioneer Rock & Chat, Inc. ) Docket No. 160,650 M  
P.O. Box 176 )  
2 miles north of Commerce )  
City on county road )  
Commerce, OK 74339 ) MC ID No. 128390

Applicant's Attorney: None

*Grain and agricultural products,*

Between all points and places in Kansas.

\*\*\*\*\*

**Application for Certificate of Convenience and Necessity:**

Richard R. Maas, dba ) Docket No. 160,656 M  
Kansas Moving Service )  
16021 Avenue C )  
Dodge City, KS 67801 )

Applicant's Attorney: None

*Household goods and materials and supplies (with standard exceptions) as used by packinghouses,*

Between all points and places in Kansas.

**Application for Transfer of Certificate of Convenience and Necessity:**

Lee Ohrman, dba ) Docket No. 145,843 M  
 Lee Ohrman Trucking )  
 P.O. Box 248 )  
 Benkelman, NE 69021 ) MC ID No. 100896

TO:  
 Lee Ohrman Trucking, Inc.  
 P.O. Box 248  
 Benkelman, NE 69021

Applicant's Attorney: Clyde Christey, Southwest Plaza Building, Suite 202, 3601 W. 29th, Topeka, KS 66614

*Anhydrous ammonia and liquid fertilizer solutions,*

From points and places in McPherson, Clay, Finney and Ford counties, to points and places in Cheyenne, Rawlins and Sherman counties, Kansas.

\*\*\*\*\*

**Application for Extension of Certificate of Convenience and Necessity:**

Lee Ohrman Trucking, Inc. ) Docket No. 145,843 M  
 P.O. Box 248 )  
 Benkelman, NE 69021 )  
 ) MC ID No. 100896

Applicant's Attorney: Clyde Christey, Southwest Plaza Building, Suite 202, 3601 W. 29th, Topeka, KS 66614

*Anhydrous ammonia, propane and liquid fertilizer solutions, livestock, hay, grain, feed, feed ingredients, dry fertilizer,*

Between points and places in Kansas north of K-96 and west of U.S. 281.

Also,

Between the above-described area, on the one hand, and points and places in the state of Kansas, on the other hand.

\*\*\*\*\*

**Application for Certificate of Convenience and Necessity:**

Ronnie Felt & Sons, Ltd. ) Docket No. 160,657 M  
 Route 1, Box 98A )  
 Redfield, KS 66769 ) MC ID No. 104708

Applicant's Attorney: Clyde Christey, Southwest Plaza Building, Suite 202, 3601 W. 29th, Topeka, KS 66614

*Livestock, hay, grain, dry feed, dry feed ingredients, dry fertilizer, salt, seeds, building and construction materials, fencing materials and machinery,*

Between points and places in Kansas on and east of U.S. 81.

Also,

Between points and places in Kansas on and east of U.S. 81, on the one hand, and points and places in the state of Kansas, on the other hand.

\*\*\*\*\*

ALFONZO A. MAXWELL  
 Administrator  
 Transportation Division

Doc. No. 006590

**State of Kansas**

**BEHAVIORAL SCIENCES REGULATORY BOARD**

**NOTICE OF HEARING ON PROPOSED**

**ADMINISTRATIVE REGULATIONS**

A public hearing will be conducted at 11 a.m. Friday, June 10, in Room 858-S, Landon State Office Building, 900 S.W. Jackson, Topeka, to consider the adoption of proposed temporary and permanent rules and regulations of the Behavioral Sciences Regulatory Board.

All interested parties may submit written comments prior to the hearing to: Behavioral Sciences Regulatory Board, 900 S.W. Jackson, Room 855-S, Topeka 66612. All interested parties will be given a reasonable opportunity at the hearing to express their views, orally, in regard to the adoption of the proposed regulations. In order to give all parties an opportunity to present their views, it may be necessary to request each participant to limit oral presentation to five minutes.

Following the hearing, all written and oral comments submitted by interested parties will be considered by the Behavioral Sciences Regulatory Board as the basis for making changes to the proposed regulations.

A copy of the regulations and the complete fiscal impact statements may be obtained by writing to the board office.

The following is a brief summary of the board's proposed regulations:

**Registered Master Level Psychologists**

K.A.R. 102-4-1, and K.A.R. 102-4-3 through 102-4-11 are new temporary and permanent regulations establishing requirements for registration and renewal of registration for master level psychologists and defining unprofessional conduct.

Fiscal Impact: Any applicant who does not qualify for registration shall be prevented from using the title "registered master level psychologist." The fiscal impact of this restriction is unknown. Any registered person who is found guilty of a violation of professional conduct may have the registration revoked or suspended. The registrant may incur financial loss, the extent to which is unknown.

MARY ANN GABEL  
 Executive Secretary

Doc. No. 006602

State of Kansas

## OFFICE OF JUDICIAL ADMINISTRATION

## COURT OF APPEALS DOCKET

(Note: Dates and times of arguments are subject to change.)

Kansas Court of Appeals  
Main Courtroom, Finney County Courthouse  
Garden City, Kansas

Before Abbott, C.J.; Briscoe and Davis, JJ.

Thursday, May 26, 1988

3:00 p.m.

Case No.	Case Name	Attorneys	County
61,431	Consumer Usage Laboratories, Inc., Appellee, v. Law Offices of Michael J. Friesen, P.A., Appellant.	Ward E. Loyd  Michael J. Friesen	Finney
61,586	In the Matter of the Estate of Fred A. Marcotte, Appellant.	Scott E. Daniel Wendel W. Wurst Lelyn J. Braun Richard W. Smith	Finney
61,343	State of Kansas, Appellee, v. Randy Boatwright, Appellant.	Joe Shepack, County Attorney Attorney General  Jessica R. Kunen Benjamin C. Wood	Meade

Friday, May 27, 1988

9:00 a.m.

Case No.	Case Name	Attorneys	County
61,087	In the Matter of the Marriage of Dennis M. Bahr and Maria Luisa Galeano.	Randall D. Grisell Linda Eckelman	Finney
61,208	State of Kansas, Appellee, v. Carroll Bernard Smith, Appellant.	Roger A. Nordeen Jay C. Hinkel, County Attorney Attorney General  Benjamin C. Wood	Finney
61,712	James Dean Pfaff, Appellant, v. Donald Leroy Harper and MY-D HAN-D Manufacturing, Inc., Appellees.	Debra J. Wilson  Donald Leroy Harper Jack Dalton	Ford
61,383	Mary A. Blansett and Franklin E. Blansett, Appellants, v. A. Choti, M.D., Appellee.	Richard J. Rome  B. G. Larson	Ford

To be argued in Topeka on May 31, 1988—2:00 p.m.

61,370 S.C.	State of Kansas, Appellee,  v. Jack Knight, Appellant.	Jerome Gorman, Assistant District Attorney Attorney General  James L. Farmer	Wyandotte
----------------	---	---	-----------

Summary Calendar—No Oral Arguments

61,289	State of Kansas, Appellee,  v. Casey Carr, Appellant.	Linda Trigg, County Attorney Attorney General  Grover L. Bryan	Seward
61,057	State of Kansas, Appellee,  v. Andrew L. Scott, Appellant.	Mary Murguia, Assistant District Attorney Nick Tomasic, District Attorney Attorney General  Benjamin C. Wood Steven R. Zinn	Wyandotte
61,312	State of Kansas, Appellee,  v. Joseph Lee Bennett, Jr., Appellant.	Jay Hinkel Attorney General  Benjamin C. Wood	Finney

Kansas Court of Appeals  
Courtroom, Law Enforcement Center  
Garden City, Kansas

Before Larson, P.J.; Rees and Brazil, JJ.

Thursday, May 26, 1988

3:00 p.m.

Case No.	Case Name	Attorneys	County
61,571	Rasheryl Durham, Appellant,  v. VAL-AGRI, Inc., and Commercial Union, Appellees.	Jan L. Fisher  Robert A. Anderson	Finney
61,420	Israel Rowland, Appellant,  v. VAL-AGRI, Inc., A Texas Corporation, and VAL-AGRI Corporation, Appellees.	Robert A. Levy  James A. Walker	Finney
61,374	In the Matter of the Guardianship and Conservatorship of Faye V. Gage.	Elwin F. Cabbage Joe Knopp Richard Rome	Reno

Friday, May 27, 1988

9:00 a.m.

Case No.	Case Name	Attorneys	County
61,469 S.C.	State of Kansas, Appellee,  v. Eldon E. Bedford, Sr., Appellant.	Linda S. Trigg, County Attorney Attorney General  Steve Brooks	Seward

(continued)

60,887	Farmers State Bank, Appellant, v. Greg C. Haflich and Janet Haflich, <i>et al.</i> , Appellees.	John Fierro  Greg G. Haflich and Janet Haflich, <i>pro se</i>	Finney
61,464	Golden Plains Credit Union of Garden City, Kansas, Appellee, v. Del Loyd D. George and Marian E. George, husband and wife; the State of Kansas; the Board of County Commissioners of Finney County, Kansas; and Victor Murillo and Eva Murillo, his wife, Appellants.	Gerald O. Schultz  Del Loyd D. George, <i>pro se</i> Marian E. George, <i>pro se</i> Thomas J. Burgardt	Finney
61,440	In the Matter of the Estate of Robert Louis Dickson (Cornbelt Chemical Corp.).	Randall D. Grisell Richard Yoxall Glenn Kerbs Donald Good Gregory Swanson Max Dickson Tom R. Smith Robert E. Nugent III	Meade
61,287	Santa Fe Trail Credit Union, Appellant, v. Debby Blair Robinson, Appellee.	Kathleen M. Boelte  Arthur B. McKinley	Haskell
61,201	Linda L. Herl, Appellee, v. Gerald L. Herl, Appellant.	Rebecca A. Bartee  Michael S. Holland	Ellis
61,618	City of Liberal, Appellee, v. Johnnie O. Chappell, Appellant.	Tom Smith  J. Douglas Miller	Seward

**Summary Calendar—No Oral Arguments**

(61,105) (61,106)	State of Kansas, Appellee, v. Glen E. Ballard, Appellant.	Martha Murguia Nick A. Tomasic, District Attorney Attorney General  Martha J. Coffman Benjamin C. Wood	Wyandotte
60,793	Sherman L. Galloway, Appellant, v. State of Kansas, Appellee.	Sherman L. Galloway Randall E. McGrath  Glenn R. Trapp, District Attorney Attorney General	Douglas

Kansas Court of Appeals  
Courtroom, Logan County Courthouse  
710 W. 2nd, Oakley, Kansas  
Before Abbott, C.J.; Briscoe and Davis, JJ.

(A ceremony will be held to honor the Honorable Corwin C. Spencer,  
Judge of the Court of Appeals, Retired, at 9:30 a.m. in this Courtroom.)

Thursday, May 26, 1988

10:30 a.m.

Case No.	Case Name	Attorneys	County
61,291	Farmers State Bank, Winona, Kansas; and the First National Bank and Trust Company of Salina, Salina, Kansas, Appellees, v. Charles H. Ward and Naomi H. Ward, <i>et al.</i> , Appellants.	H. David Starkey Joanne B. Stutz Anne L. Baker  Perry Murray Joel R. Kriss	Logan
61,221	In the Matter of the Estate of Fred W. Raney, Deceased.	R. H. Calihan, Jr. James J. McGannon	Hamilton
61,121	State of Kansas, Appellee, v. James E. Groff, Appellant.	Willis Musick, County Attorney Attorney General  Benjamin C. Wood Steven R. Zinn	Ellis
61,520	Russell State Bank, Appellee, v. Clifford R. Holland, Jr., and Euram Petroleum, Inc., Appellants.	Dennis R. Davidson  Robert L. Earnest Clifford R. Holland, Jr.	Russell

Kansas Court of Appeals  
County Commission Room, Logan County Courthouse  
710 W. 2nd, Oakley, Kansas  
Before Larson, P.J.; Rees and Brazil, JJ.

Thursday, May 26, 1988

10:45 a.m.

Case No.	Case Name	Attorneys	County
60,920	State of Kansas, Appellee, v. Ronald E. Baalman, Appellant.	Perry Murray, County Attorney Attorney General  Lucille Marino Benjamin C. Wood	Thomas
61,415	Frank R. Kaiser and Susanna Kaiser, aka Suzanna Kaiser, Appellants, v. The Hoxie State Bank, Hoxie, Kansas, a Corporation, Appellee.	Douglas C. Spencer  Daniel C. Walter	Sheridan

(continued)

61,229 Billie Keiswetter and Jo Ann Keiswetter, Appellants,  
v.  
Stockton Production Credit Association, a Kansas Corporation, Appellees.

Billie Keiswetter and Jo Ann Keiswetter, *pro se*  
J. Randall Clinkscales

Graham

Kansas Court of Appeals  
Division No. 3 Courtroom, Wyandotte County Courthouse  
Kansas City, Kansas

Before Gernon, P.J.; Elliott and Rulon, JJ.

Thursday, May 26, 1988

9:00 a.m.

Case No.	Case Name	Attorneys	County
61,582	David Phillips, a minor child, by and through his mother and next friend, Charlotte Franklin, Appellant, v. Deans Fairmont Corporation and Greystone Development Corporation, Appellees.	John M. Duma John F. Biscanin  Margaret E. Dean Steven R. McConnell	Wyandotte
61,752	Jacqueline Pilot and Rosa Lee Pilot, Appellants, and William Hill and Barbara Griffin, Appellants, v. John E. Lattin, dba Country Manor Apartments, and Fred Randal and Charlotte Randal, dba Accurate Roofing Co., Appellees.	Michael R. McIntosh  Larry J. Austin	Wyandotte
61,323	Dwayne Mertha Davis, Appellant, v. State of Kansas, Appellee.	David Gottlieb Benjamin C. Wood  Nick Tomasic, District Attorney Attorney General	Wyandotte
61,424	Shirley Lee and Jack Knight, Appellants, v. The City of Kansas City, Kansas, Appellee.	James L. Farmer  R. Wayne Lampson	Wyandotte

Before Gernon, P.J.; Six and Elliott, JJ.

1:30 p.m.

61,646	General Motors Acceptance Corporation, Appellee, v. George F. Visocsy and Patricia A. Visocsy, Appellants.	Jan W. Leuenberger  George F. Visocsy and Patricia A. Visocsy, <i>pro se</i>	Leavenworth
60,885	Sandra L. Collins, Appellant, v. Board of County Commissioners of Leavenworth, Kansas, Appellee.	Jeffrey L. Baxter  Patrick J. Reardon	Leavenworth



60,960 Michael K. Miner, Appellee, Barry W. McCormick Miami  
 v.  
 Donald E. Lehman, *et al.*, Appellants. Mark A. Corder

Kansas Court of Appeals  
 Division No. 3 Courtroom, Wyandotte County Courthouse  
 Kansas City, Kansas

Before Gernon, P.J.; Six and Rulon, JJ.

Friday, May 27, 1988

9:00 a.m.

Case No.	Case Name	Attorneys	County
(61,485) (61,486) (61,487) S.C.	Micah Murphy, Appellant,  v. State of Kansas, Appellee.	Benjamin C. Wood Steven R. Zinn Joan Gummels  Wesley K. Griffin, Assistant District Attorney Attorney General	Wyandotte
59,937	State of Kansas, Appellee,  v. Willis C. Hughes, Appellant.	Michael Grosko, Assistant District Attorney Attorney General  Mary Catherine Jackson	Wyandotte
60,671	In the Matter of the Marriage of Gregory Kirk Barger and Claudia Maria Coleman Barger.	David W. Carson D. Richard Whie	Wyandotte
60,845	Edward N. Robertson, Appellant,  v. Laurence M. Jarvis, Appellee.	Elizabeth A. Carson  Laurence M. Jarvis	Wyandotte
Before Six, P.J.; Elliott and Rulon, JJ. 1:30 p.m.			
61,404	Marjorie M. Caldwell, Appellee,  v. Circle K. Convenience Store, Inc., Appellant.	Jerry Hannah  Kevin Bennett	Wyandotte
61,465	State of Kansas, Appellee,  v. James W. Carroll, Appellant.	Alan M. Boeh, County Attorney Attorney General  James W. Carroll	Doniphan
61,576	Paul Polak and Larry H. Bogle, dba P & W Joint Venture, Appellants,  v. Lawson Lease Oil Limited Partnership, <i>et al.</i> ,  and Don C. Bloomer, dba Bloomer Well Service,  v. Dwayne McCune, Appellee.	John L. Richeson  M. Dean Burkhead	Franklin

LEWIS C. CARTER  
 Clerk of the Appellate Courts

## State of Kansas

## DEPARTMENT OF TRANSPORTATION

## NOTICE TO CONTRACTORS

Sealed proposals for the construction of road and bridge work in the following Kansas counties will be received at the office of the Chief of Construction and Maintenance, K.D.O.T., Topeka, until 10 a.m. C.D.T. June 16, 1988, and then publicly opened:

## DISTRICT ONE—Northeast

**Atchison**—3 C-2576-01—County road, 4.6 miles east and 0.8 mile north of Nortonville, then north, 0.1 mile, bridge replacement. (Federal Funds)

**Johnson**—56-46 K-3156-01—U.S. 56—East of U.S. 56 and Nall Avenue on south side at drainage structure, box extension. (State Funds)

**Johnson**—46 C-1701-01—County road, 2.0 miles north of Gardner, then west, 0.4 mile, bridge replacement. (Federal Funds)

**Johnson**—46 C-2559-01—County road, 83rd Street over Kill Creek in DeSoto, 0.1 mile, grading, surfacing and bridge. (Federal Funds)

**Johnson**—46 U-1154—87th and Bluejacket in Lenexa, intersection improvement. (Federal funds)

**Leavenworth**—73-52 K-3032-01—U.S. 73, Fairlane north to Holiday Terrace, 0.1 mile, grading and surfacing. (State Funds)

**Marshall**—36-58 X-1301-02—U.S. 36, Missouri Pacific Railroad crossing at Home City, grading and surfacing. (Federal Funds)

**Nemaha**—36-66 X-1247-02—Union Pacific Railroad crossing east of Seneca, grading and surfacing. (Federal Funds)

**Osage**—75-70 M-1526-01—U.S. 75, from U.S. 56 south, 4.5 miles, concrete pavement patching. (State Funds)

**Shawnee**—24-89 K-3425-01—U.S. 24 and Happy Hollow Road 2.2 miles east of U.S. 75 Alternate, intersection improvement. (State Funds)

**Shawnee**—470-89 K-3157-02—I-470 and 21st Street Interchange, grading, surfacing and bridge. (Federal Funds)

**Shawnee**—470-89 K-3452-01—I-470, from the west junction of I-70 southeast on I-470 to the south Kansas Turnpike Authority booths, 6.7 miles, overlay. (Federal Funds)

**Shawnee**—89 U-1060-01—Gage Boulevard from 20th to Drury Lane in Topeka, 0.6 mile, grading and surfacing. (Federal Funds)

**Shawnee**—89 U-1159-01—Meridan Road at Soldier Creek cutoff in Topeka, 0.1 mile, grading, surfacing and bridge. (Federal Funds)

**Wyandotte**—105 U-0933-01—Kansas Avenue, from 138th Street east to K-7 in Bonner Springs, 1.1 miles, grading and surfacing. (Federal Funds)

**Wyandotte**—169-105 U-1144-01—U.S. 169, 7th and Kansas Avenue in Kansas City, traffic signal. (Federal Funds)

## DISTRICT TWO—Northcentral

**Geary**—31 U-1191-01—6th and Jackson in Junction City, traffic signal. (Federal Funds)

**Jewell**—45 C-2563-01—County road, 14.0 miles north

of Mankato on the Kansas-Nebraska line, then east, 0.3 mile, bridge replacement. (Federal Funds)

**Montgomery**—62 C-2472-01—County road, 2.0 miles west and 1.5 miles north of Cawker City, then east, 0.2 mile, bridge replacement. (Federal Funds)

**Morris**—64 C-2367-01—County road, 1.7 miles north and 0.7 mile east of Council Grove, then east, 0.1 mile, bridge replacement. (Federal Funds)

## DISTRICT THREE—Northwest

**Phillips**—36-74 K-3454-01—U.S. 36 and 3rd Street in Phillipsburg, traffic signal. (State Funds)

**Trego**—283-98 K-3038-01—Union Pacific Railroad north to the north city limits of WaKeeney, 0.2 mile, curb and gutter. (State Funds)

**Trego**—283-98 M-1505-01—U.S. 283, from the north city limits of WaKeeney north 0.1 mile, curb and gutter. (State Funds)

## DISTRICT FOUR—Southeast

**Bourbon**—6C-2550-01—County road, 10.6 miles south of Fort Scott on the Missouri-Kansas state line, then south, 0.2 mile, bridge replacement. (Federal Funds)

**Cherokee**—69-11 X-1060-02—U.S. 69, Missouri-Kansas-Texas Railroad crossing at Columbus, grading and surfacing. (Federal Funds)

**Elk**—25 C-1731-01—County road, 7.0 miles north and 1.0 mile west of Howard, then west, 0.1 mile, bridge replacement. (Federal Funds)

**Linn**—69-54 K-2957-01—U.S. 69, bridge 9 over K-152, bridge painting. (State Funds)

**Linn**—152-54 K-2071-01—K-152, Marais des Cygnes River bridge 26, 7.9 miles east of K-7, bridge painting. (State Funds)

## DISTRICT FIVE—Southcentral

**Barber**—2-4 K-3031—K-2, 250 feet west of K-8 in Kiowa, 0.1 mile, culvert. (State Funds)

**Cowley**—77-18 K-3039-01—Timber Creek bridge to Manning Street in Winfield, 0.2 mile, pavement reconstruction. (State Funds)

**Cowley**—18 U-1068-01—U.S. 77 truck route, east of Arkansas City, 0.6 mile, grading and surfacing. (Federal Funds)

**Reno**—78 U-0984-01—17th Avenue over Cow Creek in Hutchinson, 0.1 mile, bridge replacement. (Federal Funds)

**Rice**—56-80 M-1525-01—Little Cow Creek, 1 mile west of Lyons, bridge deck repair. (State Funds)

**Sedgwick**—87 C-2617-01—Intersection of 63rd Street south and Hydraulic, traffic signal. (Federal Funds)

**Sedgwick**—87 M-1524-01—Various structures on I-135, I-235, K-96 and K-254 around Wichita, mudjacking concrete riprap. (State Funds)

**Sedgwick**—235-87 M-1523-01—I-235 and I-135 junction, southwest 1.0 mile, concrete pavement patching. (State Funds)

Proposals will be issued upon request to all prospective bidders who have been prequalified by the Kansas Department of Transportation on the basis of financial condition, available construction equipment, and experience. Also, a statement of unearned contracts (Form No. 284) must be filed. There will be no discrimination against

anyone because of race, age, religion, color, sex, handicap, or national origin in the award of contracts.

Each bidder shall file a sworn statement executed by or on behalf of the person, firm, association or corporation submitting the bid, certifying that such person, firm, association or corporation has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the submitted bid. This sworn statement shall be in the form of an affidavit executed and sworn to by the bidder before a person who is authorized by the laws of the state to administer oaths. The required form of the affidavit will be provided by the state to each prospective bidder. Failure to submit the sworn statement as part of the bid-approval package will make the bid nonresponsive and not eligible for award consideration.

Plans and specifications for the projects may be examined at the office of the respective county clerk or at the K.D.O.T. district office responsible for the work.

HORACE B. EDWARDS  
Secretary of Transportation

Doc. No. 006592

(Published in the *Kansas Register*, May 19, 1988.)

**NOTICE OF BOND SALE**  
**\$154,000**  
**General Obligation**  
**Downtown Improvement Bonds**  
**Series A 1988**  
**of the City of Burlington, Kansas**

**Sealed Bids**

Sealed bids will be received by the undersigned city clerk of the city of Burlington, Kansas, on behalf of the governing body at the City Building, 301 Neosho St., Burlington, KS 66839, until 8 p.m. D.S.T. on May 25, 1988, for the purchase of \$154,000 principal amount of general obligation downtown improvement bonds, Series A 1988, of the city hereinafter described. All bids will be publicly opened and read at said time and place and will be acted upon by the governing body on the date of sale. No oral or auction bids will be considered.

**Bond Details**

The bonds will consist of fully registered bonds in the denomination of \$5,000 or any integral multiples thereof, except No. 1 in the denomination of \$4,000. The bonds will be dated June 15, 1988, and interest will become due semiannually on May 1 and November 1 in the years as follows:

Maturity Date	Amount
November 1, 1989	\$ 4,000
November 1, 1989	\$ 5,000
November 1, 1990	\$15,000
November 1, 1991	\$15,000
November 1, 1992	\$15,000
November 1, 1993	\$15,000
November 1, 1994	\$15,000
November 1, 1995	\$15,000
November 1, 1996	\$15,000
November 1, 1997	\$20,000
November 1, 1998	\$20,000

The bonds will bear interest from the date thereof at

rates to be determined when the bonds are sold as hereinafter provided, which interest will be payable semiannually on May 1 and November 1 in each year, beginning on May 1, 1989.

**Place of Payment and Bond Registration**

The principal of and interest on the bonds will be payable in lawful money of the United States of America by check or draft of the Kansas State Treasurer, Topeka, Kansas (the paying agent and bond registrar), to the registered owners thereof whose names are on the registration books of the bond registrar as of the 15th day (whether or not a business day) of the calendar month next preceding each interest payment date. The bonds will be registered pursuant to a plan of registration approved by the city and the Kansas Attorney General.

The city will pay for the fees of the bond registrar for registration and transfer of the bonds and will also pay for printing a reasonable supply of registered bond blanks. Any additional costs or fees that might be incurred in the secondary market, other than fees of the bond registrar, will be the responsibility of the bondowners.

**Authority, Purpose and Security**

The bonds are being issued pursuant to K.S.A. Sections 12-6a02 *et seq.*, 12-614, 12-635r and 12-635s, all as may be amended, for the purpose of paying the cost of certain downtown improvements, payable partly from special assessments. The bonds and the interest thereon will constitute general obligations of the city, if not paid, from ad valorem taxes which may be levied without limitation as to rate or amount upon all the taxable tangible property, real and personal, within the territorial limits of the city.

**Conditions of Bids**

Proposals will be received on the bonds bearing such rate or rates of interest, and *not more than three rates*, as may be specified by the bidders, subject to the following conditions: The same rate shall apply to all bonds of the same maturity. Each interest rate specified shall be a multiple of 1/8 or 1/20 of 1 percent. No interest rate may exceed a rate equal to the index of treasury bonds published by the weekly *Credit Markets* in New York, New York, on the Monday next preceding the day on which the bonds are sold, plus 2 percent. No rate specified may be lower than any rate specified for an earlier maturity of the bonds. No bid of less than the entire par value of the bonds and accrued interest thereon to the date of delivery will be considered and no supplemental interest payments will be considered. Each bid must specify the total interest cost to the city during the term of the bonds on the basis of such bid, the premium, if any, offered by the bidder, and the net interest cost to the city on the basis of such bid, all certified by the bidder to be correct, and the city will be entitled to rely on the certificate of correctness of the bidder. Each bid must also specify the average annual net interest rate to the city on the basis of such bid.

**Good Faith Deposit**

Each bid shall be accompanied by a cashier's or certified check drawn on a bank located in the United States of America in the amount of \$3,080 (2 percent of the prin-

(continued)

cipal amount of the bonds) payable to the order of the city to secure the city from any loss resulting from the failure of the bidder to comply with the terms of the bid. Good faith checks submitted by unsuccessful bidders will be returned. If a bid is accepted, said check or the proceeds thereof will be held by the city until the bidder has complied with all of the terms and conditions of this notice. If a bid is accepted but the city fails to deliver the bonds to the bidder in accordance with the terms and conditions of this notice, said check or the proceeds thereof will be returned to the bidder. If a bid is accepted but the bidder defaults in the performance of any of the terms and conditions of this notice, the proceeds of such check will be retained by the city as and for liquidated damages. No interest will be paid upon the successful bidder's good faith check.

**Basis of Award**

The award of the bonds will be made on the basis of the lowest net interest cost to the city, which will be determined by subtracting the amount of the premium bid, if any, from the total interest cost to the city. If there is any discrepancy between the net interest cost and the average annual net interest rate specified, the specified net interest cost shall govern and the interest rates specified in the bid will be adjusted accordingly. If two or more proper bids providing for identical amounts for the lowest net interest cost are received, the governing body shall determine which bid, if any, shall be accepted, and its determination is final. The city reserves the right to reject any and all bids and to waive any irregularities in a submitted bid. Any bid received after 8 p.m. on the date of sale will be returned to the bidder unopened.

**Bid Forms**

All bids must be made on forms which may be procured from the city clerk. No additions or alterations in such forms shall be made and any erasures may cause rejection of any bid.

**Submission of Bids**

Bids must be submitted in sealed envelopes addressed to the undersigned city clerk and marked "Proposal for General Obligation Bonds." Bids may be submitted by mail or delivered in person to the undersigned at the City Building and must be received by the undersigned prior to 8 p.m. D.S.T. on May 25, 1988.

**Delivery and Payment**

The city will pay for printing the bonds and will deliver the same properly prepared, executed and registered without cost to the successful bidder within 45 days after the date of sale at such bank or trust company in the state of Kansas or Kansas City, Missouri, as may be specified by the successful bidder. Delivery elsewhere will be made at the expense of the successful bidder. The successful bidder will be furnished with a certified transcript of the proceedings evidencing the authorization and issuance of the bonds and the usual closing documents, including a certificate that there is no litigation pending or threatened at the time of delivery of the bonds affecting their validity. Payment for the bonds must be made in Federal Reserve funds, immediately subject to use by the city.

The numbers and denominations of the bonds and the

names, addresses and Social Security or taxpayer identification numbers of the registered owners must be submitted in writing by the successful bidder to the city and bond registrar at least two weeks prior to the closing date. In the absence of such information, the city will deliver one bond per maturity registered in the name of the manager of the successful bidder.

The reoffering prices to the public by the original purchaser must be furnished to the city at least one week prior to the closing date. A certificate stating at least 10 percent of the bonds of each maturity has been sold to the public (excluding bond houses, brokers or similar persons or organizations acting in the capacity of underwriters or wholesalers) at such reoffering prices must be furnished to the city by the original purchaser at closing.

**Assessed Valuation and Indebtedness**

The total assessed valuation of the taxable tangible property within the city, for the year 1987, is as follows:

Equalized assessed valuation of taxable tangible property .....	\$4,747,265.00
Tangible valuation of motor vehicles .....	\$ 41,558.19
Equalized assessed tangible valuation for computation on bonded debt limitations .....	\$4,788,823.19

The total general obligation indebtedness of the city as of the date of the bonds, including the bonds being sold, is \$365,068.83. All outstanding notes will be paid off by this bond issue.

**Approval of Bonds**

The bonds will be sold subject to the legal opinion of William P. Timmerman, Wichita, Kansas, (Phone: 316-685-7212), bond counsel, whose approving legal opinion as to the validity of the bonds will be furnished and paid for by the city, printed on the bonds and delivered to the successful bidder as and when the bonds are delivered.

**Opinion of Bond Counsel**

In the opinion of bond counsel, assuming continued compliance by the city with the terms of the bond ordinance, under existing law, the interest on the bonds: (a) is excludable from gross income for federal income tax purposes, and (b) is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations; however, it should be noted that with respect to corporations (as defined for federal income tax purposes), such interest is taken into account in determining adjusted net book income (adjusted current earnings for taxable years ending after December 3, 1989) for the purpose of computing the alternative minimum tax imposed on such corporations. The opinion set forth in clause (a) above is subject to the condition that the city will comply with all requirements of the Internal Revenue Code of 1986, as amended, that must be satisfied subsequent to the issuance of the bonds in order that interest thereon be excluded from gross income for federal income tax purposes. Failure to comply with certain of such requirements could cause the interest on the bonds to be so included in federal gross income retroactive to the date of issuance of the bonds. The city has covenanted to comply with all such requirements.

The bonds are "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the code, and in the

case of certain financial institutions (within the meaning of Section 265(b)(5) of the code), a deduction is allowed for 80 percent of that portion of such financial institution's interest expense allocable to interest on the bonds.

Bond counsel expresses no opinion regarding other federal tax consequences arising with respect to the bonds.

The bonds are exempt from intangible personal property taxes levied by Kansas counties, cities or townships.

#### Related Federal Tax Matters

Prospective purchasers of the bonds should be aware that: (i) Section 265 of the code denies a deduction for interest on indebtedness incurred or continued to purchase or carry the bonds, except with respect to certain financial institutions (within the meaning of Section 265(b)(5) of the code); (ii) with respect to insurance companies subject to the tax imposed by Section 831 of the code, for taxable years beginning after December 31, 1986, Section 832(b)(B)(i) reduces the deduction for loss reserves by 15 percent of the sum of certain items, including interest on the bonds; (iii) for taxable years beginning after December 31, 1986, and before January 1, 1992, interest on the bonds earned by some corporations could be subject to the environmental tax imposed by Section 59A of the code; (iv) for taxable years beginning after December 31, 1986, interest on the bonds earned by certain foreign corporations doing business in the United States could be subject to a branch profits tax imposed by Section 884 of the code; (v) passive investment income, including interest on the bonds, may be subject to federal income taxation under Section 1375 of the code for Subchapter S corporations that have Subchapter C earnings and profits at the close of the taxable year if greater than 25 percent of the gross receipts of such Subchapter S corporation is passive investment income; and (vi) Section 86 of the code requires recipients of certain Social Security and certain railroad retirement benefits to take into account in determining gross income, receipts or accruals of interest on the bonds. These categories of bondowners should consult their own tax advisers as to the applicability of these consequences.

#### Additional Information

Additional information regarding the bonds may be obtained from the City Clerk, City Building, 301 Neosho St., Burlington, KS 66839, (316) 364-5334; or William P. Timmerman, Bond Counsel, Suite 208, 400 N. Woodlawn, Wichita, KS 67208, (316) 685-7212.

Dated May 4, 1988.

CITY OF BURLINGTON  
Marion J. Logan, City Clerk

Doc. No. 006573

(Published in the *Kansas Register*, May 19, 1988.)

## NOTICE OF BOND SALE

\$1,750,000

Lyon County, Kansas  
General Obligation Bonds  
Series 1988A  
(Bridge/Overpass Project)

#### Sealed Bids

Sealed bids for the purchase of \$1,750,000 principal amount of general obligation bonds, Series 1988A (Bridge/Overpass Project), of Lyon County, Kansas, hereinafter described, will be received by the undersigned, county clerk of Lyon County, Kansas, on behalf of the governing body of the county at the Lyon County Courthouse until 10:30 a.m. C.D.T. on Thursday, May 26, 1988. All bids will be publicly opened and read at said time and place and will be acted upon by the county immediately thereafter. No oral or auction bids will be considered.

#### Bond Details

The bonds will consist of fully registered bonds without coupons in the denomination of \$5,000 or any integral multiple thereof. The bonds will be dated June 1, 1988, and will become due serially on December 1 in the years as follows:

Year	Principal Amount
1989	\$115,000
1990	115,000
1991	115,000
1992	115,000
1993	115,000
1994	115,000
1995	115,000
1996	115,000
1997	115,000
1998	115,000
1999	120,000
2000	120,000
2001	120,000
2002	120,000
2003	120,000

The bonds will bear interest at rates to be determined when the bonds are sold as hereinafter provided, which interest will be payable semiannually on June 1 and December 1 in each year, beginning on December 1, 1989.

#### Place of Payment and Bond Registration

The principal of and interest on the bonds will be payable in lawful money of the United States of America by check or draft of the Kansas State Treasurer, Topeka, Kansas (the paying agent and bond registrar). The principal of the bonds will be payable at maturity or upon earlier redemption to the registered owners upon presentation and surrender of the bonds at the office of the paying agent. Interest on the bonds will be paid by check or draft mailed by the paying agent to the persons in whose names the bonds are registered on the registration books maintained by the bond registrar at the close of business on the record date for such interest, which shall be the 15th day (whether or not a business day) of the calendar month next preceding such interest payment date.

The county will pay for the fees of the bond registrar for registration and transfer of the bonds and will also pay

(continued)

for printing a reasonable supply of registered bond blanks. Any additional costs or fees that might be incurred in the secondary market, other than fees of the bond registrar, will be the responsibility of the bondholders.

#### Redemption of Bonds Prior to Maturity

At the option of the county, bonds maturing on December 1, 1999, and thereafter will be subject to redemption and payment prior to maturity on December 1, 1988, and thereafter in whole or in part on any interest payment date (bonds of less than a single maturity to be selected by lot in multiples of \$5,000 principal amount by the paying agent and bond registrar in such equitable manner as it shall designate), at the redemption prices set forth below (expressed as percentages of the principal amount), plus accrued interest to the redemption date:

Redemption Dates	Redemption Prices
December 1, 1998 to November 30, 1999	101.00%
December 1, 1999 to November 30, 2000	100.50%
December 1, 2000 and thereafter	100.00%

Whenever the county is to select the bonds for the purpose of redemption, it shall, in the case of bonds in denominations greater than \$5,000, if less than all of the bonds then outstanding are to be called for redemption, treat each \$5,000 of face value of each such fully registered bond as though it were a separate bond of the denomination of \$5,000.

If the county shall elect to call any bond for redemption and payment prior to the maturity thereof, the county shall give written notice of its intention to redeem and pay said bonds on a specified date, the same being described by number and maturity, said notice to be mailed by United States registered or certified mail addressed to the registered owners of said bonds, to the paying agent and bond registrar, and to the manager or managers of the underwriting account making the successful bid, each of said notices to be mailed at least 30 days prior to the redemption date. If any bond be called for redemption and payment as aforesaid, all interest on such bond shall cease from and after the date for which such call is made, provided funds are available for its payment at the price hereinbefore specified.

#### Conditions of Bids

Proposals will be received on the bonds bearing such rate or rates of interest as may be specified by the bidders, subject to the following conditions: The same rate shall apply to all bonds of the same maturity. Each interest rate specified shall be a multiple of  $\frac{1}{8}$  or  $\frac{1}{20}$  of 1 percent. No interest rate shall exceed the index of treasury bonds published by the weekly *Credit Markets* in New York, New York, on the Monday next preceding the day on which the bonds are sold, plus 2 percent. The difference between the highest rate specified and the lowest rate specified shall not exceed 1.5 percent. No supplemental interest payments will be authorized. No bid of less than the principal amount of the bonds and accrued interest will be considered. Each bid shall specify the total interest cost to the county during the life of the bond issue on the basis of such bid, the premium, if any, offered by the bidder, and the net interest cost to the county on the basis of such bid. Each bid shall also specify the average annual net interest rate to the county on the basis

of such bid. Bidders shall specify in the bid form the prices (exclusive of accrued interest), expressed as a dollar price, at which the bidder intends that each maturity amount of the bonds shall be initially offered to the public (the initial reoffering prices).

#### Basis of Award

The award of the bonds will be made on the basis of the lowest net interest cost to the county, which will be determined by subtracting the amount of the premium bid, if any, from the total interest cost to the county. If there is any discrepancy between the net interest cost and the average annual net interest rate specified, the specified net interest cost shall govern, and the interest rates specified in the bid shall be adjusted accordingly. If two or more proper bids providing for identical amounts for the lowest net interest cost are received, the county shall determine which bid, if any, shall be accepted, and its determination shall be final.

#### Authorization, Purpose and Security for the Bonds

The bonds are being authorized and issued to permanently finance certain bridge/overpass improvements to be constructed in the county pursuant to K.S.A. 10-201 *et seq.* The bonds will be general obligations of the county; the principal, interest and redemption premium, if any, are payable from ad valorem taxes which may be levied without limitation as to rate or amount on all the taxable tangible property, real and personal, within the territorial limits of the county.

#### Tax Exemption

The Internal Revenue Code of 1986 imposes requirements on the county which must be met subsequent to the issuance of the bonds by the county and, as a result, the county will and does hereby covenant that it will diligently undertake those steps necessary to maintain the tax-exempt status of the bonds. The county's failure to comply with such requirements could adversely affect the tax-exempt status of the bonds. Purchasers of the bonds should be aware that should the bonds lose their status as tax-exempt obligations as a result of the county's failure to comply with such requirements, the bonds are neither callable nor will the rate of interest on the bonds be adjusted to reflect such circumstances.

The code includes interest on tax-exempt obligations, such as the bonds, in the adjusted net book income of certain corporations for taxable years beginning after December 31, 1986, and includes, through 1989, in the calculation of alternative minimum taxable income, one-half of the excess of a corporation's adjusted net book income over its alternative minimum taxable income (determined without regard to this adjustment and prior to reduction for certain net operating losses). After 1989, the use of "book income" will be replaced by "adjusted current earnings," with certain other adjustments. Furthermore, Section 59A of the code, as added by the Superfund Amendments and Reauthorization Act of 1986, provides for a new environmental tax generally based on corporate alternative minimum taxable income. The amount of the tax is equal to 0.12 percent of the excess of alternative minimum taxable income, without regard to net operating losses and the deduction for this tax, over \$2 million. The environmental tax is imposed whether or not the taxpayer

is subject to the alternative minimum tax. The environmental tax, which is effective for taxable years beginning after December 31, 1986, may subject certain bondowners to additional taxation for interest earned on the bonds.

The code also requires property and casualty insurance companies, for taxable years beginning on or after January 1, 1987, to reduce the amount of their deductible underwriting losses by a percentage of the amount of tax-exempt interest received or accrued on obligations acquired after August 7, 1986.

With the exception of certain "qualified tax-exempt obligations," the code provides that banks and thrift institutions may not deduct any portion of the interest cost of purchasing or carrying tax-exempt obligations such as the bonds if such interest cost is incurred in taxable years ending after December 31, 1986, with respect to obligations acquired after August 7, 1986. The county intends to designate the bonds as "qualified tax-exempt obligations" under Section 265 of the code.

On May 3, 1988, the Kansas Legislature adopted Senate Substitute for House Bill No. 2543. The bill, if signed by the Governor of the State of Kansas, will become effective July 1, 1988, upon publication in the statute book. Section 4 of the bill provides that interest on obligations of the state of Kansas or its political subdivisions issued after December 31, 1987, shall be excluded from computation of Kansas adjusted gross income. Assuming the bill becomes law, interest on the bonds will be excluded from computation of Kansas adjusted gross income for taxable years commencing after December 31, 1987.

#### Legal Opinion

The bonds will be sold subject to the legal opinion of Nichols and Wolfe Chartered, Topeka, Kansas, bond counsel, whose approving legal opinion as to the validity of the bonds will be furnished and paid for by the county, printed on the bonds and delivered to the successful bidder when the bonds are delivered. Said opinion will also state that in the opinion of bond counsel, assuming continued compliance by the county with the provisions of the ordinance authorizing the issuance of the bonds and the code, under existing law, the interest on the bonds is exempt from federal income taxation. As indicated under the immediately preceding section hereof entitled "Tax Exemption," if the Senate Substitute for House Bill No. 2543 becomes law, interest on the bonds will be excluded from the computation of Kansas adjusted income. A supplemental opinion of bond counsel to such effect will be rendered to the successful bidder.

#### Delivery and Payment

The county will pay for printing the bonds and will deliver the bonds, without cost to the successful bidder, properly prepared, executed and registered, on or prior to July 1, 1988, at such bank or trust company in the contiguous United States of America as may be specified by the successful bidder. Said bidder will also be furnished with a certified transcript of the proceedings evidencing the authorization and issuance of the bonds and the usual closing documents, including a certificate that there is no litigation pending or threatened at the time of delivery of the bonds affecting their validity and a certificate regarding the completeness and accuracy of the

official statement. Payment for the bonds shall be made in Federal Reserve funds, immediately subject to use by the county. The denominations of the bonds and the names, addresses and Social Security or taxpayer identification numbers of the registered owners shall be submitted in writing by the successful bidder to the county and bond registrar not later than 5 p.m. C.D.T. on June 15, 1988. In the absence of such information, the county will deliver bonds in the denomination of each maturity registered in the name of the successful bidder.

The successful bidder shall furnish the county by 5 p.m. C.D.T. on June 23, 1988, a certificate acceptable to the county's bond counsel to the effect that: (i) the successful bidder has made a bona fide public offering of the bonds at the initial reoffering prices, and (ii) a substantial amount of the bonds was sold to the public (excluding brokers and other intermediaries) at such initial reoffering prices. Such certificate shall state that: (1) it is made on the best knowledge, information and belief of the successful bidder, and (2) 10 percent or more in par amount of the bonds of each maturity was sold to the public at or below the initial reoffering prices (such amount being sufficient to establish the sale of a "substantial amount" of the bonds).

#### Good Faith Deposit

Each bid shall be accompanied by a cashier's or certified check drawn, on a bank located in the United States of America in the amount of \$35,000 payable to the order of the county to secure the county from any loss resulting from the failure of the bidder to comply with the terms of the bid. No interest will be paid upon the deposit made by the successful bidder. Said check shall be returned to the bidder if the bid is not accepted. If a bid is accepted, said check shall be held by the county until the bidder shall have complied with all of the terms and conditions of this notice, at which time said check shall be returned to the successful bidder or deducted from the purchase price at the option of the county. If a bid is accepted but the county shall fail to deliver the bonds to the bidder in accordance with the terms and conditions of this notice, said check shall be returned to the bidder. If a bid is accepted but the bidder shall default in the performance of any of the terms and conditions of this notice, the proceeds of such check shall be retained by the county as and for liquidated damages.

#### CUSIP Numbers

CUSIP identification numbers will be printed on the bonds, but neither the failure to print such number on any bond nor any error with respect thereto shall constitute cause for failure or refusal by the purchaser thereof to accept delivery of and pay for the bonds in accordance with the terms of this notice. All expenses in relation to the assignment and printing of CUSIP numbers on the bonds will be paid by the county.

#### Bid Forms

All bids must be made on forms which may be procured from the county clerk. No additions or alterations in such forms shall be made and any erasures may cause rejection of any bid. The county reserves the right to waive irregularities and to reject any or all bids.

(continued)

### Submission of Bids

Bids must be submitted in sealed envelopes addressed to the undersigned county clerk and marked "Proposal for the Purchase of General Obligation Bonds." Bids may be submitted by mail or delivered in person to the undersigned at Lyon County Courthouse and must be received by the undersigned prior to 10:30 a.m. C.D.T. on Thursday, May 26, 1988.

### Assessed Valuation and Indebtedness

The total assessed valuation of the taxable tangible property within the county for the year 1987 is \$118,484,652. The total general obligation bonded indebtedness of the county as of the date of the bonds, including the bonds, is \$4,000,000.

Dated May 10, 1988.

LYON COUNTY, KANSAS  
 Wanita Werner, County Clerk  
 Lyon County Courthouse  
 402 Commercial St.  
 Emporia, KS 66801  
 (316) 342-4950

Doc. No. 006577

(Published in the *Kansas Register*, May 19, 1988.)

### SENATE BILL No. 252

AN ACT relating to state governmental ethics; concerning investigations of complaints by the Kansas public disclosure commission; allowing the commission to issue cease and desist orders and injunctions; further allowing the commission to enter into consent decrees; amending K.S.A. 46-256 and repealing the existing section.

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

Section 1. K.S.A. 46-256 is hereby amended to read as follows: 46-256. If the commission determines that a verified complaint does not allege facts, directly or upon information and belief, sufficient to constitute a violation of any provision of this act, it shall dismiss the complaint and notify the complainant and respondent thereof. Whenever a complaint is filed with the commission alleging a violation of any provision of this act, such filing and the allegations therein shall be confidential and shall not be disclosed except as provided in this act. If the commission determines that such verified complaint does allege facts, directly or upon information and belief, sufficient to constitute a violation of any of the provisions of this act, the commission promptly shall promptly investigate the alleged violation. Upon filing of a verified complaint with the commission and a decision to conduct an investigation of the complaint, the commission may apply to the administrative judge of the district court of Shawnee county for issuance of a subpoena, a subpoena duces tecum, or both, for the witness named in such praecipe commanding such witness to appear or produce documents and testify concerning matters under investigation. Such subpoenas shall be served and returned as subpoenas for witnesses in criminal cases in the district court. No subpoena shall be issued pursuant to this section without the administrative judge making a finding: (a) That the subpoena is being issued as a lawful exercise of the authority of the commission granted by this act; (b) that the verified complaint filed with the commission alleges sufficient facts directly or upon information and belief sufficient to constitute a violation of any of the provisions of this act; (c) that the application or any supporting affidavits allege sufficient facts to show that the subject of the subpoena has information which is relevant or necessary to the investigation; and (d) with regard to a subpoena duces tecum issued to an individual who is the subject of the investigation, and which concerns documents or things owned by such individual or in such individual's possession, except those documents or records required to be kept by this act, that the application or complaint

states sufficient facts to show probable cause that a violation of this act has been or is being committed and particularly describes the documents or things subject to the subpoena which constitute evidence of the violation. Any statement which is made orally in support of the application for subpoena shall be either taken down by a certified shorthand reporter or reduced to writing and sworn to under oath and made a part of the application for the issuance of the subpoena. The application for subpoena, affidavits or sworn testimony in support of the application or the subpoena itself shall not be public information or made available for examination without a written order of the court, except that such affidavits or testimony when requested shall be made available to the subject of the subpoena, the alleged violator or such alleged violator's counsel. Any motion to quash a subpoena issued pursuant to this section shall be filed in the district court of Shawnee county, Kansas. Each witness shall be sworn to make true answers to all questions propounded to such witness touching the matters under investigation. The testimony of each witness shall be reduced to writing and signed by the witness. Any person who disobeys a subpoena issued for such appearance or refuses to be sworn as a witness or answer any proper question propounded during the investigation by the commission may be adjudged in contempt of court and punished by fine and imprisonment. No person called as a witness before the commission shall be required to make any statement which will incriminate such witness. The attorney general or assistant attorney general may, on behalf of the state, grant any person called as a witness immunity from prosecution or punishment on account of any transaction or matter about which such person shall be compelled to testify and such testimony shall not be used against such person in any prosecution for a crime under the laws of Kansas or any municipal ordinance. After being granted immunity from prosecution or punishment, as herein provided, no person shall be excused from testifying on the ground that such person's testimony may incriminate such person. The commission shall notify the attorney general of any apparent violation of criminal law or other laws not administered by the commission, which is discovered during the course of any such investigation. If, after the preliminary investigation, the commission finds that probable cause does not exist for believing the allegations of the complaint, the commission shall dismiss the complaint. If after such preliminary investigation, the commission finds that probable cause exists for believing the allegations of the complaint, such complaint shall no longer be confidential and may be disclosed. Upon making any such finding, the commission shall fix a time for a hearing in the matter, which shall be not more than ~~thirty~~ (30) 30 days after such finding. In either event the commission shall notify the complainant and respondent of its determination.

New Sec. 2. The public disclosure commission, in addition to any other penalty prescribed under K.S.A. 46-215 through 46-286, and amendments thereto, may assess a civil fine, after proper notice and an opportunity to be heard, against any person for a violation pursuant to K.S.A. 46-215 through 46-286, and amendments thereto, in an amount not to exceed \$5,000 for the first violation, not to exceed \$10,000 for the second violation and not to exceed \$15,000 for the third violation and for each subsequent violation. All fines assessed and collected under this section shall be remitted promptly to the state treasurer. Upon receipt thereof, the state treasurer shall deposit the entire amount in the state treasury and credit it to the state general fund.

New Sec. 3. (a) If the public disclosure commission determines after notice and opportunity for a hearing that any person has engaged or is engaging in any act or practice constituting a violation of any provision of K.S.A. 46-215 through 46-286, and amendments thereto, or any rule and regulation or order hereunder, the commission by order may require that such person cease and desist from the unlawful act or practice and take such affirmative action as in the judgment of the commission will carry out the purposes of K.S.A. 46-215 through 46-286, and amendments thereto.

(b) If the commission makes written findings of fact that the



(Published in the Kansas Register, May 19, 1988.)

public interest will be irreparably harmed by delay in issuing an order under subsection (a), the commission may issue an emergency temporary cease and desist order. Such order, even when not an order within the meaning of K.S.A. 1987 Supp. 77-502 and amendments thereto, shall be subject to the same procedures as an emergency order issued under K.S.A. 1987 Supp. 77-536 and amendments thereto. Upon the entry of such an order, the commission shall promptly notify the person subject to the order that it has been entered, of the reasons therefor and that upon written request the matter will be set for a hearing which shall be conducted in accordance with the provisions of the Kansas administrative procedure act. If no hearing is requested and none is ordered by the commission, the order will remain in effect until it is modified or vacated by the commission. If a hearing is requested or ordered, the commission, after notice of and opportunity for hearing to the person subject to the order, shall by written findings of fact and conclusions of law vacate, modify or make permanent the order. Any such order shall be enforceable in any court of competent jurisdiction.

New Sec. 4. Whenever it appears to the public disclosure commission that any person has engaged in any act or practice constituting a violation of any provision of K.S.A. 46-215 through 46-286, and amendments thereto, or any rule and regulation or order hereunder, the commission may bring an action in any court of competent jurisdiction to enjoin the acts or practices and to enforce compliance with K.S.A. 46-215 through 46-286, and amendments thereto, or any rule and regulation or order hereunder. Upon a proper showing, a permanent or temporary injunction, restraining order, restitution, writ of mandamus or other equitable relief shall be granted.

New Sec. 5. The public disclosure commission may enter into a consent decree with any person who has violated any provision of K.S.A. 46-215 through 46-286, and amendments thereto.

New Sec. 6. Any person aggrieved by any order of the public disclosure commission pursuant to this act may appeal such order in accordance with the provisions of the act for judicial review and civil enforcement of agency actions.

Sec. 7. K.S.A. 46-256 is hereby repealed.

Sec. 8. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body March 11, 1987.

SENATE adopted Conference Committee report April 30, 1988.  
ROBERT V. TALKINGTON  
President of the Senate.  
LU KENNEY  
Secretary of the Senate.

Passed the HOUSE as amended March 16, 1988.

HOUSE adopted Conference Committee report April 29, 1988.  
JAMES D. BRADEN  
Speaker of the House.  
GENEVA SEWARD  
Chief Clerk of the House.

APPROVED May 10, 1988.

MIKE HAYDEN  
Governor.

STATE OF KANSAS  
Office of Secretary of State

I, BILL GRAVES, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 10th day of May, A.D. 1988.

BILL GRAVES  
Secretary of State.

(SEAL)

## SENATE BILL No. 157

AN ACT concerning the campaign finance act; relating to complaints of violations; allowing the commission to issue cease and desist orders and injunctions; further allowing the commission to enter into consent decrees; amending K.S.A. 25-4161 and K.S.A. 1987 Supp. 77-603 and repealing the existing sections.

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

Section 1. K.S.A. 25-4161 is hereby amended to read as follows: 25-4161. If the commission determines that a verified complaint does not allege facts, directly or upon information and belief, sufficient to constitute a violation of any provision of the campaign finance act, it shall dismiss the complaint and notify the complainant and respondent thereof. Whenever a complaint is filed with the commission alleging a violation of a provision of the campaign finance act, such filing and the allegations therein shall be confidential and shall not be disclosed except as provided in the campaign finance act. If the commission determines that such verified complaint does allege facts, directly or upon information and belief, sufficient to constitute a violation of any of the provisions of the campaign finance act, the commission shall promptly investigate the alleged violation. Upon filing of a verified complaint with the commission and a decision to conduct an investigation of the complaint, the commission may apply to the administrative judge of the district court of Shawnee county for issuance of a subpoena, a subpoena duces tecum, or both, for the witness named in such praecipe commanding such witness to appear or produce documents and testify concerning matters under investigation. Such subpoenas shall be served and returned as subpoenas for witnesses in criminal cases in the district court. No subpoena shall be issued pursuant to this section without the administrative judge making a finding: (a) That the subpoena is being issued as a lawful exercise of the authority of the commission granted by this act; (b) that the verified complaint filed with the commission alleges sufficient facts directly or upon information and belief sufficient to constitute a violation of any of the provisions of this act; (c) that the application or any supporting affidavits allege sufficient facts to show that the subject of the subpoena has information which is relevant or necessary to the investigation; and (d) with regard to a subpoena duces tecum, issued to an individual who is the subject of the investigation, and which concerns documents or things owned by such individual or in such individual's possession, except those documents or records required to be kept by this act, that the application or complaint states sufficient facts to show probable cause that a violation of this act has been or is being committed and particularly describes the documents or things subject to the subpoena which constitute evidence of the violation. Any statement which is made orally in support of the application for subpoena shall be either taken down by a certified shorthand reporter or reduced to writing and sworn to under oath and made a part of the application for the issuance of the subpoena. The application for subpoena, affidavits or sworn testimony in support of the application or the subpoena itself shall not be public information or made available for examination without a written order of the court, except that such affidavits or testimony when requested shall be made available to the subject of the subpoena, the alleged violator or such alleged violator's counsel. Any motion to quash a subpoena issued pursuant to this section shall be filed in the district court of Shawnee county, Kansas. Each witness shall be sworn to make true answers to all questions propounded to such witness touching the matters under investigation. The testimony of each witness shall be reduced to writing and signed by the witness. Any person who disobeys a subpoena issued for such appearance or refuses to be sworn as a witness or answer any proper question propounded during the investigation by the commission may be adjudged in contempt of court and punished by fine and imprisonment. No person called as a witness before the commission shall be required to make any statement which will incriminate such witness. The attorney general or assistant attorney general may, on behalf of the state, grant any person called as a witness immunity from prosecution or punishment

(continued)

on account of any transaction or matter about which such person shall be compelled to testify and such testimony shall not be used against such person in any prosecution for a crime under the laws of Kansas or any municipal ordinance. After being granted immunity from prosecution or punishment, as herein provided, no person shall be excused from testifying on the ground that such person's testimony may incriminate such person. The commission shall notify the attorney general of any apparent violation of criminal law or other laws not administered by the commission, which is discovered during the course of any such investigation. If after the preliminary investigation, the commission finds that probable cause does not exist for believing the allegations of the complaint, the commission shall dismiss the complaint. If after such preliminary investigation, the commission finds that probable cause exists for believing the allegations of the complaint, such complaint shall no longer be confidential and may be disclosed. Upon making any such finding, the commission shall fix a time for a hearing of the matter, which shall be not more than 30 days after such finding. In either event the commission shall notify the complainant and respondent of its determination.

New Sec. 2. The public disclosure commission, in addition to any other penalty prescribed under the campaign finance act, may assess a civil fine, after proper notice and an opportunity to be heard, against any person for a violation of the campaign finance act in an amount not to exceed \$5,000 for the first violation, \$10,000 for the second violation and \$15,000 for the third violation and for each subsequent violation. All fines assessed and collected under this section shall be remitted promptly to the state treasurer. Upon receipt thereof, the state treasurer shall deposit the entire amount in the state treasury and credit it to the state general fund.

New Sec. 3. (a) If the public disclosure commission determines after notice and opportunity for a hearing that any person has engaged or is engaging in any act or practice constituting a violation of any provision of the campaign finance act or any rule and regulation or order hereunder, the commission by order may require that such person cease and desist from the unlawful act or practice and take such affirmative action as in the judgment of the commission will carry out the purposes of such act.

(b) If the commission makes written findings of fact that the public interest will be irreparably harmed by delay in issuing an order under subsection (a), the commission may issue an emergency temporary cease and desist order. Such order, even when not an order within the meaning of K.S.A. 1987 Supp. 77-502 and amendments thereto, shall be subject to the same procedures as an emergency order issued under K.S.A. 1987 Supp. 77-536 and amendments thereto. Upon the entry of such an order, the commission shall promptly notify the person subject to the order that it has been entered, of the reasons therefor and that upon written request the matter will be set for a hearing which shall be conducted in accordance with the provisions of the Kansas administrative procedure act. If no hearing is requested and none is ordered by the commission, the order will remain in effect until it is modified or vacated by the commission. If a hearing is requested or ordered, the commission, after notice of and opportunity for hearing to the person subject to the order, shall by written findings of fact and conclusions of law vacate, modify or make permanent the order. Any such order shall be enforceable in any court of competent jurisdiction.

New Sec. 4. Whenever it appears to the public disclosure commission that any person has engaged in any act or practice constituting a violation of any provision of the campaign finance act or any rule and regulation or order hereunder, the commission may bring an action in any court of competent jurisdiction to enjoin the acts or practices and to enforce compliance with such act or any rule and regulation or order hereunder. Upon a proper showing, a permanent or temporary injunction, restraining order, restitution, writ of mandamus or other equitable relief shall be granted.

New Sec. 5. The public disclosure commission may enter into a consent decree with any person who has violated the campaign finance act.

New Sec. 6. Any person aggrieved by any order of the public disclosure commission pursuant to this act may appeal such order in accordance with the provisions of the act for judicial review and civil enforcement of agency actions.

Sec. 7. K.S.A. 1987 Supp. 77-603 is hereby amended to read as follows: 77-603. (a) This act applies to all agencies and all proceedings for judicial review and civil enforcement of agency actions not specifically exempted by statute from the provisions of this act.

(b) This act creates only procedural rights and imposes only procedural duties. They are in addition to those created and imposed by other statutes.

(c) This act does not apply to agency actions:

(1) Of the Kansas parole board concerning inmates or persons under parole or conditional release supervision;

(2) concerning the management, discipline or release of persons in the custody of the secretary of corrections;

(3) under the election laws contained in chapter 25 of the Kansas Statutes Annotated *except as provided by section 6*;

(4) concerning pardon, commutation of sentence, clemency or extradition;

(5) concerning military or naval affairs other than actions relating to armories;

(6) governed by the provisions of the open records act and subject to an action for enforcement pursuant to K.S.A. 45-222, and amendments thereto; or

(7) governed by the provisions of K.S.A. 75-4317 *et seq.*, and amendments thereto, relating to open public meetings, and subject to an action for civil penalties or enforcement pursuant to K.S.A. 75-4320 or 75-4320a, and amendments thereto.

Sec. 8. K.S.A. 25-4161 and K.S.A. 1987 Supp. 77-603 are hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body March 11, 1987.

SENATE adopted Conference Committee report April 30, 1988.  
ROBERT V. TALKINGTON  
*President of the Senate.*  
LU KENNEY  
*Secretary of the Senate.*

Passed the HOUSE as amended March 16, 1988.

HOUSE adopted Conference Committee report April 29, 1988.  
JAMES D. BRADEN  
*Speaker of the House.*  
GENEVA SEWARD  
*Chief Clerk of the House.*

APPROVED May 10, 1988.

MIKE HAYDEN  
*Governor.*

STATE OF KANSAS  
Office of Secretary of State

I, BILL GRAVES, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 10th day of May, A.D. 1988.

BILL GRAVES  
*Secretary of State.*

(SEAL)

(Published in the Kansas Register, May 19, 1988.)

SENATE BILL No. 762

AN ACT making and concerning appropriations for the fiscal years ending June 30, 1988, and June 30, 1989, to initiate and complete certain capital improvement projects for the department of corrections; authorizing certain transfers, imposing certain restrictions and limitations, and directing or authorizing disbursements and acts incidental to the foregoing; also repealing section 8 of chapter 335 of the 1987 Session Laws of Kansas.

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

Section 1. For the fiscal years ending June 30, 1988, and June 30, 1989, appropriations are hereby made, restrictions and limitations are hereby imposed and transfers, disbursements and acts incidental to the foregoing are hereby directed or authorized to initiate and complete capital improvement projects as provided in this act.

Sec. 2.

DEPARTMENT OF CORRECTIONS

(a) The above agency is hereby authorized to initiate and complete capital improvement projects for Hutchinson correctional work facility, renovation and construction, Stockton correctional facility acquisition and renovation, Norton correctional facility renovation and expansion and Ellsworth correctional work facility expansion, subject to the restrictions and limitations imposed by this section.

(b) There is appropriated for the above agency from the state general fund for the capital improvement projects and for the fiscal years specified as follows:

Hutchinson correctional work facility—acquisition, renovation and construction

For the fiscal year ending June 30, 1988 . . . . . \$6,100,000

Provided, That expenditures may be made from this account for the acquisition of the Detroit mobile home manufacturing plant buildings and real property in Hutchinson, Kansas, for use as a correctional work facility in accordance with a purchase agreement for such buildings and real property, which agreement is hereby authorized to be negotiated and entered into by the secretary of corrections with the owners of such buildings and real property: *Provided further*, That expenditures may be made from this account for the renovation of existing buildings and the construction of additional buildings and facilities as part of the capital improvement project for the Hutchinson correctional work facility and all ancillary support facilities: *And provided further*, That such project shall provide for the Hutchinson correctional work facility to have a capacity of not less than 400 inmates: *And provided further*, That no such purchase agreement shall be entered into and no expenditures shall be made from this account unless the preliminary and final plans for the Hutchinson correctional work facility and all ancillary support facilities have been presented to the joint committee on state building construction and the secretary of corrections has advised and consulted with such committee on such preliminary and final plans: *And provided further*, That such project shall not be subject to the provisions of K.S.A. 75-1250 through 75-1266 and amendments thereto which require the acquisition of the services of a project architect by a negotiating committee: *And provided further*, That the above agency is hereby authorized to negotiate and enter into contracts for such project: *And provided further*, That such contracts shall not be subject to the competitive bidding requirements of K.S.A. 75-3739 through 75-3741 and amendments thereto: *And provided further*, That any unencumbered balance in excess of \$100 as of June 30, 1988, is hereby reappropriated for fiscal year 1989.

Stockton correctional facility—acquisition and renovation

For the fiscal year ending June 30, 1988 . . . . . 500,000

Provided, That expenditures may be made from this account for the acquisition of the building and real property in Stockton, Kansas, for use as a correctional facility: *Provided further*, That expenditures may be made from this account for the capital improvement project for the renovation of such building for the Stockton correctional facility: *And provided further*, That such project shall provide for the Stockton correctional facility to have a capacity of not less than 110 inmates: *And provided further*, That no expenditures shall be made from this account unless the preliminary and final plans for the Stockton correctional facility have been presented to the joint committee on state building construction and the secretary of corrections has advised and consulted with such committee on such preliminary and final plans: *And provided further*, That such project shall not be subject to the provisions of K.S.A. 75-1250 through 75-1266 and amendments thereto which require the acquisition of the services of a project architect by a negotiating committee: *And provided further*, That the above agency is hereby authorized to negotiate and enter into contracts for such project: *And provided*

*further*, That such contracts shall not be subject to the competitive bidding requirements of K.S.A. 75-3739 through 75-3741 and amendments thereto: *And provided further*, That any unencumbered balance in excess of \$100 as of June 30, 1988, is hereby reappropriated for fiscal year 1989.

Norton correctional facility—renovation and expansion

For the fiscal year ending June 30, 1988 . . . . . 6,600,000

*Provided*, That expenditures may be made from this account for renovation and expansion of buildings and facilities for the Norton correctional facility: *Provided further*, That such project shall provide for an increase in capacity of not less than 260 additional inmates so that the Norton correctional facility shall have a total capacity of not less than 500 inmates: *And provided further*, That no expenditures shall be made from this account unless the preliminary and final plans for the renovation and expansion project for the Norton correctional facility have been presented to the joint committee on state building construction and the secretary of corrections has advised and consulted with such committee on such preliminary and final plans: *And provided further*, That such project shall not be subject to the provisions of K.S.A. 75-1250 through 75-1266 and amendments thereto which require the acquisition of the services of a project architect by a negotiating committee: *And provided further*, That the above agency is hereby authorized to negotiate and enter into contracts for such project: *And provided further*, That such contracts shall not be subject to the competitive bidding requirements of K.S.A. 75-3739 through 75-3741 and amendments thereto: *And provided further*, That any unencumbered balance in excess of \$100 as of June 30, 1988, is hereby reappropriated for fiscal year 1989.

Ellsworth correctional work facility debt service

For the fiscal year ending June 30, 1989 . . . . . 437,500

*Provided*, That expenditures may be made from this account in accordance with agreements entered into by the secretary of corrections to provide bond financing for expansion of the Ellsworth correctional work facility: *Provided further*, That such project shall provide for the Ellsworth correctional work facility to have a total capacity after such expansion of not less than 512 inmates: *And provided further*, That such project is authorized to include acquisition of fee title to not more than 160 acres of real property located adjacent to the existing site of the Ellsworth correctional work facility for purposes of such expansion: *And provided further*, That the cost of acquiring fee title to such real property shall not exceed \$200,000: *And provided further*, That no expenditures shall be made from this account unless the preliminary and final plans for the Ellsworth correctional work facility expansion have been presented to the joint committee on state building construction and the secretary of corrections has advised and consulted with such committee on such preliminary and final plans: *And provided further*, That such project shall not be subject to the provisions of K.S.A. 75-1250 through 75-1266 and amendments thereto which require the acquisition of the services of a project architect by a negotiating committee: *And provided further*, That the above agency is hereby authorized to negotiate and enter into contracts for such project: *And provided further*, That such contracts shall not be subject to the competitive bidding requirements of K.S.A. 75-3739 through 75-3741 and amendments thereto: *And provided further*, That the Ellsworth correctional work facility expansion project is hereby approved for the department of corrections for the purposes of subsection (b) of K.S.A. 1987 Supp. 74-8905 and amendments thereto, including the refinancing of any existing bonded indebtedness relating to the Ellsworth correctional work facility, and the issuance of bonds for such purposes by the Kansas development finance authority in accordance with that statute is hereby approved and, with the approval of the Kansas development finance authority, bonds may be issued for such purposes by the Ellsworth public building commission.

(c) There is appropriated for the above agency from the following special revenue fund for the fiscal year ending June 30, 1989, all moneys now or hereafter lawfully credited to and available in such fund, except that expenditures other than refunds authorized by law shall not exceed the following:

Ellsworth correctional work facility bond proceeds fund . . . . . No limit

*Provided*, That expenditures may be made from this fund for expansion of the Ellsworth correctional work facility: *Provided further*, That such project shall provide for the Ellsworth correctional work facility to have a total capacity after such expansion of not less than 512 inmates: *And provided further*, That expenditures may be made from this fund for acquisition of fee title to not more than 160 acres of real property located adjacent to the existing site of the Ellsworth correctional work facility for purposes of such expansion: *And provided further*, That such expenditures from this fund for acquisition of fee title to such real property shall not exceed \$200,000: *And provided further*, That no expenditures shall be made from this fund unless the preliminary and final plans for the Ellsworth correctional work

(continued)

facility expansion have been presented to the joint committee on state building construction and the secretary of corrections has advised and consulted with such committee on such preliminary and final plans.

Sec. 3. Section 8 of chapter 335 of the 1987 Session Laws of Kansas is hereby repealed.

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

I hereby certify that the above BILL originated in the SENATE, and passed that body April 9, 1988.

SENATE adopted Conference Committee report May 1, 1988.  
 ROBERT V. TALKINGTON  
*President of the Senate.*  
 LU KENNEY  
*Secretary of the Senate.*

Passed the HOUSE as amended April 27, 1988.

HOUSE adopted Conference Committee report May 1, 1988.  
 JAMES D. BRADEN  
*Speaker of the House.*  
 GENEVA SEWARD  
*Chief Clerk of the House.*

APPROVED May 13, 1988.

MIKE HAYDEN  
*Governor.*

STATE OF KANSAS  
 Office of Secretary of State

I, BILL GRAVES, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 13th day of May, A.D. 1988.

BILL GRAVES  
*Secretary of State.*

(SEAL)

(Published in the *Kansas Register*, May 19, 1988.)

HOUSE BILL No. 3119

AN ACT amending the Kansas parimutuel racing act; amending K.S.A. 1987 Supp. 74-8813, 74-8815 and 74-8826, all as amended by 1988 House Bill No. 2773, and repealing the existing sections; also repealing K.S.A. 1987 Supp. 74-8813, as amended by 1988 House Bill No. 2772, K.S.A. 1987 Supp. 74-8813, as amended by 1988 Substitute for House Bill No. 2776, K.S.A. 1987 Supp. 74-8815, as amended by 1988 House Bill No. 2772, K.S.A. 1987 Supp. 74-8815, as amended by 1988 Substitute for House Bill No. 2776, and K.S.A. 1987 Supp. 74-8826, as amended by 1988 House Bill No. 2772.

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

Section 1. K.S.A. 1987 Supp. 74-8813, as amended by 1988 House Bill No. 2773, is hereby amended to read as follows: 74-8813. (a) A nonprofit organization may apply to the commission for an organization license to conduct horse races or an organization license to conduct greyhound races, or both such licenses. In addition, an organization license may authorize the licensee to construct or own a racetrack facility if so provided by the commission. The application for an organization license shall be filed with the commission at a time and place prescribed by rules and regulations of the commission. The application shall specify the days when and the exact location where it proposes to conduct such races and shall be in a form and include such information as the commission prescribes. A nonrefundable application fee in the form of a certified check or bank draft shall accompany the application. Except as provided pursuant to K.S.A. 1987 Supp. 74-8814 and amendments thereto, such fee shall be as follows: (1) For an application for an organization license to conduct horse or greyhound races with parimutuel wagering, a fee of \$5,000 for each application; and (2) for an application for an organization license to conduct horse races without parimutuel wagering, a fee of \$500 for each application.

If the application fee is insufficient to pay the reasonable expenses of processing the application and investigating the applicant's qualifications for licensure, the commission shall require the applicant to pay to the commission, at such times and in such form as required by the commission, any additional amounts necessary to pay such expenses. No license shall be issued to an applicant until the applicant has paid such additional amounts in full, and such amounts shall not be refundable except to the extent that they exceed the actual expenses of processing the application and investigating the applicant's qualifications for licensure.

(b) If an applicant for an organization license is proposing to construct a racetrack facility, such applicant, at the time of submitting the application, shall deposit with the commission, in such form as prescribed by rules and regulations of the commission, the sum of (1) \$500,000, if the number of racing days applied for in a racing season is 150 days or more; (2) \$250,000, if the number of racing days applied for is less than 150 days; or (3) a lesser sum established by the commission, if the applicant meets the qualifications set forth in subsection (a)(1) or (a)(2) of K.S.A. 1987 Supp. 74-8814 and amendments thereto or if the applicant will be conducting races only on the state fairgrounds. Only one such deposit shall be required for a dual racetrack facility. The executive director shall promptly remit any deposit received pursuant to this subsection to the state treasurer. The state treasurer shall deposit the entire amount in the state treasury and credit it to the racing applicant deposit fund created by K.S.A. 1987 Supp. 74-8828 and amendments thereto. If the application is denied by the commission, the deposit, and any interest accrued thereon, shall be refunded to the applicant. If the license is granted by the commission in accordance with the terms of the application or other terms satisfactory to the applicant, the deposit, and any interest accrued thereon, shall be refunded to the licensee upon completion of the racetrack facility in accordance with the terms of the license. If the licensee fails to complete the racetrack facility in accordance with the terms of the license, the deposit, and any interest accrued thereon, shall be forfeited by the applicant.

(c) To qualify for an organization license to conduct horse or greyhound races:

- (1) The applicant shall be a bona fide, nonprofit organization which, if applicable, meets the requirements of subsection (d);
  - (2) the applicant shall have, either by itself or through contractual relationships with other persons or businesses approved by the commission, the financial capability, manpower and technical expertise, as determined by the commission, to properly conduct horse races or greyhound races, or both, and, if applicable, to operate a parimutuel wagering system;
  - (3) if the applicant is proposing to construct a racetrack facility, the applicant shall submit detailed plans for the construction of such facility, including the means and source of financing such construction and operation, sufficient to convince the commission that such plans are feasible;
  - (4) submit for commission approval a written copy of each contract and agreement which the applicant proposes to enter into, including all those listed in subsection (n), which contracts and agreements shall conform to the restrictions placed thereon by subsections (n), (o) and (p);
  - (5) the applicant shall propose to conduct races within only one county, and in such county the majority of the qualified electors have approved either: (A) The constitutional amendment permitting the conduct of horse and dog races and parimutuel wagering thereon; or (B) a proposition permitting horse and dog races and parimutuel wagering thereon within the boundaries of such county;
  - (6) no director, officer, employee or agent of the applicant shall have been convicted of any of the following in any court of any state or of the United States: (A) Fixing of horse or greyhound races; (B) illegal gambling activity; (C) illegal sale or possession of any controlled substance; (D) operation of any illegal business; (E) repeated acts of violence; or (F) any felony; and
  - (7) no director or officer of the applicant shall be addicted to, and a user of, alcohol or a controlled substance.
- (d) To qualify for an organization license to conduct horse or

greyhound races, a nonprofit organization, other than a county fair association or a nonprofit organization conducting races only on the state fair grounds, shall:

(1) Distribute all of its net earnings from the conduct of horse and greyhound races, other than that portion of the net earnings which is necessary to satisfy the debt service obligations, not otherwise deducted from net earnings, of an organization licensee owning the racetrack facility or that portion of the net earnings which is set aside as reasonable reserves for future improvement, maintenance and repair of the racetrack facility owned by the organization licensee, only to organizations, other than itself, which: (A) Have been exempted from the payment of federal income taxes pursuant to section 501(c)(3) of the federal internal revenue code of 1986, as in effect July 1, 1987, (B) are domiciled in this state and (C) expend the moneys so distributed only within this state;

(2) distribute not more than 25% of such net earnings to any one such organization in any calendar year;

(3) not engage in, and have no officer, director or member who engages in, any prohibited transaction, as defined by section 503(b) of the federal internal revenue code of 1986, as in effect July 1, 1987; and

(4) have no officer, director or member who is not a bona fide resident of this state.

(e) Within 30 days after the date specified for filing, the commission shall examine each application for an organization license for compliance with the provisions of this act and rules and regulations of the commission. If any application does not comply with the provisions of this act or rules and regulations of the commission, the application may be rejected or the commission may direct the applicant to comply with the provisions of this act or rules and regulations of the commission within a reasonable time, as determined by the commission. ~~Denial of an organization license by the commission shall be in accordance with the Kansas administrative procedure act.~~ Upon proof by the applicant of compliance, the commission may reconsider the application. If an application is found to be in compliance and the commission finds that the issuance of the license would be within the best interests of horse and greyhound racing within this state from the standpoint of both the public interest and the horse or greyhound industry, as determined solely within the discretion of the commission, the commission may issue an organization license to the applicant. The commission shall approve the issuance of organization licenses for a period established by the commission but not to exceed 25 years. Such license may provide that during its term it constitutes an exclusive license within a radius of the location specified in the license, as determined by the commission. No racing of any kind regulated by this act shall be conducted by any other person within the territory covered by such exclusive license without the written consent of the licensee. For each license issued, the commission shall specify the location, type, time and date of all races and race meetings which the commission has approved for the licensee to conduct. The license shall be issued upon receipt of the license fee and the furnishing of a surety bond or other financial security approved by the commission, conditioned on, and in an amount determined by the commission as sufficient to pay, the licensee's potential financial liability for unpaid taxes, purses and distribution of parimutuel winnings and breakage. No organization license shall be transferred to any other organization or entity.

(f) When considering the granting of organization licenses or racing days between two or more competing applicants, the commission shall give consideration to the following factors:

(1) The character, reputation, experience and financial stability of those persons within the applicant organizations who will be supervising the conduct of the races and parimutuel wagering for the organization;

(2) the quality of the racing facilities and adjoining accommodations;

(3) the amount of revenue that can reasonably be expected to be generated from state and local taxes, the economic impact for the respective horse or greyhound breeding industries in Kansas and the indirect economic benefit to the surrounding area, in the determination of which economic benefit the commission shall

solicit written recommendations from all interested parties in the surrounding area;

(4) the location of the race meetings in relation to the principal centers of population and the effect of such centers on the ability of the organizations to sustain a financially sound racing operation; and

(5) testimony from interested parties at public hearings to be conducted in the geographic areas where the applicants would be conducting their race meetings.

(g) Except as otherwise provided pursuant to K.S.A. 1987 Supp. 74-8814 and amendments thereto, each organization licensee shall pay a license fee in the amount of \$200 for each day of racing approved by the commission. Such fees shall be paid at such times and by such means as prescribed by rules and regulations of the commission. The commission may authorize the state treasurer to refund from the state racing fund a fee paid for any racing day which was canceled with advance notice to and with the approval of the commission.

(h) Organization licensees may apply to the commission for changes in approved race meetings or dates or for additional race meetings or dates as needed throughout the terms of their licenses. Application shall be made upon forms furnished by the commission and shall contain or be accompanied by such information as the commission prescribes. Upon approval by the commission, the organization licensee shall pay an additional license fee for any race days in excess of the number originally approved and included in the calculation of the initial license fee.

(i) All organization licenses shall be reviewed annually by the commission to determine if the licensee is complying with the provisions of this act and rules and regulations of the commission and following such proposed plans and operating procedures as were approved by the commission. The commission may review an organization license more often than annually upon its own initiative or upon the request of any interested party. The commission shall require each organization licensee, other than a county fair association, to file annually with the commission a certified financial audit of the licensee by an independent certified public accountant, which audit shall be open to inspection by the public, and may require an organization licensee to provide any other information necessary for the commission to conduct the annual or periodic review.

(j) Subject to the provisions of subsection (k), the commission, in accordance with the Kansas administrative procedure act, may suspend or revoke an organization license or may impose a civil fine not exceeding \$5,000, or may both suspend such license and impose such fine, for each of the following violations by a licensee:

(1) One or more violations, or a pattern of repeated violations, of the provisions of this act or rules and regulations of the commission;

(2) failure to follow one or more provisions of the licensee's plans for the financing, construction or operation of a racetrack facility as submitted to and approved by the commission;

(3) failure to maintain compliance with the requirements of subsection (c) or (d), if applicable, for the initial issuance of an organization license;

(4) failure to properly maintain or to make available to the commission such financial and other records sufficient to permit the commission to verify the licensee's nonprofit status and compliance with the provisions of this act or rules and regulations of the commission;

(5) providing to the commission any information material to the issuance, maintenance or renewal of the licensee's license knowing such information to be false or misleading;

(6) failure to meet the licensee's financial obligations incurred in connection with the conduct of a race meeting; or

(7) a violation of K.S.A. 1987 Supp. 74-8833 and amendments thereto or any rules and regulations adopted pursuant to that section.

(k) Prior to suspension or revocation of a license pursuant to subsection (j), the commission shall give written notice of the reason therefor in detail to the organization licensee and to all facility owner and facility manager licensees with whom the

(continued)

organization licensee is doing business. Upon receipt of such notice by all of such licensees, the organization licensee shall have 30 days in which to cure the alleged violation, if it can be cured. If the commission finds that the violation has not been cured upon expiration of the 30 days, or upon a later deadline granted by the commission, or if the commission finds that the alleged violation is of such a nature that it cannot be cured, the commission shall proceed to suspend or revoke the license pursuant to subsection (j). Nothing in this subsection shall be construed to preclude the commission from imposing a fine pursuant to subsection (j) even if the violation is cured with 30 days or such other period as provided by the commission.

(l) Prior to the expiration of an organization license, the organization may apply to the commission for renewal of such license. The renewal application shall be in a form and include such information as the commission prescribes. The commission shall grant such renewal if the organization meets all of the qualifications required for an initial license. The commission may charge a fee for the processing of the renewal application not to exceed the application fee authorized for an initial license.

(m) Once an organization license has been issued, no person thereafter and during the term of such license shall in any manner become the owner or holder, directly or indirectly, of any shares of stock or certificates or other evidence of ownership or become a director or officer of such organization licensee without first having obtained the written approval of the commission.

(n) An organization licensee shall submit to the commission for approval a copy of each contract and agreement which the organization licensee proposes to enter into and any proposed modification of any such contract or agreement, including but not limited to those involving:

- (1) Any person to be employed by the organization licensee;
- (2) any person supplying goods and services to the organization licensee, including management, consulting or other professional services;
- (3) any lease of facilities, including real estate or equipment or other personal property; or
- (4) the operation of any concession within or adjacent to the racetrack facility.

The commission shall reject any such contract or agreement which violates any provision of this act or rules and regulations of the commission, which provides for payment of money or other valuable consideration which is clearly in excess of the fair market value of the goods, services or facilities being purchased or leased or which, in the case of a contract or agreement with a facility owner licensee or a facility manager licensee, would not protect the organization licensee from incurring losses due to contractual liability.

(o) Organization licensees shall not by lease, contract, agreement, understanding or arrangement of any kind grant, assign or turn over to any person the parimutuel system of wagering described in K.S.A. 1987 Supp. 74-8819 and amendments thereto or the operation and conduct of any horse or greyhound race to which such wagering applies, but this subsection shall not prohibit the organization licensee from contracting with and compensating others for providing services in connection with the financing, acquisition, construction, equipping, maintenance and management of the racetrack facility; the hiring and training of personnel; and the promotion of the facility.

(p) An organization licensee shall not in any manner permit a person other than such licensee to have a share, percentage or proportion of money received from parimutuel wagering at the racetrack facility except as specifically set forth in this act, except that:

- (1) A facility owner licensee may receive gross percentage rental fees under a lease if all terms of the lease are disclosed to the commission and such lease is approved by the commission; and
- (2) a person who has contracted with an organization licensee to provide one or more of the services permitted by subsection (o) may receive compensation in the form of a percentage of the money received from parimutuel wagering if such contract is approved by the commission and such person is licensed as a facility manager.

(q) Directors or officers of an organization licensee are not liable in a civil action for damages arising from their acts or omissions when acting as individual directors or officers, or as a board as a whole, of a nonprofit organization conducting races pursuant to this act, unless such conduct constitutes willful or wanton misconduct or intentionally tortious conduct, but only to the extent the directors and officers are not required to be insured by law or are not otherwise insured against such acts or omissions. Nothing in this section shall be construed to affect the liability of an organization licensee for damages in a civil action caused by the negligent or wrongful acts or omissions of its directors or officers, and a director's or officer's negligence or wrongful act or omission, while acting as a director or officer, shall be imputed to the organization licensee for the purpose of apportioning liability for damages to a third party pursuant to K.S.A. 60-258a and amendments thereto.

(r) If an applicant for an organization license proposes to construct a racetrack facility and the commission determines that such license should be issued to the applicant, the commission shall issue to the applicant an organization license conditioned on the submission by the licensee to the commission, within a period of time prescribed by the commission, of a commitment for financing the construction of the racetrack facility by a financial institution or other source, subject to approval by the commission. If such commitment is not submitted within the period of time originally prescribed by the commission or such additional time as authorized by the commission, the license shall expire at the end of such period.

(s) If an organization licensee's license authorizes the construction of a dual racetrack facility, such license shall be conditioned on the completion of such facility within a time specified by the commission. If, within the time specified by the commission, the licensee has not constructed a dual racetrack facility in accordance with the plans submitted to the commission pursuant to subsection (c)(3), the commission, in accordance with the Kansas administrative procedure act, shall:

- (1) Impose upon the licensee a civil fine equal to 2% 5% of the total parimutuel pools for all races held at the licensee's facility on and after the date that racing with parimutuel wagering is first conducted at such facility and until the date that was specified by the commission for completion of such facility as a condition of the licensee's license construction of the dual racetrack facility is completed and horse racing has begun; and
- (2) revoke the licensee's license unless the licensee demonstrates reasonable cause for the failure to complete the facility.

(t) Any license granted an organization licensee to conduct races at a dual racetrack facility shall be conditioned on the organization licensee's conducting horse races on not less than 20% of the annual racing days granted the licensee by the commission. If an organization licensee fails to comply with such condition, the commission shall revoke the organization licensee's license unless the licensee demonstrates reasonable justification for the failure to complete the facility.

(u) *The refusal to renew an organization license shall be in accordance with the Kansas administrative procedure act and shall be subject to review under the act for judicial review and civil enforcement of agency actions.*

(v) *The grant or denial of an original organization license shall not be subject to the Kansas administrative procedure act. Such grant or denial shall be a matter to be determined in the sole discretion of the commission, whose decision shall be final upon the grant of a license to one of two or more competing applicants without the necessity of a hearing on the denial of a license to each other competing applicant. Any action for judicial review of such decision shall be by appeal to the supreme court in accordance with the act for judicial review and civil enforcement of agency actions, except that the scope of review shall be limited to whether the action of the commission was arbitrary or capricious or constituted an abuse of discretion. All competing applicants for the organization license shall be parties to such appeal. Any such appeal shall have priority over other cases except those having statutory priority.*

Sec. 2. K.S.A. 1987 Supp. 74-8815, as amended by 1988 House bill No. 2773, is hereby amended to read as follows:

74-8815. (a) Any person, partnership, corporation or association, or the state of Kansas or any political subdivision thereof, may apply to the commission for a facility owner license to construct or own, or both, a racetrack facility which includes a racetrack and other areas designed for horse racing or greyhound racing, or both.

(b) Any person, partnership, corporation or association may apply to the commission for a facility manager license to manage a racetrack facility.

(c) A facility owner license or a facility manager license shall be issued for a period established by the commission but not to exceed 25 years. The application for a facility owner license shall be accompanied by a nonrefundable fee of \$5,000. An application for a facility manager license shall be accompanied by a nonrefundable fee of \$5,000. If the application fee is insufficient to pay the reasonable expenses of processing the application and investigating the applicant's qualifications for licensure, the commission shall require the applicant to pay to the commission, at such times and in such form as required by the commission, any additional amounts necessary to pay such expenses. No license shall be issued to an applicant until the applicant has paid such additional amounts in full, and such amounts shall not be refundable except to the extent that they exceed the actual expenses of processing the application and investigating the applicant's qualifications for licensure.

(d) If an applicant for a facility owner license is proposing to construct a racetrack facility, such applicant, at the time of submitting the application, shall deposit with the commission, in such form as prescribed by rules and regulations of the commission, the sum of (1) \$500,000, if the number of racing days applied for by organization licensee applicants proposing to race at the facility is 150 days or more in a racing season; (2) \$250,000, if such number of racing days applied for is less than 150 days; or (3) a lesser sum established by the commission, if the applicant is the state or a political subdivision of the state. Only one such deposit shall be required for a dual racetrack facility. The executive director shall promptly remit any deposit received pursuant to this subsection to the state treasurer. The state treasurer shall deposit the entire amount in the state treasury and credit it to the racing applicant deposit fund created by K.S.A. 1987 Supp. 74-8828 and amendments thereto. If the application is denied by the commission, the deposit, and any interest accrued thereon, shall be refunded to the applicant. If the license is granted by the commission in accordance with the terms of the application or other terms satisfactory to the applicant, the deposit, and any interest accrued thereon, shall be refunded to the licensee upon completion of the racetrack facility in accordance with the terms of the license. If the licensee fails to complete the racetrack facility in accordance with the terms of the license, the deposit, and any interest accrued thereon, shall be forfeited by the applicant.

(e) A facility owner license shall be granted only to an applicant that already owns an existing racetrack facility or has submitted with its application detailed plans for the construction of such facility, including the means and source of financing such construction and operation sufficient to convince the commission that such plans are feasible or has submitted detailed plans for the construction of a racetrack facility, including the means and source of financing such construction and operation, sufficient to convince the commission that such plans are feasible. A facility manager license shall be granted only to an applicant that has a facility management contract with an organization licensed pursuant to K.S.A. 1987 Supp. 74-8813 and amendments thereto. ~~Denial of a facility owner license or facility manager license by the commission shall be in accordance with the Kansas administrative procedure act.~~

(f) An applicant for a facility owner license or facility manager license, or both, shall not be granted a license if there is substantial evidence that the applicant for the license, or any officer or director, stockholder, member or owner of or other person having a financial interest in the applicant:

(1) Has been suspended or ordered to cease operation of a parimutuel racing facility in another jurisdiction by the appropriate authorities in that jurisdiction, has been ordered to cease

association or affiliation with such a racing facility or has been banned from such a racing facility;

(2) has been convicted by a court of any state or of the United States of any criminal act involving fixing or manipulation of parimutuel races, violation of any law involving gambling or controlled substances, drug violations involving horses or greyhounds or if any employee or agent assisting the applicant in activities relating to ownership or management of a racetrack facility or to the conduct of races has been so convicted;

(3) has been convicted by a court of any state or of the United States of any felony involving dishonesty, fraud, theft, counterfeiting, alcohol violations or embezzlement or if any employee or agent assisting the applicant in activities relating to ownership or management of a racetrack facility or to the conduct of races has been so convicted;

(4) has not demonstrated financial responsibility sufficient to meet the obligations being undertaken pursuant to its contract with the organization licensee;

(5) is not in fact the person or entity authorized to or engaged in the licensed activity;

(6) is or becomes subject to a contract or option to purchase under which 10% or more of the ownership or other financial interest or membership interest are subject to purchase or transfer, unless the contract or option has been disclosed to the commission and the commission has approved the sale or transfer during the license period;

(7) has made a statement of a material fact in the application or otherwise in response to official inquiry by the commission knowing such statement to be false; or

(8) has failed to meet any monetary or tax obligation to the federal government or to any state or local government, whether or not relating to the conduct or operation of a race meet held in this state or any other jurisdiction.

(g) No person or entity shall be qualified to hold a facility manager license if such person or entity, or any director, officer, employee or agent thereof, is addicted to, and a user of, alcohol or a controlled substance.

(h) *All facility owner licenses and facility manager licenses shall be reviewed annually by the commission to determine if the licensee is complying with the provisions of this act and rules and regulations of the commission and following such proposed plans and operating procedures as were approved by the commission. The commission may review a facility owner license or facility manager license more often than annually upon its own initiative or upon the request of any interested party. The commission shall require each facility owner licensee and each facility manager licensee to file annually with the commission a certified financial audit of the licensee by an independent certified public accountant, which audit shall be open to inspection by the public, and may require any such licensee to provide any other information necessary for the commission to conduct the annual or periodic review.*

(i) If the commission finds probable cause to believe that a facility owner licensee has failed to follow one or more provisions of the licensee's plans for the financing, construction or operation of a racetrack facility as submitted to and approved by the commission or that a facility owner licensee or facility manager licensee has violated any of the terms and conditions of licensure provided by this section or any other provision of this act or any rule and regulation of the commission, the commission shall give written notice thereof to the licensee and all other interested parties. The licensee shall have 30 days from receipt of the notice to cure such alleged failure or violation, if it can be cured. If the commission finds that such violation has not been cured upon expiration of such 30 days or upon a later deadline granted by the commission, or if the alleged violation is of such a nature that it cannot be cured, the commission may suspend or revoke the licensee's license in accordance with the Kansas administrative procedure act.

(4) (j) If an applicant for a facility owner license proposes to construct a racetrack facility and the commission determines that such license should be issued to the applicant, the commission shall issue to the applicant a facility owner license conditioned

(continued)

on the submission by the licensee to the commission, within a period of time prescribed by the commission, of a commitment for financing the construction of the racetrack facility by a financial institution or other source, subject to approval by the commission. If such commitment is not submitted within the period of time originally prescribed by the commission or such additional time as authorized by the commission, the license shall expire at the end of such period.

(k) If a facility owner licensee's license authorizes the construction of a dual racetrack facility, such license shall be conditioned on the completion of such facility within a time specified by the commission. If, within the time specified by the commission, the licensee has not constructed a dual racetrack facility in accordance with the plans submitted to the commission pursuant to subsection (e), the commission, in accordance with the Kansas administrative procedure act, shall:

(1) Impose upon the licensee a civil fine equal to ~~2%~~ 5% of the total parimutuel pools for all races held at the licensee's facility on and after the date that racing with parimutuel wagering is first conducted at such facility and until the date that ~~was specified by the commission for completion of such facility as a condition of the licensee's license construction of the dual racetrack facility is completed and horse racing has begun;~~ and

(2) revoke the licensee's license unless the licensee demonstrates reasonable cause for the failure to complete the facility.

(l) *The refusal to renew a facility owner license or a facility manager license shall be in accordance with the Kansas administrative procedure act and shall be subject to review under the act for judicial review and civil enforcement of agency actions.*

(m) *The grant or denial of an original facility owner license or facility manager license shall not be subject to the Kansas administrative procedure act. Such grant or denial shall be a matter to be determined in the sole discretion of the commission, whose decision shall be final upon the grant of a license to one of two or more competing applicants without the necessity of a hearing on the denial of a license to each other competing applicant. Any action for judicial review of such decision shall be by appeal to the supreme court in accordance with the act for judicial review and civil enforcement of agency actions, except that the scope of review shall be limited to whether the action of the commission was arbitrary or capricious or constituted an abuse of discretion. All competing applicants for the facility owner license or facility manager license shall be parties to such appeal. Any such appeal shall have priority over other cases except those having statutory priority.*

Sec. 3. K.S.A. 1987 Supp. 74-8826, as amended by 1988 House Bill No. 2773, is hereby amended to read as follows: 74-8826. (a) There is hereby created the state racing fund in the state treasury.

(b) Except as otherwise provided by K.S.A. 1987 Supp. 74-8824 and section 4 of 1988 House Bill No. 2773, and amendments thereto, all taxes on parimutuel wagering, admissions tax, application fees, license fees and fines which are collected by the commission shall be remitted to the state treasurer, who shall deposit the entire amount in the state treasury and credit it to the state racing fund. All moneys credited to such fund shall be expended or transferred only for the purposes and in the manner provided by this act. Expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson of the commission or a person designated by the chairperson.

(c) Except as otherwise provided by this act, all operating expenses of the commission and moneys for the promotion of horse and greyhound racing appropriated by the legislature shall be paid from the state racing fund. On July 15 of each year and at such other times as provided by law, the director of accounts and reports shall transfer to the state gaming revenues fund created by K.S.A. 1987 Supp. 79-4801 and amendments thereto any moneys in the state racing fund in excess of those so appropriated.

(d) *Any appropriation or transfer of state general fund moneys for the operation of the commission or the office of the executive director and any other expenses incurred in connec-*

*tion with the administration and enforcement of this act shall be considered a loan and shall be repaid with interest to the state general fund in accordance with appropriation acts. Such loan shall not be considered an indebtedness or debt of the state within the meaning of section 6 of article 11 of the constitution of the state of Kansas. Such loan shall bear interest at a rate equal to the rate prescribed by K.S.A. 75-4210 and amendments thereto for inactive accounts of the state effective on the first day of the month during which the appropriation or transfer takes effect.*

(e) *At the time of repayment of a loan pursuant to subsection (d), the executive director shall certify to the director of accounts and reports the amount to be repaid and any interest due thereon. Upon receipt of such certification, the director of accounts and reports shall promptly transfer the amount certified from the state racing fund to the state general fund.*

Sec. 4. K.S.A. 1987 Supp. 74-8813, as amended by 1988 House Bill No. 2772, K.S.A. 1987 Supp. 74-8813, as amended by 1988 House Bill No. 2773, K.S.A. 1987 Supp. 74-8813, as amended by 1988 Substitute for House Bill No. 2776, K.S.A. 1987 Supp. 74-8815, as amended by 1988 House Bill No. 2772, K.S.A. 1987 Supp. 74-8815, as amended by 1988 House Bill No. 2773, K.S.A. 1987 Supp. 74-8815, as amended by 1988 Substitute for House Bill No. 2776, K.S.A. 1987 Supp. 74-8826, as amended by 1988 House Bill No. 2772, and K.S.A. 1987 Supp. 74-8826, as amended by 1988 House Bill No. 2773, are hereby repealed.

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

I hereby certify that the above BILL originated in the HOUSE, and passed that body April 28, 1988.

JAMES D. BRADEN  
Speaker of the House.  
GENEVA SEWARD  
Chief Clerk of the House.

Passed the SENATE April 29, 1988.

ROBERT V. TALKINGTON  
President of the Senate.  
LU KENNEY  
Secretary of the Senate.

APPROVED May 10, 1988.

MIKE HAYDEN  
Governor.

STATE OF KANSAS  
Office of Secretary of State

I, BILL GRAVES, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 10th day of May, A.D. 1988.

BILL GRAVES  
Secretary of State.

(SEAL)



(Published in the *Kansas Register*, May 19, 1988.)

## SENATE BILL No. 753

AN ACT authorizing the state board of regents to sell certain real property on behalf of Kansas state university of agriculture and applied science; imposing conditions thereon; authorizing disposition of proceeds.

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

Section 1. (a) The state board of regents is hereby authorized and empowered, in its discretion, for and on behalf of Kansas state university of agriculture and applied science, to sell and convey all of the rights, title and interest in any part or parts or all of the following described real estate, improvements thereon and easements:

(1) Property consisting of 8.9 acres, more or less, plus 9.61 acres of easements, and 2 buildings, situated in Dickinson county, Kansas, nearby Abilene, and more particularly described as follows, to wit: "TRACT NO. S-2-100"—The east 600 feet of the west 1,500 feet of the south 600 feet of the north 1,300 feet of the SW  $\frac{1}{4}$ , except that portion thereof lying within the E  $\frac{1}{2}$  SW  $\frac{1}{4}$ , in section 6, township 13 south, range 2 east of the 6th Principal Meridian, Dickinson county, Kansas, containing 5.23 acres, more or less; "TRACT NO. S-2-100-2"—The south 185 feet of the north 1,165 feet of the east 150 feet of the west 900 feet of the SW  $\frac{1}{4}$  of section 6, township 13 south, range 2 east of the 6th Principal Meridian, Dickinson county, Kansas, together with all right, title, and interest in and to any alleys, roads, streets, ways, strips, gores or railroad right-of-way abutting or adjoining such land and in any means of ingress or egress appurtenant thereto, containing .064 acres, more or less, subject to existing easements for public roads and highways, for public utilities, for railroads and pipelines; "TRACT NO. S-2-101"—The east 600 feet of the west 1,500 feet of the south 600 feet of the north 1,300 feet of the SW  $\frac{1}{4}$  of section 6, township 13 south, range 2 east of the 6th Principal Meridian, Dickinson county, Kansas, except that portion thereof lying within the W  $\frac{1}{2}$  SW  $\frac{1}{4}$  of section 6, together with all right, title and interest in and to any alleys, streets, ways, strips or gores abutting or adjoining the land here described, containing 3.03 acres, more or less, subject to existing easements for public roads and highways, for public utilities, for railroads and pipelines; "TRACT NO. S-2-100E-1"—An access road, utility line and water pipeline easement comprising the west 900 feet of the south 100 feet of the north 980 feet of the NW  $\frac{1}{4}$  SW  $\frac{1}{4}$  of section 6, township 13 south, range 2 east of the 6th Principal Meridian, Dickinson county, Kansas, containing 2.07 acres, more or less; "TRACT NO. S-2-100E-4"—A water pipeline easement comprising the east 25 feet of the SW  $\frac{1}{4}$  SW  $\frac{1}{4}$  and the west 342 feet of the east 367 feet of the north 25 feet of the SW  $\frac{1}{4}$  SW  $\frac{1}{4}$  in section 6 and the east 25 feet of the north 2,578.64 feet of the W  $\frac{1}{2}$  NW  $\frac{1}{4}$  of section 7, sections 6 and 7 being in township 13 south, range 2 east of the 6th Principal Meridian, Dickinson county, Kansas; also: That portion of the W  $\frac{1}{2}$  NW  $\frac{1}{4}$  of section 7 described as beginning at a point on the east line of the W  $\frac{1}{2}$  NW  $\frac{1}{4}$ , the point being 2,578.64 feet south of the northeast corner of the W  $\frac{1}{2}$  NW  $\frac{1}{4}$ ; thence due west, 25 feet; thence southeasterly to a point on the east line of the W  $\frac{1}{2}$  NW  $\frac{1}{4}$ , the point being 25 feet south of the point of beginning; thence northerly along the east line of the W  $\frac{1}{2}$  NW  $\frac{1}{4}$ , 25 feet to the point of beginning; "TRACT NO. S-2-102E"—A water pipeline easement comprising a tract of land situated in the SE  $\frac{1}{4}$  NW  $\frac{1}{4}$  of section 7, township 13 south, range 2 east of the 6th Principal Meridian, Dickinson county, Kansas, more particularly described as follows: Beginning at a point on the west line of the SE  $\frac{1}{4}$  NW  $\frac{1}{4}$  of section 7, the point being 20 feet north of the southwest corner of the SE  $\frac{1}{4}$  NW  $\frac{1}{4}$  and being also a point on the northerly right-of-way line of interstate route no. 70; thence northerly along the west line of the SE  $\frac{1}{4}$  NW  $\frac{1}{4}$ , 66.22 feet; thence making an angle of 135 degrees to the right, 35.36 feet to a point 25 feet east of the west line; thence southerly parallel to the west line of the SE  $\frac{1}{4}$  NW  $\frac{1}{4}$ , 36 feet to the right-of-way of interstate route no. 70; thence in a southwesterly direction along the right-of-way of interstate route no. 70 to the point of beginning, containing 0.03 acre, more or less, subject to existing easements for public roads and highways, for public utilities, for railroads and pipelines; "TRACT NO. S-2-103E-1"—A water

pipeline easement comprising the west 25 feet of the NE  $\frac{1}{4}$  SW  $\frac{1}{4}$  and the east 15 feet of the west 40 feet of the south 25 feet of the NE  $\frac{1}{4}$  SW  $\frac{1}{4}$ , in section 7, township 13 south, range 2 east of the 6th Principal Meridian, Dickinson county, Kansas, except that portion of the west 25 feet of the NE  $\frac{1}{4}$  SW  $\frac{1}{4}$  lying within the right-of-way of interstate route no. 70; Also that portion of the SW  $\frac{1}{4}$  SW  $\frac{1}{4}$  and SE  $\frac{1}{4}$  SW  $\frac{1}{4}$  of section 7 described as beginning at the southeast corner of the SW  $\frac{1}{4}$  SW  $\frac{1}{4}$ ; thence westerly along the south line of the SW  $\frac{1}{4}$  SW  $\frac{1}{4}$ , 25 feet; thence northerly parallel to the east line of the SW  $\frac{1}{4}$  SW  $\frac{1}{4}$ , 45 feet; thence northeasterly to a point on the east line of the SW  $\frac{1}{4}$  SW  $\frac{1}{4}$ , the point being 70 feet north of the southeast corner of the SW  $\frac{1}{4}$  SW  $\frac{1}{4}$ ; thence northerly along the west line of the SE  $\frac{1}{4}$  SW  $\frac{1}{4}$  to the northwest corner thereof; thence easterly along the north line of the SE  $\frac{1}{4}$  SW  $\frac{1}{4}$ , 40 feet; thence southerly parallel to the west line of the SE  $\frac{1}{4}$  SW  $\frac{1}{4}$  to a point 74.5 feet north of the south line thereof; thence southwesterly to a point on the west line of the SE  $\frac{1}{4}$  SW  $\frac{1}{4}$ , the point being 34.5 feet north of the southwest corner of the SE  $\frac{1}{4}$  SW  $\frac{1}{4}$ ; thence southerly along the west line of the SE  $\frac{1}{4}$  SW  $\frac{1}{4}$ , 34.5 feet to the point of beginning, containing, in the aggregate, 1.80 acres, more or less; "TRACT NO. S-2-104E-1"—A water pipeline easement comprising the east 25 feet of the west 55 feet of the south 1,274.3 feet of the NW  $\frac{1}{4}$  NW  $\frac{1}{4}$ , the south 25 feet of the north 65 feet of the east 1,261.5 feet of the NW  $\frac{1}{4}$  NW  $\frac{1}{4}$ , and the north 40 feet of the east 30 feet of the NW  $\frac{1}{4}$  NW  $\frac{1}{4}$  of section 18, township 13 south, range 2 east of the 6th Principal Meridian, Dickinson county, Kansas, containing 1.48 acres, more or less; "TRACT NO. S-2-105E-1"—A water pipeline easement comprising the east 25 feet of the west 55 feet of the NW  $\frac{1}{4}$  SW  $\frac{1}{4}$  NW  $\frac{1}{4}$  of section 18, township 13 south, range 2 east of the 6th Principal Meridian, Dickinson county, Kansas, containing 0.38 acres, more or less; "TRACT NO. S-2-106E-1"—A water pipeline easement comprising a strip of land 25 feet in width, extending from the south and west lines to the north line of the S  $\frac{1}{2}$  SW  $\frac{1}{4}$  NW  $\frac{1}{4}$  of section 18, township 13 south, range 2 east of the 6th Principal Meridian, Dickinson county, Kansas, lying the following distances on each side of the following described center line: Beginning at the southwest corner of the S  $\frac{1}{2}$  SW  $\frac{1}{4}$  NW  $\frac{1}{4}$  of section 18, the southwest corner being center line station 17+47.2; thence with a width of 25 feet, lying 12.5 feet on each side, in a northeasterly direction, making an angle of 46 degrees 14' to the right from the west line of the S  $\frac{1}{2}$  SW  $\frac{1}{4}$  NW  $\frac{1}{4}$ , 62.3 feet to center line station 18+9.5; thence with a width of 25 feet, lying 10 feet on the right and 15 feet on the left, northerly parallel to the west line of the S  $\frac{1}{2}$  SW  $\frac{1}{4}$  NW  $\frac{1}{4}$ , 628.5 feet to the north line of the S  $\frac{1}{2}$  SW  $\frac{1}{4}$  NW  $\frac{1}{4}$ , the strip of land being 690.8 feet in length and containing 0.39 acre, more or less; "TRACT NO. S-2-107E-1"—A water pipeline easement comprising a tract of land situated in the SE  $\frac{1}{4}$  SE  $\frac{1}{4}$  NE  $\frac{1}{4}$  of section 13, township 13 south, range 1 east of the 6th Principal Meridian, Dickinson county, Kansas, more particularly described as follows: Beginning at the southeast corner of the SE  $\frac{1}{4}$  SE  $\frac{1}{4}$  NE  $\frac{1}{4}$  of section 13; thence westerly along the south line of the SE  $\frac{1}{4}$  SE  $\frac{1}{4}$  NE  $\frac{1}{4}$ , 17.55 feet; thence northeasterly to a point on the east line of the SE  $\frac{1}{4}$  SE  $\frac{1}{4}$  NE  $\frac{1}{4}$ , the point being 17.55 feet north of the point of beginning; thence southerly along the east line of the SE  $\frac{1}{4}$  SE  $\frac{1}{4}$  NE  $\frac{1}{4}$ , 17.55 feet to the point of beginning, containing 0.01 acre, more or less; and "TRACT NO. S-2-108E-1"—A water pipeline easement comprising a strip of land 25 feet in width situated in the NE  $\frac{1}{4}$  SE  $\frac{1}{4}$  of section 13, range 1 east and the NW  $\frac{1}{4}$  NW  $\frac{1}{4}$  SW  $\frac{1}{4}$  of section 18, range 2 east of the 6th Principal Meridian, all in township 13 south, Dickinson county, Kansas, lying 12.5 feet on each side of the following described center line: Beginning at the northeast corner of the NE  $\frac{1}{4}$  SE  $\frac{1}{4}$  of section 13, the northeast corner being center line station 17+47.2; thence in a southwesterly direction making an angle of 133 degrees 46' to the left from the east line of section 13, a distance of 1,757.2 feet to center line station minus 0+10, containing 1.01 acres, more or less;

(2) property consisting of 18.37 acres, more or less, plus an access road easement of 1.19 acres, situated in Dickinson county, Kansas, nearby Chapman, to wit: "TRACT NO. S-3-100"—The north 1,000 feet of the south 2,120 feet of the west 155 feet of the

(continued)

NE  $\frac{1}{4}$  of section 26 and the north 1,000 feet of the south 2,120 feet of the east 645 feet of the NW  $\frac{1}{4}$  of section 26, township 12 south, range 3 east of the 6th Principal Meridian, Dickinson county, Kansas, containing 18.37 acres, more or less; "TRACT NO. S-3-100E"—An easement for exclusive use access road over, across and upon the west 100 feet of the east 435 feet of the NW  $\frac{1}{4}$  except the south 2,120 feet thereof, in section 26, township 12 south, range 3 east of the 6th Principal Meridian, Dickinson county, Kansas, containing 1.19 acres, more or less; and

(3) property consisting of 22.06 acres, more or less, plus 258.55 acres of easements, and one building, situated in Pottawatomie county, Kansas, nearby Wamego, to wit: "TRACT NO. S-7-100"—The north 980 feet of the east 675 feet of the E  $\frac{1}{2}$  SW  $\frac{1}{4}$  of section 32, township 9 south, range 10 east of the 6th Principal Meridian, Pottawatomie county, Kansas, containing 15.19 acres, more or less; "TRACT NO. S-7-101"—The west 180 feet of the SW  $\frac{1}{4}$  SW  $\frac{1}{4}$  SW  $\frac{1}{4}$  NE  $\frac{1}{4}$  of section 32, township 9 south, range 10 east of the 6th Principal Meridian, Pottawatomie county, Kansas, containing 1.36 acres, more or less; "TRACT NO. S-7-114"—The south 1,200 feet of the north 1,400 feet of the east 200 feet of the west 300 feet of the SE  $\frac{1}{4}$  of section 32, township 9 south, range 10 east of the 6th Principal Meridian, Pottawatomie county, Kansas, containing 5.51 acres, more or less; "TRACT NO. S-7-102E"—A perpetual easement for an access road and for a water pipeline across the west 100 feet of the SE  $\frac{1}{4}$  of section 32, township 9 south, range 10 east of the 6th Principal Meridian, Pottawatomie county, Kansas, containing 6.06 acres, more or less; "TRACT NO. S-7-103E-1"—A perpetual easement for a water pipeline across a strip of land 20 feet in width, extending from the east line to the north line of the NE  $\frac{1}{4}$  of section 5, township 10 south, range 10 east of the 6th Principal Meridian, Pottawatomie county, Kansas, lying 10 feet on each side of the following described center line: Commencing at the southeast corner of the NE  $\frac{1}{4}$  of section 5; thence northerly along the east line of the NE  $\frac{1}{4}$ , 284.7 feet to the point of beginning of the center line herein described; thence in a westerly direction making an angle of 83 degrees 17' 30" to the left, 60 feet; thence in a northwesterly direction with an angle of 36 degrees 58' 30" to the right, 3,442.9 feet to a point 50 feet south of the north line of the NE  $\frac{1}{4}$ ; thence in a northerly direction with an angle of 51 degrees 21' 15" to the right, 50 feet to a point on the north line of the NE  $\frac{1}{4}$ , the point being 85 feet east of the northwest corner of the NE  $\frac{1}{4}$ , the center line being 3,552.9 feet in length, containing 1.63 acres, more or less; "TRACT NO. S-7-104E-1"—A perpetual easement for a water pipeline across a strip of land 20 feet in width, extending from the south line to the west line of the NW  $\frac{1}{4}$  of section 4, township 10 south, range 10 east of the 6th Principal Meridian, Pottawatomie county, Kansas, lying 10 feet on each side of the following described center line: Commencing at the southwest corner of the NW  $\frac{1}{4}$  of section 4; thence easterly along the south line of the NW  $\frac{1}{4}$ , 548.45 feet to the point of beginning of the center line herein described; thence in a northerly direction making an angle of 92 degrees 20' 10" to the left, 257.4 feet; thence in a westerly direction with an angle of 84 degrees 56' 20" to the left, 558.3 feet to a point on the west line of the NW  $\frac{1}{4}$ , the point being 284.7 feet north of the southwest corner of the NW  $\frac{1}{4}$ , the strip of land being 815.7 feet in length and containing 0.37 acre more or less; "TRACT NO. S-7-105L"—A license to construct, operate, maintain, renew and remove a water line across, along, beneath and over U.S. highway no. 24 at a point approximately 548.45' east of the SW corner of the NW  $\frac{1}{4}$  section 4, township 10 south, range 10 east; "TRACT NO. S-7-106L"—A license to install and maintain a water line along and within the west side of Walnut street, Wamego, Kansas, beginning at a point where Walnut street intersects with U.S. highway no. 24 to a point approximately 383' south of such street; "TRACT NOS. S-7-107L-1 and 2"—A license for a 3 inch water line; across north south township road at a point 284.7' north of the SW corner of the NW  $\frac{1}{4}$  of section 4, township 10 south, range 10 east, and across east west township road at a point 85' east of the SW corner of the SE  $\frac{1}{4}$  of section 32, township 9 south, range 10 east; "TRACT NO. S-7-108E"—A perpetual restrictive area easement on the E  $\frac{1}{2}$  SW  $\frac{1}{4}$  of section 32, township 9 south, range 10 east of the 6th Principal Meridian,

Pottawatomie county, Kansas, except the north 980 feet of the east 675 feet of the E  $\frac{1}{2}$  SW  $\frac{1}{4}$ , containing 64.81 acres, more or less; "TRACT NO. S-7-109E"—A perpetual restrictive area easement on a tract of land situated in the S  $\frac{1}{2}$  NE  $\frac{1}{4}$  of section 32, township 9 south, range 10 east of the 6th Principal Meridian, Pottawatomie county, Kansas, more particularly described as follows: Beginning at the southwest corner of the S  $\frac{1}{2}$  NE  $\frac{1}{4}$  of section 32; thence northerly along the west line of the S  $\frac{1}{2}$  NE  $\frac{1}{4}$ , 1,200 feet; thence easterly parallel to the south line of the S  $\frac{1}{2}$  NE  $\frac{1}{4}$ , 400 feet; thence in a southeasterly direction to a point on the east line of the SW  $\frac{1}{4}$  NE  $\frac{1}{4}$  of section 32, the point being 300 feet north of the southeast corner of the SW  $\frac{1}{4}$  NE  $\frac{1}{4}$ ; thence in a southeasterly direction to a point on the south line of the S  $\frac{1}{2}$  NE  $\frac{1}{4}$ , the point being 150 feet east of the southeast corner of the SW  $\frac{1}{4}$  NE  $\frac{1}{4}$ ; thence westerly along the south line of the S  $\frac{1}{2}$  NE  $\frac{1}{4}$  to the point of beginning, except the west 180 feet of the SW  $\frac{1}{4}$  SW  $\frac{1}{4}$  SW  $\frac{1}{4}$  NE  $\frac{1}{4}$  of section 32, containing 26.02 acres, more or less; "TRACT NO. S-7-110E"—A perpetual restrictive area easement on a tract of land situated in the SE  $\frac{1}{4}$  of section 32, township 9 south, range 10 east of the 6th Principal Meridian, Pottawatomie county, Kansas, more particularly described as follows: Beginning at the northeast corner of the west 100 feet of the SE  $\frac{1}{4}$  of section 32; thence easterly along the north line of the SE  $\frac{1}{4}$  to a point 150 feet east of the northwest corner of the E  $\frac{1}{2}$  SE  $\frac{1}{4}$  of section 32; thence in a southeasterly direction to a point 300 feet east of the west line and 300 feet south of the north line of the E  $\frac{1}{2}$  SE  $\frac{1}{4}$ ; thence southerly parallel to the west line of the E  $\frac{1}{2}$  SE  $\frac{1}{4}$ , 800 feet; thence in a southwesterly direction to a point on the west line of the E  $\frac{1}{2}$  SE  $\frac{1}{4}$ , the point being 750 feet north of the southwest corner thereof; thence in a southwesterly direction to a point on the east line of the SE  $\frac{1}{4}$  SW  $\frac{1}{4}$  SE  $\frac{1}{4}$  of section 32, the point being 200 feet north of the southeast corner of the SW  $\frac{1}{4}$  SW  $\frac{1}{4}$  SE  $\frac{1}{4}$ ; thence in a southwesterly direction to the southeast corner of the west 100 feet of the SE  $\frac{1}{4}$ ; thence northerly along the east line of the west 100 feet of the SE  $\frac{1}{4}$  to the point of beginning, containing 75.24 acres, more or less; "TRACT NO. S-7-111E"—A perpetual restrictive area easement on a tract of land situated in the W  $\frac{1}{2}$  SW  $\frac{1}{4}$  of section 32, township 9 south, range 10 east of the 6th Principal Meridian, Pottawatomie county, Kansas, more particularly described as follows: Beginning at the northeast corner of the W  $\frac{1}{2}$  SW  $\frac{1}{4}$  of section 32; thence southerly along the east line of the W  $\frac{1}{2}$  SW  $\frac{1}{4}$  to a point 300 feet north of the southeast corner thereof; thence in a northwesterly direction to a point on the south line of the NW  $\frac{1}{4}$  SW  $\frac{1}{4}$  of section 32, the point being 875 feet west of the southeast corner of the NW  $\frac{1}{4}$  SW  $\frac{1}{4}$ ; thence northerly parallel to the east line of the NW  $\frac{1}{4}$  SW  $\frac{1}{4}$ ; to the north line thereof; thence easterly along the north line of the NW  $\frac{1}{4}$  SW  $\frac{1}{4}$  to the point of beginning, containing 36.76 acres, more or less; "TRACT NO. S-7-112E"—A perpetual restrictive area easement on a tract of land situated in the SW  $\frac{1}{4}$  NW  $\frac{1}{4}$  of section 32, township 9 south, range 10 east of the 6th Principal Meridian, Pottawatomie county, Kansas, more particularly described as follows: Beginning at the southeast corner of the SW  $\frac{1}{4}$  NW  $\frac{1}{4}$  of section 32; thence westerly along the south line of the SW  $\frac{1}{4}$  NW  $\frac{1}{4}$ , 875 feet; thence northerly parallel to the east line of the SW  $\frac{1}{4}$  NW  $\frac{1}{4}$ , 100 feet; thence in a northeasterly direction to a point on the east line of the SW  $\frac{1}{4}$  NW  $\frac{1}{4}$ , the point being 1,100 feet north of the southeast corner thereof; thence southerly along the east line of the SW  $\frac{1}{4}$  NW  $\frac{1}{4}$  to the point of beginning, containing 12.05 acres, more or less; "TRACT NO. S-7-113E"—A perpetual restrictive area easement on a tract of land situated in the SE  $\frac{1}{4}$  NW  $\frac{1}{4}$  of section 32, township 9 south, range 10 east of the 6th Principal Meridian, Pottawatomie county, Kansas, more particularly described as follows: Beginning at the southwest corner of the SE  $\frac{1}{4}$  NW  $\frac{1}{4}$  of section 32, thence northerly along the west line of the SE  $\frac{1}{4}$  NW  $\frac{1}{4}$ , 1,100 feet; thence in a northeasterly direction to a point on the east line of the W  $\frac{1}{2}$  SE  $\frac{1}{4}$  NW  $\frac{1}{4}$  of section 32, the point being 1,200 feet north of the southeast corner of the W  $\frac{1}{2}$  SE  $\frac{1}{4}$  NW  $\frac{1}{4}$ ; thence easterly parallel to the south line of the SE  $\frac{1}{4}$  NW  $\frac{1}{4}$  to the east line thereof; thence southerly along the east line of the SE  $\frac{1}{4}$  NW  $\frac{1}{4}$  to the southeast corner thereof; thence westerly along the south line of the SE  $\frac{1}{4}$

NW ¼ to the point of beginning, containing 35.61 acres, more or less.

(b) Conveyance of such rights, title and interest in such real estate, improvements thereon and easements, shall be in accordance with the procedures prescribed therefor by the state board of regents and shall be executed in the name of the state board of regents by its chairperson and executive officer. Any proceeds from the sale of such real estate, improvements thereon and easements shall be deposited in the state treasury to the credit of the college of engineering development restricted use account of the restricted fees fund of Kansas state university of agriculture and applied science. Such proceeds shall be utilized for the purchase of equipment for Kansas state university of agriculture and applied science.

(c) No conveyance of real estate, improvements thereon and easements authorized by this section shall be made or accepted by the state board of regents until the deeds, titles and conveyances have been reviewed and approved by the attorney general.

Sec. 2. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body April 7, 1988.

ROBERT V. TALKINGTON  
President of the Senate.  
LU KENNEY  
Secretary of the Senate.

Passed the HOUSE April 29, 1988.

JAMES D. BRADEN  
Speaker of the House.  
GENEVA SEWARD  
Chief Clerk of the House.

APPROVED May 10, 1988.

MIKE HAYDEN  
Governor.

STATE OF KANSAS  
Office of Secretary of State

I, BILL GRAVES, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 10th day of May, A.D. 1988.

BILL GRAVES  
Secretary of State.

(SEAL)

(Published in the Kansas Register, May 19, 1988.)

HOUSE BILL No. 3079

AN ACT concerning crimes, punishments and criminal procedure; relating to sentencing and parole; concerning membership and officers of the Kansas parole board; amending K.S.A. 21-4620 and 22-3709 and K.S.A. 1987 Supp. 21-4501, 21-4501a, 21-4603, 21-4610, 22-3707 and 22-3717 and repealing the existing sections; also repealing K.S.A. 1987 Supp. 22-3724.

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

Section 1. K.S.A. 1987 Supp. 22-3717 is hereby amended to read as follows: 22-3717. (a) Except as otherwise provided in subsection (b) by this section, an inmate, including an inmate sentenced pursuant to K.S.A. 21-4618 and amendments thereto, shall be eligible for parole after serving the entire minimum sentence imposed by the court, less good time credits.

(b) An inmate sentenced for a class A felony, including an inmate sentenced pursuant to K.S.A. 21-4618 and amendments thereto, shall be eligible for parole after serving 15 years of confinement, without deduction of any good time credits.

(c) Except as provided in subsection (d), if an inmate is sentenced to imprisonment for more than one crime and the sentences run consecutively, the inmate shall be eligible for parole after serving the total of:

(1) The aggregate minimum sentences, as determined pur-

suant to K.S.A. 21-4608 and amendments thereto, less good time credits for those crimes which are not class A felonies; and

(2) an additional 15 years, without deduction of good time credits, for each crime which is a class A felony.

(d) If an inmate is sentenced to imprisonment for a crime committed while on parole or conditional release, the inmate shall be eligible for parole as provided by subsection (c), except that the Kansas parole board may postpone the inmate's parole eligibility date by assessing a penalty not exceeding the period of time which could have been assessed if the inmate's parole or conditional release had been violated for reasons other than conviction of a crime.

(e) Subject to the provisions of this section, the Kansas parole board shall have power to may release on parole those persons confined in institutions who are eligible for parole when, in the opinion of the board: (1) The board believes that the inmate should be released for hospitalization, for deportation or to answer the warrant or other process of a court and is of the opinion that there is reasonable probability that such persons the inmate can be released without detriment to the community or to themselves the inmate; or (2) the secretary of corrections has reported to the board in writing that the inmate has satisfactorily completed the programs required by any agreement entered under section 6, or any revision of such agreement, and the board believes that the inmate is able and willing to fulfill the obligations of a law abiding citizen and is of the opinion that there is reasonable probability that the inmate can be released without detriment to the community or to the inmate. Parole shall not be granted as an award of clemency and shall not be considered a reduction of sentence or a pardon.

(f) The Kansas parole board shall hold a parole hearing for any inmate who achieves eligibility during the month prior to the month an inmate will be eligible for parole under subsections (a), (b) and (c). (g) If granted parole, the inmate may be released on parole on the date specified by the board, but not earlier than the date the inmate is eligible for parole under subsections (a), (b) and (c). Prior to At each parole hearing and, if parole is not granted, at such intervals thereafter as it determines appropriate, the Kansas parole board shall consider: (1) Whether the inmate has satisfactorily completed the programs required by any agreement entered under section 6, or any revision of such agreement; and (2) all pertinent information regarding each such inmate, including, but not limited to, the circumstances of the offense of the inmate; the presentence report; the previous social history and criminal record of the inmate; the conduct, employment, and attitude of the inmate in prison; and the reports of such physical and mental examinations as have been made.

(g) Within a reasonable time after a defendant is committed to the custody of the secretary of corrections, which time shall not exceed 60 days after the court's jurisdiction to modify the sentence has passed, the Kansas parole board or a member of the board, shall hold an initial informational hearing with the inmate except in cases involving an inmate serving a Kansas sentence in another jurisdiction. a reasonable time after an inmate is committed to the custody of the secretary of corrections, a member of the Kansas parole board, or a designee of the board, shall hold an initial informational hearing with such inmate and other inmates.

(h) Before ordering the parole of any inmate, the Kansas parole board shall have the inmate appear before it and shall interview the inmate unless impractical because of the inmate's physical or mental condition or absence from the institution. A parole shall be ordered only for the best interest of the inmate and not as an award of clemency. Parole shall not be considered a reduction of sentence or a pardon. An inmate shall be placed on parole only when the Kansas parole board believes that the inmate is able and willing to fulfill the obligations of a law-abiding citizen or that the inmate should be released for hospitalization, deportation or to answer the warrant or other process of a court. Every inmate while on parole shall remain in the legal custody of the secretary of corrections and is subject to the orders of the secretary. Whenever the Kansas parole board formally

(continued)

considers placing an inmate on parole and does not grant the parole, the board shall notify the inmate in writing of the and no agreement has been entered into with the inmate under section 6, the board shall notify the inmate in writing of the specific reasons for not granting parole. If an agreement has been entered under section 6 and the inmate has not satisfactorily completed the programs specified in the agreement, or any revision of such agreement, the board shall notify the inmate in writing of the specific programs the inmate must satisfactorily complete before parole will be granted. If parole is not granted only because of a failure to satisfactorily complete such programs, the board shall grant parole upon the secretary's certification that the inmate has successfully completed such programs. If an agreement has been entered under section 6 and the secretary of corrections has reported to the board in writing that the inmate has satisfactorily completed the programs required by such agreement, or any revision thereof, the board shall not require further program participation. However, if the board determines that other pertinent information regarding the inmate warrants the inmate's not being released on parole, the board shall state in detail the specific reasons for not granting the parole. If parole is denied for an inmate sentenced for a crime other than a class A or class B felony, the board shall hold another parole hearing for the inmate not later than one year after the denial. If parole is denied for an inmate sentenced for a class A or class B felony, the board shall hold another parole hearing for the inmate not later than three years after the denial and shall conduct an annual file review for such inmate. Written notice of such annual file review shall be given to the inmate.

(i) Any parolee may be placed on intensive supervised parole. Any such parolee shall have a direct meeting at least once each week with an intensive supervising parole officer. Such parolee may be removed from intensive supervised parole when it is determined by the secretary of corrections that such removal will not jeopardize public safety and will be beneficial to the interests of the parolee.

(i) Parolees shall be assigned, upon release, to the appropriate level of supervision pursuant to the criteria established by the secretary of corrections.

(j) The Kansas parole board shall adopt rules and regulations in accordance with K.S.A. 77-415 et seq., and amendments thereto, not inconsistent with the law and as it may deem proper or necessary, with respect to the conduct of parole hearings, orders of restitution and other conditions to be imposed upon parolees. Whenever an order for parole is issued it shall recite the conditions thereof.

(k) Whenever the Kansas parole board orders the parole of an inmate, the board, unless it finds compelling circumstances which would render a plan of payment unworkable, shall order as a condition of parole that the parolee pay any transportation expenses resulting from returning the parolee to this state to answer criminal charges or a warrant for a violation of a condition of probation, assignment to a community correctional services program, parole or conditional release.

(l) If the court which sentenced an inmate specified at the time of sentencing the amount and the recipient of any restitution ordered as a condition of parole, the Kansas parole board shall order as a condition of parole that the inmate pay restitution in the amount and manner provided in the journal entry unless the board finds compelling circumstances which would render a plan of restitution unworkable. If the parolee was sentenced before July 1, 1986, and the court did not specify at the time of sentencing the amount and the recipient of any restitution ordered as a condition of parole, the parole board shall order as a condition of parole that the parolee make restitution for the damage or loss caused by the parolee's crime in an amount and manner determined by the board unless the board finds compelling circumstances which would render a plan of restitution unworkable. If the parolee was sentenced on or after July 1, 1986, and the court did not specify at the time of sentencing the amount and the recipient of any restitution ordered as a condition of parole, the parole board shall not order restitution as a condition of parole unless the board finds compelling circumstances which justify such an order.

(m) Whenever the Kansas parole board grants the parole of an

inmate, the board, within 10 days of the date of the decision to grant parole, shall give written notice of the decision to the county or district attorney of the county where the inmate was sentenced.

(n) An inmate shall be eligible for parole on the date provided by statute at the time the inmate committed the crime for which imprisoned unless subsequent amendment of the statute provides an earlier parole eligibility date.

(o) An inmate who is eligible to earn allocated regular good time credits as provided in K.S.A. 1987 Supp. 22-3724 section 2 may receive meritorious good time credits in increments of not more than 90 days per meritorious act. These credits may be awarded by the secretary of corrections when an inmate has acted in a heroic or outstanding manner in coming to the assistance of another person in a life threatening situation, preventing injury or death to a person, preventing the destruction of property or taking actions which result in a financial savings to the state.

New Sec. 2. (a) For the purpose of determining an inmate's eligibility for parole or conditional release, regardless of when the inmate was sentenced or committed the crime for which sentenced, good time credits shall be allocated as follows:

SENTENCE Minimum (or) Maximum	GOOD TIME EARNED			MUST SERVE		
	Years	Months	Days	Years	Months	Days
1	0	3	0	0	9	0
2	0	6	23	1	5	7
3	1	0	0	2	0	0
4	1	6	0	2	6	0
5	2	0	0	3	0	0
6	2	6	0	3	6	0
7	3	0	0	4	0	0
8	3	6	0	4	6	0
9	4	0	0	5	0	0
10	4	6	0	5	6	0
11	5	0	0	6	0	0
12	5	6	0	6	6	0
13	6	0	0	7	0	0
14	6	6	0	7	6	0
15	7	0	0	8	0	0
16	7	6	0	8	6	0
17	8	0	0	9	0	0
18	8	6	0	9	6	0
19	9	0	0	10	0	0
20	9	6	0	10	6	0
21	10	0	0	11	0	0
22	10	6	0	11	6	0
23	11	0	0	12	0	0
24	11	6	0	12	6	0
25	12	0	0	13	0	0
26	12	6	0	13	6	0
27	13	0	0	14	0	0
28	13	6	0	14	6	0
29	14	0	0	15	0	0
30	14	6	0	15	6	0
31	15	0	0	16	0	0
32	15	6	0	16	6	0
33	16	0	0	17	0	0
34	16	6	0	17	6	0
35	17	0	0	18	0	0
36	17	6	0	18	6	0
37	18	0	0	19	0	0
38	18	6	0	19	6	0
39	19	0	0	20	0	0
40	19	6	0	20	6	0
41	20	0	0	21	0	0
42	20	6	0	21	6	0
43	21	0	0	22	0	0
44	21	6	0	22	6	0
45	22	0	0	23	0	0
46	22	6	0	23	6	0
47	23	0	0	24	0	0

48	23	6	0	24	6	0
49	24	0	0	25	0	0
50	24	6	0	25	6	0
51	25	0	0	26	0	0
52	25	6	0	26	6	0
53	26	0	0	27	0	0
54	26	6	0	27	6	0
55	27	0	0	28	0	0
56	27	6	0	28	6	0
57	28	0	0	29	0	0
58	28	6	0	29	6	0
59	29	0	0	30	0	0
60	29	6	0	30	6	0
61	30	0	0	31	0	0
62	30	6	0	31	6	0
63	31	0	0	32	0	0
64	31	6	0	32	6	0
65	32	0	0	33	0	0
66	32	6	0	33	6	0
67	33	0	0	34	0	0
68	33	6	0	34	6	0
69	34	0	0	35	0	0
70	34	6	0	35	6	0
71	35	0	0	36	0	0
72	35	6	0	36	6	0
73	36	0	0	37	0	0
74	36	6	0	37	6	0
75	37	0	0	38	0	0
76	37	6	0	38	6	0
77	38	0	0	39	0	0
78	38	6	0	39	6	0
79	39	0	0	40	0	0
80	39	6	0	40	6	0
81	40	0	0	41	0	0
82	40	6	0	41	6	0
83	41	0	0	42	0	0
84	41	6	0	42	6	0
85	42	0	0	43	0	0
86	42	6	0	43	6	0
87	43	0	0	44	0	0
88	43	6	0	44	6	0
89	44	0	0	45	0	0
90	44	6	0	45	6	0
91	45	0	0	46	0	0
92	45	6	0	46	6	0
93	46	0	0	47	0	0
94	46	6	0	47	6	0
95	47	0	0	48	0	0
96	47	6	0	48	6	0
97	48	0	0	49	0	0
98	48	6	0	49	6	0
99	49	0	0	50	0	0
100	49	6	0	50	6	0

(b) Maximum good time credits for sentences of two years or less shall be computed as follows: One day for every three days served and one month for every year served.

(c) Maximum good time credits for sentences greater than two years shall be computed as follows: One-half of the sentence less six months.

(d) Good time credits shall be awarded on an earned basis pursuant to rules and regulations adopted by the secretary of corrections.

New Sec. 3. The secretary of corrections may place on a six-month supervised furlough any inmate who is classified at a custody level not higher than minimum and who will be eligible for parole under K.S.A. 22-3717 and amendments thereto by the end of the six-month period. If, at the end of the six-month period, the secretary determines that the inmate has successfully completed the furlough, the secretary shall certify that fact to the Kansas parole board, which shall promptly order the inmate's release on parole, without hearing, under the level of supervision specified by the secretary and subject to such conditions as imposed by the board.

New Sec. 4. (a) In any criminal action in which probation or

assignment to community corrections is revoked and the defendant is sentenced to confinement, for the purpose of computing the defendant's sentence and parole eligibility and conditional release dates, the defendant's sentence is to be computed from a date, hereafter to be specifically designated in the sentencing order of the journal entry of judgment or the judgment form delivered with the defendant to the correctional institution. Such date shall be established to reflect and shall be computed as an allowance for the time which the defendant has spent in a residential facility while on probation or assignment to community corrections. The commencing date of such sentence shall be used as the date of sentence and all good time allowances as are authorized by law are to be allowed on such sentence from such date as though the defendant were actually incarcerated in a correctional institution. Such credit is not to be considered to reduce the minimum or maximum terms of confinement authorized by law for the offense of which the defendant has been convicted.

Sec. 5. K.S.A. 21-4620 is hereby amended to read as follows: 21-4620. (a) If the defendant is to be sentenced to the custody of the secretary of corrections, the court may prepare a judgment form which shall be signed by the court and filed with the clerk. If prepared, the judgment form shall reflect the conviction, the sentence and the commitment, and shall contain the following:

(1) The pronouncement of guilt including:

- (A) The title of the crime;
- (B) the statute violated;
- (C) the date the offense occurred.

(2) The sentence imposed including:

(A) The terms as required by ~~K.S.A. 21-4603(2)~~ subsection (2) of K.S.A. 21-4603 and amendments thereto;

(B) if applicable, a description of any increase in sentence because of previous felony conviction pursuant to K.S.A. 21-4504 and amendments thereto;

(C) if applicable, a statement that this defendant has been convicted of a class A, B or C felony by reason of aiding, abetting, advising, or counseling another to commit a crime, or by reason of the principle provided for in subsection (2) of K.S.A. 21-3205 and any amendments thereto;

(D) if applicable, a statement that this defendant, age ~~eighteen (18)~~ 18 or over, has been mandatorily sentenced pursuant to K.S.A. 21-4618 and amendments thereto for use of a firearm in a crime under article 34 of chapter 21, or the crime of rape or aggravated sodomy;

(E) a statement of the effective date of the sentence indicating whether it is the date of imposition or some date earlier to give credit for time confined pending disposition of the case pursuant to K.S.A. 21-4614 and amendments thereto or credit for time on probation or assignment to community corrections pursuant to section 4.

(3) The order of commitment to the custody of the secretary, if not issued as a separate order.

(b) The court may attach to or include in the judgment form any of the following:

(1) A statement of reasons for imposing the sentence as ordered other than those reasons required above to be stated;

(2) a description of aggravating or mitigating circumstances the court took into consideration when ordering the commitment;

(3) recommendations on a program of rehabilitation for the offender, based on presentence investigation reports and any other information available. Such recommendations may include desirable treatment for corrections of physical deformities or disfigurement that may, if possible, be corrected by medical or surgical procedures or by prosthesis;

(4) a recommendation for further evaluation at the Kansas state reception and diagnostic center, even though defendant was committed for presentence investigation;

(5) the copy of the evidence from trial or part thereof transmitted pursuant to K.S.A. 75-5219 and amendments thereto.

(c) The court shall forward a copy of all presentence investigation reports and other diagnostic reports on the offender received by the district court, including any reports received

(continued)

from the Kansas state reception and diagnostic center or the state security hospital, to the officer having the offender in custody for delivery with the offender to the correctional institution.

New Sec. 6. (a) Within a reasonable time after a defendant is committed to the custody of the secretary of corrections, the secretary shall enter into a written agreement with the inmate specifying those educational, vocational, mental health or other programs which the secretary determines the inmate must satisfactorily complete in order to be prepared for release on parole. The agreement shall be conditioned on the inmate's satisfactory conduct, employment and attitude while incarcerated. If the secretary determines that the inmate's conduct, employment, attitude or needs require modifications or additions to those programs which are set forth in the agreement, the secretary shall revise the requirements. The secretary shall agree that, when the inmate satisfactorily completes the programs required by the agreement, or any revision thereof, the secretary shall report that fact in writing to the Kansas parole board. If the inmate becomes eligible for parole before satisfactorily completing such programs, the secretary shall report in writing to the Kansas parole board the programs which the inmate must yet satisfactorily complete.

(b) A copy of any agreement and any revisions thereof shall be entered into the inmate's record.

New Sec. 7. (a) The court or the secretary of corrections may implement a house arrest program for defendants or inmates being sentenced by the court or in the custody of the secretary of corrections, except:

(1) No defendant shall be placed by the court under house arrest if found guilty of:

(A) Any crime in article 34 or 35 of chapter 21 in the K.S.A., and amendments thereto, for which the penalty is a class A or B felony;

(B) K.S.A. 21-3603, and amendments thereto; or

(C) K.S.A. 21-3609, and amendments thereto;

(2) no inmate shall be placed under house arrest if such inmate's security status is greater than minimum security; or

(3) no inmate shall be placed under house arrest who has been denied parole by the parole board within the last 6 months. Any inmate who, while participating in the house arrest program, is denied parole by the parole board shall be allowed to remain under house arrest until the completion of the sentence or until the inmate is otherwise removed from the program.

(b) House arrest is an individualized program in which the freedom of an inmate is restricted within the community, home or noninstitutional residential placement and specific sanctions are imposed and enforced. House arrest may include:

(1) Electronic monitoring which requires a transmitter to be strapped to the defendant or inmate which broadcasts an encoded signal to the receiver located in the defendant's or inmate's home. The receiver is connected to a central office computer and is notified of any absence of the defendant or inmate; or

(2) voice identification-encoder which consists of an encoder worn by the defendant or inmate. A computer is programmed to randomly call the defendant or inmate and such defendant or inmate is required to provide voice identification and then insert the encoder into the verifier box, confirming identity.

(c) Prior to the placement of an inmate under house arrest, the court or secretary shall provide written notification to the sheriff and district or county attorney of the county in which any person under house arrest is to be placed and to the chief law enforcement officer of any incorporated city or town in which such person is to be placed of the placement of the person under house arrest within the county or incorporated city or town.

(d) House arrest sanctions shall be administered by the court and the secretary of corrections, respectively, through rules and regulations, and may include, but are not limited to, rehabilitative restitution in money or in kind, curfew, revocation or suspension of the driver's license, community service, deprivation of nonessential activities or privileges, or other appropriate restraints on the inmate's liberty.

Sec. 8. K.S.A. 1987 Supp. 21-4603 is hereby amended to read as follows: 21-4603. (1) Whenever any person has been found

guilty of a crime and the court finds that an adequate presentence investigation cannot be conducted by resources available within the judicial district, including mental health centers and mental health clinics, the court may require that a presentence investigation be conducted by the Kansas state reception and diagnostic center or by the state security hospital. If the offender is sent to the Kansas state reception and diagnostic center or the state security hospital for a presentence investigation under this section, the institution or hospital may keep the offender confined for a maximum of 120 days or until the court calls for the return of the offender. While held at the Kansas reception and diagnostic center or the state security hospital the defendant may be treated the same as any person committed to the secretary of corrections or secretary of social and rehabilitation services for purposes of maintaining security and control, discipline, and emergency medical or psychiatric treatment, and general population management except that no such person shall be transferred out of the state or to a federal institution or to any other location unless the transfer is between the Kansas reception and diagnostic center and the state security hospital. The Kansas state reception and diagnostic center or the state security hospital shall compile a complete mental and physical evaluation of such offender and shall make its finding known to the court in the presentence report.

(2) Whenever any person has been found guilty of a crime, the court may adjudge any of the following:

(a) Commit the defendant to the custody of the secretary of corrections or, if confinement is for a term less than one year, to jail for the term provided by law;

(b) impose the fine applicable to the offense;

(c) release the defendant on probation subject to such conditions as the court may deem appropriate, including orders requiring full or partial restitution;

(d) suspend the imposition of the sentence subject to such conditions as the court may deem appropriate, including orders requiring full or partial restitution;

(e) assign the defendant to a community correctional services program subject to such conditions as the court may deem appropriate, including orders requiring full or partial restitution;

or  
(f) assign the defendant to a house arrest program pursuant to section 7; or

(g) impose any appropriate combination of (a), (b), (c), (d) or (e) or (f).

In imposing a fine the court may authorize the payment thereof in installments. In releasing a defendant on probation, the court shall direct that the defendant be under the supervision of a court services officer. If the court commits the defendant to the custody of the secretary of corrections or to jail, the court may specify in its order the amount of restitution to be paid and the person to whom it shall be paid if restitution is later ordered as a condition of parole or conditional release.

The court in committing a defendant to the custody of the secretary of corrections shall fix a maximum term of confinement within the limits provided by law. In those cases where the law does not fix a maximum term of confinement for the crime for which the defendant was convicted, the court shall fix the maximum term of such confinement. In all cases where the defendant is committed to the custody of the secretary of corrections, the court shall fix the minimum term within the limits provided by law.

(3) Any time within 120 days after a sentence is imposed or within 120 days after probation or assignment to a community correctional services program has been revoked, the court may modify such sentence, revocation of probation or assignment by directing that a less severe penalty be imposed in lieu of that originally adjudged within statutory limits. If an appeal is taken and determined adversely to the defendant, such sentence may be modified within 120 days after the receipt by the clerk of the district court of the mandate from the supreme court or court of appeals.

(4) Upon hearing, the court may reduce the minimum term of confinement modify the sentence at any time before the expiration thereof when such reduction modification is recommended by the secretary of corrections and the court is satisfied

that the best interests of the public will not be jeopardized and that the welfare of the inmate will be served by such ~~reduction~~ *modification*. ~~The power here conferred upon the court includes~~ *The court shall have the power to impose a less severe penalty upon the inmate, including the power to reduce the minimum below the statutory limit on the minimum term prescribed for the crime of which the inmate has been convicted. The recommendation of the secretary of corrections, the hearing on the recommendation and the order of reduction modification shall be made in open court. Notice of the recommendation of reduction modification of sentence and the time and place of the hearing thereon shall be given by the inmate, or by the inmate's legal counsel, at least 21 days prior to the hearing to the county or district attorney of the county where the inmate was convicted. After receipt of such notice and at least 14 days prior to the hearing, the county or district attorney shall give notice of the recommendation of reduction modification of sentence and the time and place of the hearing thereon to any victim of the inmate's crime who is alive and whose address is known to the county or district attorney or, if the victim is deceased, to the victim's next of kin if the next of kin's address is known to the county or district attorney. Proof of service of each notice required to be given by this subsection shall be filed with the court.*

(5) Dispositions which do not involve commitment to the custody of the secretary of corrections and commitments which are revoked within 120 days shall not entail the loss by the defendant of any civil rights.

(6) This section shall not deprive the court of any authority conferred by any other Kansas statute to decree a forfeiture of property, suspend or cancel a license, remove a person from office, or impose any other civil penalty as a result of conviction of crime.

(7) An application for or acceptance of probation, suspended sentence or assignment to a community correctional services program shall not constitute an acquiescence in the judgment for purpose of appeal, and any convicted person may appeal from such conviction, as provided by law, without regard to whether such person has applied for probation, suspended sentence or assignment to a community correctional services program.

Sec. 9. K.S.A. 1987 Supp. 21-4610 is hereby amended to read as follows: 21-4610. (1) Except as required by subsection (4), nothing in this section shall be construed to limit the authority of the court to impose or modify any general or specific conditions of probation, suspension of sentence or assignment to a community correctional services program, except that the court shall condition any order granting probation, suspension of sentence or assignment to a community correctional services program on the defendant's obedience of the laws of the United States, the state of Kansas and any other jurisdiction to the laws of which the defendant may be subject.

(2) The court services officer or community correctional services officer may recommend, and the court may order, the imposition of any conditions of probation, suspension of sentence or assignment to a community correctional services program. The court may at any time order the modification of such conditions, after notice to the court services officer or community correctional services officer and an opportunity for such officer to be heard thereon. The court shall cause a copy of any such order to be delivered to the court services officer and the probationer or to the community correctional services officer and the community corrections participant, as the case may be.

(3) The court may impose any conditions of probation, suspension of sentence or assignment to a community correctional services program that the court deems proper, including but not limited to requiring that the defendant:

(a) Avoid such injurious or vicious habits as directed by the court, court services officer or community correctional services officer;

(b) avoid such persons or places of disreputable or harmful character as directed by the court, court services officer or community correctional services officer;

(c) report to the court services officer or community correctional services officer as directed;

(d) permit the court services officer or community correctional services officer to visit the defendant at home or elsewhere;

(e) work faithfully at suitable employment insofar as possible;

(f) remain within the state unless the court grants permission to leave;

(g) pay a fine or costs, applicable to the offense, in one or several sums and in the manner as directed by the court;

(h) support the defendant's dependents;

(i) reside in a residential facility located in the community and participate in educational, counseling, work and other correctional or rehabilitative programs;

(j) perform community or public service work for local governmental agencies, private corporations organized not for profit, or charitable or social service organizations performing services for the community; or

(k) perform services under a system of day fines whereby the defendant is required to satisfy fines, costs or reparation or restitution obligations by performing services for a period of days determined by the court on the basis of ability to pay, standard of living, support obligations and other factors; or

(l) participate in a house arrest program pursuant to section 7.

(4) In addition to any other conditions of probation, suspension of sentence or assignment to a community correctional services program, the court shall order the defendant to comply with each of the following conditions:

(a) Make reparation or restitution to the aggrieved party for the damage or loss caused by the defendant's crime, in an amount and manner determined by the court and to the person specified by the court, unless the court finds compelling circumstances which would render a plan of restitution unworkable;

(b) pay the probation or community correctional services fee pursuant to K.S.A. 1985 1987 Supp. 21-4610a and amendments thereto; and

(c) reimburse the state general fund for all or a part of the expenditures by the state board of indigents' defense services to provide counsel and other defense services to the defendant. In determining the amount and method of payment of such sum, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof may at any time petition the court which sentenced the defendant to waive payment of such sum or of any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment.

Sec. 10. K.S.A. 1987 Supp. 21-4501 is hereby amended to read as follows: 21-4501. For the purpose of sentencing, the following classes of felonies and terms of imprisonment authorized for each class are established:

(a) Class A, the sentence for which shall be imprisonment for life.

(b) Class B, the sentence for which shall be an indeterminate term of imprisonment, the minimum of which shall be fixed by the court at not less than five years nor more than 15 years and the maximum of which shall be fixed by the court at not less than 20 years nor more than life.

(c) Class C, the sentence for which shall be an indeterminate term of imprisonment, the minimum of which shall be fixed by the court at not less than three years nor more than five years and the maximum of which shall be fixed by the court at not less than 10 years nor more than 20 years.

(d) Class D, the sentence for which shall be an indeterminate term of imprisonment fixed by the court as follows:

(1) For a crime specified in article 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, a minimum of not less than two years nor more than three years and a maximum of not less than five years nor more than 10 years; and

(continued)

(2) for any other crime, a minimum of not less than one year nor more than three years and a maximum of not less than five years nor more than 10 years.

(e) Class E, the sentence for which shall be an indeterminate term of imprisonment, the minimum of which shall be fixed by the court at not less than one year and the maximum of which shall be fixed by the court at not less than two years nor more than five years.

(f) Unclassified felonies, which shall include all crimes declared to be felonies without specification as to class, the sentence for which shall be in accordance with the sentence specified in the statute that defines the crime. If no sentence is provided in the statute, the offender shall be sentenced as for a class E felony.

Sec. 11. K.S.A. 1987 Supp. 21-4501a is hereby amended to read as follows: 21-4501a. (a) The minimum term of imprisonment established by subsections (d) and (e) subsection (e) of K.S.A. 21-4501 and amendments thereto shall apply retroactively to individuals sentenced for crimes committed on or after July 1, 1982, but the changes made by this act in classifications of crimes shall apply only to crimes committed on or after the effective date of this act on or after May 17, 1984, for a class E felony.

(b) If an individual has been sentenced to a minimum term of imprisonment of more than one year for a class D or E felony, other than a felony specified in article 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, which was committed on or after July 1, 1982, and if the sentence was imposed before the effective date of this act, the sentencing court shall review the individual's sentence within 60 days after the effective date of this act. Upon review, the sentencing court may reduce the individual's minimum term of imprisonment within the limits provided by K.S.A. 21-4501 and amendments thereto E felony and the sentence was imposed on or after May 17, 1984, such minimum sentence is hereby reduced to one year.

(c) If an individual's minimum term of imprisonment is reduced pursuant to by this section, the individual shall be eligible for parole as provided by K.S.A. 22-3717 and amendments thereto, based upon the individual's reduced minimum term of imprisonment.

(d) If an individual's minimum term of imprisonment is reduced pursuant to this section and the individual has had a parole eligibility hearing based on the individual's minimum term of imprisonment before reduction pursuant to this section, the individual shall be scheduled for a parole hearing within 60 days after the reduction of the individual's minimum term of imprisonment pursuant to this section.

Sec. 12. On and after July 1, 1988, K.S.A. 1987 Supp. 22-3707 is hereby amended to read as follows: 22-3707. (a) The Kansas adult authority parole board shall consist of three five members appointed by the governor, subject to confirmation by the senate as provided in K.S.A. 75-4315b and amendments thereto. No more than two three members of the authority board shall be members of the same political party. The term of office of the members of the authority board shall be four years. If a vacancy occurs in the membership of the authority board before the expiration of the term of office, a successor shall be appointed for the remainder of the unexpired term in the same manner that original appointments are made. Each member of the Kansas adult authority board shall devote the member's full time to the duties of membership on the authority board.

(b) The governor may not remove any member of the authority Kansas parole board except for disability, inefficiency, neglect of duty or malfeasance in office. Before removal, the governor shall give the member a written copy of the charges against the member and shall fix the time when the member can be heard at a public hearing, which shall not be less than 10 days thereafter. Upon removal, the governor shall file in the office of the secretary of state a complete statement of all charges made against the member and the findings thereupon, with a complete record of the proceedings.

(c) Each member of the Kansas parole board on the effective date of this act shall be and remain a member of the board and shall hold office until the member's term expires and a successor

is appointed and qualified or until a vacancy occurs in the member's office. Of the two members added by this act, one shall be appointed for an initial term of three years and one for an initial term of four years, as designated by the governor. Such members' terms shall commence on the effective date of this act.

Sec. 13. On and after July 1, 1988, K.S.A. 22-3709 is hereby amended to read as follows: 22-3709. After their appointment, the members of the Kansas adult authority shall meet, and annually thereafter the authority shall meet, and organize by electing one of their members as chairman and one of their members as vice chairman. (a) The chairperson and vice-chairperson of the Kansas parole board shall be designated by the governor. The chairperson of the board shall have the authority to organize and administer the activities of the board. The chairperson of the board may designate panels, consisting of three members of the board, which shall have the full authority and power of the board to order the denial, grant or revocation of an inmate's parole, or to order the revocation of an inmate's conditional release, upon hearing by one or more members of the panel. The director of the authority board shall act as secretary to the authority board.

(b) Any decision of the Kansas parole board granting original parole to an inmate sentenced for a class A or class B felony shall be by unanimous vote of all members of the three-member panel acting on such parole except that, if two members of such panel vote to parole the inmate, the full membership of the board shall review the decision of the panel and may parole such inmate upon the vote of four members of the board.

Sec. 14. On and after July 1, 1988, K.S.A. 22-3709 and K.S.A. 1987 Supp. 22-3707 are hereby repealed.

Sec. 15. K.S.A. 21-4620 and K.S.A. 1987 Supp. 21-4501, 21-4501a, 21-4603, 21-4610, 22-3717 and 22-3724 are hereby repealed.

Sec. 16. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body March 29, 1988.

HOUSE adopted Conference Committee report April 30, 1988.  
JAMES D. BRADEN  
Speaker of the House.  
GENEVA SEWARD  
Chief Clerk of the House.

Passed the SENATE as amended April 8, 1988.

SENATE adopted Conference Committee report April 30, 1988.  
ROBERT V. TALKINGTON  
President of the Senate.  
LU KENNEY  
Secretary of the Senate.

APPROVED May 10, 1988.

MIKE HAYDEN  
Governor.

STATE OF KANSAS  
Office of Secretary of State

I, BILL GRAVES, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 10th day of May, A.D. 1988.

BILL GRAVES  
Secretary of State.

(SEAL)



(Published in the *Kansas Register*, May 19, 1988.)

## SENATE BILL No. 599

AN ACT creating the agricultural value added processing center; providing for a leadership council and a director of such center; responsibilities of the leadership council and the director.

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

Section 1. (a) There is hereby created an agricultural value added processing center which is associated with Kansas state university. The activities of such center shall be subject to the provisions of appropriations acts.

(b) The objectives of the center shall include, but not be limited at Kansas state university and at other appropriate locations in Kansas to, providing technical assistance to existing and potential value added processing facilities, including incubator facilities; developing a network for collecting and distributing information to individuals involved in value added processing in Kansas; initiating pilot plant facilities to act as research and development laboratories for existing and potential small scale value added processing endeavors in Kansas; providing technical assistance to new agricultural value added processing businesses; developing and promoting communication and cooperation among private businesses, state government agencies and public and private colleges and universities in Kansas; and establishing research and development programs in technologies that have value added commercial potential for food and non-food agricultural products.

(c) Within the limitations of appropriations available therefor, the center shall cooperate with existing state agencies involved in marketing in order to promote market development relating to agricultural value added products. Subject to the provisions of appropriations acts, the functions of the center shall include but not be limited to developing a market referral program, matching distribution to buyers in coordination with other state agencies concerned with marketing Kansas products; assisting private entrepreneurs in the establishment of facilities and markets for new agricultural value added processing endeavors; and introducing coordinated programs to develop marketing skills of existing agricultural value adding processors in Kansas.

Sec. 2. (a) There is hereby created the agricultural value added processing center leadership council consisting of 12 members as follows:

(1) A member of the house of representatives and a member of the senate appointed by the legislative coordinating council, and such members shall be from different political parties;

(2) the dean of the college of agriculture at Kansas state university or the dean's designee;

(3) the dean of the college of engineering at Kansas state university or the dean's designee;

(4) the secretary of the state board of agriculture, or the secretary's designee;

(5) the secretary of commerce, or the secretary's designee;

(6) six citizens of Kansas, representing agricultural producers and a variety of processing interests and including at least one person having recognized expertise in both national and international marketing of agricultural products, who shall be appointed by the governor.

(b) The members of the leadership council appointed under subsection (a)(1) shall be appointed for a term ending on the day preceding the commencement of the regular session of the legislature in the first odd-numbered year following their appointment. The members of the leadership council appointed by the governor under subsection (a)(6) shall be appointed for terms as follows: (1) Three members shall be appointed for terms ending on June 30, 1990, and (2) three members shall be appointed for terms ending on June 30, 1991. After the expiration of the initial terms of such members appointed by the governor, members shall be appointed by the governor for terms of two years. All vacancies in the office of appointed members shall be filled by appointment by the officer or council making the original appointment for the remainder of the unexpired term of the member creating the vacancy.

(c) The leadership council shall organize annually by the election from its membership of a chairperson and a vice-chairperson. The leadership council shall adopt such rules of procedure as it deems necessary for conducting its business.

(d) The members of the leadership council shall be paid subsistence allowance, mileage and other expenses for attendance at meetings of the leadership council, or subcommittee meetings thereof authorized by the council, as provided in K.S.A. 75-3223, and amendments thereto.

Sec. 3. (a) The leadership council shall appoint the director of the agricultural value added processing center from a list of nominees prepared by the president of the Kansas technology enterprise corporation. The director shall be in the unclassified service under the Kansas civil service act and shall serve at the pleasure of the leadership council. The director shall receive compensation from appropriations made for the Kansas technology enterprise corporation for the agricultural value added processing center. The director shall be located in the office of the president of Kansas state university.

(b) The director shall be responsible for publishing a formal strategy and set of goals adopted by the leadership council for the agricultural value added processing center and presenting the strategy and goals to the board of directors of the Kansas technology enterprise corporation. At the direction of the leadership council, the director shall prepare a preliminary budget proposal for fiscal year 1990 and present such budget proposal to the board of directors of the Kansas technology enterprise corporation prior to September 1, 1988. Each year, such board of directors shall submit a proposed budget for the agricultural value added processing center within the budget estimate prepared and submitted to the division of the budget pursuant to K.S.A. 75-3717 and amendments thereto. The director shall present the strategy, goals and budget proposals of the agricultural value added processing center to the standing committees on agriculture and economic development of the senate and the house of representatives at the beginning of the regular session of the legislature in 1989 and shall present a follow-up report to such committees during that session and after April 1, 1989.

(c) The leadership council shall develop and adopt a formal strategy and set of goals for such agricultural value added processing center and shall revise and update such strategy and goals as deemed necessary by the council. The leadership council may recommend such legislation as the council deems appropriate for the purposes of the agricultural value added processing center.

Sec. 4. Documents and other materials submitted to the agricultural value added center, the director of such center or the leadership council of such center by Kansas businesses shall not be public records if such documents and other materials are determined to be trade or business secrets. Each such document or other material determined to be trade or business secrets shall be maintained in a secured environment by the director of the agricultural value added center.

Sec. 5. (a) This act shall be known and may be cited as the agricultural value added processing center act.

(b) The provisions of this act shall expire on July 1, 1992.

Sec. 6. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body March 8, 1988.

SENATE adopted Conference Committee report April 30, 1988.  
ROBERT V. TALKINGTON  
*President of the Senate.*  
LU KENNEY  
*Secretary of the Senate.*

Passed the HOUSE as amended April 28, 1988.

HOUSE adopted Conference Committee report April 29, 1988.  
JAMES D. BRADEN  
*Speaker of the House.*  
GENEVA SEWARD  
*Chief Clerk of the House.*

(continued)

APPROVED May 10, 1988.

MIKE HAYDEN  
Governor.

STATE OF KANSAS  
Office of Secretary of State

I, BILL GRAVES, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 10th day of May, A.D. 1988.

BILL GRAVES  
Secretary of State.

(SEAL)

(Published in the Kansas Register, May 19, 1988.)

HOUSE BILL No. 3117

AN ACT concerning Kansas state university; authorizing a capital improvement project for surfacing and lighting improvements for stadium and coliseum parking; providing for issuance of bonds for such project.

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

Section 1.

KANSAS STATE UNIVERSITY

(a) Kansas state university is hereby authorized to initiate and complete a capital improvement project for surfacing and lighting improvements for stadium and coliseum parking and to make expenditures for such project from the parking fees fund of Kansas state university for bonds, as defined by subsection (e) of K.S.A. 1987 Supp. 74-8902 and amendments thereto, issued by the Kansas development finance authority, except that expenditures for such purpose from the parking fees fund for fiscal year 1989 shall not exceed \$450,000. The capital improvement project for surfacing and lighting improvements for stadium and coliseum parking is hereby approved for Kansas state university for the purposes of subsection (b) of K.S.A. 1987 Supp. 74-8905 and amendments thereto and the issuance of bonds for such project by the Kansas development finance authority in accordance with that statute.

(b) On July 1, 1988, the expenditure limitation established by section 3(b) of 1988 House Bill No. 2794 on the parking fees fund is hereby increased from \$676,558 to \$1,126,558.

Sec. 2. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body April 28, 1988.

HOUSE concurred in SENATE amendments April 29, 1988.

JAMES D. BRADEN  
Speaker of the House.  
GENEVA SEWARD  
Chief Clerk of the House.

Passed the SENATE as amended April 29, 1988.

ROBERT V. TALKINGTON  
President of the Senate.  
LU KENNEY  
Secretary of the Senate.

APPROVED May 13, 1988.

MIKE HAYDEN  
Governor.

STATE OF KANSAS  
Office of Secretary of State

I, BILL GRAVES, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 13th day of May, 1988.

BILL GRAVES  
Secretary of State.

(SEAL)

(Published in the Kansas Register, May 19, 1988.)

SENATE BILL No. 457

AN ACT concerning community correctional services programs; relating to funding therefor; amending K.S.A. 75-52,101, 75-52,103 and 75-52,107 and repealing the existing sections; also repealing K.S.A. 1987 Supp. 75-52,104 and 75-52,109.

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

Section 1. K.S.A. 75-52,101 is hereby amended to read as follows: 75-52,101. (a) In accordance with this section, the secretary of corrections shall annually determine the amount of the grant for the next ensuing calendar year to each county which has qualified to receive grants under this act.

(b) Each of the following factors shall be calculated for each county participating under this act:

(1) Per capita income;  
(2) per capita adjusted valuation, as defined in subsection (e) of K.S.A. 72-7040 and amendments thereto, for the preceding calendar year;

(3) crimes per one thousand 1,000 population; and  
(4) percent of county population aged five through ~~twenty-nine~~ 29 years of age.

(c) The per capita income shall be determined from the most recent county personal income data compiled by the division of the budget of the department of administration.

(d) The crimes per one thousand 1,000 population of each county shall be determined from the most recent compilation of Kansas crime statistics by the Kansas bureau of investigation.

(e) The percent of county population aged five through ~~twenty-nine~~ 29 years of age of each county shall be determined by the division of the budget of the department of administration.

(f) After calculating the factors under subsection (b), the following factors shall be calculated for each county:

(1) Each county's per capita income shall be divided into the ~~one hundred five~~ 105 county average;

(2) each county's per capita adjusted valuation, as defined in subsection (e) of K.S.A. 72-7040 and amendments thereto, shall be divided into the ~~one hundred five~~ 105 county average;

(3) each county's number of crimes per one thousand 1,000 population shall be divided by the ~~one hundred five~~ 105 county average;

(4) each county's percent of county population aged five through ~~twenty-nine~~ 29 years of age shall be divided by the ~~one hundred five~~ 105 county average.

(g) The factors calculated under subsection (f) for each county shall be totaled and divided by four. The quotient thus obtained is the computation factor for the county. Subject to ~~subsection (h)~~ subsections (h) and (i), the amount of the annual grant the county is eligible to receive under this act shall be determined by multiplying the computation factor by the amount of the per capita appropriation as fixed by appropriation act and multiplying that product by the total county population. The county population under this subsection shall be according to the most recent enumeration by the state board of agriculture. No county and no group of cooperating counties which have established, on or before June 30, 1980, a corrections advisory board under the provisions of the community corrections act shall be adversely affected in the determination of the amount of the annual grant the county or group of cooperating counties is eligible to receive under ~~said~~ such act as a result of the use of the population figures of the United States bureau of census as published by the division of the budget under the provisions of K.S.A. 11-201 and amendments thereto.

(h) In all cases of counties becoming eligible for and receiving grants for the first time under this act, the annual amount of the grant for each such county shall be as follows:

(1) For the first calendar year, ~~seventy percent~~ 70% of the amount determined under subsection (g);

(2) for the second calendar year, ~~ninety percent~~ 90% of the amount determined under subsection (g); and

(3) for the third calendar year and for each calendar year thereafter, ~~one hundred percent~~ 100% of the amount determined under subsection (g).

(i) *If the amount of an annual grant that a county is eligible to receive pursuant to this section is less than the amount of the annual grant received by such county pursuant to this act, including any supplementary grant received pursuant to K.S.A. 1987 Supp. 75-52,109, after deduction of amounts provided by K.S.A. 1987 Supp. 75-52,104, for the fiscal year ending June 30, 1988, such county shall be eligible to receive an annual grant equal to the amount received by such county for the fiscal year ending June 30, 1988.*

Sec. 2. K.S.A. 75-52,103 is hereby amended to read as follows: 75-52,103. (a) Except as provided in K.S.A. 75-5293 and amendments thereto, each grant under this act shall be expended by the county receiving it for correctional services as described in K.S.A. 75-5291 and amendments thereto in addition to the amount required to be expended by such county under this section. Each calendar year in which a county receives grant payments under K.S.A. 75-52,105 and amendments thereto, the county shall make expenditures for correctional services as described in K.S.A. 75-5291 and amendments thereto from any funds other than from grants under this act in an amount equal to or exceeding the amount of base year corrections expenditures as determined by the secretary of corrections under subsection (b).

(b) The secretary of corrections shall audit and determine the amount of the expenditures for correctional services as described in K.S.A. 75-5291 and amendments thereto of each county applying for a grant under this act during the calendar year immediately preceding the calendar year in which the county will receive its first grant payment under K.S.A. 75-52,105 and amendments thereto. The amount so determined shall be the amount of base year corrections expenditures of the county. In determining the amount of base year expenditures that portion of corrections' personnel salaries actually assumed by the state as described in K.S.A. 20-361 and 20-362, and amendments thereto, shall not be considered as a portion of the base year requirement.

(c) In any case where a county receiving a grant does not make expenditures for correctional services from funds other than from grants under this act as required by this section, the grant to such county for the next ensuing calendar year shall be reduced by an amount equal to the amount by which such county failed to make such required amount of expenditures.

(d) *The secretary of corrections may provide, by rules and regulations, procedures for the following, as determined by the secretary to further the purposes of this act:*

(1) *The transfer, to one or more other counties, of any portion of a county's annual grant which is not included in such county's program budget for the current program year; and*

(2) *the transfer, to one or more other counties, of any portion of a county's annual grant which remains unused at the end of such county's program year and is not included in such county's program budget for the ensuing program year.*

(e) Except as otherwise provided pursuant to subsection (d), if a participating county does not expend the full amount of the grant received for any one year under the provisions of this act, the county shall retain the unexpended amount of the grant for expenditure for correctional services as described in K.S.A. 75-5291 and amendments thereto during any ensuing calendar year. The secretary of corrections shall reduce the grant for the ensuing calendar year by an amount equal to the amount of the previous year's grant which was not expended and was retained by the county, unless the secretary finds that the amount so retained is needed for and will be expended during the ensuing calendar year for expenditures under the applicable comprehensive plan.

Sec. 3. K.S.A. 75-52,107 is hereby amended to read as follows: 75-52,107. (a) The secretary of corrections and any county ~~not receiving grants under this act~~ may contract for any correctional services described in K.S.A. 75-5291 and amendments

thereto from any county or group of cooperating counties which are receiving grants under this act, *including services for inmates classified less than minimum security.*

(b) *Any county may contract for any correctional services described in K.S.A. 75-5291 and amendments thereto from any county or group of cooperating counties which are receiving grants under this act, regardless of whether such county or group of counties is in the same judicial district as the county contracting for such services.*

Sec. 4. K.S.A. 75-52,101, 75-52,103 and 75-52,107 and K.S.A. 1987 Supp. 75-52,104 and 75-52,109 are hereby repealed.

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

I hereby certify that the above BILL originated in the SENATE, and passed that body March 31, 1988.

ROBERT V. TALKINGTON  
President of the Senate.  
LU KENNEY  
Secretary of the Senate.

Passed the HOUSE April 27, 1988.

JAMES D. BRADEN  
Speaker of the House.  
GENEVA SEWARD  
Chief Clerk of the House.

APPROVED May 10, 1988.

MIKE HAYDEN  
Governor.

STATE OF KANSAS  
Office of Secretary of State

I, BILL GRAVES, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 10th day of May, A.D. 1988.

BILL GRAVES  
Secretary of State.

(SEAL)

**KANSAS REGISTER**  
**Secretary of State**  
**2nd Floor, State Capitol**  
**Topeka, KS 66612-1594**

Second Class  
postage paid  
at  
Topeka, Kansas

---

**Use this form (or a copy of it) to enter a  
SUBSCRIPTION**

\_\_\_\_\_ One-year subscriptions @ \$55 ea.

Total Enclosed \_\_\_\_\_  
(Make checks payable to Kansas Register)

SEND TO: \_\_\_\_\_  
(Please, no more than 4 address lines.)  
\_\_\_\_\_  
\_\_\_\_\_

Zip code must be included

This space for Register office use only, please

Code _____	Rec. No. _____
Expires _____	Entered By _____

Mail order, with payment, to: Kansas Register, Secretary of State, State Capitol, Topeka, KS 66612-1594

---

**Use this form (or a copy of it) for  
CHANGE OF ADDRESS**

Remove your mailing label (above) and affix it here:

Indicate change or correction of name or address here:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Mail to: Kansas Register, Secretary of State, State Capitol, Topeka, KS 66612-1594