

MINUTES OF THE House COMMITTEE ON Ways and MeansThe meeting was called to order by Bill Bunten at
Chairperson1:00 ~~am~~/p.m. on Wednesday, April 25, 1984 in room 514-S of the Capitol.

All members were present except:

Committee staff present: Ed Ahrens, Legislative Research
Lyn Goering, Legislative Research
Gloria Timmer, Legislative Research
Jim Wilson, Office of the Revisor
Nadine Young, Committee Secretary

Conferees appearing before the committee: (Attachment 1)

Chairman addressed the committee concerning the Proposed State Employee Pay Plan. (Attachment 2). It creates a one time bonus and a 5% COLA increase at an estimated cost of \$38 million.

Representative Farrar moved that it be recommended favorable for passage. Representative Arbuthnot seconded.

Representative Mainey addressed the committee and said he feels that now is not the time for the bonus plan. He said he would offer an alternative on the floor so that people will have an opportunity to vote on another type plan.

Chairman asked Representative Farrar to withdraw his motion.

A chart was distributed (Attachment 3) relating to judges salaries which Chairman Bunten proposed to include with the pay plan bill. Chairman also suggested that a salary increase be included for those Board of Review members relating to the senate bill on "voluntary quits".

Chairman asked for a motion on the Pay Plan Bill - divided into 2 parts as follows:

1. Incorporate the provisions of the Pay Plan Bill (Attachment 2).
2. Increase Supreme Court salaries as proposed on Attachment 3 and increase salaries of the Board of Review members.

Representative Farrar moved and Representative Arbuthnot seconded that Motion No. 2 be instituted. Motion carried.

Representative Farrar moved and Representative Arbuthnot seconded that Motion No. 1 -- the provisions of the Pay Plan be introduced and referred to the Committee of the Whole.

SB 872 -- concerning appropriations for capital improvement projects for Department of Corrections, state correctional-vocational training center, state industrial reformatory, Kansas state penitentiary, department of administration, Parsons and Osawatomie state hospitals.

Representative Miller presented a proposed amendment (Attachment 4) and moved it be adopted. Chairman Bunten said he is drafting a bill which will allow us to borrow money and repay with revenues from the new printing plant over the years. He moved that the committee reconsider their action of April 4. Representative Mainey seconded. Motion carried.

Representative Miller made a substitute motion which defeats the amendment to include appropriations of \$3,278,400 FY 85 and \$578,500 for FY 86 to build a new printing plant. (See April 4 Minutes, page 2). Seconded by Representative Arbuthnot. Motion carried.

Representative Miller moved that SB 872, as amended, be reported favorable for passage. Seconded by Representative Mainey. Motion carried.

SB 858 -- concerning crimes and punishments (and procedures relating thereto); penalties and sentencing for certain crimes; (diversion in lieu of further

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Ways and Means,
room 514-S, Statehouse, at 1:00 ~~xxx~~ p.m. on Wednesday, April 25, 1984

proceedings on a complaint;) amending K.S.A. 21-3701, 21-3704, 21-3707, 21-3708, 21-3710, 21-3720 and 21-3729 and K.S.A. 1983 Supp. 21-4501 (and 22-2908) and repealing the existing sections. (See attached MEMORANDUM dated 4-17-84)

Representative Heinemann presented a proposed amendment (Attachment 5) and moved it be adopted. Seconded by Representative Shriver. Motion carried.

Representative Rolfs moved that we reclassify child abuse from a Class "E" to a class "D" felony. Seconded by Representative Meacham. Motion carried.

Representative Farrar moved that SB 858, as amended, be recommended favorable for passage. Seconded by Representative Mainey. Motion carried.

Meeting adjourned 3:00 p.m.

- Note: Testimony on SB 858 from Research & Data, Inc. by Lelan Atteberry (Attachment 6)
Testimony on SB 858 from Duckwall-Alco Stores, Inc. by Donn Medeck (Attachment 7)
Testimony on SB 858 from Kansas Food Dealers' Association by Bill Warfield (Attachment 8)

Name	Address	Representing
1. Charles Simmons	7 th & Jackson	DOC
2. Harry L. Kemp	" "	Doc
3. D. Barclay	" "	Doc
4. D. Ferrell	Topeka	Budget
5. Paul Johnson	Topeka	PACK
6. Jerry Sloan	"	OJA
7. Mary Joad	Wichita	
8. J. H. Jockl	Wichita	KSFA
9. Jerry Marlett	Emmett	KJCF
10. Roy C. Reed	H. P. 34	KSFA
11. Dick Davis	Topeka	DOC
12. Anita Casey	Orange City	
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A PROPOSED STATE PAY PLAN FOR FY 1985*

	<u>Legislation</u>	<u>Rec. Admin. Action</u>	<u>Estimated Cost (Millions)</u>		
			<u>SGF</u>	<u>Other Funds</u>	<u>Total</u>
1. COLA - 5%, effective 6/18/84	X		\$17.5	\$ 9.5	\$27.0
2. One-Time Bonus:	X		7.8	4.2	12.0
Coverage - S, AS, O Ratings		X			
- 1-year employment		X			
- must be active employees	X				
Ratings - based on most recent employee evaluation		X			
Basis of Bonus - % of beginning step of each salary range		X			
Maximum Bonus - \$1,200	X				
Minimum Bonus		X			
Payment of Bonus - lump sum, 12/1/84 to 1/31/85 as determined by Secretary of Administration		X			
Excluded from KPERS and KPF	X		(0.3)	(0.2)	(0.5)
Allocation of bonus money to state agencies - % of budgeted payroll not to exceed 2.25%	X				
Rules and regs to implement	X				
3. Both COLA and Bonus money to be allocated subject to Finance Council approval	X		25.0 ^a	13.5 ^a	38.5

a) If the employer contribution for unemployment insurance is reduced from 0.7 percent to 0.54 percent, SGF expenditures would be reduced by \$0.5 million and Other Funds expenditures by \$0.3 million.

* Suggested by Representatives Bunten and David Miller and Senators Hess and Hein.

April 24, 1984

KANSAS JUSTICES AND JUDGES SALARIES
FY 1985 BASE

	<u>Existing</u>	<u>Requested by the Court</u>	<u>Recommended by the Governor</u>	<u>Recommended by House Ways and Means Subcommittee</u>	<u>Recommended by Senate Ways and Means Committee</u>	<u>Adopted by Ways and Means Conference Committee</u>	<u>S.B. 795 As Amended by the Senate Com. of the Whole</u>
Chief Justice	\$55,646	\$ 61,646	\$ 61,646	\$ 58,646	\$ 61,646	\$ 58,000	\$ 60,000
Associate Justices	52,864	58,864	58,864	55,864	58,864	56,500	59,000
Chief Judge Court of Appeals	51,752	54,752	54,752	53,252	54,752	56,000	58,500
Associate Judges	50,639	53,639	53,639	52,139	53,639	54,500	57,500
Administrative District Judge	49,526	49,526	49,526	49,526	49,526	49,526	51,000
District Court Judge	48,969	48,969	48,969	48,969	48,969	48,969	50,000
Administrative Associate District Judges	47,300	47,300	47,300	47,300	47,300	47,300	49,000
Associate District Judge	46,743	46,743	46,743	46,743	46,743	46,743	48,000
Magistrate Judge	21,146	21,146	21,146	21,146	21,146	21,146	--

PROPOSED AMENDMENTS TO S.B. NO. 872
For Consideration by House Ways and Means

"AN ACT making and concerning appropriations for the fiscal years ending June 30, 1985, June 30, 1986, and June 30, 1987, to initiate and complete certain capital improvement projects for the department of corrections, state correctional-vocational training center, state industrial reformatory, Kansas state penitentiary, department of administration, Parsons state hospital and training center and Osawatomie state hospital; authorizing certain transfers, imposing certain restrictions and limitations, and directing or authorizing disbursements and acts incidental to the foregoing."

Be amended:

On page 1, in line 29, after "ending" by inserting "June 30, 1984,"; in line 40, by striking "and" where it appears for the last time and inserting in lieu thereof a comma; in line 42, after "beds" by inserting "and to plan for a new correctional facility"; in line 46, after "projects" by inserting "and the following purposes"; in line 47, by striking "year" and inserting in lieu thereof "years";

On page 2, following line 60 by inserting the following material to read as follows:

"Study of the feasibility of converting existing buildings and institutions for use by the department of corrections

For the fiscal year ending June 30, 1984..... 100,000

Provided, That any unencumbered balance in excess of \$100 as of June 30, 1984, is hereby reappropriated for fiscal year 1985.

Planning for new correctional facility

For the fiscal year ending June 30, 1984..... 175,000

Provided, That any unencumbered balance in excess of \$100 as of June 30, 1984, is hereby reappropriated for fiscal year 1985: Provided, however, That no expenditure shall be made from this account except upon approval of the state finance council acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c and amendments thereto.";

Also on page 2, in line 83, by striking "a"; also in line 83, by striking "project" and inserting in lieu thereof "projects"; in line 84, preceding the comma by inserting ", to acquire and install a standby generator and to renovate a Kansas correctional industries building"; in line 87, by striking "project" and inserting in lieu thereof "projects and the following purposes"; following line 92, by inserting the following material to read as follows:

"Acquire and install standby generator

For the fiscal year ending June 30, 1985..... 382,815

Operating expenditures

For the fiscal year ending June 30, 1984..... 72,900

For the fiscal year ending June 30, 1985..... 236,500

(c) The above agency is hereby authorized to initiate and complete and to negotiate and enter into contracts for a capital improvement project to renovate a Kansas correctional industries building for additional bedspace and to make expenditures from the operating expenditures account of the state general fund for such project. Such contracts shall not be subject to the competitive bid requirements of K.S.A. 75-3739 to 75-3741, inclusive, and amendments thereto.

(d) The position limitation established by section 12 of chapter 7 of the 1983 Session Laws of Kansas for the state industrial reformatory is hereby increased from 305.5 to 317.5.

(e) The position limitation established by section 12 of 1984 Senate Bill No. 552 for the state industrial reformatory is hereby increased from 328.5 to 340.5."

On page 3, in line 103, by striking "and" and inserting in lieu thereof a comma; also in line 103, preceding the comma by inserting "and to renovate the upper level of the laundry building for additional bedspace"; in line 106, after "projects" by inserting "and the following purposes"; in line 112, by striking "2,779,500" and inserting in lieu thereof "2,799,500"; following line 143, by inserting the following material to read as follows:

"Operating expenditures

For the fiscal year ending June 30, 1984.....	\$92,700
For the fiscal year ending June 30, 1985.....	231,500

(c) The above agency is hereby authorized to initiate and complete and to negotiate and enter into contracts for a capital improvement project to renovate the upper level of the laundry building for additional bedspace and to make expenditures from the operating expenditures account of the state general fund for such project. Such contracts shall not be subject to the competitive bid requirements of K.S.A. 75-3739 to 75-3741, inclusive, and amendments thereto.

(d) The position limitation established by section 3(b) of 1984 Senate Bill No. 495 for the Kansas state penitentiary is hereby increased from 431.5 to 443.5.

(e) The position limitation established by section 12 of 1984 Senate Bill No. 552 for the Kansas state penitentiary is hereby increased from 525.5 to 537.5.

Sec. 6.

KANSAS CORRECTIONAL INSTITUTION AT LANSING

(a) The above agency is hereby authorized to initiate and complete a capital improvement project to plan and construct a food service facility, 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 project and for the fiscal years specified as follows:

Plan and construct food service facility

For the fiscal year ending June 30, 1985.....	\$200,041
For the fiscal year ending June 30, 1986.....	394,144";

And by renumbering sections accordingly;

On page 4, following line 190 by inserting the following material to read as follows:

"Sec. 10.

MENTAL HEALTH AND RETARDATION SERVICES

(a) There is appropriated for the above agency from the state

general fund for the fiscal years specified, the following:

Study of the feasibility of converting existing buildings and institutions for use by the department of corrections

For the fiscal year ending June 30, 1984..... \$50,000

Provided, That any unencumbered balance in excess of \$100 as of June 30, 1984, is hereby reappropriated for fiscal year 1985.

Sec. 11. Appeals to exceed position limitations. The limitations imposed by this act on the number of full-time and regular part-time positions equated to full-time, excluding seasonal and temporary positions, paid from appropriations made in this act or in any appropriation act of the 1983 regular session of the legislature or in any other appropriation act of the 1984 regular session of the legislature may be exceeded upon approval of the state finance council acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c and amendments thereto.";

Also on page 4, by renumbering section 9 as section 12, respectively;

Also on page 4, in line 193, by striking "July 1, 1984, and"; also in line 193, by striking "statute"; in line 194, by striking "book" and inserting in lieu thereof "Kansas register";

On page 1, in the title, in line 19, after "ending" by inserting "June 30, 1984,"; by striking all in line 20; in line 23, preceding "department" by inserting "Kansas correctional institution at Lansing,"; in line 24, by striking "and" where it appears for the last time and inserting in lieu thereof a comma; also in line 24, preceding the semicolon by inserting "and mental health and retardation services"; in line 26, after "disbursements" by inserting ", capital improvement projects";

And the bill be passed as amended.

Chairperson

SB 858

MEMORANDUM

April 17, 1984

TO: House Select Committee on Corrections
FROM: Kansas Legislative Research Department
RE: Sentencing Laws

This memorandum lists sentences for felonies under current law, those sentences which existed prior to July 1, 1982, and those sentences as proposed under 1984 S.B. 858. The memorandum also briefly discusses other statutes having an impact on sentencing including the mandatory firearms sentencing law; the habitual violator law; and the multiple (consecutive versus concurrent) sentencing law. The good time credits statute is also briefly summarized.

Sentences For Felonies

(K.S.A. 1983 Supp. 21-4501)

Class	Current Law		S.B. 858		Prior to July 1, 1982	
	Minimum	Maximum	Minimum	Maximum	Minimum	Maximum
A	Life	—	Same	—	Same	—
B	5-15	20-Life	Same	Same	Same	Same
C	3-5	10-20	Same	Same	1-5	10-20
D	2-3	5-10	Same for Art. 34-36 of K.S.A. Chap. 21 Crimes		1-3	5-10
			All Other			
			1-3	2-10		
E	1-2	2-5	1*	2-5	1	2-5

* Section 1 of S.B. 858 establishes a presumptive sentence of probation for persons convicted of a class E felony for crimes other than those specified in Article 34 (crimes against persons); Article 35 (sex offenses); and Article 36 (crimes involving family relationships and children) of Chapter 21 of the K.S.A.'s.

(Unclassified class E felonies carry the sentence specified by statute, otherwise, the sentence for a class E felony applies.)

The following laws also have an impact on sentencing.

Listed on page 2
of minutes

Habitual Criminal Act (K.S.A. 1983 Supp. 21-4504)

The court is given discretion, upon motion by the prosecutor, if a defendant is convicted of a felony a second time, to impose a sentence of not less than the least nor more than twice the greatest minimum sentence authorized and not less than the least nor more than twice the greatest maximum sentence allowed under K.S.A. 1983 Supp. 21-4501. The court must impose upon a defendant convicted of a third or subsequent felony offense, if requested by the prosecutor, a minimum sentence of not less than the greatest nor more than three times the greatest minimum sentence authorized and not less than the least nor more than three times the greatest maximum sentence for the crime as provided in K.S.A. 1983 Supp. 21-4501.

Mandatory Firearm Sentence Act (K.S.A. 21-4618)

A defendant convicted of the crime of rape, aggravated criminal sodomy, or any crime set out in Article 34 (crimes against persons) of Chapter 21 of the K.S.A.s while using a firearm shall be sentenced to not less than the minimum sentence authorized for that crime. Probation or suspension of sentence shall not be allowed.

Multiple Sentences (K.S.A. 1983 Supp. 21-4608)

Persons convicted of a felony committed while they were on probation, parole, or conditional release shall serve the sentence for the new crime consecutively with that for the prior offense. Any person convicted of any crime committed while on bail shall serve the sentence consecutively. Any person incarcerated and serving a sentence for a felony shall serve the sentence consecutively for any crime committed while incarcerated.

The following is a brief summary of the good time credit statute.

Good Time Credits (K.S.A. 1983 Supp. 22-3717)

Inmates including those sentenced under the mandatory firearms sentencing law but not those convicted of a class A felony shall be eligible for parole after serving their minimum sentence less good time credits. Good time credits are credits of one day for every three days served and one month for every year served. 1984 H.B. 2781, which has been signed by the Governor, permits inmates to receive meritorious good time credits of not more than 90 days per meritorious act. These acts include aiding another in a life threatening situation, preventing injury or death of a person, preventing the destruction of property or taking actions which result in a financial saving to the state. Meritorious good time credits are in addition to good time credits.

MEMORANDUM

April 16, 1984

FROM: Kansas Legislative Research Department
RE: Classification of Crimes

The following is a listing of all felony crimes according to their classifications which appear in Kansas Statutes Annotated (K.S.A.). Also listed are all misdemeanor crimes which appear in Chapter 21 of the K.S.A. *

Class A Felony (5)

Murder in the First Degree (K.S.A. 21-3401)
Aggravated Kidnapping (K.S.A. 21-3421)
Aircraft Piracy (K.S.A. 21-3433)
Treason (K.S.A. 21-3801)
Selling Narcotics - Third and Subsequent Offense (K.S.A. 65-4127a)

Class B Felony (10)

Attempt to Commit a Class A Felony (K.S.A. 21-3301)
Murder in the Second Degree (K.S.A. 21-3402)
Aggravated Battery on a Law Enforcement Officer (K.S.A. 21-3415)
Kidnapping (K.S.A. 21-3420)
Aggravated Robbery (K.S.A. 21-3427)
Rape (K.S.A. 21-3502)
Aggravated Indecent Liberties With a Child (K.S.A. 21-3504)
Aggravated Criminal Sodomy (K.S.A. 21-3506)
Aggravated Arson (K.S.A. 21-3719)
Selling Narcotics - Second Offense (K.S.A. 65-4127a)

Class C Felony (14)

Attempt to Commit a Class B Felony (K.S.A. 21-3301)
Voluntary Manslaughter (K.S.A. 21-3403)
Aggravated Assault on a Law Enforcement Officer (K.S.A. 21-3411)
Aggravated Battery (K.S.A. 21-3414)
Attempted Poisoning (K.S.A. 21-3417)
Robbery (K.S.A. 21-3426)
Indecent Liberties With a Child (K.S.A. 21-3503)
Aggravated Burglary (K.S.A. 21-3716)
Arson (K.S.A. 21-3718)
Grain Embezzlement (K.S.A. 21-3753)
Obtaining a Prescription-Only Drug by Fraudulent Means for Resale (K.S.A. 21-4215)
Kickbacks to Persons for Loans Received From Investment Companies, Embezzlement, Falsification of Records (K.S.A. 16-601(19), (20) and (21))
Selling Narcotics (K.S.A. 65-4127a)
Sale of Depressant, Stimulant or Hallucinogenic Drug (K.S.A. 65-4127b)

Class D Felony (31)

Attempt to Commit a Class C Felony (K.S.A. 21-3301)
Criminal Solicitation of an A or B Felony (K.S.A. 21-3303)
Involuntary Manslaughter (K.S.A. 21-3404)
Criminal Abortion (K.S.A. 21-3407)
Aggravated Assault (K.S.A. 21-3410)
Enticement of a Child (K.S.A. 21-3509)
Aggravated Sexual Battery (K.S.A. 21-3518)
Aggravated Incest (K.S.A. 21-3603)
Theft (\$100) (K.S.A. 21-3701)
Theft of Services (\$100) (K.S.A. 21-3704)

* A computer search revealed there are 695 statutes other than those contained in Chapter 21 of the K.S.A.'s where the word "misdemeanor" appears.

Habitually Giving Worthless Checks (K.S.A. 21-3708)
Forgery (K.S.A. 21-3710)
Making a False Writing (K.S.A. 21-3711)
Burglary (K.S.A. 21-3715)
Throwing Rocks or Other Objects From Bridge Onto Street (K.S.A. 21-3742)
Sedition (K.S.A. 21-3802)
Perjury (if Statement Made During Trial of a Felony) (K.S.A. 21-3805)
Aggravated Interference With Conduct of Public Business (K.S.A. 21-3829)
Bribery (K.S.A. 21-3901)
Misuse of Public Funds (K.S.A. 21-3910)
Incitement to Riot (K.S.A. 21-4105)
Unlawful Possession of Firearm (by Felon) (K.S.A. 21-4204)
Unlawful Possession of Explosives (K.S.A. 21-4209a)
Promoting Obscenity to Minors (K.S.A. 21-4301a) (Third Offense)
Racketeering (K.S.A. 21-4401)
Fraudulent Claims Against Certain Water Districts (K.S.A. 19-3519)
Election Bribery (K.S.A. 25-2409)
Election Bribery (K.S.A. 25-2417)
Election Bribe Acceptance (K.S.A. 25-2418)
Willful Violation of Disposal of Hazardous Waste Law (K.S.A. 65-3441)
Unlawful Possession or Distribution of Depressant, Stimulant or Hallucinogenic Drug - Second Offense
(K.S.A. 65-4127b)

Class E Felony (93)

Third and Subsequent Conviction for Driving With a Revoked or Suspended License (K.S.A. 8-262)
Habitual Violator Who Operates Motor Vehicle (K.S.A. 8-287)
Fleeing From Police Officer in Motor Vehicle - Third and Subsequent Offense
(K.S.A. 8-1568)
Attempt to Commit a Class D or E Felony (K.S.A. 21-3301)
Criminal Solicitation (K.S.A. 21-3303) (of a Felony Other Than a Class A or B Felony)
Assisting Suicide (K.S.A. 21-3406)
Terroristic Threat (K.S.A. 21-3419)
Aggravated Interference With Parental Custody (K.S.A. 21-3422a)
Blackmail (K.S.A. 21-3428)
Aggravated Indecent Solicitation of a Child (K.S.A. 21-3511)
Habitually Promoting Prostitution (K.S.A. 21-3514)
Sexual Exploitation of a Child (K.S.A. 21-3516)
Bigamy (K.S.A. 21-3601)
Incest (K.S.A. 21-3602)
Abandonment of a Child (K.S.A. 21-3604)
Nonsupport of a Child or Spouse (K.S.A. 21-3605)
Criminal Desertion (K.S.A. 21-3606)
Abuse of a Child (K.S.A. 21-3609)
Aggravated Juvenile Delinquency (K.S.A. 21-3611)
Contributing to a Child's Misconduct or Deprivation (K.S.A. 21-3612)
Giving a Worthless Check (\$50 or More) (K.S.A. 21-3707)
Destroying a Written Instrument (K.S.A. 21-3712)
Altering a Legislative Document (K.S.A. 21-3713)
Possession of Forgery Devices (K.S.A. 21-3714)
Possession of Burglary Tools (K.S.A. 21-3717)
Criminal Damage to Property (\$100 or More) (K.S.A. 21-3720)
Aggravated Tampering With a Traffic Signal (K.S.A. 21-3726)
Unlawful Use of Financial Card (\$50 or More) (K.S.A. 21-3729)
Criminal Use of Explosives (K.S.A. 21-3731)
Impairing a Security Interest (\$50 or More) (K.S.A. 21-3734)
Fraudulent Release of a Security Agreement (K.S.A. 21-3735)
Warehouse Receipt Fraud (K.S.A. 21-3736)
Throwing Rocks or Other Objects From Bridge Onto Street (K.S.A. 21-3742)
Theft of Telecommunication Services (\$50 or More) (K.S.A. 21-3745)
Piracy of Sound Recordings (K.S.A. 21-3748)
Practicing Criminal Syndicalism (K.S.A. 21-3803)
Perjury (Other Than a Felony Trial) (K.S.A. 21-3805)
Corruptly Influencing a Witness (K.S.A. 21-3806)
Compounding a Crime (K.S.A. 21-3807)
Obstructing Legal Process (Felony Cases) (K.S.A. 21-3808)
Aggravated Escape From Custody (K.S.A. 21-3810)
Aiding Escape (K.S.A. 21-3811)
Aiding a Felon (K.S.A. 21-3812)
Aggravated Failure to Appear (K.S.A. 21-3814)
Attempting to Influence a Judicial Officer (K.S.A. 21-3815)
Corrupt Conduct by Juror (K.S.A. 21-3817)
Aggravated False Impersonation (K.S.A. 21-3825)

Traffic in or Unauthorized Possession or Distribution of Contraband in Penal Institutions (K.S.A. 21-3826)
Aggravated Intimidation of a Witness (K.S.A. 21-3833)
Presenting a False Claim (\$50 or More) (K.S.A. 21-3904)
Permitting a False Claim (\$50 or More) (K.S.A. 21-3905)
Unlawful Use of Weapon (Only Automatic Weapons) (K.S.A. 21-4201)
Aggravated Weapons Violation (K.S.A. 21-4202)
Obtaining Prescription-Only Drug by Fraudulent Means (Second Offense) (K.S.A. 21-4214)
Promoting Obscenity (Third Offense) (K.S.A. 21-4301)
Promoting Obscenity to Minors (Second Offense) (K.S.A. 21-4301a)
Commercial Gambling (K.S.A. 21-4304)
Dealing in Gambling Devices (K.S.A. 21-4306)
Installing Communication Facilities for Gamblers (K.S.A. 21-4308)
Commercial Bribery (K.S.A. 21-4405)
Sports Bribery (K.S.A. 21-4406)
Tampering With a Sports Contest (K.S.A. 21-4408)
Unlawful Conduct of Pit Dog Fighting (K.S.A. 21-4315)
Election Perjury (K.S.A. 25-2411)
Election Forgery (K.S.A. 25-2412)
Possessing False or Forged Election Supplies (K.S.A. 25-2414)
Election Fraud (K.S.A. 25-2420)
Election Suppression (K.S.A. 25-2421)
Unauthorized Voting Disclosure (K.S.A. 25-2422)
Election Tampering (K.S.A. 25-2423)
Voting Machine Fraud (K.S.A. 25-2425)
Printing and Circulating Imitation Ballots (K.S.A. 25-2426)
Destruction of Election Supplies (K.S.A. 25-2428)
Destruction of Election Papers (K.S.A. 25-2429)
False Impersonation of a Voter (K.S.A. 25-2431)
Electronic Voting Fraud (K.S.A. 25-4414)
Optical Scanning Equipment Fraud (K.S.A. 25-4612)
Improper Issuance of a Negotiable Grain Receipt by a Warehouseman (K.S.A. 34-293)
Improper Grain Receipt Negotiation Where a Lien or No Title (K.S.A. 34-295)
Defrauding an Innkeeper Over \$50 (K.S.A. 36-206)
Illegal Disposition or Purchase of Welfare Assistance (K.S.A. 39-717)
Failure to Plug Oil and Gas Wells (K.S.A. 55-156)
Failure to Cement in the Surface Casing of an Oil or Gas Well (K.S.A. 55-157)
Unlawful Disposal of Salt Water From Oil and Gas Wells - Second and Subsequent Offenses (K.S.A. 55-904)
Uniform Land Sales Practices Act Violation (K.S.A. 58-3315)
Fraudulent Violation of Meat and Poultry Regulations (K.S.A. 65-6a40)
False Swearing - Kansas Healing Arts Act (K.S.A. 65-2861)
Forgery of Declaration of Withholding Life-Sustaining Procedures (K.S.A. 65-28,107)
Unlawful Disposal of Hazardous Waste (K.S.A. 65-3441)
Simulated Controlled Substances and Drug Paraphernalia Violation (K.S.A. 65-4153)
Representation of a Noncontrolled Substance as a Controlled Substance (K.S.A. 65-4155)
Falsification of Fingerprints or Photographs Required Under Private Detective Act (K.S.A. 75-7b19)
Signing a Fraudulent Income Tax Return (K.S.A. 79-3228)

Unclassified Felonies (20)

Alteration or Knowing Possession of a Fraudulent Motor Vehicle Title (K.S.A. 8-113) - 1 to 5 years
Alteration of a Vehicle Engine Identification Number (K.S.A. 8-116) - 2 to 5 years
Violation of Free Competition in Financing Motor Vehicles (K.S.A. 8-607) - 1 to 5 years
False Bank Reporting (K.S.A. 9-2002) - 3 to 10 years
Accepting Deposits by an Insolvent Bank (K.S.A. 9-2010) - 1 to 5 years
Bank Embezzlement (K.S.A. 9-2012) - 3 to 50 years
Payment of Dividends When Savings and Loan Capital Impaired (K.S.A. 17-5412) - 1 to 5 years
Receiving Payment on Savings and Loan Shares When Capital Impaired (K.S.A. 17-5811) - 1 to 5 years
Fraudulent Acts of Saving and Loan Officers and Employees (K.S.A. 17-5812) - 1 to 5 years
Liquor in Bond Violation (K.S.A. 41-405) - Not to Exceed 10 years
Intentional Violations by Corporate Officer or Labor Union Official of K.S.A. 44-601 Regulating Labor and Industry (K.S.A. 44-619) - Not to Exceed 2 years
Unlawful Branding of Livestock (K.S.A. 47-421) - Not to Exceed 5 years
Operating a "Bucket Shop" (K.S.A. 50-122) - 2 to 5 years
Commodities Gambling (K.S.A. 50-123) - 2 to 5 years
Transmitting Messages For Pretended Purchases of Commodities (K.S.A. 50-124) - 2 to 5 years
Accessory for Commodities Gambling or Transmitting Messages for Pretended Commodities Purchases (K.S.A. 50-125) - 2 to 5 years
Falsification of Common Carrier or Public Utility Records (K.S.A. 66-137) - 1 to 3 years
Mishandling of Public Funds by State Treasurer or Director of Accounts and Reports (K.S.A. 75-4228) - 2 to 5 years
Unauthorized Disbursement of Public Funds by State Treasurer, Director of Accounts and Reports or Local Government Disbursing Officer (K.S.A. 75-4314) - Not to Exceed 5 years
Cereal Malt Beverage Unlawful Stamping (K.S.A. 79-3834) - 2 to 10 years

Class A Misdemeanor (65)

Vehicular Homicide (K.S.A. 21-3405)
Assault of a Law Enforcement Officer (K.S.A. 21-3409)
Battery Against a Law Enforcement Officer (K.S.A. 21-3413)
Interference With Parental Custody (K.S.A. 21-3422)
Interference With the Custody of a Committed Person (K.S.A. 21-3423)
Unlawful Restraint (K.S.A. 21-3424)
Mistreatment of a Confined Person (K.S.A. 21-3425)
Disclosure of Income Tax Return Information (K.S.A. 21-3430)
Indecent Solicitation of a Child (K.S.A. 21-3510)
Promoting Prostitution (K.S.A. 21-3513)
Sexual Battery (K.S.A. 21-3517)
Endangering a Child (K.S.A. 21-3608)
Contributing to a Child's Misconduct or Deprivation (K.S.A. 21-3612)
Theft (Less Than \$100) (K.S.A. 21-3701)
Theft of Lost or Mislaid Property (K.S.A. 21-3703)
Theft of Services (Less Than \$100) (K.S.A. 21-3704)
Unlawful Deprivation of Property (K.S.A. 21-3705)
Fraudulently Obtaining Execution of a Document (K.S.A. 21-3706)
Giving a Worthless Check (Less Than \$50) (K.S.A. 21-3707)
Causing an Unlawful Prosecution for Worthless Checks (K.S.A. 21-3709)
Criminal Damage to Property (Less Than \$100) (K.S.A. 21-3720)
Injury to Domestic Animal (K.S.A. 21-3727)
Unlawful Use of Financial Card (Less Than \$50) (K.S.A. 21-3729)
Possession or Transportation of Incendiary or Explosive Device (K.S.A. 21-3732)
Criminal Use of Noxious Matter (K.S.A. 21-3733)
Impairing a Security Interest (K.S.A. 21-3734)
Unauthorized Delivery of Stored Goods (K.S.A. 21-3737)
Opening, Damaging, or Removing Coin-Operated Machines (K.S.A. 21-3740)
Possession of Tools for Opening, Damaging, or Removing Coin-Operated Machines (K.S.A. 21-3741)
Throwing Rocks or Other Objects From Bridge Onto Street (K.S.A. 21-3742)
Theft of Telecommunication Services (Less Than \$50) (K.S.A. 21-3745)
Dealing in Pirated Sound Recordings (K.S.A. 21-3749)
Nondisclosure of Source of Sound Recordings (K.S.A. 21-3750)
Permitting Premises to be used for Criminal Syndicalism (K.S.A. 21-3804)
Compounding a Crime (K.S.A. 21-3807)
Obstructing Legal Process (Misdemeanor Cases) (K.S.A. 21-3808)
Escape From Custody (K.S.A. 21-3809)
Interference With the Administration of Justice (K.S.A. 21-3816)
Falsely Reporting a Crime (K.S.A. 21-3818)
Simulating Legal Process (K.S.A. 21-3820)
Tampering With a Public Record (K.S.A. 21-3821)
Interference With the Conduct of Public Business in a Public Building (K.S.A. 21-3828)
Dealing in False Identification Documents (K.S.A. 21-3830)
Official Misconduct (K.S.A. 21-3902)
Presenting a False Claim (Less Than \$50) (K.S.A. 21-3904)
Permitting a False Claim (Less Than \$50) (K.S.A. 21-3905)
Discounting a Public Claim (K.S.A. 21-3906)
Eavesdropping (K.S.A. 21-4001)
Breach of Privacy (K.S.A. 21-4002)
Denial of Civil Rights (K.S.A. 21-4003)
Criminal Defamation (K.S.A. 21-4004)
Maliciously Circulating False Rumors Concerning Financial Status (K.S.A. 21-4005)
Remaining at an Unlawful Assembly (K.S.A. 21-4103)
Riot (K.S.A. 21-4104)
Giving a False Alarm (K.S.A. 21-4110)
Harassment by Telephone (K.S.A. 21-4113)
Desecration of Flags (K.S.A. 21-4114)
Desecrating a Cemetery (K.S.A. 21-4115)
Unlawful Disposal of Firearms (K.S.A. 21-4203)
Unlawful Disposal of Explosives (K.S.A. 21-4209)
Obtaining a Prescription-Only Drug by Fraudulent Means (First Offense) (K.S.A. 21-4214)
Promoting Obscenity (First and Second Offense) (K.S.A. 21-4301)
Promoting Obscenity to Minors (First Offense) (K.S.A. 21-4301a)
Illegal Bingo Operation (K.S.A. 21-4303a)
Receiving a Sports Bribe (K.S.A. 21-4407)

Class B Misdemeanor (37)

Attempt to Commit a Class A Misdemeanor (K.S.A. 21-3301)
Battery (K.S.A. 21-3412)
Unlawful Interference With a Fireman (K.S.A. 21-3416)
Permitting Dangerous Animal to be at Large (K.S.A. 21-3418)
Criminal Sodomy (K.S.A. 21-3505)
Lewd and Lascivious Behavior (K.S.A. 21-3508)
Prostitution (K.S.A. 21-3512)
Furnishing Intoxicants to a Minor (K.S.A. 21-3610)
Furnishing Cereal Malt Beverage to Minor (K.S.A. 21-3610a)
Criminal Trespass (K.S.A. 21-3721)
Unlawful Manufacture or Disposal of False Tokens (K.S.A. 21-3730)
Throwing Rocks or Other Objects From Bridge Onto Street (K.S.A. 21-3742)
Sale of Recut or Regrooved Tires (K.S.A. 21-3743)
Failure to Appear (K.S.A. 21-3813)
Performance of an Unauthorized Official Act (K.S.A. 21-3819)
False Impersonation (K.S.A. 21-3824)
Unlawful Disclosure of a Warrant (K.S.A. 21-3827)
Intimidation of a Witness or Victim (K.S.A. 21-3832)
Compensation for Past Official Acts (K.S.A. 21-3903)
Unlawful Interest in Insurance Contract (K.S.A. 21-3907)
Unlawful Procurement of Insurance Contract (K.S.A. 21-3908)
Unlawful Collection by a Judicial Officer (K.S.A. 21-3909)
Maliciously Exposing a Paroled or Discharged Person (K.S.A. 21-4006)
Unlawful Assembly (K.S.A. 21-4102)
Desecrating a Dead Body (K.S.A. 21-4112)
Unlawful Use of Weapons (K.S.A. 21-4201)
Unlawful Possession of Firearm (K.S.A. 21-4204)
Defacing Identification Marks of a Firearm (K.S.A. 21-4205)
Gambling (K.S.A. 21-4303)
Permitting Premises to be Used for Commercial Gambling (K.S.A. 21-4305)
Failure to Register Sale of Explosives (K.S.A. 21-4207)
Creating a Hazard (K.S.A. 21-4212)
Possession of a Gambling Device (K.S.A. 21-4307)
Cruelty to Animals (K.S.A. 21-4310)
Debt Adjusting (K.S.A. 21-4402)
Deceptive Commercial Practices (K.S.A. 21-4403)
Tie-In Magazine Sale (K.S.A. 21-4404)

Class C Misdemeanor (28)

Attempt to Commit a Class B or C Misdemeanor (K.S.A. 21-3301)
Assault (K.S.A. 21-3408)
Adultery (K.S.A. 21-3507)
Patronizing a Prostitute (K.S.A. 21-3515)
Criminal Trespass (K.S.A. 21-3721)
Tampering With a Landmark (K.S.A. 21-3724)
Tampering With a Traffic Signal (K.S.A. 21-3725)
Unlawful Hunting (K.S.A. 21-3728)
Automobile Master Key Violation (K.S.A. 21-3738)
Posting of Political Advertisements (K.S.A. 21-3739)
Theft of Cable Television Services (K.S.A. 21-3752)
Aiding a Misdemeanant (K.S.A. 21-3812)
Tampering With Public Notice (K.S.A. 21-3822)
False Signing of a Petition (K.S.A. 21-3823)
Disorderly Conduct (K.S.A. 21-4101)
Maintaining a Public Nuisance (K.S.A. 21-4106)
Permitting a Public Nuisance (K.S.A. 21-4107)
Vagrancy (K.S.A. 21-4108)
Criminal Desecration (K.S.A. 21-4111)
Failure to Register Receipt of Explosives (K.S.A. 21-4208)
Carrying Concealed Explosives (K.S.A. 21-4210)
Refusal to Yield a Telephone Party Line (K.S.A. 21-4211)
Unlawful Failure to Report a Wound (K.S.A. 21-4213)
Selling Beverage Containers With Detachable Tabs (K.S.A. 21-4216)
False Membership Claim (K.S.A. 21-4309)
Unlawful Disposition of Animals (K.S.A. 21-4312)
Knowingly Employing an Illegal Alien (K.S.A. 21-4409)
Attending the Unlawful Conduct of Pit Dog Fighting (K.S.A. 21-4315)

Unclassified Misdemeanors (4)

Littering (K.S.A. 21-3722)
Unlawful Use of State Postage (K.S.A. 21-3911)
Hypnotic Exhibition (K.S.A. 21-4007)
Smoking in Public Place (K.S.A. 21-4008)

MEMORANDUM

April 19, 1984

TO: House Select Committee on Corrections
FROM: Kansas Legislative Research Department
RE: Unclassified Sentence Terms

Unclassified Felonies (20)

Alteration or Knowing Possession of a Fraudulent Motor Vehicle Title (K.S.A. 8-113) - 1 to 5 years
Alteration of a Vehicle Engine Identification Number (K.S.A. 8-116) - 2 to 5 years
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Cereal Malt Beverage Unlawful Stamping (K.S.A. 79-3834) - 2 to 10 years

SENATE BILL No. 858

By Committee on Federal and State Affairs

3-20

0019 AN ACT concerning crimes and punishments[, *and procedures*
0020 *relating thereto*]; penalties and sentencing for certain crimes;
0021 *[diversion in lieu of further proceedings on a complaint;]*
0022 amending K.S.A. 21-3701, 21-3704, 21-3707, 21-3708, 21-3710,
0023 21-3720 and 21-3729 and K.S.A. 1983 Supp. 21-4501 *[and*
0024 *22-2908]* and repealing the existing sections.

0025 *Be it enacted by the Legislature of the State of Kansas:*

0026 New Section 1. The presumptive sentence for a person who
0027 has never before been convicted of a felony, but has now been
0028 convicted of a class E felony shall be probation on terms the
0029 court determines, unless the conviction is of a crime specified in
0030 ~~any section of articles~~ *article* 34, 35 or 36 of chapter 21 of Kansas
0031 Statutes Annotated.

0032 Sec. 2. K.S.A. 21-3701 is hereby amended to read as follows:
0033 21-3701. Theft is any of the following acts done with intent to
0034 deprive the owner permanently of the possession, use or benefit
0035 of the owner's property:

0036 (a) Obtaining or exerting unauthorized control over property;

0037 or

0038 (b) Obtaining by deception control over property; or

0039 (c) Obtaining by threat control over property; or

0040 (d) Obtaining control over stolen property knowing the
0041 property to have been stolen by another.

0042 Theft of property of the value of ~~one hundred dollars (\$100)~~
0043 ~~\$3,000~~ \$150 or more is a class ~~D~~ E felony. Theft of property of the
0044 value of less than ~~one hundred dollars (\$100)~~ ~~\$3,000 and more~~
0045 ~~than \$200 is a class E felony. Theft of property of the value of~~
0046 ~~\$200 or less~~ \$150 is a class A misdemeanor, *except that theft of*

In determining whether to impose the presumptive sentence, the court shall consider any prior record of the person's having been arrested, convicted or taken into custody for or adjudicated to have committed an offense as a juvenile.

5

0121 section K.S.A. 21-3707 and amendments thereto, each drawn for
0122 less than fifty dollars (~~\$50~~) ~~\$200 or less~~, where ~~less than~~ \$150, if
0123 the total amount for which such worthless checks are drawn is
0124 fifty dollars (~~\$50~~) or more ~~more than \$200~~ \$150 or more and each
0125 of such checks was given on the same day.

0126 (2) A complaint, information or indictment charging a viola-
0127 tion of subsection (1) (a) shall allege specifically that the de-
0128 fendant has twice been convicted of giving a worthless check
0129 and shall allege the dates and places of such convictions and that
0130 both of them occurred within a period of two (~~2~~) years immedi-
0131 ately preceding the crime charged. For the purpose of subsection
0132 (1) (b) worthless checks bearing the same date shall be presumed
0133 to have been given the same day. Any complaint, information or
0134 indictment charging a violation of this section shall allege that
0135 the defendant feloniously committed the crime.

0136 (3) Habitually giving worthless checks is a class ~~D~~ E felony.

0137 Sec. 6. K.S.A. 21-3710 is hereby amended to read as follows:
0138 21-3710. (1) Forgery is knowingly and with intent to defraud:

0139 (a) Making, altering or endorsing any written instrument in
0140 such manner that it purports to have been made, altered or
0141 endorsed by another person, either real or fictitious, and if a real
0142 person without the authority of such real person; or altering any
0143 written instrument in such manner that it purports to have been
0144 made at another time or with different provisions without the
0145 authority of the maker thereof; or making, altering or endorsing
0146 any written instrument in such manner that it purports to have
0147 been made, altered or endorsed with the authority of one who
0148 did not give such authority; or

0149 (b) Issuing or delivering such written instrument knowing it
0150 to have been thus made, altered or endorsed; or

0151 (c) Possessing, with intent to issue or deliver, any such writ-
0152 ten instrument knowing it to have been thus made, altered or
0153 endorsed.

0154 (2) Forgery in the value of \$3,000 or more is a class ~~D~~ E
0155 felony. Forgery in the value of less than \$3,000 and more than
0156 \$200 is a class E felony. Forgery in the value of less than \$200 is
0157 a class A misdemeanor.

0232 the maximum of which shall be fixed by the court at not less than
0233 10 years nor more than 20 years.

0234 (d) Class D, the sentence for which shall be an indeterminate
0235 term of imprisonment, the minimum of which shall be fixed by
0236 the court at as follows:

0237 (1) For a crime specified in article 34, 35 or 36 of chapter 21
0238 of the Kansas Statutes Annotated, a minimum of not less than
0239 two years nor more than three years and a maximum of not less
0240 than five years nor more than 10 years; and

0241 (2) for any other crime, a minimum of not less than two years
0242 one year nor more than three years and the maximum of which
0243 shall be fixed by the court at a maximum of not less than five ~~two~~ five
0244 years nor more than ~~10 three~~ 10 years.

0245 (e) Class E, the sentence for which shall be an indeterminate
0246 term of imprisonment, the minimum of which shall be fixed by
0247 the court at not less than one year ~~nor more than two years~~ and
0248 the maximum of which shall be fixed by the court at not less than
0249 ~~two years one year~~ two years ~~nor more than five two five~~ years.

0250 (f) Unclassified felonies, which shall include all crimes de-
0251 clared to be felonies without specification as to class, the sen-
0252 tence for which shall be in accordance with the sentence speci-
0253 fied in the statute that defines the crime. If no sentence is
0254 provided in the statute, the offender shall be sentenced as for a
0255 class E felony.

0256 *New Sec. 10. (a) The minimum terms of imprisonment es-*
0257 *tablished by subsections (d) and (e) of K.S.A. 21-4501 and*
0258 *amendments thereto shall apply retrospectively to individuals*
0259 *sentenced for crimes committed on or after July 1, 1982, but the*
0260 *changes made by this act in classifications of crimes shall apply*
0261 *only to crimes committed on or after the effective date of this*
0262 *act.*

0263 ~~(b) If an individual has been sentenced to a minimum term of~~
0264 ~~imprisonment of more than one year for a class E felony com-~~
0265 ~~mitted on or after July 1, 1982, and if the sentence was imposed~~
0266 ~~before the effective date of this act, the individual's minimum~~
0267 ~~term of imprisonment shall automatically be reduced to one~~
0268 ~~year.~~

0269 ~~(c)~~ If an individual has been sentenced to a minimum term of
 0270 imprisonment of more than one year for a class D felony, other
 0271 than a class D felony specified in article 34, 35 or 36 of chapter
 0272 21 of the Kansas Statutes Annotated, which was committed on or
 0273 after July 1, 1982, and if the sentence was imposed before the
 0274 effective date of this act, the sentencing court shall review the
 0275 individual's sentence within 60 days after the effective date of
 0276 this act. Upon review, the sentencing court may reduce the
 0277 individual's minimum term of imprisonment within the limits
 0278 provided by subsection (d) of K.S.A. 21-4501 and amendments
 0279 thereto.

(b)

or E

0280 ~~(d)~~ If an individual's minimum term of imprisonment is
 0281 reduced pursuant to this section, the individual shall be eligible
 0282 for parole as provided by K.S.A. 22-3717 and amendments
 0283 thereto, based upon the individual's reduced minimum term of
 0284 imprisonment.

(c)

0285 ~~(c)~~ If an individual's minimum term of imprisonment is re-
 0286 duced pursuant to this section and the individual has had a
 0287 parole eligibility hearing based on the individual's minimum
 0288 term of imprisonment before reduction pursuant to this section,
 0289 the individual shall be scheduled for a parole hearing within 60
 0290 days after the reduction of the individual's minimum term of
 0291 imprisonment pursuant to this section.

(d)

0292 [Sec. 11. K.S.A. 1983 Supp. 22-2908 is hereby amended to
 0293 read as follows: 22-2908. (1) In determining whether diversion of
 0294 a defendant is in the interests of justice and of benefit to the
 0295 defendant and the community, the county or district attorney
 0296 shall consider at least the following factors among all factors
 0297 considered:

0298 [(a) The nature of the crime charged and the circumstances
 0299 surrounding it;

0300 [(b) any special characteristics or circumstances of the de-
 0301 fendant;

0302 [(c) whether the defendant is a first-time offender and if the
 0303 defendant has previously participated in diversion, according to
 0304 the certification of the Kansas bureau of investigation or the
 0305 division of vehicles of the state department of revenue;

In determining whether to impose the presumptive sentence, the court shall consider any prior record of the person's having been convicted or adjudicated to have committed an offense as a juvenile for an offense that would be considered a felony if a person were an adult.

Research & Data, Inc.

200 WEST 30TH
VAN BUREN BLDG.
SUITE 204
TOPEKA, KAN. 66611

4-12-84

PHONES
TOPEKA, KAN. (913) 267-4931
LAWRENCE, KAN. (913) 841-3902
LELAND W. ATTEBERRY, President

To: The House Ways & Means Committee

RE: **SENATE BILL 858** concerning crimes and punishments--raising the felony limits on many crimes to the starting of \$150; and the first conviction of some class E felonies SHALL result ONLY in probation.

Research & Data represents over 200 various businesses and banks who are prime targets for crime. Statistics show that 85% of crimes involving money are done against businesses. These losses from crimes constitute the second cause of bankruptcy in the United States. We have found that TOUGH criminal laws are a deterrent to crimes.. "They didn't do anything to me", "They don't put me in jail", are continual excuses from many criminal repeaters. First time offenders see this from other offenders, therefore using this as an excuse to commit more crimes. Many, many offenders have TOLD US THIS.

We do NOT support Senate Bill 858. This bill would be of great help to the CRIMINAL in making his crimes less expensive and a whole lot easier. It is known that a misdemeanor crime is much less expensive for the criminal to fight--attorney fees, court costs, bonding fees being much lower. Plus the odds of being incarcerated are much less, the punishment element would lessen, even on a Class E felony conviction for the first time offender in many crimes. With the punishment of the first Class E felony being ONLY probation, those criminals would have a lot more chances to do his crimes before ANY severe punishment MIGHT be had, if caught finally. So he is going to take more chances--and there will be more victims, more dollars and property lost and damaged.

Few misdemeanors are fingerprinted and photoed at the time of the arrest for the crimes, so it would be so easy to county "hop" or state "hop" and the other counties and states would not know where the offender had broken the law. Again, that would be to the advantage of the criminal, making his crimes more profitable.

\$10,500,000.00 is the annual estimated loss in Topeka for shoplifting each year. Ten years ago one store average loss was \$45,000 per year. Now that loss is averaging \$77,000.00. This is the thieves' cost of living increase--he doesn't need any more given to him thru the legislature making things easier for him thru "easier" laws and lesser penalties.

The tax dollar from this \$10,500,000 per year would be quite beneficial to building more Penitentiaries--if we had it as a profit, rather than a loss item. That figure will go much, much higher when YOU give the criminal the additional advantages for his crimes. It will also increase the costs of merchandise--the consumer having to pay it.

One out of every 10 customers are now estimated to be a shoplifter. Only 10 years ago it was one out of every 60 customers.

A survey of highschool students showed that out of 1000 interviewed--472 students admitted to shoplifting. 27% were caught. Out of this 27%, 73% said they did it again. Only 25% said they only shoplifted once. The others averaged 27 times each!

Losses in some stores equal .7% to 4.5% of total sales. In some self service stores it is 10% of sales. Some stores the PROFITS equal the LOSSES. Some business **LOSSES** have been greater than the profits and those businesses are no longer in business.

6

RE: Senate Bill 858
From: Research & Data, Inc..4-12-84. p.2.

Three big black trash bags containing over \$1000 in stolen merchandise shoplifted from 4 Topeka stores were found in a shoplifter's car one night recently when she was finally caught in Topeka--with a \$66 item. Only the \$66 item could be prosecuted on-- a misdemeanor crime. She may get a fine of \$50 or so, or placed on a diversionary sentence BECAUSE SHE DID NOT USE HER TRUE NAME WHEN CAUGHT. She had several pieces of ID in DIFFERENT NAMES, but none showed WHO SHE REALLY WAS. She did not get mugged and FINGERPRINTED at the time of the arrest--which is the usual procedure in a misdemeanor shoplifting arrest in Topeka and some other Kansas towns.. However, the alert security officer who caught her remembered he had previously caught her at another store about 4 years before and from that name her true identity was found. A search of records however, showed she had been convicted of that theft--under the other name--but only fined \$25 (the court did NOT know her previous record as she still had used another different name)... It was found that she had been arrested numerous times in Missouri as well as Kansas since the 1960s. She had used at least 33 names, numerous driver licenses and social security numbers in various names. She had spent very little time incarcerated in jail or elsewhere. However, she was on PAROLE from Missouri Pen at this time. (Missouri does have a law similar to the Senate Bill 648 which passed the Senate this 1984 legislature. This SB 648 bill is included in SB 858 --see line 42 thru 58-- which is good)...She was wanted on MISDEMEANOR THEFTS in 2 other Kansas counties under different names. At \$1000 a day, this lady has quite a profitable business going. A fine of \$25 or \$50 is a small expense for one day in \$1000 in thefts..WHAT IS THIS UNSEEN SHOPLIFTING COSTING THESE BUSINESSES & CONSUMERS???

Sure, restitution is usually included in cases of probation. However, it is not always recovered. \$81,000.00 was reported to the District Attorney in Shawnee county in 1983, on bad checks. \$26,000 was paid back in restitution thru court services in 1983.

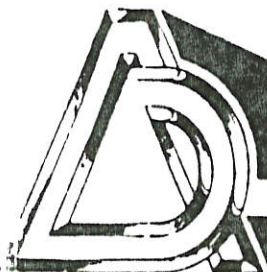
Probation officers are continually getting an increase in their case loads--many times over 200 probationers per case worker. Because of this case load, many officers have said they do not feel they have time to spend with each individual client, which is so necessary... And these are very dedicated workers--putting in more than their 40 hours a week. This SB 648 would increase their load tremendously, adding additional expenses in this area.

There are empty beds in some county jails--totaling over 700 empty beds. I understand there are over 150 empty beds at Shawnee Work Release Center at Forbes. And we read recently where there could be additional space made in the already standing Kansas Pen at Lansing, plus empty building spaces in some mental institutions. Perhaps these could be used, at much less expense than the drastic COSTS to VICTIMS by reducing penalties.

Statistics show that crime in Kansas has dropped in the last several years. So the population has grown in the Pen--- Maybe that is the connection for some of the lower crime stats----- Eventually our criminal code must be working pretty good the way it is. We strongly suggest that you KEEP that FELONY at least no HIGHER than it is now on checks, theft and other crimes. We still would like to see the felony on thefts of various kinds lowered back to \$50. The first time felony offender is frequently placed on probation, but by leaving it so that he CAN be incarcerated, rather than "SHALL be placed on probation" on some Class E felonies, will continue to help to deter crime.

There still is a need for tougher laws against the criminal. We know it is a deterrent to their crimes. They have told us so...Please, do NOT make it easier for the criminal.

Sincerely,
Leland Atteberry
Leland Atteberry
Shirley Atteberry
Shirley Atteberry



DUCKWALL-ALCO STORES, INC.

401 Cottage Street • Abilene, Kansas 67410 • (913) 263-3350

DATE: April 12, 1984

SUBJECT: **Senate Bill #858**--to raise felony limits across the board to \$150.00.

To: Kansas House Committee on Ways and Means

I strongly oppose this Bill. In my opinion, it would be the most irresponsible action taken toward the problem of crime since the felony limit was raised to \$100.

Last year, we made 119 shoplifting arrests in my store. Only two of these were felony arrests because these shoplifters are not stupid and they were very careful not to cross over that felony dollar amount. They know that they can walk with a misdemeanor. Of the two felonies we caught, one was pleaded down to a misdemeanor because it was the first time she had been caught and she was put on diversion. The other case involved an already two time felony loser on probation so the courts decided that they should put him away and did finally.

Even with 119 arrests, my store lost over \$77,000 last year to theft. I am but one retailer in this city and if the total dollars lost to shoplifters were known for the entire community it would stagger even your imaginations. I've heard the District Attorney's office say it costs a lot of money to prosecute felons. I propose it costs the community more money not to prosecute but to plea bargain felonies down to misdemeanors and set the criminal free to have another chance at it.

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DUCKWALL-ALCO STORES, INC.

401 Cottage Street • Abilene, Kansas 67410 • [913] 263-3350

If the only reason the felony limits should be raised to \$150.00 is to control the prison populations then your not confronting the issues but side-stepping them. This law could serve only those with a criminal mind or a criminal in mind. I cannot imagine how it could possibly serve me as a law abiding citizen. By Webster's definition, a citizen is a person who owes allegiance to a government and is entitled to government protection. You have my allegiance plus a heck of alot of my tax dollars, so when are you going to offer some protection. You need to put more criminals behind bars not less. If you need more prison space than build it! Don't treat me like an idiot and tell me that I'll be better protected with this bill because the crime statistics will improve with fewer reported felonies. Improve your statistics by putting the criminal behind bars the first time instead of excusing them by making more of what they do excusable. To give you just an example of what shoplifters are doing in my store already this year, I have lost 6 Canon AE-1 cameras at a value of \$1770., two 13 inch color TV's at a value of \$600., and a multitude of drills, sanders, paint sprayers, power saws, and no one can guess at the clothing because they leave no evidence behind except empty hangers. As a business-man I know what I pay in taxes to this state. I also know that theft is a leading cause of business failure. A Bill like #858 will make more failures happen and you cannot afford to lose a tax payer like me. Thank You !

Respectfully,

Donn W. Medeck

Donn W. Medeck

General Manager, ALCO Store #109

2009 East 29th.

Topeka, Kansas



Kansas Food Dealers' Association, Inc.

2809 WEST 47th STREET SHAWNEE MISSION, KANSAS 66205

PHONE: (913) 384-3838

April 25, 1984

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HOUSE WAYS AND MEANS COMMITTEE MEMBERS

IN OPPOSITION TO SB 858

Our membership, consisting of retailers, manufacturers and distributors of food products throughout Kansas have a long-standing record of being OPPOSED to any legislation which raises the felony threshold from the current \$50 amount on bad checks. We actually would like to see the amount for theft be CHANGED BACK to \$50 also rather than the current \$100. Certainly we opposed SB 858 in the original form, and will have to continue our opposition to the Amended version if the amounts for theft and bad checks are both increased to \$150.

We are trying to be sympathetic with the concerns expressed by the Department of Corrections and their efforts to alleviate overcrowding of the state prison. Some of the provisions in SB858 we could support; particularly the portion making the conviction of a third misdemeanor offense become a felony offense.

Most of the cases that are now prosecuted for bad checks ARE NOT sent to a state prison. And, of those that are sent, the record will show that since June 30, 1983, the Total Class E Felons sentences for giving a bad check for more than \$50 were only 27, five of which were first conviction, 6 were 2nd, 5 were 3rd convictions, six had MORE than three convictions of Class E felony charges, and 5 of those 27 may have had previous convictions as they were listed as "unknown" on the statistics presented to the Special Committee on Prison Alternatives last week. (I am attaching a copy of that data for your convenience.)

On page 2 of that same hand-out, only 7 convictions were for Class D felony -- Habitual Giving Worthless Checks. -- and 5 of those 7 were repeat offenders.

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We have repeatedly heard how much it costs to keep each prisoner for a year. Testimony given by the Department of Corrections projects "fewer criminals" with the passage of SB 858 and thus relieving some of the overcrowding.

Other testimony presented to the Special Committee indicated the "average amount of the shoplifting charge was for goods valued at \$270". We assume this is why the ORIGINAL version of SB 858 came up with the amount of \$299 before it would be considered a felony to steal or write bad checks over that \$299 figure. Certainly this would ALSO reduce the overcrowding of prisons, BUT SIMPLY CHANGING THE DOLLAR AMOUNT BEFORE A THEFT BECOMES A FELONY DOES NOT MEAN WE HAVE FEWER CRIMINALS ---we only have fewer criminals who are charged with criminals acts under the felony laws.

It may be correct in the views of the Department of Corrections that we will have "fewer Class E and Class D felonies" under passage of SB 858, but it would only reduce a LIMITED number from the prison system (27 total for Class E Felons and 7 for Class D Felons according to their own records as of June 30, 1983.).

We would like to give you an idea of what changing the amount of the BAD CHECKS from \$50 to \$150 would do in our retail grocery stores, and have you compare that cost to ALL KANSANS versus the cost of incarcerating those 34 felons mentioned above.

In just ONE four-store corporation in a metropolitan area, they had to write off over \$17,000 as uncollectable bad checks. Raising the limits from \$50 to \$150 could easily DOUBLE, and possibly triple that figure for just FOUR STORES.

The bad check losses at the end of a year have to be considered as a "part of the cost of doing business" and thereby included in the price we HONEST CONSUMERS are paying for the good in a grocery store, or any other retail outlet. The same holds true for shoplifting losses.

I am attaching a copy of a two page letter from BILL WARFIELD, in Wichita, which outlines his experiences in working bad checks for the past 21 years.

He states that the TOTAL CHECK LOSS FROM EIGHT GROCERY STORES came to \$87,049.47 in just the past year alone. He estimates that those losses will increase immensely with the passage of SB 858. AGAIN THIS COST HAS TO BE PASSED ON TO THE HONEST CONSUMER.

We appreciate the fact that our prison system needs more funds, but we do not believe that the 34 felons sentenced last year with amounts of more than \$50 for their bad checks will reduce the need significantly -- especially since MOST writers of bad checks are prosecuted on misdemeanor accounts, or paroled unless they write large checks repeatedly....which I am assuming most of those 34 listed in the report did do.

We are wondering if all the retail stores in your own communities can actually AFFORD the passage of SB 858 making the bad check and theft limits change to \$150? We are asking that you not change either of those amounts from their present \$50 and \$100 limits.

Frances Kastner, Director
Governmental Affairs, KFPA

Inmates with Overall Most Serious Offenses of Felony Classes D and E
by Number of Prior Felony Convictions:
June 30, 1983 Profile Population (N = 3,353)

Rec'd 4/19/84

Statute	Offense	Total Class E Felons	Felony Class E Number of Prior Felony Convictions				
			0	1	2	3+	Unknown
08-262	Driving with License Suspended, etc.	1	0	0	0	0	1
08-287	Habitual Violation, Unlawful Operation of Vehicle, When Prohibited	1	1	0	0	0	0
21-3404	Involuntary Manslaughter	14	8	2	2	1	1
21-3410	Attempted Aggravated Assault	5	2	1	1	0	1
21-3414	Attempted Aggravated Battery	2	0	0	1	0	1
21-3419	Terroristic Threat	8	3	1	1	0	3
21-3420	Attempted Kidnapping	1	1	0	0	0	0
21-3503	Solicitation Indecent Liberties	1	0	0	0	1	0
21-3509	Attempted Enticement of a Child	1	1	0	0	0	0
21-3511	Aggravated Indecent Solicitation of a Child	3	2	0	0	0	1
21-3516	Sexual Exploitation of a Child	1	1	0	0	0	0
21-3602	Incest	1	0	0	0	0	1
21-3603	Attempted Aggravated Incest	3	1	1	0	0	1
21-3605	Nonsupport of a Child	6	2	1	0	0	3
21-3609	Abuse of a Child	7	5	1	0	0	1
y1-3611	Aggravated Juvenile Delinquency	11	7	0	0	0	4
21-3701	Attempted Theft (\$100 or more)	36	15	3	4	5	9
21-3707	Giving a Worthless Check (\$50 or more)	27	5	6	5	6	5
21-3710	Attempted Forgery	3	1	0	2	0	0
21-3715	Attempted Burglary	21	9	3	3	4	2
21-3717	Possession of Burglary Tools	1	1	0	0	0	0
21-3720	Criminal Damage to Property (\$100 or more)	22	7	2	1	3	9
21-3729	Unlawful Use of a Credit Card in Excess of \$50	5	3	1	0	1	0
21-3806	Corruptly Influencing a Witness	1	1	0	0	0	0
21-3808	Obstruction Legal Process or Official Duty	1	0	0	0	0	1
21-3810	Aggravated Escape from Custody	5	1	1	0	1	2
21-3812	Aiding a Felon or Person Charged as a Felon	5	2	0	2	0	1
21-3814	Aggravated Failure to Appear	4	1	1	0	0	2
21-3825	Aggravated False Impersonation	1	0	0	0	0	1
21-3826	Traffic in Contraband in a Penal Institution	2	0	2	0	0	0
21-4201(1)	Weapons Violations	1	0	1	0	0	0
36-206	Fraudulently Obtaining Accommodations	1	0	0	0	0	1
65-4127	Drug Offenses	9	3	0	0	1	5
Total (All Offenses)		211	83	27	22	23	56

Kansas Department of Corrections

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Rec'd
4/19/84

Inmates with Overall Most Serious Offenses of Felony Classes D and E
by Number of Prior Felony Convictions:
June 30, 1983 Profile Population (N = 3,353)

Statute	Offense	Total Class D Felons	Felony Class D Number of Prior Felony Convictions				
			0	1	2	3+	Unknown
21-3402	Murder II (Solicitation)	1	0	0	0	0	1
21-3404	Involuntary Manslaughter	4	4	0	0	0	0
21-3410	Aggravated Assault	71	26	17	8	10	10
21-3414	Attempted Aggravated Battery	8	4	2	1	0	1
21-3426	Attempted Robbery	12	8	0	2	1	1
21-3503	Attempted Indecent Liberties with a Child	2	1	1	0	0	0
21-3509	Enticement of a Child	3	2	1	0	0	0
21-3603	Aggravated Incest	6	3	0	1	0	2
21-3701	Theft (\$100 or more)	375	99	97	54	70	55
21-3708	Habitual Giving Worthless Checks	7	2	0	3	1	1
21-3710	Forgery	104	31	21	17	21	14
21-3711	Making a False Writing	3	0	1	1	1	0
21-3715	Burglary	550	152	159	87	99	53
21-3716	Attempted Aggravated Burglary	2	1	0	0	1	0
21-3718	Attempted Arson	1	1	0	0	0	0
21-4204	Weapons Violations	13	0	5	2	4	2
65-4127	Drug Offenses	26	13	7	2	0	4
Total (All Offenses)		1,188	347	311	178	208	144

BILL WARFIELD
3334 SOUTH OAK
WICHITA, KANSAS 67217

4-20-84

To Whom It May Concern,

I am writing this in reference to the bill that is being considered in changing the present Bad Check Law that we now have in Kansas.

First, let me give you some background on myself. I do Security work which includes the working of bad checks returned to our stores. I have been doing this work for the past 21 years and have worked thousands of returned checks and have drawn warrants on many returned checks. As I am sure you are aware, this proposal to change the check law has come up numerous times in the past and was tagged by the Ways and Means Committee at one time as "The Criminal Cost of Living Bill".

I would like to share with you the total check loss figure from the eight grocery stores that I am associated with. This figure is the total check loss, not checks returned, but the total loss for the past year. This total check loss figure is: \$87,049.07. Please keep in mind this is only eight grocery stores in Wichita. This figure was considerably higher in years past. Several of the stores have spent thousands of dollars to install computers to help reduce their check loss. I can assure you if the check law is changed and the \$50.00 felony amount is raised, this will increase all business' check loss immensely. This, in turn, would affect all consumers in our state because this loss must be passed on--as in higher prices. As you know, check cashing is a lifeblood stream of our doing business.

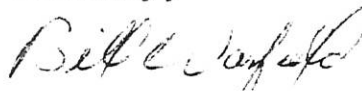
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SB858 was introduced in the Senate as one method of alleviating overcrowded conditions in our State prisons. If you would check the records at the institutions you will find there are very few inmates there for check law violations because most offenders are paroled instead of being sent to an institution. Most of the ones who are there have violated the check law numerous times.

I would appreciate it if you would take a long hard look at this proposed change in the check law before making a final decision. I would be most happy to meet with anyone at any time and provide you with additional information.

Thank you in advance for your consideration.

Sincerely,



Bill Warfield
3334 S. Oak
Wichita, Ks. 67217
522-6346