

Approved

Arthur Douville 4-7-87  
Date

MINUTES OF THE House COMMITTEE ON Labor and Industry

The meeting was called to order by Representative Arthur Douville at  
Chairperson

9:08 a.m./~~p.m.~~ on March 24, 1987 in room 526-S of the Capitol.

All members were present except:

Representative Holmes - Excused

Committee staff present:

Jerry Ann Donaldson, Research Department  
Juel Bennewitz, Secretary to the Committee

Conferees appearing before the committee:

Tom Slattery, Association of General Contractors of Kansas  
Senator Gus Bogina  
Glenn Coulter, Kansas Contractors' Association  
Ron Anderson, Association of Builders and Contractors  
Don Williams, Associated Builders & Contractors, Inc.  
Carl Coonrod, Coonrod and Associates Construction Company  
E. A. Mosher, League of Municipalities  
Rob Hodges, Kansas Chamber of Commerce and Industry  
George Barbee, Kansas Consulting Engineers

The conferees were recognized and presented testimony in the order listed above:

Tom Slattery, attachment #1.  
Senator Bogina, attachment #2.  
Glenn Coulter, attachment #3.  
Ron Anderson, attachment #4.  
Don Williams, attachment #5.  
Carl Coonrod, attachment #6.  
E. A. Mosher, attachment #7.  
Rob Hodges, attachment #8.  
George Barbee, attachment #9.

Chairman Douville asked two questions: if there were any regulations issued by the department with respect to the administration of this law (44-201) and what effect the federal law has on any phase of this law.

Mr. Slattery responded to the first question by saying that the Department of Administration has regulations for promulgating rates. He said that who has enforcement is questionable as the Department of Human Resources established rates, the Department of Administration enacts them but neither is responsible for enforcement. He stated that the Davis-Bacon Act is federal legislation and does not have any effect on this law.

Representative O'Neal noted, in a case annotation, reference to Davis-Bacon in the Ritchie Paving case and requested a copy of that case from the staff.

Representative Webb asked Mr. Coonrod his feeling about a separate bid concept and whether it would also save the state money.

Mr. Coonrod answered that he felt passage of S.B. 112 would do that automatically. He said he also felt once contractors were no longer tied to prevailing wage, they would automatically give fair market value to their item(s).

Don Williams responded he thought it would depend on coordination and how responsibility for subcontractors was handled.

Representative Webb asked Mr. Slattery if he would support separate bids.

Mr. Slattery answered their position was they generally supported single bids. He stated the state provided latitude for single or separate bids. Further, he

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Labor and Industry,  
room 526-S, Statehouse, at 9:08 a.m./~~p.m.~~ on March 24, 1987

felt the money saving aspect was debatable and a separate issue from today's discussion.

Also distributed to the committee were:

A post audit report on "Wage Rates for Construction of the Coliseum at Kansas State University", attachment #10.

Letters from: Joe Heinrich, Bamford Fire Sprinkler Co., Inc., attachment #11.  
Nancy S. Hedlund, Central States Construction, Inc.,  
attachment #12.  
Timothy Nightingale, Conco Inc., attachment #13.  
John D. Evans, Evans Building Co., Inc., attachment #14.  
Gerald D. Simpson, G & C Inc., attachment #15.  
David Graf, Graf Electric, attachment #16.  
James C. Creek, Greenway Electric, Inc., attachment #17.  
Dan J. Waller, Kansas Systems Builders Association, attachment #18.  
Paul Howard, Rainbow Construction, Inc., attachment #19.  
Tom Ritchie, Ritchie Corporation, attachment #20.  
Tony Zimbelman, Simpson & Son, Inc., attachment #21.  
William Smith, Smith Construction Co., Inc., attachment #22.  
Harold Holder, Steel Structures of Kansas, Inc., attachment #23.  
Roland E. Smith, Wichita Independent Business Association,  
attachment #24.  
David Graf, Wichita Chapter, Independent Electrical Contractors, Inc.,  
attachment #25.  
James R. Grier, III, Utility Contractors, Inc., attachment #26.

Written testimony from John W. Koepke, Kansas Association of School Boards,  
attachment #27.

The meeting was adjourned at 9:53 a.m.

The next meeting will be March 25, 1987, at 9:00 a.m.

HOUSE COMMITTEE  
ON  
LABOR AND INDUSTRY

Name	GUEST LIST City	DATE <u>March 24, 1987</u> Representing
Carl Conrad	Wichita	Kansas Alliance Bldg. Co., Inc.
Ron Andersen	TOPEKA	Assoc Builders & Contractors
Don Williams	Wichita	Assoc. Builders & Contractors, Inc.
Tom Slattery	Topeka	Associated General Contractors of KS
Ron Calbert	NEWTON	UNITED TRANSPORTATION UNION
Rob Hodges	Topeka	KCCI
D. WAYNE ZIMMERMAN	TOPEKA	THE KANSAS CONTRACTORS ASSOC.
Glenn Coulter	Topeka	KS. Contractors Assoc.
Kathy J. Maney	Topeka	MCAK
Janet Stupka	"	KBAC
Stu Entz	"	Assn. Builders Contractors
Wayne K. WIAWECKI	"	AFSCME
Wayne Maichel	"	KS. AFL-CIO
Jim De Hoff	"	KS. AFL-CIO
Harry Nelson	"	KS. AFL-CIO
Laurie Hartman	"	KS. BAA Association
Leroy Jones	Overland Park	B. L. E.
Ron GACHES	WICHITA	BMAA
Skip HERO	Topeka	KOHK

TESTIMONY BY  
ASSOCIATED GENERAL CONTRACTORS OF KANSAS  
TO THE  
HOUSE LABOR AND INDUSTRY COMMITTEE  
REGARDING S.B. 112

I am Tom Slattery, Executive Vice President of the Associated General Contractors of Kansas. AGC of Kansas represents 280 general contractors, subcontractors and associate members who are directly engaged in or provide services for the commercial and industrial building construction industry in Kansas.

We have a long standing policy in opposition to KSA 44-201 and other "prevailing wage" laws at all levels of government. We believe this law is no longer necessary and that in most cases it causes increased construction costs which fuel inflation and limit employment opportunities in the industry. It also frustrates the competitive bidding system which is one of the corner stones of our industry. The bottom line is we believe the law should be repealed and that the free market system should be allowed to operate in the area of public works the same as it does in the private sector.

I would point out that in the last two years prevailing wage laws in Colorado, Arizona, Idaho, New Hampshire and Louisiana have been repealed.

In 1891 the Kansas Legislature passed KSA 44-201 with the intention of protecting workers on public projects against employers who wanted to pay less than a full days wage for eight hours work. Since that time there has been reference made to the statute in bidding documents both for state work and subdivisions of the state. However, until 1985 contractors were never directed to pay a specific hourly wage for a specific task. In 1982 the Kansas Supreme Court ruled that public agencies have the authority to fix and include specific wages in contracts for construction. Subsequent to this decision in January of 1984 the governor directed the Department of Human Resources to develop a procedure for establishing hourly wage rates for various classifications of workers on building projects in all counties and first and second class cities. This was done by executive order 84-68. In 1985 the Department of Administration started including specified wage rates in its specifications for building projects. This event changed the total complexion of KSA 44-201 since now contractors did have guidelines to go by and were required to use these wage rates in bidding state work.

Attachment #1  
House Labor and Industry  
3/24/87

I want to make some brief comments relative to a performance audit report by the Legislative Division of Post Audit of April 1986. This report evaluated the wage rates for construction of the coliseum at Kansas State University. The report points out a number of inaccuracies in wage rates used on the KSU Coliseum. I would quote the following paragraph in the conclusion of their report

"For Riley County, the auditors found that some of the State's wage rates may not reflect the actual prevailing wages being paid in that locality. The data and methodology that generated these rates may be flawed, resulting in rates that are not accurate. Further, the same methodology is used to establish wage rates for all counties and first and second class cities in the State. For these reasons, the Legislature may wish to review the State's procedures for establishing wage rates for building projects".

As shown below the 1985 schedule of prevailing wages includes hourly wages and fringe benefit for 21 classifications of workers. The base hourly rates varied from \$6.34 for general laborers to \$17.65 for plumbers and pipefitters. The dollar value and fringe benefits paid ranged for 0 to \$4.57 per hour.

<u>Worker Class</u>	<u>Base Wage Rate</u>	<u>Fringe Benefits</u>	<u>Total Hourly Wage</u>
Carpenter	\$ 11.09	\$ 1.33	\$ 12.42
Drywall Hanger	9.50	0.00	9.50
Drywall Finisher	9.50	0.00	9.50
Electrician	8.00	1.32	9.32
Floor Layer	11.45	3.21	14.66
Glazier	13.27	0.30	13.57
Structural Iron Worker	8.00	0.00	8.00
General Laborer	6.34 (a)	0.00	6.34 (a)
Mason Tender	9.50	2.05	11.55
Operating Engineer	13.50	4.02	17.52
Painter	13.60	1.25	14.85
Pipefitter	17.65	2.09	19.74
Plumber	17.65	2.26	19.91
Crane Operator	14.00	3.77	17.77
Backhoe Operator	13.75	3.77	17.52 (b)
Bulldozer Operator	13.75	3.77	17.52
Motor Grader Operator	13.75	3.77	17.52
Roller Operator	13.35	3.77	17.02 (c)
Scraper Operator	13.75	3.77	17.52
Roofer	8.00	0.00	8.00
Sheet Metal Worker	13.68	4.57	18.25

- (a) Legislative Post Audit calculations show this figure should be \$6.43, not \$6.34. The Department of Human Resources entered one survey twice and omitted another survey.
- (b) Legislative Post Audit calculations show this figure should be \$16.55, not \$17.52. The Department apparently selected one of two survey responses for the classification, rather than averaging the two responses.
- (c) Legislative Post Audit calculations show that this figure should be \$17.12, not \$17.02. The Department apparently made an addition error when adding the base and fringe rates.

In comparing rates established for other counties and federal projects in Riley County, the auditors identified three wage rates that appeared to be significantly higher or lower than the rates for most other localities. Other rates varied significantly from county to county.

Selected Wage-Rate Determinations  
for the Jurisdictions Reviewed

<u>Worker Class</u>	<u>Riley County</u>	<u>Geary County</u>	<u>Saline County</u>	<u>Reno County</u>	<u>Davis- Bacon</u>
Carpenter	\$ 12.42	\$ 12.95	\$ 8.58 (a)	\$ 9.36	\$ 13.48
General Laborer	6.34 (b)	10.30	5.28	5.00	11.55
Operating Engineer	17.52	17.52	6.00	7.25	none
Plumber	19.91	18.43	13.76	15.73 (c)	19.63
Crane Operator	17.77	17.77	17.37	16.37	17.77
Backhoe Operators	17.52	17.53	10.00	17.12	17.77
Roofer	8.00	8.00	7.50	none	15.95
Sheet Metal Worker	18.25	18.25	8.60	18.12	18.22
Electrician	9.32	18.15	15.58	16.80	18.15
Floor Layer	14.66	10.00	9.00	none	12.76
Painter	14.85	12.44	5.50	9.00	14.44

The worker classes and wage rates in boldface appear to be significantly higher or lower than most of the other county and federal wages reviewed for that class.

- (a) Legislative Post Audit computations show this figure should be \$8.64.
- (b) Legislative Post Audit computations show this figure should be \$6.43
- (c) Legislative Post Audit computations show this figure should be \$13.60

As the table shows, the Department-determined wage rate for a painter in Riley County (a rate based on a single survey response) appears high in relation to most other rates for painters. The Riley County rate for floor layers is \$1.90 per hour higher than the Davis-Bacon rate and \$4.66 an hour higher than the Geary County rate. The rate for an electrician in Riley County appears low in comparison with other counties and with the electricians' Davis-Bacon rate. Further, the rates for seven worker classes in Saline County--carpenters, floor layers, laborers, operating engineers, painters, backhoe operators, and sheet

metal workers--are significantly less than the rates in Riley County. The plumbers' rate is fairly constant in these selected counties, but the Riley County rate is higher than all other counties and the rate established for federal projects in Riley County.

Despite similar populations or locations, each county listed in the table may have unique characteristics that affect the prevailing wage rate for the area. For instance, there may be a significant number of federal construction projects at Fort Riley and therefore, the Geary County wage rates may reflect payment of the Davis-Bacon wage rates. The Wichita labor market may affect the Reno County rates more than it affects the other counties' rates. Even so, significant variations between the counties would not appear to be reasonable. For instance, it does not appear reasonable for the State to establish a minimum wage of \$9.32 an hour for electricians in Riley County and \$15.58 an hour for electricians in Saline County.

Finally the auditors found that 12 of the 21 Riley County rate determinations were based on information provided by only one contractor. Further, ten of those twelve rates were based on information provided on a single project. This is summarized in the table below and also on the second table showing the number and characteristics of the survey responses for all 21 Riley County wage rates.

Prevailing Wage Survey Response for Riley County  
Wage Rates Issued April 23, 1985

<u>Worker Class</u>	<u>Number of Contractors</u>	<u>Number of Projects</u>	<u>Number of Workers(a)</u>
* Drywall Hanger	1	1	6
* Drywall Finisher	1	1	3
* Glazier	1	1	7
* Structural Iron Worker	1	1	3
* Mason Tender	1	1	2
* Painter	1	1	4
* Bulldozer Operator	1	1	2
* Motor Grader Operator	1	1	1
* Roller Operator	1	1	1
* Scraper Operator	1	1	2
Floor Layer	1	4	10
Operating Engineer	1	7	16

\* Deleted from original bid specifications for the Coliseum by the Secretary of Administration

(a) A single worker may be counted more than once if that worker was employed on more than one project during the year.

Number and Characteristics of the Department of Human Resources  
Survey Responses for the Riley County Wage Determinations

WORKER CLASS	DEPARTMENT TOTAL HOURLY WAGE RATE	NUMBER OF CONTRACTORS RESPONDING	NUMBER OF PROJECTS	NUMBER OF WORKERS REPORTED(a)
Carpenter	\$ 12.42	13	25	95
Drywall Hanger	9.50	1	1	6
Drywall Finisher	9.50	1	1	3
Electrician	9.32	8	16	50
Glazier	13.57	1	1	7
Structural Iron Worker	8.00	1	1	3
General Laborer	6.34(b)	15	38	177
Mason Tender	11.55	1	1	2
Painter	14.85	1	1	4
Plumber	19.91	3	60	130
Equipment Operator:				
--Crane	17.77	2	32	40
--Backhoe	17.52(c)	2	2	2
--Bulldozer	17.52	1	1	2
--Motor Grader	17.52	1	1	1
--Roller	17.02(d)	1	1	1
--Scraper	17.52	1	1	2
Roofer	8.00	2	11	49
Sheetmetal Worker	18.25	4	52	143
Pipefitter	19.74	2	38	70
Floorlayer	14.66	1	4	10
Operating Engineer	17.52	1	7	16

- (a) A single worker may be counted more than once if that worker was employed on more than one project during the year.
- (b) Legislative Post Audit calculations show that this figure should be \$6.43, not \$6.34. The Department entered one survey twice and skipped another.
- (c) Legislative Post Audit calculations show that this figure should be \$16.55, not \$17.52. The Department apparently selected one of two survey responses reported for the class, rather than averaging the two.
- (d) Legislative Post Audit calculations show that this figure should be \$17.12, not \$17.02. The Department apparently made an addition error when adding the base and fringe wage rates.



Mr. Chairman, I have copies of this post audit report which I will make available to the Committee. I think the point that it makes is that wage surveys are inaccurate and do nothing to promote stability in the bidding process or an economical approach to construction of state projects. I would restate the position of the Associated General Contractors of Kansas which is as follows: "The Associated General Contractors of Kansas believes that the Kansas statutes dealing with the payment of prevailing wages on public works projects are inflationary, difficult to administer, antiquated in the light of more recent laws designed to protect the employee, and therefore these statutes should be repealed".

AUGUST BOGINA, JR., P. E.  
 SENATOR, TENTH DISTRICT  
 JOHNSON COUNTY  
 3513 WEST NINETEETH PLACE  
 LENEXA, KANSAS 66215



TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS  
 CHAIRMAN, WAYS AND MEANS  
 MEMBER, GOVERNMENTAL ORGANIZATION,  
 LOCAL GOVERNMENT  
 LEGISLATIVE POST-AUDIT

March 24, 1987

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, I KNOW YOUR TIME IS LIMITED AND YOU HAVE MANY CONFEREES, THEREFORE I WILL BE BRIEF. I SUPPORT SB 112 BECAUSE GOVENOR CARLIN CITED K.S.A. 44-201 AS THE BASIS FOR HIS EXECUTIVE ORDER NO. 84-68. THAT ORDER REQUIRED THE SECRETARY OF HUMAN RESOURCES TO "DEVISE APPROPRIATE MEANS AND METHODOLOGIES TO DETERMINE" PREVAILING WAGES THROUGHOUT THE STATE. IT IS MY OPINION BASED UPON MY PROFESSIONAL EXPERIENCE AS A CONSULTING ENGINEER DESIGNING PUBLIC IMPROVEMENTS FOR CONSTRUCTION. THIS OPINION IS REINFORCED BY A VERIFIED INCIDENT THAT INVOLVED PREVAILING WAGES WHICH THE FORMER GOVENOR AND THE LEGISLATURE RESOLVED.

THE 1983 LEGISLATURE APPROPRIATED THE LAST OF THE FEDERAL REVENUE SHARING FUNDS PLUS EDUCATION BUILDING FUNDS FOR A PROJECT TO REPAIR THE ROOFS OF SIX BUILDINGS AT EMPORIA STATE UNIVERSITY. IN ACCORDANCE WITH FEDERAL REGULATIONS, PREVAILING WAGES MUST BE SPECIFIED AND BE A PART OF ANY CONTRACT THAT INCLUDES FEDERAL FUNDS. THE KANSAS DIVISION OF ARCHITECTURAL SERVICES, THROUGH AN OVERSIGHT, NEGLECTED TO STIPULATE THAT REQUIREMENT AND INCLUDE PREVAILING WAGES IN THE SPECIFICATIONS AND CONTRACT DOCUMENTS. THIS OMISSION WAS NOTED DURING THE COURSE OF THE CONSTRUCTION, WELL AFTER THE CONTRACT HAD BEEN AWARDED. IN ORDER TO REMEDY THE SITUATION, THE AMOUNT OF \$117,732 WOULD BE ADDED TO THE \$363,222 CONTRACT IN ORDER TO COMPLY WITH THE PREVAILING WAGE

Attachment #2  
 House Labor and Industry  
 3/24/87

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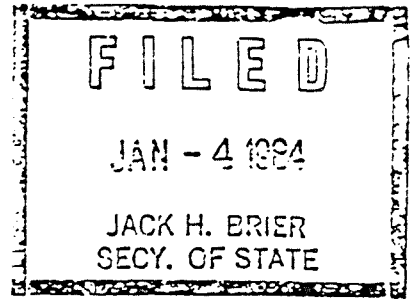
REQUIREMENTS. THESE AUDITED AMOUNTS AND A DESCRIPTION OF THE EVENTS ARE ATTACHED HEREINAFTER. IN ORDER TO NOT BLATANTLY AND OPENLY ASSESS THE TAXPAYERS OF KANSAS A 32% INCREASE IN THAT CONSTRUCTION CONTRACT, GOVENOR CARLIN DURING THE 1984 SESSION, REQUESTED AND THE LEGISLATURE CONCURRED TO REMOVE THE FEDERAL REVENUE SHARING FUNDS AND SUBSTITUTE E.B.F. FUNDS THEREFORE. THE GOVENOR, IN MY OPINION, DID NOT DESIRE TO OPENLY ALLOW THOSE ADDED COSTS TO BE ADDED TO THE CONSTRUCTION COSTS, BUT HE DID REQUEST THROUGH EXECUTIVE ORDER 84-68 THAT ALL FUTURE STATE CONTRACTS INCLUDE THOSE COSTS. THIS ACTION REQUIRED ALL STATE CONTRACTS TO INCLUDE THESE ADDED COSTS, JOINING KDOT WHO BEGAN THIS PRACTICE SEVERAL YEARS AGO.

MEMBERS OF THE COMMITTEE WE MUST NOT ALLOW THE TAXPAYERS OF OUR STATE TO CONTINUE PAYING ANY EXCESSIVE COSTS FOR OUR CONSTRUCTION PROJECTS. I URGE YOU TO RELIEVE THEM OF THIS ADDED BURDEN BY REPORTING SB 112 FAVORABLY.

THANK YOU.

*prevailing  
wage*

STATE OF KANSAS



OFFICE OF THE GOVERNOR  
State Capitol  
Topeka 66612-1590

John Carlin Governor

EXECUTIVE ORDER NO. 84-68

CONCERNING PAYMENT OF WAGES

Executive Department  
State House  
Topeka, Kansas

WHEREAS, the State of Kansas supports the principle that persons employed on public projects shall be paid fair compensation for their labors; and

WHEREAS, this principle has been embodied in the statutes of the State of Kansas since 1891; and

WHEREAS, in contracts for public works, K.S.A. 44-201 mandates government entities to require contractors to pay the current rate of per diem wages to their laborers; and

WHEREAS, no provision has been made in the statutes to determine the appropriate rate of wages for public works projects in the various localities of this State.

NOW, THEREFORE, pursuant to the authority vested in me as as Governor and chief executive of the State of Kansas and Article 1, Section 4 of the Constitution of the State of Kansas, I do hereby order and direct the Secretary of Human Resources to provide me information as to the ability of the State of Kansas to devise appropriate means and methodologies to determine the wages required by K.S.A. 44-201 for the various localities in this State, including costs, specific methodology and viable alternative methods to make such a determination. Such reported information shall be submitted for my review and approval and shall include a recommended method for periodically determining the wages required to be paid on public works projects in the various

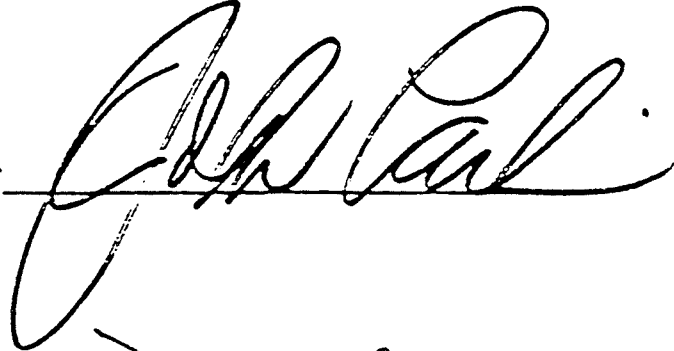
John Carlin  
Executive Order No. 84-68  
Page Two

localities of this State.

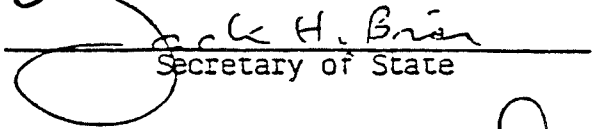
This document shall be filed with the Secretary of State as Executive Order No. 84-68, and shall become effective immediately.

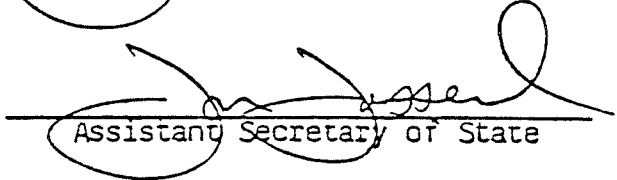
THE GOVERNOR'S OFFICE

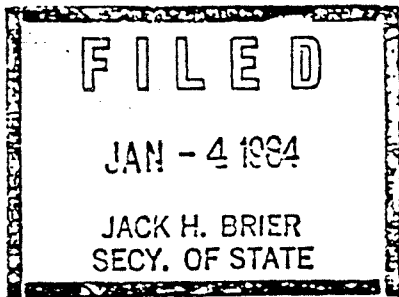
By the Governor



January 4, 1984

  
Secretary of State

  
Assistant Secretary of State



## MEMORANDUM

TO: Joint Committee on State Building Construction

FROM: James A. Wilson, Senior Assistant Revisor

RE: K.S.A. 44-201 to 44-205, inclusive (Eight-Hour Days on Public Work Law) -- Summary of Statutory History

L. 1891, Ch. 114, Sections 1 to 4

The law generally provided in section 1 that eight hours would constitute a day's work for workers employed by or on behalf of the state or any local government except "in cases of extraordinary emergency which may arise in time of war or in cases where it may be necessary to work more than eight hours per calendar day for the protection of property or human life. . . [except] that in all such cases the [worker] shall be paid on the basis of eight hours constituting a day's work. . . ."

It provided further that not less than the "current rate of per diem wages in the locality where the work is performed" was to be paid persons so employed. Workers employed by contractors or subcontractors under contracts with the state or any local government would be "deemed to be employed by or on behalf of "such entities.

Section 2 provided that all contracts with the state or any local government for "the performance of any work or the furnishing of any materials manufactured within. . . Kansas" would be considered to be made on the basis of a day's work constituting eight hours. It was declared unlawful to "require or permit" workers under such contracts to work more than eight hours per day, except under the conditions permitted by section 1.

Section 3 imposed a penalty upon any officer of the state or any local government or any other person violating any provisions of the act. The penalty was a fine of from \$50 to \$1,000 or up to six months' imprisonment, or both.

The remaining substantive section provided an exemption for existing contracts.

L. 1913, Ch. 220, Section 1

This act amended section 1 of the 1891 enactment to provide an exemption for cities of the second and third class which own and operate municipal light and water plants. This language appears in the current provisions of K.S.A. 44-203.

Laws of 1923

The law was amended twice in 1923. The first amendment was by the enactment of the Revised Statutes of 1923. The Revision Commission had rewritten and consolidated the law into two sections which appear now as K.S.A. 44-201 and 44-202. K.S.A. 44-202 declared that violations of K.S.A. 44-201 would constitute a misdemeanor and prescribed the penalty therefor.

The second amendment was by L. 1923, ch. 157, section 1, which inserted an additional exemption. Township or county work in dragging or grading dirt roads was exempted. This language appears in the current provisions of K.S.A. 44-203. The conflict was resolved by publishing both acts.

L. 1931, Ch. 214, Section 1

This act amended K.S.A. 44-201 to insert the current definitions of the "current rate of per diem wages" and "locality." The section was also amended by inserting commas so that it slightly expanded or clarified the exceptions to read: . . . except in cases of extraordinary emergency which may arise, in time of war, or in cases where it may be necessary to work more than eight hours per calendar day for the protection of property or human life."

L. 1947, Ch. 286, Sections 1 and 2

This act amended both K.S.A. 44-201 and 44-203 (the "twin" sections occasioned by the 1923 enactments) to provide that the provisions of the law regarding hours worked per calendar day would not apply, generally, to construction and maintenance, or the production of local materials for, roads and highways, sewer and waterworks systems, dams, levees, canals, drainage ditches and airport runway areas.

state employment service office. Upon registering, such crew chief shall furnish to such office a list of names and social security numbers of all migrant workers he serves in his capacity as crew chief and the names of those for whom recruitment is being done.  
History: L. 1974, ch. 202, § 3; July 1.

**44-128.** Availability of information furnished. Any information filed with the local Kansas state employment service office pursuant to the provisions of K.S.A. 44-127 shall be made available to the public upon request.  
History: L. 1974, ch. 202, § 4; July 1.

**44-129.** Violation of act. Any violation of this act shall be a class C misdemeanor. Any crew chief found to be in violation of this act shall cease to operate as a crew chief in this state for a period of two (2) years.  
History: L. 1974, ch. 202, § 5; July 1.

Article 2.—EIGHT-HOUR DAY ON PUBLIC WORK

**44-201.** Eight-hour day; exceptions; payment of current rate of per diem wages where work performed. "The current rate of per diem wages" for the intents and purposes of this act shall be the rate of wage paid in the locality as hereinafter refined to the greater number of workmen, laborers or mechanics in the same trade, occupation or work of a similar nature. In the event that it be determined that there is not a greater number in the same trade, occupation or on similar work paid at the same rate, then the average rate paid to such laborers, workmen or mechanics in the same trade, occupation, or work shall be the current rate. The "locality" for the purpose of this act shall be the county wherein the physical work is being performed: *Provided*, That where cities of the first or second class are located in said counties, each such city shall be considered a locality.

Eight hours shall constitute a day's work for all laborers or other persons employed by or on behalf of the state of Kansas or any municipality of said state, except in cases of extraordinary emergency which may arise, in time of war, or in cases where it may be necessary to work more than eight hours per calendar day for the protection of property or human life. Laborers or other persons so employed, working to exceed eight hours

per calendar day, shall be paid on the basis of eight hours constituting a day's work. Not less than the current rate of per diem wages in the locality where the work is performed shall be paid to laborers or other persons so employed.

And laborers and other persons employed by contractors or subcontractors in the execution of any contract or contracts with the state of Kansas or any municipality thereof shall be deemed to be employed by or on behalf of the state or such municipality so far as the hours of work and compensation herein provided are concerned.

That the contracts hereafter made by or on behalf of the state of Kansas or by or on behalf of any county, city, township or other municipality of said state with any corporation, person or persons which may involve the employment of laborers, workmen or mechanics, shall contain a stipulation that no laborer, workman or mechanic in the employ of the contractor, subcontractor or other person doing or contracting to do the whole or a part of the work contemplated by the contract shall be permitted or required to work more than eight (8) hours in any one calendar day except in cases of extraordinary emergency (as defined in this act); such contract shall contain a provision that each laborer, workman or mechanic employed by such contractor, subcontractor or other person about or upon such public work shall be paid the wages herein provided: *Provided further*, That the provisions of this act in regard to hours worked per calendar day shall not apply to the construction, reconstruction, maintenance, or the production of local materials for: Highways, roads, streets, and also the structures and drainage in connection therewith; sewer systems; waterworks systems; dams and levees; canals; drainage ditches; airport grading, drainage, surfacing, seeding, and planting.

History: R.S. 1923, 44-201; L. 1931, ch. 214, § 1; L. 1947, ch. 286, § 1; April 7.

Source or prior law:  
L. 1891, ch. 114, § 1; L. 1913, ch. 220, § 1.

Revision note, 1923:  
Revised and written into two sections combining the provisions of L. 1919, ch. 134. Laws 1919, ch. 134, relating to first-class cities, omitted as being covered by 44-201, 44-202.

Revisor's Note:  
L. 1913, ch. 220, § 1 was also amended by L. 1923, ch. 157, § 1, see 44-203.



**Research and Practice Aids:**

States—108½.  
Hatcher's Digest, Master and Servant §§ 6 to 8.  
Workmen § 1.  
C.J.S. States §§ 119, 125 et seq.

**Law Review and Bar Journal References:**

Annotation No. 13 cited in 1955-56 survey of Kansas law, Earl B. Shurtz, 5 K.L.R. 210, 227 (1956); Robert J. Fowks, 5 K.L.R. 277, 282 (1956).

Survey of labor law, Robert J. Fowks, 10 K.L.R. 255 (1961).

Mentioned in "Survey of Kansas Law: Municipal Corporations," Richard H. Seaton, 27 K.L.R. 269, 274 (1979).

**CASE ANNOTATIONS**

Annotations to L. 1891, ch. 114, § 1:

1. Section not applicable to work done under contract. *Billingsley v. Comm'rs of Marshall Co.*, 5 K.A. 435, 436, 49 P. 329.

2. Provisions of this section not applicable to employees at penitentiary. *The State, ex rel., v. Martindale*, 47 K. 147, 27 P. 852. Questioned: *State v. Ottawa*, 84 K. 100, 105, 113 P. 391.

3. Ordinance requiring street service or pecuniary consideration invalid, when. *In re Ashby*, 60 K. 101, 107, 55 P. 336.

4. Section held valid as to employees of state or its agents. *In re Dalton*, 61 K. 257, 59 P. 336.

5. Employee accepting regular wages estopped from claiming extra pay. *Beard v. Sedgwick County* 63 K. 348, 65 P. 638.

6. Employees of contractor making city improvements come under this section. *The State v. Atkin*, 64 K. 174, 67 P. 519. Affirmed: *Atkin v. Kansas*, 191 U.S. 207, 24 S.Ct. 124, 48 L.Ed. 148.

7. Provisions of this section applicable to a school district. *The State v. Wilson*, 65 K. 237, 69 P. 172.

8. Section applies to employees operating Ottawa water and electric-light plant. *The State v. Ottawa*, 84 K. 100, 107, 113 P. 391.

9. Occasions when employees worked more than eight hours exceptions. *The State, ex rel., v. Construction Co.*, 99 K. 838, 840, 162 P. 1175.

Annotations to L. 1931, ch. 214, § 1:

10. Provisions regulating wages not basis for criminal liability; section discussed. *State v. Blaser*, 138 K. 447, 448, 450, 452, 26 P.2d 593.

11. Section discussed in holding 19-242 constitutional. *State v. Rogers*, 142 K. 841, 849, 52 P.2d 1185.

12. Purpose and object of act discussed in workmen's compensation case. *Workman v. Kansas City Bridge Co.*, 144 K. 139, 140, 58 P.2d 90.

13. Act held inapplicable to prisoners under 62-2109. *Dice v. Board of County Commissioners*, 178 K. 523, 524, 289 P.2d 782.

14. Article analyzed, discussed and construed; private citizen cannot maintain mandamus, when. *Topeka Bldg. & Construction Trades Council v. Leahy*, 187 K. 112, 113, 114, 115, 116, 353 P.2d 641.

15. Section construed and held constitutional. *Andersen Construction Co. v. Weltmer*, 223 K. 808, 809, 557 P.2d 1197.

16. Section construed; requirement that contractor pay the "current rate of per diem wages" without enumerating specific wage rates held proper. *Andersen Constr. Co. v. Weltmer*, 224 K. 191, 577 P.2d 1197.

17. Municipality not prohibited from specifying

wage rated above "floor" set hereunder and including them in specifications and contract. *Andersen Construction Co. v. City of Topeka*, 228 K. 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 612 P.2d 595.

**44-202.** Same; penalty. Any officer of the state of Kansas or any municipality thereof, having charge of or control over any such public work, who shall violate the provisions of the next preceding section, shall upon conviction thereof be deemed guilty of a misdemeanor and punished by a fine in any sum not exceeding five hundred dollars, or by imprisonment in the county jail for not exceeding sixty days, or by both such fine and imprisonment.

History: R.S. 1923, 44-202; Dec. 27.

**Source or prior law:**

L. 1891, ch. 114, § 1; L. 1913, ch. 220, § 1.

**Revision note, 1923:**

See Revision Notes, 1923 under 44-201.

**Research and Practice Aids:**

Hatcher's Digest, Criminal Law § 1; Master and Servant § 8.

**CASE ANNOTATIONS**

1. History of section discussed in construing 44-201. *States v. Blaser*, 138 K. 447, 453, 26 P.2d 593.

2. Article analyzed, discussed and construed; private citizen cannot maintain mandamus, when. *Topeka Bldg. & Construction Trades Council v. Leahy*, 187 K. 112, 115, 353 P.2d 641.

**44-203.** Same; eight-hour day; exceptions. That eight hours shall constitute a day's work for all laborers, workmen, mechanics or other persons now employed or who may hereafter be employed by or on behalf of the state of Kansas, or by or on behalf of any county, city, township or other municipality of said state, except in cases of extraordinary emergency, which may arise in time of war or in cases where it may be necessary to work more than eight hours per calendar day for the protection of property or human life: *Provided*, That in all such cases the laborers, workmen, mechanics or other persons so employed and working to exceed eight hours per calendar day shall be paid on the basis of eight hours constituting a day's work: *Provided further*, That not less than the current rate of per diem wages in the locality where the work is performed shall be paid to laborers, workmen, mechanics, and other persons so employed by or on behalf of the state of Kansas, or any county, city, township or other municipality of said state.

And laborers, workmen, mechanics and

other persons employed by contractors or subcontractors in the execution of any contract or contracts with the state of Kansas, or with any county, city, township or other municipality thereof, shall be deemed to be employed by or on behalf of the state of Kansas, or of such county, city, township or other municipality thereof: *Provided further*, That any cities of the second or third class owning or operating municipal light and water plants be and the same are hereby exempted from the provisions of this act: *Provided further*, That this act shall not apply to township or county work in dragging or grading dirt roads: *Provided further*, That the provisions of this act in regard to hours worked per calendar day shall not apply to the construction, reconstruction, maintenance, or the production, of local materials for: Highways, roads, streets, and all the structures and drainage in connection therewith; sewer systems, waterworks systems, dams and levees, canals, drainage ditches, airport grading, drainage, surfacing, seeding and planting.

**History:** L. 1891, ch. 114, § 1; L. 1913, ch. 220, § 1; L. 1923, ch. 157, § 1; R.S. 1923, 44-203; L. 1947, ch. 286, § 2; April 7.

**Revisor's Note:**

Laws of 1923, ch. 157, § 1; amended L. 1913, ch. 220, § 1, which was also revised in 1923 and appears as 44-201, as amended by L. 1931, ch. 214, § 1.

**Research and Practice Aids:**

Hatcher's Digest, Master and Servant §§ 6 to 8; Municipal Corporations §§ 185, 186.

**CASE ANNOTATIONS**

1. History of section discussed in construing 44-201. *State v. Blaser*, 138 K. 447, 454, 26 P.2d 593.
2. Article analyzed, discussed and construed; private citizen cannot maintain mandamus, when. *Topeka Bldg. & Construction Trades Council v. Leahy*, 187 K. 112, 113, 114, 115, 353 P.2d 641.

**44-204. Contracts of state or municipal-ity, basis.** That all contracts hereafter made by or on behalf of the state of Kansas, or by or on behalf of any county, city, township, or other municipality of said state, with any corporation, person or persons, for the performance of any work or the furnishing of any material manufactured within the state of Kansas, shall be deemed and considered as made upon the basis of eight hours constituting a day's work; and it shall be unlawful for any such corporation, person or persons to require or permit any laborer, workman, mechanic or other person to work

more than eight hours per calendar day in doing such work or in furnishing or manufacturing such material, except in the cases and upon the conditions provided in sections 44-201 and 44-203 of the Session Laws of 1947.

**History:** L. 1891, ch. 114, § 2; R.S. 1923, 44-204; L. 1947, ch. 286, § 3; April 7.

**Research and Practice Aids:**

Hatcher's Digest, Master and Servant § 8; Municipal Corporations §§ 185, 186.

**CASE ANNOTATIONS**

1. Cited in discussing criminal liability under 44-201. *State v. Blaser*, 138 K. 447, 448, 453, 26 P.2d 593.
2. Article analyzed, discussed and construed; private citizen cannot maintain mandamus, when. *Topeka Bldg. & Construction Trades Council v. Leahy*, 187 K. 112, 113, 353 P.2d 641.

**44-205. Penalty for violating 44-203 and 44-204.** That any officer of the state of Kansas, or of any county, city, township or municipality of said state, or any person acting under or for such officer, or any contractor with the state of Kansas, or any county, city, township or other municipality thereof, or other person violating any of the provisions of this act, shall for each offense be punished by a fine of not less than \$50 nor more than \$1,000, or by imprisonment not more than six months, or both fine and imprisonment, in the discretion of the court.

**History:** L. 1891, ch. 114, § 3; May 20; R.S. 1923, 44-205.

**Research and Practice Aids:**

Hatcher's Digest, Criminal Law § 1; Master and Servant § 8; Municipal Corporations §§ 185, 186.

**CASE ANNOTATIONS**

1. Cited in discussing criminal liability under 44-201. *State v. Blaser*, 138 K. 447, 453, 26 P.2d 593.
2. Article analyzed, discussed and construed; private citizen cannot maintain mandamus, when. *Topeka Bldg. & Construction Trades Council v. Leahy*, 187 K. 112, 113, 353 P.2d 641.

**Article 3.—PAYMENT OF WAGES**

**44-301.**

**History:** R.S. 1923, 44-301; L. 1931, ch. 215, § 1; Repealed, L. 1973, ch. 204, § 15; July 1.

**Source or prior law:**

L. 1893, ch. 187, § 1; L. 1915, ch. 165, § 1.

**Revisor's Note:**

New act, see 44-313 et seq.

**CASE ANNOTATIONS**

1. Employee may waive right by making settlement. *Howell v. Machine Co.*, 86 K. 537, 121 P. 366.

TABLE AND CALCULATIONS

SENATOR GUS BOGINA

Construction Contracts For Public Works In Kansas  
(Most Recent Year Available)

State Highway (now federal)	\$ 84,500,000
Regents Institutions	23,870,000
State Hospitals & Institutions	9,190,000
Fee Funds	4,100,000
General Fund	20,750,000
Unified School Districts	52,000,000
Community Colleges	7,200,000
Cities and Counties	345,000,000
(roads and streets, sanitary sewers, storm drainage, municipal buildings)	
Quasi-Municipal	5,500,000
(water districts, fire districts)	
Miscellaneous	3,000,000
	<hr/>
TOTAL	\$555,110,000

(Data obtained from state appropriations, State Board of Education, League of Municipalities and County Engineers Association.)

Approximate Labor Costs In Construction Projects  
(As Percentage of Bid Price)

Roadway and Paving (new)	24%
Renovation, Reconstruction, Repair	35%
Bridge Restoration	65%
Building Construction	40%

Contract Cost Increases Because Of Davis-Bacon Influence

Road, Bridge, Street, Highway (new)	15-38.5%
Renovation, Reconstruction, Repair	22-45%
Buildings	8-25%

(Information from a cross section of actual bids across the state during the past year.)



December 22, 1983

Mr. David Monical, Principal Analyst  
 Legislative Research Department  
 Statehouse, Room 545N  
 Topeka, KS 66612

Re: Federal Revenue Sharing Fund Appropriation - "Replace Breukelman  
 Hall Roof" (11004-65)

Dear David:

As I indicated to you on the phone yesterday, a problem has arisen in connection with the Breukelman Hall reroofing project.

When discussions were underway earlier this fiscal year concerning several reroofing projects on campus, it was decided to combine them all into one contract in order to secure the most favorable bid. This was done; the specifications were prepared; the contract was signed in late summer; and work began this fall. Unfortunately, no provision was made in the specifications for the payment of prevailing wages on the Breukelman Hall project since it was financed with Federal revenue sharing funds.

After the first portion of the project was completed and work commenced on Breukelman Hall, pickets appeared at the edge of the campus. Shortly thereafter, the weather closed the entire project down. Since then, we have been in contact with the office of the Director of Architectural Services and various other state offices. No solution seems to be emerging. Therefore, we feel the need to involve the Joint Committee on State Building Construction.

Since becoming aware of the problem, we have requested the U.S. Department of Labor's prevailing wage determination for the Emporia vicinity. A copy of that determination is attached. They determined that the prevailing wage for beginning roofers in Lyon County was \$14.66/hr. (not including fringe benefits). After receipt of this determination, we surveyed the only two legitimate built-up roofing contractors as to the wages they pay their employees. Those responses are listed below:

COMPANY:	Geo. Groh & Sons	Emporia Roofing
Position	Wage	Wage
Rofer & Sheetmetal Laborer	\$5.25/hour	\$5.50-5.75/hour
Sheetmetal Laborer	\$5.85/hour	----
Roofing Laborer	\$5.41/hour	----
Roofing Laborer (beginning)	----	\$5.00/hour
Journeyman Level Roofer	----	\$6.75-8.00/hour
Roofing Foreman	\$6.00-8.00/hour	----

It is our understanding that the roofing contractor, Weathercraft, Inc., is paying his employees comparable wages to those listed above. Furthermore, Weathercraft has advised us that his labor costs would likely nearly double if he were required to pay the wages as determined by the Department of Labor. Listed below are the current contracted project costs and the labor costs included in each portion.

CCR No.	Project Title	As Originally Contracted		Total Project Cost With Change Order #1 & Proposed Change Order #2
		Labor Cost*	Total Project Cost	
A-4579	Replace Breukelman Hall Roof	\$ 44,885	\$129,096	\$155,893
A-4290(d)	Reroof Portion of Physical Education Bldg.	10,907	25,807	29,349
A-4574	Reroof Plumb Hall	26,318	64,848	65,348
A-4769	Reroof Portion of W.A.W. Library	5,413	19,886	19,886
A-4635	Reroof Married Student Apts "B" and "C"	19,260	47,192	47,192
A-4805	Reroof Morse Hall Northeast	10,949	45,554	45,554
TOTAL		\$117,732	\$332,383	\$363,222

\*These labor costs identified by the contractor in a routinely requested cost breakdown after the contract is awarded.

A doubling of the labor costs on Breukelman Hall alone would cost at least \$44,885 extra. There is a possibility that the Davis-Bacon Act could be interpreted such that the prevailing wage determination would not only apply to the Breukelman Hall work, but also to the entire project. Such an interpretation would appear to cost at least an extra \$117,732.

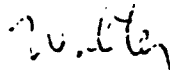
Listed below are the balance of funds that we expect to have available in each of the project accounts upon completion of this contract (after change order #2 is processed and assuming that there are no payments for wage adjustments).

CCR No.	Project Title	Expected Balance	Funding Source
A-4579	Replace Breukelman Hall Roof	\$14,107	Federal Revenue Sharing - Line Item Appropriation
A-4290	Reroof Physical Education Building	43,651	Educational Building Fund - Line Item Appropriation
A-4574	Reroof Plumb Hall	-0-	Educational Building Fund - Major Repairs, Special Maintenance & Remodeling
A-4769	Reroof Portion of W.A.W. Library	-0-	Educational Building Fund - Major Repairs, Special Maintenance & Remodeling
A-4635	Reroof Married Student Apts "B" and "C"	-0-	Residence Hall Maintenance & Equipment Reserve Fund
A-4805	Reroof Morse' Hall Northeast	-0-	Residence Hall Maintenance & Equipment Reserve Fund
	TOTAL	\$57,758	

If the federal wage determination stands as is and its applicability is limited to the Breukelman Hall reroofing, the expected balance in Projects A-4579 and A-4290 would cover the required wage increase. However, legislative approval would be needed to transfer funds from the physical education building project to the Breukelman Hall project. Obviously, there are insufficient funds to cover the required wage increase should it be determined Davis-Bacon applies to the entire job.

Attached are some of the options that could be selected at this stage, and some of the pros and cons of each option. Since some of the options listed require legislative action, we felt that it might be appropriate for these options to be reviewed at the January 6 meeting of the Joint Committee on State Building Construction. If you concur, would you please make the necessary arrangements for it to be placed on the agenda, or advise us further in this matter.

Sincerely,



Walter G. Clark  
Business Manager

ls

Enclosures

cc: Senator Bogina  
Warren Corman  
Dan Carroll

# The Kansas Contractors Association, Inc.

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## TESTIMONY

March 24, 1987

### HOUSE LABOR AND INDUSTRY COMMITTEE

Mr. Chairman and Members of the Committee. Thank you for the opportunity to visit with you for a very few minutes about Senate Bill 112 which would repeal the Prevailing Wage Statute in Kansas.

My name is Glenn Coulter and I am the manager of the Kansas Contractors Association. Our association has 335 members and associate members. Our members engage in road, street and highway work, paving projects, water and sewer lines, water purification plants and sewage disposal plants, dams and reservoirs.

We believe that KSA 44-201 through 44-205 no longer serves any useful purpose and that it would be in the best interests of the citizens of Kansas if these sections were repealed.

Members of our Association perform their services under exclusive union agreements and others exclusively open shop. They bid against each other on a competitive, sealed bid basis and both groups are successful in securing work. In our opinion, this proposed repealer is neither anti-union nor anti-open shop.

The construction industry is unlike any other in the business world.

Attachment #3  
House Labor and Industry  
3/24/87

Unlike a manufacturing plant or a retail store or a service-type business, contractors, especially those bidding on public works, do not set up shop in a town and then work only in that town. They must go where the work is, and this may be anywhere in the state or in surrounding states. A construction company may have as many as 20 or 25 projects under way at any given time.

A stumbling block occurs when artificial barriers are placed in the way -- barriers such as strictly local prevailing wage determinations.

We believe that the wages of construction workers should be set by the free give and take of the market place, be it between management and unions negotiating wages and fringe benefits for those craftsmen who desire to work union, or between management and craftsmen who prefer to work open shop.

Kansas' "Eight Hour Day on Public Work Laws", for that is what it is called, was passed, we are told in 1891 to protect Kansas workers from imported Chinese labor, willing to work excessive hours for sub-standard wages. We believe this law has outlived its usefulness because today the construction industry in Kansas--both union and open shop--is paying some of the highest wages in the state and no industry in Kansas has a better record of employing minorities. These are skilled men and women whose working conditions are already adequately covered by federal law.

Thank you for your consideration.





*r. d. andersen, inc.*  
*general contractor*

*box 2457 / topeka, kansas 66601 / 913-267-3722*

March 12, 1987

Representative Arthur Douville  
State Capitol Building  
Topeka, Kansas 66612

Dear Representative Douville,

I would like your support for S.B. 112. KSA 44201 is an antiquated law that is an impediment to the free enterprise system as well as future economic development in Kansas.

Contrary to opponents' argument, the posting of specific wages raises costs and encourages foreign contractors.

The original bid on the KSU Coliseum was the first project to include specific wage rates and was four million dollars over the available funds. After a major redesign it was rebid and awarded to an out-of-state contractor. Two of the three low bidders were out-of-state contractors.

Locally the Veterans Administration Hospital in Topeka was a \$20,000,000.00 project and only attracted three bidders, two of which were out of state. A Colorado contractor was successful.

Posted wages are a deterrant to local contractors who cannot afford to pay artificially high wages on certain projects and remain competitive on their private work.

Repeal of the law would result in a more sound economy and fiscal policy. Payment of true local wage rates would provide entry level jobs for youth, minorities and women in the construction industry. It would attract more small businesses to bid state contracts. Actual wages cover a broad range which take into account workmen's experience and proficiency.

Opponents would like to amend the existing law and/or repeal Governor Carlin's Executive Order. Unfortunately, regulations can always be reinterpreted.

Attachment #4  
House Labor and Industry  
3/24/87

March 12, 1987  
Page Two

In conclusion, now is the time to repeal 44201. Your vote for S.B. 112 will be a vote for the taxpayer and will be greatly appreciated.

If I can provide any additional information, please advise.

Sincerely,

R. D. ANDERSEN, INC.



Ronald D. Andersen

RDA:js



## Associated Builders & Contractors, Inc.

Chapter Office • 1999 North Amidon • Suite 100 • Wichita, Kansas 67203-0057  
Ph: 316/838-4774

TESTIMONY BEFORE  
HOUSE LABOR & INDUSTRY COMMITTEE  
ON SENATE BILL 112 - March 24, 1987

Mr. Chairman and members of this Committee:

My name is Don Williams, I am the Executive Director of the Associated Builders and Contractors, Inc. Kansas Sunflower Chapter.

Our association is a business association of general contractors, subcontractors, suppliers and associates. The Association's membership includes both union and non-union firms, minority business and women business enterprises.

The purpose of the Association is to give the construction consumer the best available construction, on time, on budget and at the most competitive price.

It is the position of our Association that monies saved by SB-112 repealing the Kansas Prevailing Wage Law KSA-44-201 would enable the State, Counties and Municipalities to build more projects, thus creating more jobs and providing needed services at a minimum of burden to the taxpayer.

During the past few years an increasing number of state legislators have wrangled with the issue of prevailing wage laws. One of the growing numbers of states which have repealed their prevailing wage law is Florida. In 1974 Florida exempted school districts from paying so-called "prevailing wages".

Attachment #5  
House Labor and Industry

After being exempted in 1974, a 2 year study of School Construction Costs, compiled by the Florida School Board's Association, Inc. for the years 1974-1977, covering 23 counties and \$350,723,247 cost of construction realized a savings to the taxpayers of \$45,980,728. In 1979 the state of Florida repealed the Prevailing Wage Law.

Mr. Chairman, members of the Committee, not only do so-called "Prevailing Wages" burden the Kansas taxpayer, as they once did the Florida taxpayer, but as stated by Larry E. Wolgast, Secretary of Kansas Department of Human Resources in a 4/30/86 letter to Meredith Williams, legislative Post Auditor...."There are no statistics available that count every worker per craft within each county in Kansas. Without this statistic, a "true" prevailing wage may be non-existent"....more staff will be required to take action against those (contractors) who refuse (to report) and a system will have to be set up to compile the names of every employer working within the state in the construction trades...."

In conclusion what we have now with KSA 44-201 is:

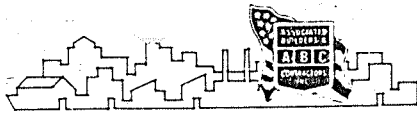
1. Inflated non-competitive construction costs.
2. Wage rates that are not truly based on the prevailing market.
3. A system that is not administratable without a still larger department of human resources - costing still more tax dollars.
4. The hint of punitive action against contractors.

The right thing to do now for the State of Kansas is to repeal KSA 44-201 ff, by passing S.B. 112.

Thank you for the opportunity of addressing you. I will try to answer any questions.

SCHC CONSTRUCTION COSTS COMPARED  
 Compiled by the Florida School Boards Association, Inc.  
 Compiled 1977-1978 for Years 1974-1977

<u>COUNTY</u>	<u>COST OF CONSTRUCTION</u>	<u>TAXPAYERS'S SAVINGS</u>
Alochua	\$ 6,000,000	\$ 842,000
Bay	10,190,500	764,300
Brevard	8,084,269	606,320
Clay	10,724,392	425,000
Collier	8,437,000	843,000
Dade	108,000,000	9,074,000
Escambia	18,491,358	2,773,703
Hendry	7,585,557	662,217
Highlands	3,000,000	300,000
Indian River	7,084,161	1,416,832
Jefferson	635,000	51,000
Lee	13,704,214	274,084
Leon	10,800,000	2,160,000
Madison	299,060	45,000
Manatee	4,300,000	860,000
Marion	9,859,078	2,464,796
Orange	20,344,872	3,662,077
Palm Beach	28,149,744	2,558,910
Pasco	16,582,305	3,781,272
Pinellas	35,986,874	7,197,375
Putnam	6,236,654	1,870,796
Sarasota	9,137,900	2,284,500
Sumter	7,090,309	1,063,546
<b>TOTAL</b>	<b>\$350,723,247</b>	<b>\$45,980,728</b>



**COONROD & ASSOCIATES CONSTRUCTION CO., INC.**

March 19, 1987

State Representative Authur Douville  
State Capital  
Topeka, Kansas 66612

Re: Senate Bill 112 (Repeal of Prevailing Wage KSA 44-201)

Dear Representative Douville:

I wish to project my total support of repealing Kansas' Prevailing Wage Law. KSA 44-201 through 205 laws are 96 years old and have gone from a "fair wage" status to an actual stated hourly amount. I have been in construction 15 years following my father and grandfather who have retired from the business. We have never been able to have quality, productive workers for less than a fair wage. In private construction the fair wages have helped many owners either save money for other improvements or build larger facilities. I see no reason, especially with the states budget problems, why the state should pay more money for less quantity than the private owners.

In conclusion, KSA 44-201 is a very outdated law which needs to be repealed to help Kansas control their future. This would project Kansas economically ahead in the Central United States.

Sincerely,

COONROD & ASSOCIATES CONSTRUCTION CO., INC.

Carl F. Coonrod  
Vice President

CFC/mr1

Attachment #6  
House Labor and Industry  
3/24/87



# League of Kansas Municipalities

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL/112 WEST SEVENTH ST., TOPEKA, KANSAS 66603/AREA 913-354-9565

TO: House Committee on Labor and Industry  
FROM: E.A. Mosher, Executive Director  
DATE: March 24, 1987  
SUBJECT: SB 112--Repeal of Prevailing Wage Law

On behalf of the League and its member cities, I appear in support of SB 112, to repeal K.S.A. 44-201, et seq., commonly called the prevailing wage law or "little Davis-Bacon Act." This position in support of the bill was established by the State Legislative Committee of the League and is consistent with the League's convention-adopted Statement of Municipal Policy. This statement provides that we oppose legislation to "require payment of state or federally determined prevailing wage rates for municipal public works contracts."

This policy statement was first adopted by our city convention in 1978, and was obviously not directed at SB 112. Instead, it is a general expression in opposition to state-mandated implementation of federally determined "Davis-Bacon" wages, and in opposition to some state agency telling cities what their contractors must pay to each and every employee.

Other conferees, before or after me, will probably discuss the history and purpose of this 1891 act, purportedly enacted to deal with migrant workers, an act which long preceded other state and federal laws dealing with hours of work, overtime pay and minimum wages. Historic League records indicate that this statute was largely overlooked by cities until the last decade, although it was the occasional practice to include a one-liner in municipal public works specifications, simply requiring the winning contractor to pay the prevailing wage rate. It is our understanding that, at least since 1916 (see State v. Construction Co., 99 Kan. 838 (1916) and State v. Blaser, 138 Kan. 447 (1933)), the burden of proving whether less than the prevailing wage rate is paid is a responsibility of the plaintiff. Efforts of the Department of Human Resources to develop per diem or prevailing wage rates has apparently resurrected this long-dormant statute, thus raising some very practical problems at the municipal level.

As Committee members are well aware, the existing statute appears to require that the per diem wages in the "locality" must be paid, and defines the locality as the county and any city of the first or second class. In addition to the 105 counties, we now have 24 cities of the first class and 87 cities of the second class, resulting in a total of 216 "localities." We call to your attention that the City of Scammon is legally a city of the second class; it has a population of 449. There are four Kansas cities of the second class with a population of less than 1,000; there are 22 with a population of less than 2,500.

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President: John L. Carder, Mayor, Iola • Vice Presidents: Carl Dean Holmes, Mayor, Plains • Past President: Ed Eilert, Mayor, Overland Park • Directors: Robert C. Brown, Commissioner, Wichita • Robert Creighton, Mayor, Atwood • Irene B. French, Mayor, Merriam • Frances J. Garcia, Commissioner, Hutchinson • Donald L. Hamilton, City Clerk/Administrator, Mankato • Paula McCreight, Mayor, Ness City • Jay P. Newton, Jr., City Manager, Newton • John E. Reardon, Mayor, Kansas City • David E. Retter, City Attorney, Concordia • Arthur E. Treece, Commissioner, Coffeyville • Deane P. Wiley, City Manager, Garden City • Douglas S. Wright, Mayor, Topeka • Executive Director: E.A. Mosher

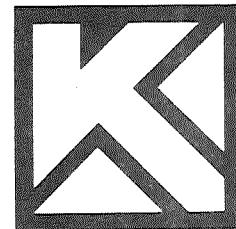
We would also call to the Committee's attention that K.S.A. 44-203 contains both the per diem wage requirement as well as the eight-hour day requirement. This section includes the proviso that "any cities of the second or third class owning or operating municipal light and water plants be and the same are hereby exempted from the provisions of this act." Most of the 87 cities of the second class, and roughly 400 cities of the third class, own and operate a municipal water plant, and some an electrical plant. We're not sure the existing law even applies to these cities.

Finally, we would suggest that any requirement, minimum or maximum, as to certain levels of wages to be paid by municipal public works contractors is a matter appropriately left to local self-determination. We are aware of no paramount state concern which justifies over-riding any local decisions as to how much municipal contractors should pay their employees, or over-riding the market place. Offensive as it may be to some people, even the federal Davis-Bacon law does not mandate local governments to follow its prevailing wage rates--unless they want the federal money. It seems to us that if it is of sufficient statewide concern to compel cities and other local units to pay some kind of state-determined prevailing wage rate, then the state ought also to pay the bill for any added costs. If you call the tune, we suggest you pay the piper. Absent such an approach, we would suggest the statute be repealed in its application to local units, leaving this determination to locally elected governing bodies.



# LEGISLATIVE TESTIMONY

## Kansas Chamber of Commerce and Industry



500 First National Tower One Townsite Plaza Topeka, KS 66603-3460 (913) 357-6321

A consolidation of the  
Kansas State Chamber  
of Commerce,  
Associated Industries  
of Kansas,  
Kansas Retail Council

March 24, 1987

Testimony Before the  
House Committee on Labor and Industry

by  
Rob Hodges

Mr. Chairman, members of the Committee, I appreciate the opportunity to appear today to briefly provide the Chamber's input regarding SB 112 which would repeal the state's prevailing wage law, 44-201 et. seq. The Chamber has two policies adopted by our Board of Directors which support passage of the bill.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 3,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 55% of KCCI's members having less than 25 employees, and 86% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

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Our policy HR-26, reads as follows:

Prevailing Wage Law. KCCI believes that the federal and Kansas statutes dealing with the payment of prevailing wages on public works projects are inflationary, difficult to administer, antiquated in the light of more recent laws designed to protect the employee, and therefore, these statutes should be repealed.

Similarly, policy HR-11 states:

Wage Rate, Benefits, and Hours Regulations. The Chamber supports the principle that wage rates, benefits, and hours of work be determined by direct negotiation between employer and employees rather than through arbitrary government imposed standards.

Repeal of K.S.A. 44-201, as proposed in SB 112, is consistent with KCCI policy. While acknowledging the emotional nature of any attempt to repeal the prevailing wage law, our members have consistently supported repeal for the reasons stated in the policy.

In these times of economic hardship for all levels of government, it seems appropriate to enable public works projects to be undertaken for the most competitive price. The public expects government agencies to drive a hard bargain and secure the lowest price available for their purchases. Artificially inflating wage rates should be viewed the same as artificially inflating any other cost of a public works project.

Passage of SB 112 would assure that negotiations between contractors and workers would set the standards for wages and hours, would assist in holding down the costs of projects, and would be consistent with KCCI policy. We encourage you to act favorably on the bill.



GEORGE BARBEE, EXECUTIVE DIRECTOR  
1100 MERCHANTS NATIONAL BANK  
8TH & JACKSON  
TOPEKA, KANSAS 66612  
PHONE (913) 357-1824

DATE: March 24, 1987  
TO: HOUSE LABOR & INDUSTRY COMMITTEE  
FROM: George Barbee, Executive Director  
RE: SB-112

Mr. Chairman and members of the Committee, my name is George Barbee, President of Barbee and Associates and I am representing the Kansas Consulting Engineers. I am appearing today in support of SB-112 to repeal the 96-year old Kansas per diem wage laws.

Others have or will discuss the details and inequities of determining prevailing per diem wage rates which strongly indicate that higher wages than true market are being paid on jobs under the mandate of KSA 44-201. Members of KCE confirm this to be true and that there is even an additional downside to this practice.

Many of the contracts for State and Municipal work are based on a compensation method known as percentage of construction cost. For architectural work, the statutes require that compensation is on a percentage of construction cost for state contracts.

Now, let us take for example a job that has an estimated construction cost of \$1 million dollars of which a portion of the total is based on the market price for skilled labor. And, let us assume that the fee to perform the design services, prepare the plans and specifications and other contract documents has been negotiated at a fair and reasonable, and agreed upon price of 5% of the construction cost or in this case \$50,000.

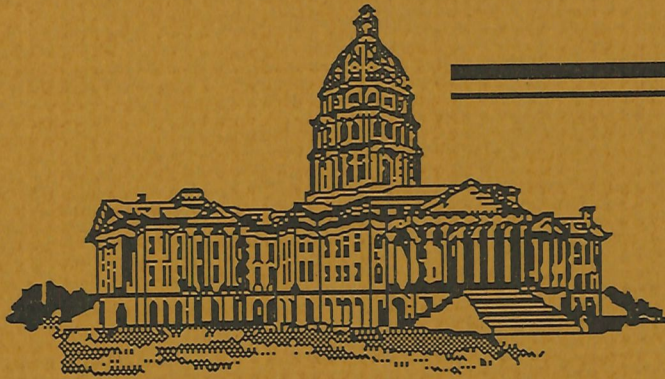
Now let's take the same project that has the newly imposed requirements of the old law imposed on it. Let's say it is a Jackson County project that has the prevailing wage rates as supplied by the state from various sources including labor rates from Johnson County. And, let us assume that the increased cost being attributed to this law are true. The million dollar project now increased to approximately \$1,200,000 or a 20% increase. The fee for design is still the standard of 5% for this size and complexity. The design fee increased from \$50,000 to \$60,000.

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So, why am I telling you this is a bad law if we get a windfall from it? Because as business men we are a bit more sensitive to taxes after paying so many different kinds such as ad valorem personal property tax, social security tax for employees, federal and state unemployment taxes as well as corporate income taxes. We would rather see tax dollars spent in a manner that would allow more construction, cause more design work and create more employment for professionals and laborers. We simply believe that KSA 44-201 fosters the spending of tax dollars in a manner that is bad public policy.

Kansas Consulting Engineers urge you to vote for SB-112 to repeal this archaic law.

Thank you for the opportunity to appear and I would be glad to stand for questions.



# PERFORMANCE AUDIT REPORT

## Wage Rates for Construction of the Coliseum at Kansas State University

A Report to the Legislative Post Audit Committee  
By the Legislative Division of Post Audit  
State of Kansas  
April 1986

Attachment #10  
House Labor and Industry  
3/24/87

# *Legislative Post Audit Committee*

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## *Legislative Division of Post Audit*

THE LEGISLATIVE POST Audit Committee and its audit agency, the Legislative Division of Post Audit, are the audit arm of Kansas government. The programs and activities of State government now cost about \$3 billion a year. As legislators and administrators try increasingly to allocate tax dollars effectively and make government work more efficiently, they need information to evaluate the work of governmental agencies. The audit work performed by Legislative Post Audit helps provide that information.

As a guide to all their work, the auditors use the audit standards set forth by the U.S. General Accounting Office and endorsed by the American Institute of Certified Public Accountants. These standards were also adopted by the Legislative Post Audit Committee.

The Legislative Post Audit Committee is a bipartisan committee comprising five senators and five representatives. Of the Senate members, three are appointed by the President of the Senate and two are appointed by the Senate Minority Leader. Of the Representatives, three are appointed by the Speaker of the House and two are appointed by the Minority Leader.

Audits are performed at the direction of the Legislative Post Audit Committee. Legislators or

committees should make their requests for performance audits through the Chairman or any other member of the Committee.

### **LEGISLATIVE POST AUDIT COMMITTEE**

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Senator Neil H. Arasmith  
Senator Norma L. Daniels  
Senator Ben E. Vidricksen  
Senator Joe Warren

Representative Robert H. Miller, Vice-Chairperson  
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Representative Bill Wisdom

### **LEGISLATIVE DIVISION OF POST AUDIT**

Suite 301, Mills Building  
Topeka, Kansas 66612-1285  
(913) 296-3792

## **PERFORMANCE AUDIT REPORT**

### **Wage Rates for Construction of the Coliseum at Kansas State University**

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#### **OBTAINING AUDIT INFORMATION**

This audit was conducted by Mary Beth Green, Senior Auditor, and Jim Davis and Rick Riggs, Auditors, of the Division's staff. If you need any additional information about the audit's findings, please contact Ms. Green at the Division's offices.

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# WAGE RATES FOR CONSTRUCTION OF THE COLISEUM AT KANSAS STATE UNIVERSITY

## Summary of Legislative Post Audit's Findings

**What is the history of prevailing wage rates and their utilization in Kansas?** K.S.A. 44-201 et seq. requires contractors and subcontractors for State construction projects to pay their workers the prevailing wage rates for the locality where the work is performed. To enforce this requirement, in 1985 the Department of Administration began including schedules of specific hourly wage rates in State building contracts. Prior to 1985, the Department of Administration did not require contractors for State building projects to pay specific hourly wage rates. The rate schedules currently used are not required by law but were developed by the Department of Human Resources, in accordance with Executive Order No. 84-68. Bid specifications for construction of a new coliseum at Kansas State University were the first to include the wage rates developed by the Department of Human Resources.

**What are the prevailing wage rates for construction of the coliseum at Kansas State University, and how are those rates established?** The Department of Human Resources uses information submitted by construction contractors to establish wage rates for various types of workers, such as carpenters, electricians, and laborers. Separate rates are developed annually for each county and first- and second-class city. The August 1985 bid specifications for construction of the coliseum at Kansas State University included the Riley County wage-rate schedule. That schedule listed specific hourly wage rates for 21 types of workers. Because the construction bids submitted in August 1985 were higher than the estimated cost, bids for constructing a revised coliseum will be opened in October 1986. Those bids will include wage rates issued by the Department of Human Resources in March 1986. Because this audit was begun before these new rates were issued, it examined the rates established for Riley County in April 1985.

**Are the Riley County wage rates prevailing and reasonable?** If the wage rates established for Riley County represent the true prevailing wages in that county, it is reasonable to expect that the Department's determinations would not vary significantly among similar counties, nor from one year to the next. The auditors found that some Riley County rates were significantly higher or lower than the corresponding rates in Geary, Saline, and Reno Counties, and the rates required on federal projects in Riley County. Several Riley County rates also changed significantly from 1985 to 1986. One reason for such variations is that 12 of the 21 rates established for Riley County were each based on information supplied by one contractor. Other reasons for the variations include the fact that the Department of Human Resources relies on information voluntarily supplied by contractors, and that some data may be weighted too heavily under the Department's current survey methodology. The report makes recommendations for improving the State's procedures for establishing wage rates to be paid on building projects.

## **WAGE RATES FOR CONSTRUCTION OF THE COLISEUM AT KANSAS STATE UNIVERSITY**

State law requires contractors and subcontractors executing contracts for State construction projects to pay their workers the prevailing wage rates for the locality where the work is performed. In 1985, the Department of Administration began including schedules of specific hourly wage rates in State building contracts. These rate schedules list the minimum wages workers are to be paid on State projects. The wage-rate schedules are developed by the Department of Human Resources, in accordance with Executive Order No. 84-68. Wage rates listed in the schedules are based on contractor surveys administered annually by the Department of Human Resources.

In August 1985, bid specifications for construction of a new coliseum at Kansas State University became the first to include the wage rates developed by the Department of Human Resources. Separate rates were established for all counties and first- and second-class cities, and the Coliseum bid documents included the rates developed for Riley County.

Recently, legislative concerns have been raised about the reasonableness of those rates. To address those concerns, the Legislative Post Audit Committee directed the Legislative Division of Post Audit to conduct an audit examining the State's prevailing wage rates for Riley County. This audit addresses three questions:

- 1. What is the history of prevailing wage rates and their utilization in Kansas?**
- 2. What are the prevailing wage rates for construction of the coliseum at Kansas State University, and how are those rates established?**
- 3. Are the Riley County wage rates prevailing and reasonable?**

To answer these questions, the auditors interviewed officials from the Departments of Administration and Human Resources, the Board of Regents, and Kansas State University. They reviewed Kansas statutes, Attorney General opinions, and court cases to determine the history of prevailing wages in the State. The Riley County wage rates and the Department of Human Resources' supporting documentation for those rates were examined. Finally, the Riley County rates were compared to wage rates established for several other counties and the rates required on federal building projects in Riley County.

In general, the auditors found that nearly half the Riley County wage rates were based on single survey responses, and that some Riley County rates are significantly higher or lower than the corresponding rates established for surrounding and similar counties. Further, they found that the survey methodology used by the Department of Human Resources to develop the State's wage rates has several weaknesses that may affect the validity of the final wage-rate determinations. The Department has refined its survey procedures since these rates were issued, but further changes are needed to ensure that the established rates more accurately reflect the prevailing wage rates in Riley County. These and other findings are discussed in this report.

## What Is the History of Prevailing Wage Rates and Their Utilization in Kansas?

State law requires contractors and subcontractors for State and municipal construction contracts to pay their workers prevailing wage rates. K.S.A. 44-201 *et seq.* was enacted by the Legislature in 1891 to establish an eight-hour day for workers on these projects. K.S.A. 44-201 was intended to protect workers on public projects against employers who wanted to pay less than a full day's wage for an eight-hour work day. The statute also required contractors to pay workers the "current rate of per diem wages" on State and municipal projects.

In 1931, K.S.A. 44-201 was amended to define the "current rate of per diem wages" as the rate of wages paid to "the greater number of workmen, laborers or mechanics in the same trade, occupation, or work of a similar nature" in the locality where the work is being performed. If a greater number is not being paid the same rate, then the statute specifies that the current rate will be the average of the rates being paid. The statute also defines a locality as a county or a first- or second-class city.

### **The Departments of Administration and Transportation Include Prevailing Wage Requirements in State Construction Contracts**

The major State construction projects requiring payment of prevailing wages are building projects and highway construction projects. State law requires the Department of Administration to approve contracts for all building construction projects. The Department of Transportation is responsible for highway construction contracts. The Department of Administration has only included specific hourly wage rates in building contracts since August 1985. The Department of Transportation has used specific rates for more than 20 years.

**Prior to 1985, the Department of Administration did not require contractors for State building projects to pay specific hourly wage rates.** Before August 1985, the Department of Administration required contractors to pay the current rate of per-diem wages on all State building projects. However, the Department did not specify the hourly wage rates contractors had to pay their workers.

In a 1978 opinion, the Attorney General stated that to comply with K.S.A. 44-201, the State must include specific wage rates in all contracts for State building projects. However, later in 1978 the Kansas Supreme Court held that K.S.A. 44-201 did not require the inclusion of specific wage rates in State building construction projects. In 1982, the Kansas Supreme Court ruled that public agencies having the authority to enter into contracts for public works also have the authority to fix the terms of those contracts so long as the terms do not violate State law or public policy. As a result of these two decisions, the Department of Administration may include specific hourly rates in State building contracts but is not required by law to do so.

**In 1985, the Department of Administration began requiring contractors to pay specific hourly wage rates on State buildings.** In August 1985, the Department of Administration began including specific hourly wage rates in bid specifications and contracts for State building projects. The wage rates used by the Department of Administration are developed by the Department of Human Resources. Executive Order No. 84-68, dated January 4, 1984, directed the Department of Human Resources to devise a method to periodically determine the wages required by K.S.A. 44-201 to be paid on State and municipal projects in the various localities of the State. After

the Governor approved the resulting methodology, the Department of Human Resources developed hourly wage rates for various classifications of workers on building projects in all counties and first- and second-class cities in the State. The Department's procedures for establishing wage rates will be discussed in more detail later in the report.

The Department of Administration has historically required contractors to pay specific hourly wage rates on building projects involving federal funds. The federal Davis-Bacon Act, as amended in 1935, authorizes the U.S. Secretary of Labor to establish the prevailing wages to be paid on federal projects. Separate wage rates are issued for four major categories of construction: building, residential, heavy, and highway. The Department of Administration requires payment of the Davis-Bacon building rates on State building projects involving at least 25 percent federal funds.

**The Department of Transportation has required contractors to pay specific hourly wage rates on highway projects since 1965.** The Department of Transportation requires all contractors for State highway projects to pay the Davis-Bacon wage rates for federal highway projects. The Davis-Bacon highway rates are included in all highway construction contracts, including projects that do not involve federal funds. The inclusion of these rates was the subject of the 1982 Supreme Court case mentioned in a previous section. In that case, the Court held that public agencies having the authority to enter into contracts for public works also have the authority to fix the terms of those contracts so long as the terms do not violate State law or public policy. Therefore, the Department of Transportation has the authority to include the Davis-Bacon wage rates in all State highway construction contracts.

This audit focused on the wage rates included in State building contracts, rather than highway construction contracts. Therefore, the auditors did not examine the Department of Transportation's imposition of the federal Davis-Bacon wage rates in detail. Although the U.S. Department of Labor's procedures for developing federal wage rates will be discussed later in the report, the remainder of the audit will examine only the wage rates included in State building contracts.

### **Bid Specifications For Five Major Projects Have Included The Department of Human Resources' Wage Rates**

The auditors found that the wage rates developed by the Department of Human Resources had been included in bid specifications for five major State building projects as of March 1, 1986. Each of these five projects had an estimated cost of more than \$500,000. The wage rates were also included in approximately 150 contracts of less than \$500,000.

The Coliseum at Kansas State University was the largest and first project to include the wage rates in its bid specifications. That project's original estimated cost was \$16.1 million. The original Coliseum contract was not awarded, and the first major project successfully bid that included wage rates was the renovation of Weber Hall at Kansas State University. The revision of the original contract for construction of the Coliseum is discussed in more detail in the box on page five. The four major projects that have actually included the Department of Human Resources rates, and their estimated costs and funding sources, are summarized in the table on the top of the next page.

As the table shows, the estimated cost of these projects ranged from \$650,000 for the new locking system at Kansas State Penitentiary to \$6.1 million for the Weber Hall renovation. Funding sources for these projects included the General Fund, the Educational Building Fund, the Institutional Building Fund, and the Property Contingency Fund.

**Major State Building Contracts Awarded That Included the Wage Rates  
Developed By the Department of Human Resources  
As of March 1, 1986**

<u>Project</u>	<u>Contract Amount</u>	<u>Source of Funds</u>
Kansas State University, Weber Hall Renovation	\$ 6,090,000	Educational Building Fund
Osawatomie State Hospital, Biddle Building Addition	1,260,000	Institutional Building Fund
Department of Administration, Santa Fe Renovation, Project A	1,240,000	General Fund Property Contingency Fund
Department of Corrections, Kansas State Penitentiary, New Locking System, B Cellhouse	650,000	General Fund

**What Are the Prevailing Wage Rates For Construction  
Of the Coliseum at Kansas State University,  
And How Are Those Rates Established?**

To determine what wage rates will be used for construction of the Coliseum at Kansas State University, the auditors interviewed officials from the University, the Board of Regents, and the Departments of Administration and Human Resources. They also examined the Department of Human Resources' procedures for developing the State's prevailing wage rates.

The auditors found that the Department of Human Resources uses information provided by contractors to develop prevailing wages for various types of workers in each county and first- and second-class city. The wage rates issued by the Department in April 1985 for Riley County were included in the August 1985 contract for construction of the Coliseum. When the contract is re-bid in September 1986, it will include the updated wage rates for Riley County issued by the Department of Human Resources in March 1986. Because this audit was begun before the new rates were issued, it examines the earlier wage rates and bid.

**The Department of Human Resources Annually Surveys Contractors  
To Determine the Prevailing Wages Paid in Each Locality**

The Department establishes the State's prevailing wage rates by surveying building contractors. The mailing list for the survey was originally compiled from unemployment insurance records and listings supplied by a reporting service specializing in providing project information to the construction industry, as well as to the U.S. Department of Labor and other states.

The Department requests information on projects that have been worked on in the last year. The survey form asks respondents to list the hourly wage rate and fringe benefits paid to different classifications of workers, by project. Contractors are allowed to specify their own worker classifications, but are instructed not to list information for certain employees, including those in apprenticeship or informal training programs. Contractors are not asked to identify individual workers. Therefore, workers who are employed on more than one project may be reported more than once.

The Department uses the information submitted by contractors to develop wage rates for each locality. When contractors submit their completed survey forms, Department personnel review the information and compute prevailing wage rates for each county and first- and second-class city in the State. The Department

### **An Overview of the New Kansas State University Coliseum**

K.S.A. 1985 Supp. 76-6a369(a) authorizes the Board of Regents to construct a new coliseum at Kansas State University. It will be used for basketball games, concerts, lectures, and University-wide activities such as commencements.

Bids for construction of this coliseum were opened in August 1985. Five bids were received, and all were substantially higher than the estimated construction cost of \$14.5 million. The lowest bid for construction was approximately \$18 million. As a result, the entire project was reviewed and revised by the project architect, Kansas State University officials, and the Board of Regents. The project architect is currently completing revised drawings for the coliseum. Bids for construction of the revised project will be opened in October 1986, with construction scheduled to begin by December 1986. The estimated completion date is October 1988.

The estimated construction cost of the coliseum, as revised, is \$16 million. The total estimated cost of the facility, including architectural and contingency fees, is \$17.5 million. Funding will consist of \$8.5 million in donations, \$7 million in student fees, and \$2 million from the University's athletic department.

establishes separate rates for each county and city because K.S.A. 44-201 defines the current rate of per-diem wages as the rate being paid in a particular county or first- or second-class city. The State's procedures for developing and imposing the established rates are shown in the figure on page seven.

Within each locality, wage rates are established for various classifications of workers, such as carpenters, electricians, laborers, painters, and plumbers. If the same hourly wage rate was paid on more than 50 percent of the reported projects, that rate becomes the established wage rate for that locality. If no single rate is paid in more than 50 percent of the reported cases, all the rates for that classification are averaged. The fringe benefit rate is established using the same process, and is added to the base rate to get a total hourly wage rate. An example of a wage rate computation using this methodology is provided in the box on page eight.

**If the Department does not receive survey responses for certain classifications of workers in a locality, it does not specify the wage rate to be paid those workers.** For example, the Department did not receive any information on wages paid to bricklayers in Riley County. As a result, contractors are only required to comply with K.S.A. 44-201 and pay bricklayers the "current rate of per diem wage" in Riley County. The prevailing wage rate is then determined by free-market conditions.

### **Appeals of the Established Wage Rates Must Be Made To The Department of Human Resources**

Agencies, workers, and contractors may appeal any wage rate or set of rates to the Department of Human Resources. The appellant must present additional or different information that changes the wage determination made by the Department. This new information must be reported, in writing, by project and locality. Once a specific rate has been appealed and modified, the modified rate becomes the established rate until another modification is made or until a new survey is completed. Only one appeal has been filed with the Department of Human Resources. A labor union and a contractor organization filed a joint appeal of one wage rate for Shawnee County, and the Department determined that the appealed rate should be adjusted.

Kansas State University appealed the April 1985 Riley County wage rates to the Department of Administration. In August 1985, Kansas State University appealed the wage rates attached to the August 1985 Coliseum bid specifications. That appeal was filed with the Department of Administration, which deleted 11 of 21 wage rates from the Coliseum specifications. Because the appeal was made and approved by the Department of Administration, instead of the Department of Human Resources, all 21 wage rates for Riley County were again included in the bid specifications for the renovation of Weber Hall at Kansas State University. Further, because the Department of Human Resources will issue new rates before the Coliseum project is re-bid, the contract documents will include the updated wage rates.

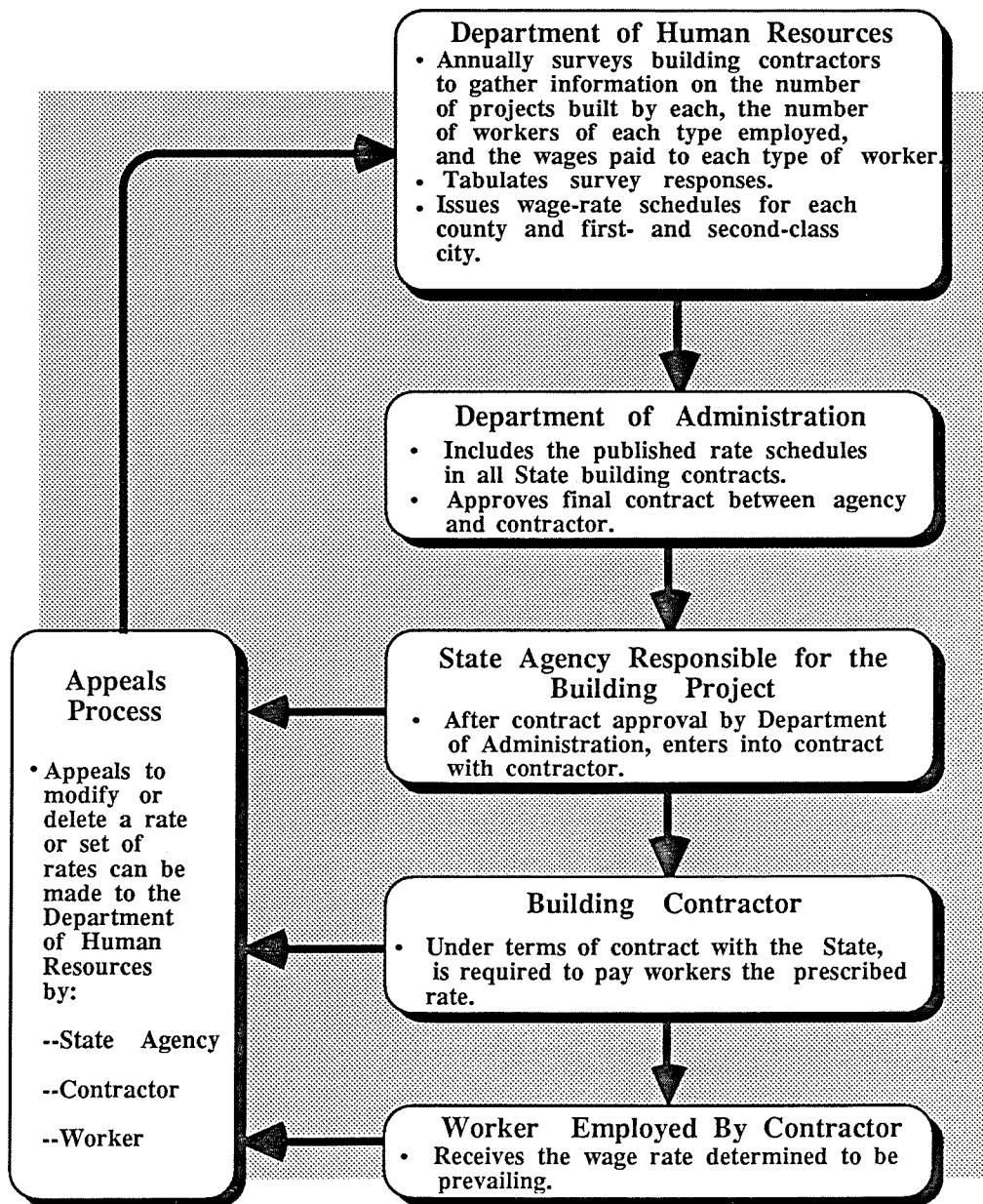
### The Construction Contract for the Coliseum At Kansas State University Included Wage Rates For 21 Types of Workers

Building contracts for projects at Kansas State University include the wage rates developed by the Department of Human Resources for Riley County. Statewide, the Department received information on workers in approximately 100 different classifications for the April 1985 rates. In Riley County, the Department received data on 33 different classifications but only made rate determinations for 21 of the more commonly used crafts. The following table shows the wage rates that accompanied the August 1985 bid specifications for the Coliseum.

<u>Worker Class</u>	<u>Base Wage Rate</u>	<u>Fringe Benefits</u>	<u>Total Hourly Wage</u>
Carpenter	\$ 11.09	\$ 1.33	\$ 12.42
Drywall Hanger	9.50	0.00	9.50
Drywall Finisher	9.50	0.00	9.50
Electrician	8.00	1.32	9.32
Floor Layer	11.45	3.21	14.66
Glazier	13.27	0.30	13.57
Structural Iron Worker	8.00	0.00	8.00
General Laborer	6.34 (a)	0.00	6.34 (a)
Mason Tender	9.50	2.05	11.55
Operating Engineer	13.50	4.02	17.52
Painter	13.60	1.25	14.85
Pipefitter	17.65	2.09	19.74
Plumber	17.65	2.26	19.91
Crane Operator	14.00	3.77	17.77
Backhoe Operator	13.75	3.77	17.52 (b)
Bulldozer Operator	13.75	3.77	17.52
Motor Grader Operator	13.75	3.77	17.52
Roller Operator	13.35	3.77	17.02 (c)
Scraper Operator	13.75	3.77	17.52
Roofer	8.00	0.00	8.00
Sheet Metal Worker	13.68	4.57	18.25

- (a) Legislative Post Audit calculations show this figure should be \$6.43, not \$6.34. The Department of Human Resources entered one survey twice and omitted another survey.
- (b) Legislative Post Audit calculations show this figure should be \$16.55, not \$17.52. The Department apparently selected one of two survey responses for the classification, rather than averaging the two responses.
- (c) Legislative Post Audit calculations show that this figure should be \$17.12, not \$17.02. The Department apparently made an addition error when adding the base and fringe rates.

## The Process of Determining Prevailing Wage Rates



Prevailing wage rates are set by the Department of Human Resources based on surveys mailed each year to building contractors. Separate rates are established for each county and first- and second-class city. Any contractor, worker, or State agency may appeal any rate or set of rates to the Department of Human Resources. Although the Department of Administration is the agency that requires the rates to be included in all State building contracts, under the current procedures all appeals to modify wage determinations must be made to the Department of Human Resources.



As the table shows, the Department's 1985 schedule of prevailing wages includes hourly and fringe benefit rates for 21 classifications of workers. The base hourly rates varied from \$6.34 for general laborers to \$17.65 for plumbers and pipefitters. The dollar value of fringe benefits paid ranged from \$0.00 to \$4.57.

### Determining Prevailing Wage Rates: An Example

To determine a prevailing wage rate, the Department of Human Resources surveys contractors to find out the hourly wage and fringe benefits they paid on projects during the previous year. The completed surveys show that area contractors employed so many carpenters on one project, for example, or so many plumbers on another. Department staff enter the survey data on a computer and sort the data according to the kinds of workers the contractors employed. The results for laborers in one county might look like this:

<u>Project Number</u>	<u>Workers Employed</u>	<u>Base Wage</u>	<u>Fringe Benefits</u>
1	2	\$ 5.50	\$ 0.00
2	4	6.00	0.00
3	1	8.00	2.57
4	15	7.55	0.00
5	3	6.75	1.25

As the table shows, the contractor doing project number one employed two laborers at

\$5.50 per hour with no fringe benefits. The contractor doing project number three employed just one laborer on that project at \$8.00 an hour plus \$2.57 an hour in fringe benefits.

According to State law, the prevailing wage is the wage that is being paid to the greater number of workers in a particular trade. So if one wage is reported for a worker classification more than 50 percent of the time, the Department of Human Resources designates that as the prevailing wage. If no one wage rate is paid in 50 percent of the cases, the prevailing wage is the average of all wages paid. In this example, one base wage occurs 15 out of 25 times--the \$7.55 an hour paid on project number four. Zero fringe benefits were paid in a total of 21 of 25 cases; only the one worker on project three and the three workers on project five were paid any fringes. The total hourly wage established for laborers in this example would be \$7.55 per hour--\$7.55 base wage plus zero fringe benefits.

### Are the Riley County Wage Rates Prevailing and Reasonable?

To answer this question, the auditors reviewed the Department of Human Resources' survey methodology and examined the calculations for Riley County. They compared the Department's survey procedures with those used by other states and the U.S. Department of Labor. The Riley County wage rates were also compared with the corresponding rates established for Geary, Saline, and Reno Counties. Finally, the Riley County rates were compared with the rates required on federal building projects in Riley County.

If the wage rates established for Riley County represented the true prevailing wages in the County, it is reasonable to expect that the Department's determinations would not vary widely among similar localities, nor from one year to the next. However, the auditors found that some of the rates established for Riley County appeared to be significantly higher or lower than those for the same worker classes in surrounding and similar counties. Several rates also changed significantly in Riley County from 1985 to 1986. At least part of the reason for such variations is that Riley County's rates were not based on a sufficient or representative number of survey responses. Twelve of the 21 rates were each based on information provided by one contractor. Other reasons contributing to disparities between Riley County's prevailing rates and the rates established by the Department of Human Resources include the fact that the survey reporting is voluntary, and that some survey data

may be weighted too heavily under the Department's current survey procedures and methodology. Finally, the auditors found calculation errors in three of the Riley County wage-rate determinations. These and other findings are discussed in the following sections.

**Some Riley County Wage Rates Are Significantly Higher or Lower Than Corresponding Rates In Similar Counties**

The auditors compared the Riley County wage rates to the rates established for Geary, Saline, and Reno Counties, and for federal projects in Riley County. Geary County rates were selected because that county borders Riley County, and Saline County and Reno County have comparable populations. Wage rates in other bordering counties--Clay, Pottawatomie, Marshall, and Washington--will not be discussed because each of those counties had a limited number of established wage rates.

In comparing rates established for other counties and federal projects in Riley County, the auditors identified three wage rates that appeared to be significantly higher or lower than the rates for most other localities. Other rates varied significantly from county to county. These rates are summarized in the following table.

**Selected Wage-Rate Determinations  
for the Jurisdictions Reviewed**

<u>Worker Class</u>	<u>Riley County</u>	<u>Geary County</u>	<u>Saline County</u>	<u>Reno County</u>	<u>Davis-Bacon</u>
Carpenter	\$ 12.42	\$ 12.95	\$ 8.58 (a)	\$ 9.36	\$ 13.48
General Laborer	6.34 (b)	10.30	5.28	5.00	11.55
Operating Engineer	17.52	17.52	6.00	7.25	none
Plumber	19.91	18.48	18.76	15.73 (c)	19.63
Crane Operator	17.77	17.77	17.37	16.37	17.77
Backhoe Operators	17.52	17.53	10.00	17.12	17.77
Roofer	8.00	8.00	7.50	none	15.95
Sheet Metal Worker	18.25	18.25	8.60	18.12	18.22
Electrician	9.32	18.15	15.58	16.80	18.15
<b>Floor Layer</b>	<b>14.66</b>	10.00	9.00	none	12.76
<b>Painter</b>	<b>14.85</b>	12.44	5.50	9.00	14.44

The worker classes and wage rates in boldface appear to be significantly higher or lower than most of the other county and federal wages reviewed for that class.

- (a) Legislative Post Audit computations show this figure should be \$8.64.
- (b) Legislative Post Audit computations show this figure should be \$6.43
- (c) Legislative Post Audit computations show this figure should be \$13.60

As the table shows, the Department-determined wage rate for a painter in Riley County--a rate based on a single survey response--appears high in relation to most other rates for painters. The Riley County rate for floor layers is \$1.90 per hour higher than the Davis-Bacon rate and \$4.66 an hour higher than the Geary County rate. The rate for an electrician in Riley County appears low in comparison with other counties and with the electricians' Davis-Bacon rate. Further, the rates for seven worker classes in Saline County--carpenters, floor layers, laborers, operating engineers, painters, backhoe operators, and sheet metal workers--are significantly less than the rates in Riley County. The plumbers' rate is fairly constant in these selected counties, but the Riley County rate is higher than all other counties and the rate established for federal projects in Riley County.

Despite similar populations or locations, each county listed in the table may have unique characteristics that affect the prevailing wage rate for the area. For instance, there may be a significant number of federal construction projects at Fort Riley and therefore, the Geary County wage rates may reflect payment of the Davis-Bacon wage rates. The Wichita labor market may affect the Reno County rates more than it affects the other counties' rates. Even so, significant variations between the counties would not appear to be reasonable. For instance, it does not appear reasonable for the State to establish a minimum wage of \$9.32 an hour for electricians in Riley County and \$15.58 an hour for electricians in Saline County.

#### Some Riley County Wage Determinations Vary Significantly From 1985 to 1986

Barring major changes in the local economy, it is reasonable to expect that actual wage rates for a given worker class would not vary significantly from one year to the next. In March 1986, the Department of Human Resources issued updated wage rates based on a new set of survey responses. The Department of Administration will begin using these updated rates later in 1986; the exact date has not been determined. For Riley County, five of the Department of Human Resources' 1986 wage determinations show significant differences from the corresponding 1985 rates. The table below illustrates these changes. Rates for eight other worker classifications in Riley County did not change from 1985 to 1986.

#### Changes in Riley County Wage-Rate Determinations From 1985 to 1986

<u>Worker Class</u>	<u>1985 Wage Rate</u>	<u>1986 Wage Rate</u>	<u>Dollar Difference</u>
Painter	\$14.85	\$10.00	\$ (4.85)
Roofer	8.00	6.10	(1.90)
Scraper Operator	17.52	15.77	(1.75)
Carpenter	12.42	11.78	(0.64)
Plumber	19.91	19.63	(0.28)
Pipefitter	19.74	19.63	(0.11)
Sheet Metal Worker	18.25	18.74	0.49
Iron Worker	8.00	8.75	0.75
General Laborer	6.34	8.25	1.91
Electrician	9.32	17.35	8.03

As the table shows, five of the wage rates that changed from 1985 to 1986 have major variations. The hourly wage for electricians rose from \$9.32 an hour to \$17.35, an 86 percent increase. Painters' wage rates fell by \$4.85, nearly a third, and general

laborers' determined wage rate rose by \$1.91, also about a third. The hourly rate for roofers fell by \$1.90 and the rate for scraper operators fell by \$1.75 an hour. This wide variance from one year to the next may indicate that the 1985 rates for these classes may not have been reasonable or prevailing. The auditors did not review the accuracy or validity of the Riley County's new 1986 wage-rate determinations, nor did they compare them with other counties' new rates. Some of the 1986 rates, particularly the rates for painters and electricians, appear to be more reasonable in comparison with the 1985 rates for other jurisdictions.

### Many Riley County Wage Determinations Were Based on Very Few Survey Responses

The auditors found that 12 of the 21 Riley County rate determinations were based on information provided by only one contractor employing that classification of worker. Further, 10 of those 12 rates were based on information provided on a single project. These 12 rates and the number of contractors, projects, and workers included in each computation are summarized in the table below. Appendix A shows the number and characteristics of the survey responses for all 21 Riley County wage rates.

Prevailing Wage Survey Response for Riley County  
Wage Rates Issued April 23, 1985

<u>Worker Class</u>	<u>Number of Contractors</u>	<u>Number of Projects</u>	<u>Number of Workers(a)</u>
* Drywall Hanger	1	1	6
* Drywall Finisher	1	1	3
* Glazier	1	1	7
* Structural Iron Worker	1	1	3
* Mason Tender	1	1	2
* Painter	1	1	4
* Bulldozer Operator	1	1	2
* Motor Grader Operator	1	1	1
* Roller Operator	1	1	1
* Scraper Operator	1	1	2
Floor Layer	1	4	10
Operating Engineer	1	7	16

\* Deleted from original bid specifications for the Coliseum by the Secretary of Administration

(a) A single worker may be counted more than once if that worker was employed on more than one project during the year.

As the table shows, 10 of these 12 rates were deleted from the original bid documents for the Coliseum when Kansas State appealed those rates to the Secretary of Administration. The Department of Human Resources does not consider the number of survey responses received when making a wage determination. Consequently, some determinations may be based on a small portion of the actual wages paid in the County. For example, the wage rate established for painters in Riley County was based on information supplied by one contractor. That contractor reported the rate paid to his employees for painting a swimming pool in Riley County. Presumably, a number of

painting contractors operate in Riley County, but only one responded to the survey. Yet the Department based the Riley County painter's rate on that single response.

A wage rate based on a single survey response could represent the prevailing wage being paid, if the responding contractor was the only one who performed that type of work in the county. However, the Department of Human Resources does not have this information when it issues prevailing wage rates for a locality.

Some of the factors that limit the sufficiency of the information available to make wage determinations include the voluntary nature of the survey and the statutory definition of a locality.

**The Department relies on wage-rate information voluntarily reported by contractors.** The validity of the survey results depends on the number and types of responses received from contractors. For the 1985 survey, about 45 percent of the Riley County contractors surveyed by the Department responded. The response rate for Riley County was actually higher than the Statewide response rate of approximately 42 percent. The Department's mailing list for the 1985 survey included some firms that are no longer in business, that have moved, or that did not perform building construction during the survey period. These factors may have contributed to the low response rate. Because the Department sends surveys to all known building contractors in a locality and contractors respond voluntarily, the resulting survey data represent neither the whole population of contractors nor a random sample of them. Because the contractors that return the survey are self-selected, the Department cannot know if the wage information they report is typical of all contractors.

Some other states contacted by the auditors have mandatory reporting laws. For example, Kentucky and Wisconsin law requires contractors to make all wage information available to state officials. These officials indicated, though, that the reporting laws are not always enforced. Wage rate procedures used by eight other states and the federal government are summarized in the box on page 13.

**The Department's wage-rate determinations are limited to a single county or first- or second-class city.** Separate wage rates are established for each county and city because K.S.A. 44-201 defines the locality for the current rate of per-diem as the county or first- or second-class city. Only wages paid on projects located in the individual county or city are considered in rate determinations. Other states and the federal government often expand the scope of their determinations to get a suitably large database from which to make wage determinations. Federal procedures allow U.S. Department of Labor wage analysts to vary either the time or geographic scope of its survey, or both. Wisconsin, Missouri, and Kentucky also permit data from surrounding counties to be considered.

### **The Department's Survey Methodology May Inaccurately Analyze the Survey Data That Are Available**

After the Department collects the survey responses from each county, the information is entered into a computer and sorted by worker class. The prevailing wage for each kind of worker is then determined either by averaging or by selecting the wage rate that occurs more than 50 percent of the time. Interested parties may appeal to the Department to modify an established rate by gathering additional data that conform to the Department's methodology. This process may not be flexible enough to generate accurate wage-rate determinations.

**FEDERAL AND STATE PREVAILING WAGE PROCEDURES**

<b>Entity</b>	<b>Obtaining Information</b>	<b>Setting Rates</b>	<b>Scope of Determinations</b>	<b>Other Features</b>
U.S. Department of Labor	Survey contractors; voluntary reporting	Amount paid to at least 50%; if none then average	By county, but may include data from surrounding counties	Rate-determined federal projects are excluded from the survey
Kentucky	Survey contractors; mandatory reporting	Amount paid to at least 50%; if none, then average	By county, but may include data from surrounding counties	Rates imposed only if contract exceeds \$280,000
Minnesota	Survey contractors; voluntary reporting	Amount paid to largest number (not necessarily 50%); higher amount picked if there is a tie	By worker, at the rate most recently paid in that county	Each worker is counted only one time
Missouri	Survey contractors; voluntary reporting	Set by state Department of Labor and Industrial Relations	By county, but may include data from surrounding counties	Different rates are set for projects more and less than \$5 million
Oklahoma	Adopted federal Davis-Bacon rates			Rates imposed only if contract exceeds \$600,000
Wisconsin	Survey contractors; mandatory reporting	Amount paid to largest number, not necessarily 50%	By county, but may include data from surrounding counties	Rate-determined projects are excluded from the survey
Colorado	Does not set rates; law was repealed in 1985			
Iowa	Adopted federal Davis-Bacon rates.			
Nebraska	Does not set rates; rates determined by market			

The auditors contacted the U.S. Department of Labor and a sample of other states to determine how prevailing wages for building projects are established. They contacted officials in the four surrounding states and Iowa, Kentucky, Minnesota, and Wisconsin.

The entities that set prevailing wage rates obtain information by surveying contractors and labor unions. Surveys are done as needed and responses are voluntary, unless otherwise noted in the table. Prevailing wages are generally determined on a county basis, but some jurisdictions may include information from surrounding counties if insufficient data is available on projects within a given county. Some entities only impose wage rates if contracts exceed specified dollar amounts.

**Contractors Contacted By the  
Auditors Think Some Department  
Wage Rates Are Too High**

The auditors surveyed a sample of Riley County contractors to measure whether the contractors thought the Department's wage rates were higher or lower than the actual prevailing wages in Riley County.

The survey was mailed to a sample of 20 contractors; eight firms responded. All together, these companies employed 10 of the 21 worker classes with Department-prescribed wage rates. The survey asked the firms if these wage rates were very low, somewhat low, about right, somewhat high, or very high. The results are shown below:

**Responses of  
Riley County Contractors**

<u>Worker Class</u>	<u>About Right</u>	<u>Some-what High</u>	<u>Very High</u>
Carpenter	1	--	3
Laborer	1	5	--
Plumber	--	--	1
Sheetmetal Worker	--	1	--
Equipment Operators			
-- Crane	--	--	3
-- Backhoe	--	--	3
-- Bulldozer	--	--	2
-- Grader	--	--	2
-- Roller	--	--	1
-- Scraper	--	--	1

As the table shows, one contractor thought that the carpenters' rate was about right. The other three contractors employing carpenters thought that the Department rate was very high. Five contractors employing laborers thought that the Department rate was somewhat high, as was the rate for sheetmetal workers according to the one contractor employing that class. The responding contractors thought that the Department's wage rates for all the other worker classes employed were very high in comparison to the contractor's perception of actual prevailing wages in the county.

The Department's wage-determination system does not consider the amount of time a worker spends on a given project. Only the number of projects and the number of employees working on each project are counted. In other words, an employee who worked on 10 projects during a year may be counted 10 times, while an employee who worked on only one project for the entire period may be counted only once. Hence, the first employee's wage rate would have 10 times more impact on the Department's wage determination than the second worker's, even though both may have been employed for the same number of hours during the year.

Although the present system may not be the most accurate available, Department officials indicated that adding a time-weighting factor to the survey procedure could actually result in less information being submitted. Officials say that many small employers may have neither the time nor the office help to compile and report the number of hours worked at a given wage rate by each worker class. Further, Department officials indicated that all contractors, regardless of size, might resist the additional paperwork.

During the course of the audit, a Board of Regents' staff member suggested to the auditors that the Department of Human Resources could request that contractors report the number of days rather than hours worked at each rate by each kind of worker. This information might be more readily available to the contractor, and could result in more accurate wage determinations.

The Department requires appeals to follow the established methodology. For example, contractors, unions, workers, or State agencies appealing wage rates are not allowed to present time-weighted survey data during an appeal, even though this method may be more exact. Similarly, in some cases it might be appropriate to consider wages paid on projects in surrounding counties. Alternatively, considering projects completed longer ago than the usual one year might in some cases produce a broader base of usable information.

## The Department Made Mathematical or Procedural Errors In a Few Wage Rate Determinations

The auditors reviewed all the survey forms used in determining the prevailing wage rates for Riley County. In most cases, the wage-rate determinations were processed and calculated correctly, although the Department made errors on three of the rates. The most significant error was in the hourly wage rate established for backhoe operators. The Department of Human Resources specified that the prevailing wage for backhoe operators should be \$17.52 an hour. This rate includes \$13.75 for base hourly pay and \$3.77 in fringe benefits. The auditors determined the rate issued by the Department for this worker classification should have been \$16.55 an hour, a difference of \$.97 an hour. Department staff apparently selected one of two survey responses reported for the class, rather than averaging the two responses as the methodology directs.

The auditors also found that the Department understated the calculated wage rate for general laborers by \$.09 by entering one survey twice and omitting another response. The final error was made when the total hourly rate was computed for roller operators. The Department calculated a base hourly rate of \$13.35 an hour plus \$3.77 an hour in fringes for this classification. The total hourly rate specified on the wage rate schedule was listed as \$17.02. The correct total hourly rate should have been listed as \$17.12 (\$13.35 plus \$3.77).

The auditors also reviewed the survey documents supporting the wage determinations for Reno, Saline, Geary, Pottawatomie, Marshall, and Washington Counties. In most cases, the Department's wage-rate determinations were processed and calculated correctly. However, in six of the seven counties, Department staff had made an error on at least one rate determination. For all the counties reviewed, the Department made 121 separate wage rate determinations. Nine of those determinations--about seven percent--were incorrect.

### Conclusion

The State's prevailing wage law, K.S.A. 44-201 *et seq.*, was enacted in 1891 to establish an eight-hour work day for public construction projects. K.S.A. 44-201 requires that contractors pay "the current rate of per diem wages" and defines that rate. It does not require the State to develop or use schedules of specific prevailing wages for State projects. The Department of Administration's current practice of including rates developed by the Department of Human Resources in State building contracts is the result of Executive Order No. 84-68. This practice has not been codified or mandated by legislation. In addition, determining and specifying wage rates for State building projects has a fiscal impact on the State, particularly if the State's established rates are higher than the true prevailing wage rates.

For Riley County, the auditors found that some of the State's wage rates may not reflect the actual prevailing wages being paid in that locality. The data and methodology that generated these rates may be flawed, resulting in rates that are not accurate. Further, the same methodology is used to establish wage rates for all counties and first- and second-class cities in the State. For these reasons, the Legislature may wish to review the State's procedures for establishing wage rates for building projects.



## Recommendations

1. The Legislature should review the State's current practice of requiring that specific wage rates be paid on State building projects. Among other items, the Legislature should consider:
  - a. clarifying the responsibilities of the Departments of Administration and Human Resources
  - b. giving the Departments of Administration and Human Resources the authority to promulgate rules and regulations for establishing wage rates
  - c. making wage rate reporting by contractors mandatory
  - d. expanding the definition of the locality for prevailing wages

As necessary, legislation should be enacted codifying the State's prevailing wage policy and procedures.

2. For wage rates developed using the current system, the Departments of Administration and Human Resources should ensure that wage rates are only included in State contracts when the rates are based on sufficient and representative data.
3. Given the problems found in this audit, officials from Kansas State University and the Departments of Administration and Human Resources should carefully review the 1986 Riley County rates before including them in the construction contract for the Coliseum at Kansas State University. Officials should ensure that individual rates are based on sufficient information.

## APPENDIX A

### Number and Characteristics of the Department of Human Resources Survey Responses for the Riley County Wage Determinations

WORKER CLASS	DEPARTMENT TOTAL HOURLY WAGE RATE	NUMBER OF CONTRACTORS RESPONDING	NUMBER OF PROJECTS	NUMBER OF WORKERS REPORTED(a)
Carpenter	\$ 12.42	13	25	95
Drywall Hanger	9.50	1	1	6
Drywall Finisher	9.50	1	1	3
Electrician	9.32	8	16	50
Glazier	13.57	1	1	7
Structural Iron Worker	8.00	1	1	3
General Laborer	6.34(b)	15	38	177
Mason Tender	11.55	1	1	2
Painter	14.85	1	1	4
Plumber	19.91	3	60	130
Equipment Operator:				
--Crane	17.77	2	32	40
--Backhoe	17.52(c)	2	2	2
--Bulldozer	17.52	1	1	2
--Motor Grader	17.52	1	1	1
--Roller	17.02(d)	1	1	1
--Scraper	17.52	1	1	2
Roofer	8.00	2	11	49
Sheetmetal Worker	18.25	4	52	143
Pipefitter	19.74	2	38	70
Floorlayer	14.66	1	4	10
Operating Engineer	17.52	1	7	16

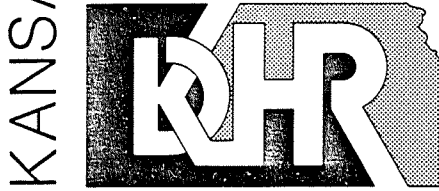
- (a) A single worker may be counted more than once if that worker was employed on more than one project during the year.
- (b) Legislative Post Audit calculations show that this figure should be \$6.43, not \$6.34. The Department entered one survey twice and skipped another.
- (c) Legislative Post Audit calculations show that this figure should be \$16.55, not \$17.52. The Department apparently selected one of two survey responses reported for the class, rather than averaging the two.
- (d) Legislative Post Audit calculations show that this figure should be \$17.12, not \$17.02. The Department apparently made an addition error when adding the base and fringe wage rates.

## **APPENDIX B**

### **Agency Responses**

Copies of the draft audit report were sent to the Departments of Administration and Human Resources, Kansas State University, and the Board of Regents on April 22, 1986, for review. All four agencies submitted written responses to the audit, and those responses are presented in this Appendix.

# KANSAS DEPARTMENT OF HUMAN RESOURCES



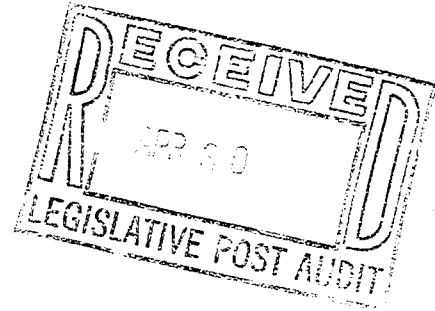
OFFICE OF THE SECRETARY  
401 S.W. Topeka Avenue, Topeka, Kansas 66603  
913-296-7474

John Carlin, Governor

Larry E. Wolgast, Secretary

April 30, 1986

Meredith Williams  
Legislative Post Auditor  
109 West 9th, Suite 301  
Mills Building  
Topeka, Kansas 66612-1285



Dear Mr. Williams:

Thank you for the opportunity to participate and respond to the post audit report, Wage Rates for Construction of the Coliseum at Kansas State University. The system used to determine the wage rates was developed by the Department and input was provided by the Department of Administration, Division of Architectural Services, contractor associations and worker organizations.

The amount of information necessary to determine a rate is always a major concern. It was determined at the outset that a rate would be set by whatever amount of information was received for that worker classification. It is important to show rates paid to workers within the geographical boundaries of the designated localities (counties and first and second class cities). There are no statistics available that count every worker per craft within each county in Kansas. Without this statistic, a "true" prevailing wage may be non-existent.

The "sufficient information" criteria espoused by the post audit report is open ended. Is one, five, eleven, fifty or one hundred a sufficient representative number? With an unknown universe it is appropriate to conclude that for statistical determination, a rate would be made per classification if the employee worked within the locality, no matter how many jobs were reported. There was no preconceived rate schedule. The rural nature of this state precluded us from setting a threshold on information that would be used to make a determination. One worker on one project was sufficient as long as there was a mechanism to correct a rate thought to be inaccurate. But that correction cannot be made by phone call or by one complaint letter. Evidence must be reported in the same manner as the survey that established the rate.

An unreasonable rate, by definition, would be a rate that is contrary to law (a rate under \$3.35 per hour) or a rate that was above a collective bargained rate. Anything in between was conceivable and could not be ruled

Meredith Williams  
April 30, 1986  
Page Two

out. If we had predetermined a rate and found evidence to prove it, then any rate to the contrary would be unreasonable. Our rates reflect actual wages paid on projects being worked in the various localities of Kansas.

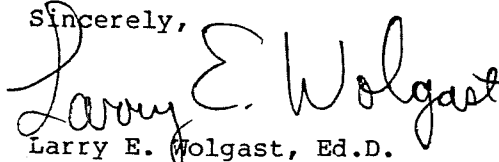
A major task was to establish the process for the survey. The administering of the survey lasted nine (9) months. There was no threshold placed on the total cost of the project or the number of workers needed to establish a rate. No contractor is denied the opportunity to participate, but neither are they required to report. Over six thousand (6,000) employer/contractors who reside in the state were contacted twice to give evidence. Contractors were encouraged to report. A rate would be issued no matter how many responses were received. Those contractors choosing not to respond could either live with the rate or change them through an appeal.

The rates determined by the Department are reflective of what is paid in the locality. They are based on information provided by contractors and workers doing work in each locality. The "prevailing rate" sought in the post audit report may only be achieved if the total number provided an indication of a going rate or an averaged rate. If that rate is believed to be excessive or deficient, there is an appeal procedure that may be utilized.

Merely requiring contractors to report will not simplify the problem. More staff will be required to take action against those who refuse and a system will have to be set up to compile the names of every employer working within the state in the construction trades. Contractors have the power now to control the determinations that are made provided they are willing to show their work and designate their rates. If we were to wait until we received all the information available, it would promote non-compliance by contractors as a means to eliminate the determinations. It would be like saying if we do not receive taxes from all, we will not charge taxes to any.

Thank you for the opportunity to comment on the post audit report. The staff who visited the agency was most polite and courteous. We look forward to working with you in the future.

Sincerely,



Larry E. Wolgast, Ed.D.  
Secretary of Human Resources

LEW:JHH:lm

cc: Secretary Shields

STATE OF KANSAS



DEPARTMENT OF ADMINISTRATION  
Office of the Secretary

JOHN CARLIN,  
Governor  
ALDEN K. SHIELDS,  
Secretary of Administration

Room 263-E  
State Capitol Building  
Topeka, Kansas 66612-1572  
(913) 296-3011

April 30, 1986

Meredith Williams  
Legislative Post Auditor  
Legislative Division of Post Audit  
109 West 9th, Suite 301  
BUILDING MAIL



Dear Mr. Williams:

I have reviewed your draft audit report, Wage Rates for Construction of the Coliseum at Kansas State University. In general, the portion of the report relating to my Department's role appeared accurate. The Department of Administration has commenced using the updated wage survey results on projects being let by the State.

Regarding the wage survey methodology, it is hoped that the appeals process will be utilized to address any perceived inaccuracies. The voluntary nature of the wage survey reporting results in less wage data being available than would be the case under a mandatory reporting situation. However, as contractors realize the benefits of a better response rate to surveys, greater participation in wage surveys may be achieved. In this regard, your report should assist in an understanding of the benefits of greater participation in the wage surveys.

Thank you for the opportunity to respond to the draft of your report.

Sincerely,

A handwritten signature in cursive script that reads "Alden K. Shields".

Alden K. Shields  
Secretary of Administration

AKS:cm



Office of the President

Anderson Hall  
Manhattan, Kansas 66506  
913-532-6221

April 24, 1986



Meredith Williams  
Legislative Post Auditor  
109 West 9th, Suite 301  
Mills Building  
Topeka, Kansas 66612-1285

Dear Mr. Williams:

Thank you for a preliminary draft copy of your performance audit report, Wage Rates for Construction of the Coliseum at Kansas State University.

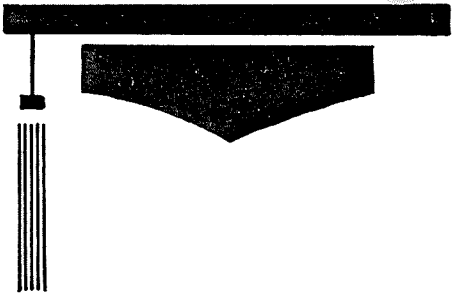
We have reviewed the report in terms of the accuracy of the items involving Kansas State University and find them to be essentially correct. We would only point out that the Department of Administration is using the updated 1986 wage rates on the Chemistry/Bio-Chemistry Building-Phase I project which is currently out for bids.

Sincerely,

Duane Acker  
President

/dmd

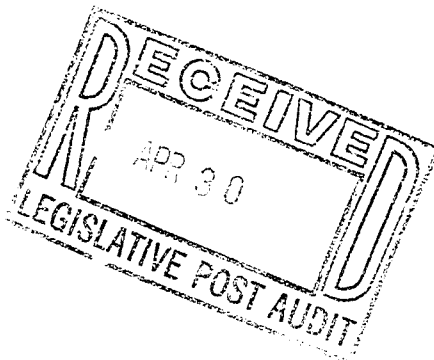
cc: George Miller  
Mike Johnson  
Larry Garvin  
Vince Cool



# KANSAS BOARD OF REGENTS

Suite 609      Capitol Tower      400 S.W. Eighth  
Topeka, Kansas 66603      Telephone (913) 296-3421

April 28, 1986



Mr. Meredith Williams  
Legislative Post Auditor  
Legislative Division of Post Audit  
109 West 9th, Suite 301  
Mills Building  
Topeka, Kansas 66612-1285

Dear Mr. Williams:

Thank you for the draft copy of the performance audit report for Wage Rates for Construction of the Coliseum at Kansas State University.

We do not have any comments, corrections or clarifications.

Sincerely,

Stanley Z. Koplik  
Executive Director

SZK:rd



# BAMFORD FIRE SPRINKLER CO., INC.

BOX 1905

SALINA, KANSAS 67402-1905

(913) 825-7710

DESIGN  
ENGINEERING

FABRICATION  
INSTALLATION

REPAIR  
INSPECTION

March 23, 1987

State Representative Arthur Douville  
Chairman of Labor and Industry  
State Capitol  
Topeka, KS 66612

RE: Senate Bill 112

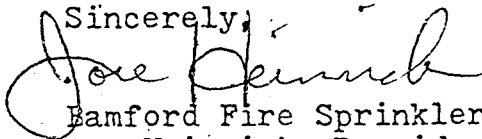
Dear Representative Douville:

This letter is to express this company's support for the above referenced bill which is intended to repeal KSA 44-201, 44-202, 44-203, 44-204 and 44-205.

Legislation currently in force requires a minimum wage rate be paid each worker in a given construction classification. This wage rate is dictated by the State of Kansas and for the general area in which we conduct business, this rate substantially increases "crew" costs. Typically in our business a "crew" would consist of a foreman, a journeyman and a laborer. Our normal "crew" cost (hourly wage only) for private construction would be \$35.00 per hour. The structure of existing legislation balloons this rate to in excess of \$60.00 per hour. Additionally, the restriction on work hours will in many cases increase travel, per diem and overall operating expenses. All factors considered, KSA- 44-201 thru 44-205 would appear to sharply reduce the amount of services the State of Kansas can purchase for its construction dollar.

Respectfully we request the committee approve Senate Bill 112.

Sincerely,



Bamford Fire Sprinkler Co., Inc.  
Joe Heinrich, President

Attachment #11  
House Labor and Industry  
3/24/87

# Central States Construction, Inc.

General Contractors

254 Laura, Suite 203 Wichita, KS 67211 (316) 267-5781

March 23, 1987

Representative Arthur W. Douville  
Chairman of Labor & Industry  
Kansas House of Representatives  
State Capitol  
Topeka, Kansas

Dear Representative Douville:

I respectfully request your committee approve Senate Bill #112.

You are confronted with severe budget shortages for the state. This bill presents the state with an opportunity to secure more construction without inflated, unrealistic wage rates, as has been dictated in the past on state work.

Private industry as a rule is capable of getting more construction for a given dollar than state projects. In an entrepreneurial spirit repeal of K.S.A. 44-201 would encourage greater competition in bidding of state work, thereby encouraging creative management, lower costs, and reducing pressure on the tax payers without sacrificing essential services, jobs, or creating additional levels of bureaucracy.

In summary, the needs of the State of Kansas for economic development necessitate maximizing the economic benefit back to the tax payers for every tax dollar spent. Passage of S.B. #112 is a step in that direction.

Very truly yours,

CENTRAL STATES CONSTRUCTION, INC.

*Nancy S. Hedlund*

Nancy S. Hedlund  
President

NH/

Attachment #12  
House Labor and Industry  
3/24/87



410-A N. ST. FRANCIS, P.O. BOX 1022  
WICHITA, KANSAS 67201 264-4392

March 20, 1987

Kansas House of Representatives  
State Capitol Building  
Topeka, KS 66612

ATTN: Arthur Douville, Chairman of the House Labor and Industry

We wholeheartedly approved of Bill 112 to repeal KSA 44-201 through 205.

It has long been our belief that KSA 44-201 is an outdated, antiquated law fueling inflation and wasted tax dollars.

Please consider our concerns in the upcoming vote and help bring government spending back in line with the private sector.

Sincerely,

CONCO, INC.

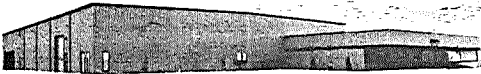
A handwritten signature in cursive script, appearing to read "Timothy Nightingale".

Timothy Nightingale, President

TN/kkt

Attachment #13  
House Labor and Industry  
3/24/87

OUR NEW HOME

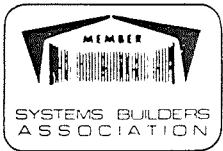


In Mid-Continent Industrial Park

# EVANS

BUILDING CO., INC.

9800 WEST YORK ST.  
P.O. BOX 12086  
WICHITA, KANSAS 67277  
316 / 524-0103



VARCO-PRUDEN  
BUILDINGS

March 20, 1987

Representative Arthur W. Douville  
State Capitol  
Topeka, Kansas 66612

Dear Representative Douville:

Please be advised Evans Building Company, Inc. supports Senate Bill 112, which will repeal the State prevailing wage law.

As has been illustrated by previous testimony to the Senate, the prevailing wage laws are unnecessary, inflationary, discriminatory and counter to economic development which is badly needed for the State of Kansas.

I would appreciate your support and effort to approve Senate Bill 112.

Sincerely yours,

John D. Evans  
President

/pat

Attachment #14  
House Labor and Industry  
3/24/87

# G & C INC. GENERAL CONTRACTORS

March 23, 1987

Rep. Arthur W. Douville  
Chairman House Labor & Industry Committee  
State Capital  
Topeka, Ks. 66612

Re: Senate Bill 112 (Repeal of Prevailing Wage KSA 44-201)

Dear Rep. Douville,

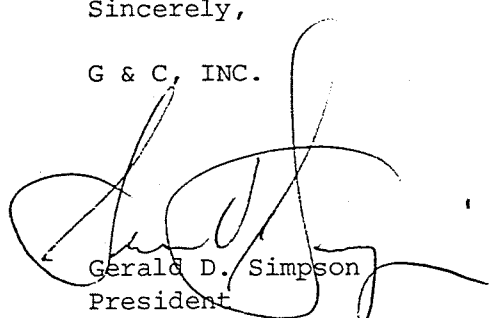
I wish to add my support to Senate Bill 112 if in fact, it will repeal KSA\_201 an old and antiquated law. The past administration of this state has saw fit to make KSA-201 a "little Davis Bacon Law."

In the past few years nationwide we have seen labor agreements turned upside down with cuts in wages to save dying or struggling industrys. It is time to untie the hands of labor and management letting them negotiate their own wage packages.

We at G & C, INC. have been in the general construction business since 1971 in this state. We have many long time employees who must think we pay a fair wage. These wages are negotiated with employees based on their own ability and years of service. Kansas is a "Right to work State" it is time to repeal KSA-201 so it can function as such.

Sincerely,

G & C, INC.

  
Gerald D. Simpson  
President

Attachment #15  
House Labor and Industry  
3/24/87



1831 SOUTH ANNA / (316) 942-3206 / WICHITA, KANSAS 67209





2445 South Glendale • Wichita, Kansas 67210

316/686-2090

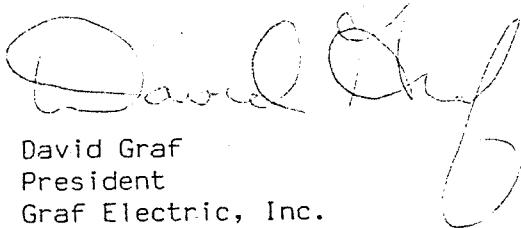
March 23, 1987

Representative Arthur W. Douville  
Chairman of Labor and Industry Committee  
State Capitol  
Topeka, KS. 66612

Dear Representative Douville:

We want to voice support for Senate Bill #112 which would repeal KSA- 44-201 thru 205. We feel that this bill would save the taxpayer a considerable amount of money, especially in a year when Kansas needs the savings..

Respectfully,



David Graf  
President  
Graf Electric, Inc.

DG/ca

Attachment #16  
House Labor and Industry  
3/24/87

LICENSED

BONDED

INSURED



Specializing in wiring for the milling industry, heavy industrial and all types of commercial

March 23, 1987

State Representative Arthur Douville  
Chairman of Labor and Industry  
State Capital  
Topeka, KS 66612

Reference: Senate Bill 112 (Repeal of KSA 44-201)

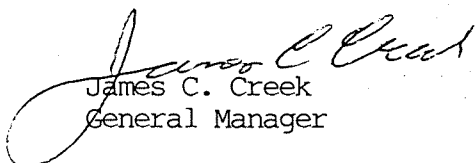
Dear Mr. Douville,

Due to the economic condition of our state economy we at Greenway Electric, Inc. feel that repeal of KSA 44-201 is a must. Our heritage in the state has always been one of free enterprise. We feel that all jobs should be bid in a competitive manner to keep the cost down. This is vital to the state and also the tax paying citizens of Kansas.

Any time we have to pay a fixed wage it drives the cost of the job up considerably. Our company does work in many states, mainly because there is not enough work for us here in the state. All of these jobs are bid competitively without fixed wages. We pay our employees a fair wage plus expenses. We feel that to get our U.S. economy going we must be more competitive and get our production up.

Thank You.

Sincerely,

  
James C. Creek  
General Manager

JC/vlo

Attachment #17  
House Labor and Industry  
3/24/87



p.o. box 749    wichita, kansas 67201

March 20, 1987

Kansas House of Representatives  
State Capitol Building  
Third Floor  
Topeka, KS 66612

ATTN: Arthur Douville, Chairman of the House Labor and Industry

We, the members of Kansas Systems Builders Association, approve of Senate Bill 112 to repeal KSA 44-201 through 205.

It has long been our belief that KSA 44-201 is an outdated, antiquated law fueling inflation and wasted tax dollars.

Please consider our concerns in the upcoming vote and approve Senate Bill 112.

Sincerely,

Dan J. Waller, President  
Kansas Systems Builders Association

Attachment #18  
House Labor and Industry  
3/24/87



# Rainbow Construction Co., Inc.

---

GENERAL CONTRACTORS

242 New York

Wichita, Kansas 67214

Phone (316) 264-4689

Paul Howard, President.

March 23, 1987

Mr. Arthur W. Douville  
Chairman of House  
Labor & Industry Committee

Re: Senate Bill No. 112

Dear Mr. Douville:

This letter is written to encourage you to vote yes to bill No. 112.

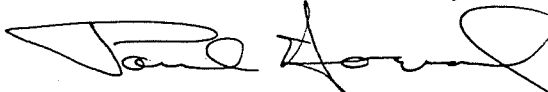
I have accomplished such job's as Senior Service's Building in Wichita, which was a \$800,000.00 job which was governed by prevailing wage in the area. This project cost at least \$160,000.00 more as a result of prevailing wage. This was a loss to Senior Services, the facility we built for.

The pitiful part in work like this is determination of what is prevailing wage, as it is impossible to determine. The act when it was written was fine for illiterate immigrants. It's time to take some of these archaic laws off the books.

Thank you for your consideration. I remain,

Sincerely,

RAINBOW CONSTRUCTION CO., INC.



Paul Howard  
President

PH:k

Attachment #19  
House Labor and Industry  
3/24/87



March 23, 1987

Representative Arthur W. Douville  
State Capitol  
Topeka, KS 66612

RE: SENATE BILL 112 (REPEAL OF KSA 44-201)

Dear Representative Douville:

It is my understanding that the Senate Labor & Industry Committee will be hearing testimony on Senate Bill 112 which will repeal the old KSA 44-201 "Kansas Little Davis Bacon Law". It had been my intention to come to Topeka to testify but I am going to be out of the State at the time of your hearings and, therefore, would like to express my opinion on this issue by letter instead.

One argument often heard in favor of KSA 44-201 is the one in which a statement is made that "Everyone ought to be paid a fair wage". While no one would ever disagree with this statement, I think that it somehow implies that "fair" wages are not currently being paid. To me, a fair wage is the wage that is freely negotiated between a willing seller (worker) and a willing buyer (employer). That is the only true test of the "fair market" or "prevailing" wage and not some average wage rate arrived at by an arbitrary mathematical computation. The most disturbing thing about the system used in 44-201 is that it totally ignores the fact that some workers have more skills and are more productive than others. KSA 44-201 specifies the minimum wage employers must pay to be the average wage. If any worker is paid more than the average wage then someone must be getting less than the average. The conflict arises because the new "prevailing wage" becomes a new minimum wage which artificially "ratchets up" the wages of the least productive 50% of the work force at the same time the marketplace insists that workers with greater productivity or skills be paid more than those with less. Needless to say, 44-201 makes for considerable turmoil in the workplace!

My company employs about 600 people during the peak of the construction season. Much of our business is done on government projects, some of which include a "Department of Labor Wage Determination" as required by the federal Davis Bacon Law, or indirectly as required by our own KSA 44-201. I can tell you that the entire wage determination process is a very costly and non-productive fiasco. Whenever our firm encounters a public project with wage requirements that are determined in advance by the government, we increase our bid price. There are a number of reasons why we do this regardless of whether or not the actual wage

- Continued -

Attachment #20  
House Labor and Industry  
3/24/87

8100 East 22nd Street North, Building 500 • Post Office Box 8901  
Wichita, Kansas 67208  
316-684-7300

Representative Arthur W. Douville  
March 23, 1987  
Page 2

specified is higher than the one we normally pay: 1) There are added administrative and record keeping costs. 2) There are substantial worker attitude problems if a worker gets a higher wage when he works on one project versus another, or when one worker gets a "raise" to work on a project and other more qualified workers don't, etc. 3) Every time our workers are employed on a project which specifies a higher wage than we normally pay, that higher wage information is used later in a survey to determine a new higher "prevailing wage".

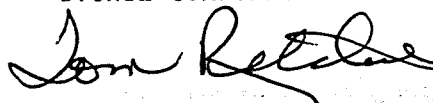
KSA 44-201 may have been a great piece of legislation back in 1891 when it was passed. However, things have changed a great deal since Kansas initiated the first "Davis Bacon" type minimum wage law in the United States, and this law is no longer needed. For example, every Kansas worker today is entitled to workman's compensation, a safe place to work (O.S.H.A.), social security, minimum wage, overtime pay over 40 hours of work per week, unemployment compensation, and freedom from discrimination. Most Kansas workers also have some combination of the following employer provided fringes: health care benefits, life insurance, pension plans in addition to social security, paid holidays, paid vacations, paid time off for jury duty, sick pay, personal days, and special education and training off the job to provide for personal advancement. This is a far different climate for the Kansas worker than existed in 1891.

To sum up, KSA 44-201 is 96 years old and was put into law at a time when Kansas workers may have needed a law of this kind. Those protections are no longer necessary and this law will do nothing except raise the cost of all construction in Kansas starting first with public construction and then spreading directly to private construction as well. It does nothing to promote harmony between employers and workers but instead creates an atmosphere that undermines the free market system of greater pay for greater productivity. Lastly, it must surely increase the force of "officials" required to administer and supervise the many surveys necessary to accurately determine the "prevailing wage" (not to mention the greater staff required to settle disputes when some worker gets an anonymous suggestion from his ever-so-friendly union business agent that he might not have gotten the "prevailing wage" as required by 44-201).

One has to ask if the additional employees required to administer 44-201 are being used in productive roles and can the taxpayers afford the cost of non-productive public employees or higher construction expenses? I hope that your committee will pass SB 112 and work for the ultimate repeal of 44-201.

Very truly yours,

RITCHIE CORPORATION



Tom Ritchie  
President

TR/km

# Simpson & son, inc. GENERAL CONTRACTORS



March 23, 1987

Rep. Arthur W. Douville  
Chairman House Labor and Industry Committee  
State Capital  
Topeka, Ks. 66612

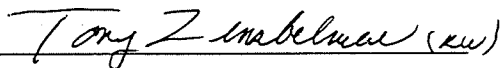
Re: Senate Bill 112 (Repeal of Prevailing Wage KSA 44-201)

Dear Rep. Douville:

Our company wishes to express our support of Senate Bill 112 calling for the repeal of the Kansas prevailing wage law (KSA 44-201). It is our opinion that the "prevailing wage" for a given area is the wage which an employee agrees to work for an employer based upon the given skills of that employee. We have been in business since 1958 and have found this basic fundamental principle to be true since the day we opened for business. Who better to determine what the prevailing wages are than the general contractors working on a daily basis in the open market place. Not some "average" wage arrived at through surveys that all too often do not represent general contractors as a whole.

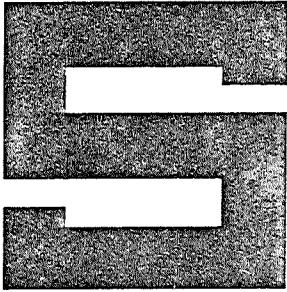
While we are sure there was a time and a need for this law, we are also sure those needs have long since passed and the time has come to repeal this law forever.

Very truly yours,

  
Tony Zimbelman, President

Attachment #21  
House Labor and Industry  
3/24/87

Since 1967



**SMITH CONSTRUCTION CO., INC.**

P.O. BOX 13213 WICHITA, KS 67213  
4620 ESTHNER (316) 942-7989

March 19, 1987

Arthur Douville  
Kansas House of Representatives  
Topeka, KS

Re: Senate Bill 112

Dear Mr. Douville:

Our firm is in favor of passage of Senate Bill 112.

We would appreciate you taking into consideration our position when this bill comes up before your committee in the House of Representatives.

Sincerely,

William L. Smith,  
President  
SMITH CONSTRUCTION CO., INC.

WLS/jjs

Attachment #22  
House Labor and Industry  
3/24/87





AUTHORIZED DEALER

**Armco Building Systems**

March 23, 1987

State Representative Arthur W. Douville  
State Capitol  
Topeka, Kansas 66612

Re: Senate Bill #112 (The Repeal of KSA 44-201)

Dear Representative Douville:

As a small Kansas Contractor who has been in the construction industry for over 25 years, I am writing to encourage you to work diligently for the passage of Senate Bill #112.

It has been my experience over the years that the smaller subcontractors are not willing to bid on state work due to the problems caused by the 'Prevailing Wage Rates'. For example, if a subcontractor has a crew of 10 to 15 workers, but only needs 5 on the state project, he must pay the prevailing wage to those 5 which then causes personnel problems with the other employees. This type of situation certainly contributes to 'non-productive' attitude problems with the workers. If a man is needed only 2 or 3 hours on the state project during the day, it causes additional clerical work to prepare the payroll and certainly contributes to a bad atmosphere among employees.

The result of KSA 44-201 over the years has been to raise the cost of all construction - public and private; cause problems within our industry by adding numerous reports and paper work and causing major problems between management and labor.

In conclusion, the small contractor can not afford to bid state work and I am requesting that your committee pass Senate Bill #112.

Very truly yours,

STEEL STRUCTURES OF KANSAS, INC.

Harold Holder, President

HH/nh

Attachment #23  
House Labor and Industry  
3/24/87



**STEEL STRUCTURES  
OF KANSAS, INC.**

P.O. Box 11008  
212 Laura Wichita, Kansas 67202  
(316) 263-1234



**WICHITA INDEPENDENT BUSINESS ASSOCIATION**

Riverview Plaza • Bldg. 200 • Suite 5 • 2604 W. 9th St. at McLean Blvd. • Wichita, Kansas 67203  
(316) 943-2565

March 23, 1987

Representative Arthur W. Douville  
Chairman of the House Labor and  
Industry Committee  
State Capitol  
Topeka, KS 66612

Dear Representative Douville:

The Wichita Independent Business Association is an association of over 1300 businesses located in the Wichita trade area. We take the position of supporting this bill that repeals the present formula on prevailing wages on state construction projects. We feel in the spirit of true competition that it should be put out in a competitive nature as other businesses are. We believe the end result will be a lower cost to the state and still provide ample jobs for those in the construction industry.

Sincerely,

A handwritten signature in cursive script that reads "Roland E. Smith" with a small "(mp)" written below it.

Roland E. Smith  
Executive Director

RES:mp

Attachment #24  
House Labor and Industry  
3/24/87

**WICHITA CHAPTER**  
**Independent Electrical Contractors, Inc.**

Phone: 316-686-6251

P.O. Box 16312, Wichita, Kansas 67216

2443 South Glendale, Suite 1, Wichita, Kansas 67210



March 23, 1987

Representative Arthur W. Douville  
Chairman of Labor and Industry Committee  
State Capitol  
Topeka, KS. 66612

Dear Representative Douville:

We want to voice support for Senate Bill #112 which would repeal KSA- 44-201 thru 205. We feel that this bill would save the taxpayer a considerable amount of money, especially in a year when Kansas needs the savings.

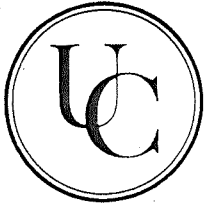
Respectfully,

David Graf  
President  
Wichita Chapter, Independent Electrical Contractors, Inc.

Members: Air Capital Electric  
C-I Electric  
Blanton Electric  
Meeker Electric  
Mercury Electric  
Phillips-Southern Electric  
Thornton-Florence Electric  
Ziegler Electric  
Graf Electric

Attachment #25  
House Labor and Industry  
3/24/87





## Utility Contractors, Inc.

(316) 265-9506 - 659 N. Market Street - P.O. Box 2079 - Wichita, Kansas 67201

An Equal Opportunity Employer

March 23, 1987

Representative Arthur W. Douville  
Chairman of Labor & Industry  
Kansas House of Representatives  
State Capitol  
Topeka, Kansas

Dear Representative Douville:

I want to encourage your committee to pass SB 112 concerning  
Prevailing Wages in the State of Kansas.

As a Contractor, I am interested in paying the market price  
for labor so that the State may get the most responsible  
quotation on any work for which a request for proposal is  
issued.

Considering that this bill was passed in the late 1800's to  
take care of Chinese railroad workers, it appears time that  
we work in the current market. It is impossible for the  
State to determine the market, the market should determine  
the wages paid to any employee.

Again, please pass SB 112.

Sincerely,

UTILITY CONTRACTORS, INC.

James R. Grier, III  
President

JRG, III:mas

Attachment #26  
House Labor and Industry  
3/24/87

KANSAS  
ASSOCIATION



OF  
SCHOOL  
BOARDS

5401 S. W. 7th Avenue Topeka, Kansas 66606  
913-273-3600

Testimony on Senate Bill 112

before the

House Labor and Industry Committee

by

John W. Koepke, Executive Director  
Kansas Association of School Boards

March 24, 1987

Mr. Chairman and members of the Committee, the Kansas Association of School Boards, which represents 302 of the 304 unified school district boards of education, would like to be placed on record in support of S.B. 112. We believe that the use of the prevailing wage concept costs taxpayers unnecessary dollars on school district construction projects. Particularly in these perilous economic times, we believe that it is time to repeal this outmoded concept.

We hope that you will give favorable consideration to our request.

Attachment #27  
House Labor and Industry  
3/24/87