

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Representative Kathleen Sebelius at
Chairperson

1:30 ~~am~~/p.m. on Wednesday, March 4, 1992 in room 526-S of the Capitol.

All members were present except:

Representative Dick Edlund - Excused
Representative Rand Rock - Excused
Representative Don Smith - Excused

Committee staff present:

Mary Torrence, Office of the Revisor
Mary Galligan, Kansas Legislative Research Department
Lynne Holt, Kansas Legislative Research Department
Connie Craig, Secretary to the Committee

Conferees appearing before the committee:

Gary Stotts, Secretary, Department of Corrections, Kansas
Representative Steve Wiard
Representative Eloise Lynch
Dorothy Ilgen, Executive Director, Kansas Arts Commission
Dr. Richard Bergen, Sculptor, Salina, Kansas

Chairman Sebelius called the meeting to order.

Secretary Gary Stotts updated the Committee on the Coed Prison situation in Lansing beginning with two options for removing the female prisoners from the primarily male Lansing facility. The first option is to consolidate all women in the Lansing North and East Units (R & S buildings), except those in the work release program in Wichita and the women in the Halfway House. The second option is to move the women to the Topeka facility.

A Committee member asked how long it would take to implement either of these options. Secretary Stotts responded that given budget authority, Lansing renovations could begin immediately with a 3 to 4 month construction period. He reported that Topeka renovations would take approximately the same time period but neighborhood opposition to the project and moving the inmates could take longer. Secretary Stotts' personal recommendation is to move the women to the Topeka facility, but noted that neighborhood opposition to that possibility was problematic. The strength of the opposition was discussed, and a member asserted that those most negative were the citizens whose property bordered the prison facility and not the overall city of Topeka. Secretary Stotts said that he had met with the neighborhood last fall and that they were opposed to any changes: they felt more comfortable with an all male medium security facility as opposed to 50 maximum security females, despite the fact that the females tended to be less physically aggressive and less likely to attempt escape. Also, the neighborhood was opposed to the lights and fences that would be necessary for a maximum security facility.

Mr. Stotts was asked by Chair Sebelius to return to the Committee, at a later date, to let the Committee know how many are in the sex offender program at the Lansing Correctional Facility, and to go over the memorandum handed out to the Committee, Attachment #1.

Chair Sebelius turned the Committee's attention to minutes for February 27, 1992, and March 3, 1992.

Representative Long made a motion to approve minutes for February 27, 1992, and March 3, 1992. Representative Empson made a second to the motion, which passed on a voice vote.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS

room 526-S, Statehouse, at 1:30 ~~xxx~~/p.m. on Wednesday, March 4, 1992

HB 2306

Representative Stephen Wiard testified in favor of the bill, Attachment #2. Committee members questioned him with regards to the height of the proposed pedestal. Representative Wiard replied the height was not specified in the bill, but he had confidence that a creative solution could be found that would protect the integrity of the work.

Representative Eloise Lynch appeared before the Committee as an opponent of HB 2306, Attachment #3.

Dorothy Ilgen testified in opposition to HB 2306, Attachment #4, and also included with her testimony information on FY91 Fundraising for the Ad Astra Capitol Dome Sculpture.

Dr. Richard Bergen appeared before the Committee as a proponent of HB 2306 and also brought a posterboard with pictures of school children picking, shelling, and selling popcorn to raise money to pay for putting the sculpture "Ad Astra" on top of the Capitol.

Committee members asked the following questions:

- How much money had been paid to Richard Bergen.
- How many scale models of the statue have been sold, and what is done with that money?
- Can the dome of the Capitol support the sculpture without any structural changes to support it?
- Is the Greater Wichita Community Foundation classified as a 501(c)(3) organization, have they been receiving donations for the Kansas Capitol Dome Sculpture Project, and are they affiliated with the Kansas Art Commission?
- Has the Commission ever sought state funds to complete the dome project.

Other discussion among Committee members and conferees included whether the 2% handling fee the Greater Wichita Community Foundation charges is unreasonable, especially considering they will give 5% interest on money that they are holding.

Chair Sebelius announced that hearings for HB 2875 would be held at tomorrow's Committee meeting at 1:00 p.m., instead of 1:30. Chair Sebelius adjourned the meeting.

GUEST LIST

DATE 3-4-92

(PLEASE PRINT)

NAME	ADDRESS	WHO YOU REPRESENT
Faye Bowman	San Parrish's office 347N	Mary Quirett, East Topeka, IA
Dorothy Elgin	Ks Arts Comm., 700 Jackson	
Derreth L. Sutton	Topeka	Kansas Lottery
Ralph Decker	Topeka	Kansas Lottery
Harold	Topeka	Kansas Lottery
Steve Ward	Starkham	20,000 constituents
Tom Thompson	statehouse	
RICHARD BERGEN	SILVA	AD ASYKCH
Margo Sersko	Topeka	AALBW
Nick Roach	Topeka	IGT
Roger Franzke	"	Ks Govt Consulting

Presented by Gary Stotts, Secretary, Department of Corrections

Wednesday, March 4, 1992

Estimated Costs of the three options to segregate the women at Lansing from the men.

1. Place all females at Lansing in the East Unit or North Unit(except the women in the Work Release program at Wichita or those in a halfway house). Thirteen staff positions will need to be added, as well as, additional programs, additional 24 hour nursing for medical coverage for females, and extra utilities. The move and renovation would require court approval, and this option would mean a rather large movement of inmates. Operating costs will total approximately \$468,000 a year. There will be a one-time renovation cost of approximately \$400,000.
2. Remove remaining females to Topeka facility which would require a moving a smaller number of inmates, and most programs would not be interrupted. One additional post(5 positions) will be needed at Lansing at an estimated cost of \$113,500. One disadvantage with the move to Topeka is the facility is located in a residential area. This would mean extra security, more lights, and a fence, all of which would degrade surrounding property valuations. A 12' chain link fence with a razor wire at the top would cost approximately \$400,000. A female sex offender program will need to be established at Topeka which will cost approximately \$18,000. Yearly operating costs will be approximately \$141,000. Capital Improvements will be approximately \$390,000 to \$400,000.
3. Move women to Eye Dorm which will cost approximately \$105,000 to renovate.

House Federal & State Affairs
March 4, 1992
Attachment #1

STATE OF KANSAS



DEPARTMENT OF CORRECTIONS

OFFICE OF THE SECRETARY

Landon State Office Building
900 S.W. Jackson—Suite 400-N
Topeka, Kansas 66612-1284
(913) 296-3317

Joan Finney
Governor

Gary Stotts
Secretary

SUMMARY RESPONSE

TO

HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS

CO-CORRECTIONAL OPERATIONS ISSUES

March 4, 1992

During the February 12, 1992 briefing on co-correctional operations, a number of questions were asked by members of the committee. The following has been prepared to respond to those questions as we recorded them by general topic area.

The issue of "cross-gender supervision":

The policy of cross-gender supervision of inmates in Kansas was initiated in 1985 by directive of the Secretary when all corrections officer positions were officially opened to both males and females. Department policy, however, provides that accommodations be made in post duties and scheduling in order to respect inmate privacy rights. Officers of the opposite sex are not, in normal operations, assigned to supervise showers or to conduct strip searches of inmates. Removal of cross-gender supervision policies would likely subject the Department to claims of denial of equal employment opportunities.

There are currently 338 females working as uniformed officers and Unit Team staff in the Kansas correctional system. One hundred and seventy-six of these women work in facilities that house exclusively male inmates. Elimination of cross-gender supervision could necessitate the transfer or termination of many women currently employed by the Department; male officers who currently work at female facilities would also have to be transferred. The gender of applicants would become a factor whenever additional corrections staff were hired, and would have equal employment opportunity legal implications. If such a restriction was implemented for corrections officers, would it also extend to positions other than corrections officers?

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Attachment #1-2

Cross-gender supervision is currently the norm nationwide. Of the 47 states the department surveyed regarding this issue, all but one allow some cross-gender supervision of prison inmates. Four allow supervision but impose conditions such as limiting the cross-gender supervision to non-living areas or requiring officers of the same sex as the inmates to accompany officers of the opposite sex while conducting supervision in certain living areas. It is our understanding based on contacts with the United States Bureau of Prisons that female staff may now supervise male inmates at facilities other than maximum security prisons. The Bureau of Prisons is in the process of changing this policy on a facility by facility basis to provide for females to be assigned as officers in all Bureau of Prisons facilities. The policy is reportedly scheduled to be implemented at the United States Penitentiary at Leavenworth in 1993.

Regarding the issue of AIDS:

The Department of Corrections does not conduct mandatory testing of all inmates for AIDS. Tests will be conducted as ordered by the court under certain circumstances. Voluntary testing of at risk individuals is encouraged. Except as provided through judicial discretion, information regarding inmates with AIDS or who have tested positive for HIV is regarded as confidential as provided by statute.

Currently, there are seven inmates in the custody of the KDOC who have been diagnosed as having AIDS. There are an additional six inmates who have tested HIV positive.

The National Commission on Correctional Health Care (NCCHC) is a national organization whose primary purpose is to work toward improving health services in the nation's jails, prisons and juvenile facilities. The Commission's Board of Directors believes that the medical management of HIV-positive inmates should parallel that offered to individuals in the non-correctional community. Accordingly, the NCCHC has adopted eight policy statements to assist correctional facilities in designing procedures regarding the administrative management of HIV-positive inmates. The KDOC is in compliance with each of the NCCHC policy statements.

A telephone survey of state corrections departments was conducted February 20-21, 1992 to determine the extent to which mandatory HIV/AIDS testing is practiced. This survey indicated that 16 states or approximately one-third of the states conduct mandatory HIV/AIDS testing of all inmates.

States which reported mandatory testing are:

Alabama	Colorado	Georgia	Oklahoma
Idaho	Iowa	Michigan	Rhode Island
Mississippi	Missouri	Nebraska	Utah
Nevada	New Hampshire	North Dakota	Wyoming

Additional information concerning AIDS is contained in the attached memo.

The issue of investigations:

The nature and scope of an internal investigation is determined largely by the content of the allegation received. Internal investigations are most commonly initiated based upon inquiry or information provided by facility or parole staff and administration, inmates, parolees, their families, or outside agencies. Some information is routinely investigated at the facility level by the branch of the security staff known as the Intelligence and Investigation (I&I) Division. Requests for investigations are also routinely processed through the Office of the Chief Legal Counsel for the Department of Corrections and assigned to the office of the Director of Investigations for the Department of Corrections.

Internal investigations are conducted in the same manner as other criminal investigations. Physical evidence, if available, is collected. Victims, suspects, and witnesses are interviewed and statements are obtained. Subpoenas may be used to obtain documents pertinent to the investigation. It may be necessary to conduct surveillance to obtain evidence.

Based upon the type of case being investigated, outside agencies may become involved. Local law enforcement agencies may have knowledge of certain aspects of the investigation, and the Kansas Bureau of Investigation laboratory may be used for processing certain pieces of evidence. Institutional investigative personnel also provide assistance concerning the operation of their respective institution.

Investigations are undertaken anytime information of potential employee involvement in criminal activities is received. When sufficient evidence is developed to provide probable cause that the employee committed an offense, the matter is referred to the county or district attorney for action. Information is also provided to the appointing authority of the employee for possible disciplinary action.

Personnel investigations may also involve allegations of violations of employee rules of conduct, such as undue familiarity with inmates. Information in such cases is pursued in a manner similar to that described above except that personnel staff may be involved in the investigation. The office of the Director of Investigations also may assist with these investigations as the situation warrants.

Medical investigations are handled in a number of ways. Complaints filed directly with the Board of Healing Arts are investigated by that Board. The KDOC is made aware of complaints filed with the Board and cooperates in these investigations.

Complaints regarding medical care are most commonly filed through the unit team or directly with the facility warden. Complaints about day to day access or treatment prescribed are usually resolved through communication between the warden or his/her designee and the Health Services Administrator assigned to the facility. Complaints filed with the warden which allege misconduct on the part of health care employees may be assigned to the facility Intelligence and Investigation (I&I) Unit or to the medical contract provider. Any disciplinary action taken is based upon the results of investigative findings.

The inmate grievance procedure is another method by which medical complaints are lodged. Such grievances are investigated at the facility level, most often by the designated grievance officer or the I&I Unit. Based upon the results of a grievance investigation the warden issues a response to the inmate. If the inmate is dissatisfied with the decision of the warden, a grievance may be appealed to the Secretary of Corrections. Upon receipt of a grievance appeal, a designee of the Secretary reviews the matter and a response is issued to the inmate.

Medical complaints are also filed through direct correspondence with the Secretary or central office staff. Complaints received in this manner are either referred to the facility warden for investigation/follow-up or investigated by appropriate central office staff.

The KDOC provides health care through a contract with Prison Health Services (PHS). The contract provides that all medical services be provided according to medically accepted community standards of care. While the treatment of females by a male physician is not an unaccepted or uncommon practice in the community, PHS does employ a female physician to provide services to female inmates assigned to the Topeka Correctional Facility (TCF) where the majority of female inmates are housed. Standard medical practice dictates that a female staff member be present when a male physician examines a female patient when at all possible, and this practice is observed by KDOC contract medical staff.

The current status of the Second Chance Program:

The Second Chance Program is a group and individual counseling program designed to provide female inmates the opportunity to address abuse issues which appear to have compromised the woman's ability to achieve socially appropriate functioning. The Second Chance Program remains an active program at the TCF. There was a period of about two months when the program was inactive due to the resignations of the mental health staff assigned to the program.

The program is provided by PHS who has assigned two mental health staff to the program. At any given time, there are 8-10 inmates assigned to the program. The program meets between the hours of 8:00 AM and 3:00 PM Monday through Thursday. The program is 8 weeks in duration.

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The issue of ACA Auditors being informed by Second Chance Program staff of problems at LCF-East Unit:

In the audit narrative section of the ACA Accreditation Report, the audit team states that a total of 17 inmates were interviewed, and that they had two major complaints: increased access to medical service and increased access to cosmetics. The audit team also states "A total of 20 staff were interviewed privately by team members. No problems. Staff like this institution."

The issue of re-integration programs available for female inmates:

Transition programming for both male and female inmates is available through the "life skills" component of each facility's academic education program. Female inmates have the same degree of access to the "life skills" curriculum as male inmates. Also, a significant percentage of the females released on parole are released through the work release program.

In addition to "life skills" and work release, the availability of the Women's Activity and Learning Center (WALC) at Topeka Correctional Facility and the recent expansion of the WALC visitation activities to Lansing Correctional Facility (LCF) are also considered as being beneficial to the reintegration process. To the extent that maintenance of family ties is critical to a successful reintegration, female inmates are currently receiving more attention in this area than in recent years.

Pre-Release/transitional programming is one of the management initiatives being undertaken by the KDOC. In this context the transitional needs of the female inmate will be addressed.

The issue of employment of inmates at Zephyr & Heatron:

The Zephyr and Heatron programs are the Department's "joint venture" with private industry to provide meaningful work experience for inmates. These programs have long been considered innovative, worthwhile and successful, especially for female inmates.

Zephyr and Heatron targeted females as the preferred employee. Over the years, the Department has attempted to utilize more male inmates, and has approached the owners about relocating the programs to Topeka. We have been consistently told by the owners that the manual dexterity skills of females are critical to production success and that relocation is not possible for economic reasons. Total withdrawal of females from the Zephyr and Heatron programs would jeopardize these worthwhile programs.

Selection for assignment to Zephyr/Heatron begins at the Unit Team level utilizing the criteria governing non-prison based employment. Inmates request participation in the program by application to the Unit Team. If approved by the Unit Team, the non-prison based employer interviews the inmate and notifies staff if the inmate is

approved for hiring. Zephyr/Heatron is designated as the inmate's work assignment, and is considered a work release placement. The inmate workers at Zephyr/Heatron receive the federal minimum wage plus \$.25 per hour bonus pay. The bonus pay is suspended for three weeks when an employee, either inmate or civilian, is late for work. Staff report that there have been infrequent occasions when transport vehicles from LCF-East Unit have failed to start due to cold weather, and the inmate employees have lost their bonus pay, just as civilian employees would. Inmate workers are also allowed to participate in the Employee Stock Ownership Program (ESOP). After two years employment, the inmate can be 50% vested in the program. After three years employment, the inmate can be 100% vested in the ESOP. The opportunity to earn minimum wage and program status as work release are considered the major advantage of participation.

The infraction program is applied equally to inmate and civilian workers. Unexcused absence is an infraction. A total of four infractions during a 12 month period results in termination from the program. Zephyr/Heatron staff report that no one has been terminated due to infractions resulting from being late for work.

Staff at both Zephyr/Heatron and LCF-East Unit have identified no inmates who have received disciplinary reports for work performance and been fired in the past two years.

The issue of how a maximum custody female inmate could be come pregnant on furlough or during work release:

A maximum custody inmate, whether male or female, is not eligible for work release or furlough. Records indicate that a female inmate who was participating in work release was removed from the work release program for disciplinary reasons. This resulted in a change in custody status from minimum to maximum. After the inmate's return to LCF it was determined that she was pregnant. Thus, although the inmate was in minimum custody status at the time of conception, her status was maximum custody when we learned she was pregnant.

The issue of screening male inmates for placement at LCF-East Unit, or moving all male inmates out of LCF-East Unit.

Procedures to prohibit placement of male inmates convicted of certain classes of crimes in facilities which also house females can be implemented. However, placement decisions must also accommodate programmatic needs of certain custody classes. Given the number of male sex offenders who are minimum custody, screening based upon crime of conviction has in the past resulted in an inadequate number of male inmates to fill available minimum custody beds. While the numbers might suggest enough suitable inmates, the numbers decrease when such factors as program needs are considered.

At one point in time, almost every minimum custody facility/unit had some restriction as to the type of inmate that could be assigned there. TCF-West Unit was established as a Pre-Release Center and inmates originally assigned there were those within 90 days of parole. Former Secretaries Endell and Davies both issued memorandums which stated that the Department was no longer able to abide by placement restrictions that might have been agreed to under previous administrations. At the time the Department agreed to not place a sex offender treatment program at TCF-West Unit sex offenders continued to be placed at that unit.

Further, the department does not believe that excluding male inmates convicted of sex offenses from placement at LCF-East Unit will resolve the issues surrounding the operation of a co-correctional facility. The major problems involved with co-correctional facility operation result from housing male inmates with female inmates.



DEPARTMENT OF CORRECTIONS

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Joan Finney
Governor

Gary Stotts
Secretary

DATE: March 2, 1992

TO: Gary Stotts
Secretary of Corrections

FROM: Bill Miskell *Bill Miskell*
Public Information Officer

SUBJECT: Correctional policy regarding AIDS

This memorandum is submitted in response to the numerous questions which were raised regarding AIDS and HIV infection during the February 12 briefing to the House Committee on Federal and State Affairs on co-correctional operations.

KSA 22-2913 provides that upon conviction of a person for any crime which the court determines from the facts of the case involved or was likely to have involved the transmission of body fluids from one person to another, the court may order the convicted person to submit to an AIDS test. Further, the law requires the court to order the convicted person to submit to an AIDS test if requested by the victim of the crime or the parent or guardian of the victim, if the victim is a minor. Testing individuals for AIDS pursuant to this statute is mandatory only if ordered by the court.

The results of tests performed pursuant to KSA 22-2913 shall be disclosed to the court which ordered the test, the convicted person, and a person designated by the victim. If a test is positive, the results shall be reported to the Secretary of Health and Environment and the Secretary of Corrections. The results of the tests obtained pursuant to this statute shall be confidential and not divulged to any person not authorized to receive same. Department policy provides that release of medical information shall be on a need to know basis. However, as medical information, it is generally regarded as confidential with restricted dissemination. The statute provides that it is a class C misdemeanor to release the information in violation of the statute.

The House Committee on Public Health and Welfare has scheduled a hearing for February 25 on House Bill No. 2308. This bill would make testing for AIDS or other sexually transmitted diseases mandatory upon conviction of a person for rape or aggravated criminal sodomy. Testing on persons convicted of other offenses could be ordered under provisions of the statute as it now exists.

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KSA 65-6001 to 65-6007 also deal with AIDS. None of these statutes provide for mandatory testing for AIDS. KSA 65-6004 does provide for a physician who knows an individual has AIDS or has tested positive for AIDS to make disclosure of that fact to other health care providers, emergency personnel, correctional officers, or law enforcement officers if the person has been or will be placed in contact with bodily fluids of the patient. The information remains confidential and may not be disclosed to others except as may be necessary in providing treatment for the patient. KSA 65-6005 provides that it is a class C misdemeanor to violate the statutes.

The provisions of KSA 65-6004 are viewed as inadequate because they apply only to disclosure of information where medical records show previous testing. There are no provisions for court ordered testing in the event information is not available in the medical records.

As a result, the Department of Corrections has attempted for several years to obtain legislation to broaden the provisions of KSA 65-6004. Several bills were introduced last session (SB 149, 253, 288, and 400) regarding this issue. No action has been taken on those bills which are assigned to the Senate Committee on Public Health and Welfare. The bills would provide authorization to seek a court order to have an inmate tested for AIDS in the event an employee was exposed to the bodily fluids of the inmate. The employee seeking the order would not have to be a victim of a criminal offense in order to obtain the court ordered testing.

The Department of Corrections does not conduct mandatory testing of inmates for AIDS. Tests will be conducted as ordered by the court as discussed above. Voluntary testing of at risk individuals is available. Information regarding inmates with AIDS or who have tested positive for HIV is regarded as confidential as provided by the statutes cited above.

A recent ruling from the 11th Federal Circuit Court of Appeals upheld Alabama statutes requiring mandatory testing and segregation of HIV inmates. However, a Federal District Court in Arizona held that the state could not enforce a blanket prohibition against HIV positive inmates working in the facility kitchen. Litigation regarding AIDS now appears to be focusing on an argument that those persons infected with the HIV virus are handicapped within federal Rehabilitation Act. The Americans with Disabilities Act also will likely be used in challenging segregation policies for those who are HIV positive or have AIDS.

Currently, there are seven inmates in the custody of the KDOC who have been diagnosed as having AIDS. There are an additional six inmates who have tested HIV positive.

The National Commission on Correctional Health Care (NCCHC) is a national organization whose primary purpose is to work toward improving health services in the nation's jails, prisons and juvenile facilities. The Commission's Board of Directors believes that the medical management of HIV-positive inmates should parallel

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that offered to individuals in the non-correctional community. Accordingly, the NCCHC has adopted eight policy statements to assist correctional facilities in designing procedures regarding the administrative management of HIV-positive inmates. The KDOC is in compliance with each of the NCCHC policy statements.

The Kansas Department of Corrections' policy regarding the management of HIV/AIDS was implemented in 1986. That policy, which has remained relatively unchanged since 1986, and all applicable health care procedures and protocols were reviewed vis a vis the NCCHC policy statements and were found to be consistent. The following is a summary of that review:

I. HIV Testing

NCCHC Policy Statement Synopsis

It is not clear that large scale screening is efficacious. However, testing for HIV is valid as a diagnostic tool. It is important that those who are seropositive be identified early for the purpose of initiating treatment. Therefore, voluntary testing should be available to persons who request it and to those with clinical indications of the disease.

KDOC Policy and Practice:

IMPP 10-131 provides that a general screening for AIDS, ARC, or HIV shall not be undertaken but inmates who desire screening may request it. In the event an inmate is suspected of having symptoms suggestive of HIV, an examination by the health authority shall determine if such screening is appropriate.

II. Special Housing

NCCHC Policy Statement Synopsis

The Commission does not advocate segregated housing for HIV inmates since HIV is not airborne and is not spread by casual contact. However, patients with AIDS may require medical isolation for their well being as determined by the treating physician.

KDOC Policy and Practice:

IMPP 10-131 provides that, unless directed otherwise by the health authority, all HIV/AIDS inmates shall be placed in the general population. Such inmates may be removed from the general population for conduct related reasons or placed in protective custody if it is determined that such action is appropriate.

III. Special Precautions

NCCHC Policy Statement Synopsis

The NCCHC supports and recommends strict compliance with the Centers for Disease Control (CDC) statement on Universal Precautions in all settings within corrections. All inmates should be considered potentially HIV-positive and all staff should take precautions as recommended by the CDC. Except under unusual circumstances, correctional and medical staff need not take special precautions in managing or treating HIV-positive inmates.

KDOC Policy and Practice:

IMPP 10-131 provides that an education and training module relating to AIDS, ARC, HIV and other communicable disease for inmates and staff be developed. A basic and annual training module entitled "Understanding AIDS and Other Communicable Diseases," was developed by the KDOC Health Services Administrator in conjunction with the contract medical director. This module is used at each training site to ensure that all basic and annual training of staff includes education on transmission of HIV and precautions the employee can take to ensure a safe working environment. This training is provided through the facility's training department and is required to be presented by a health care provider to ensure that basic medical information appropriately addressed.

Prison Health Services Infection Control Manual includes a section on universal precautions in treatment settings. The Manual provides the employee with step by step procedures to be utilized in any health risk situation. Each healthcare employee is given training and required to become familiar with CDC guidelines which includes recognizing personal risk of infection from HIV, Hepatitis B and other infectious diseases, use of personal protective equipment and developing safe work practices and habits to protect the health of the employee and patient in any given situation.

IV. Education/Counseling

NCCHC Policy Statement Synopsis

HIV/AIDS education should be provided to all staff and inmates. Staff should also receive training on confidentiality as it applies to HIV disease. All HIV-positive inmates and those with AIDS should receive counseling to help them adjust to their condition as well as resources available.

KDOC Policy and Practice:

IMPP 10-131 provides that, an education program be presented to the general inmate population and to all new inmates upon admission to the first facility of assignment as part of the orientation procedure to the facility. The emphasis of the program is on self awareness, prevention and availability of testing and treatment available within the KDOC. Staff training is provided through the

facility's training department and emphasizes awareness of communicable disease, including HIV, use of protective equipment and developing safe work habits. Printed educational material is made available to parolees, parole officers, and regional parole supervisors and includes local availability for HIV testing sites, health care providers and local support groups.

All healthcare personnel involved in HIV testing must attend a Kansas Department of Health and Environment (KDHE) training course prior to counseling inmates and participating in the testing of inmates for HIV.

The KDOC requires that the healthcare contractor provide chronic care clinics at least every 90 days to provide supportive health monitoring and education for inmates with chronic health problems. In the HIV chronic care clinic, inmates are counseled individually on the status of their health, mental well being, and development of short and long range goals while incarcerated and while on parole.

Mental health counseling, which can be on either a specialized group or individualized basis, is available to HIV compromised inmates to discuss problems and goals while incarcerated and upon release. This counseling is provided through the KDOC's comprehensive medical contract.

V. Prevention

NCCHC Policy Statement Synopsis

Massive educational efforts should be undertaken to inform all inmates and all staff about HIV and the steps to be taken to prevent its spread.

KDOC Policy and Practice:

IMPP 10-131 provides that, an education program be presented to all new inmates upon admission to the first facility of assignment as part of the orientation procedure to the facility and periodically to the general inmate population as an ongoing part of healthcare education. Staff training is provided through the facility's training department on an annual basis by a healthcare provider. Printed educational materials are provided to the parole offices to be given to parolees. Regional parole offices are provided with a listing of service providers that include HIV testing sites, health care providers specializing in HIV treatment and local support groups for the HIV compromised that can be utilized by parolees.

VI. Confidentiality

NCCHC Policy Statement Synopsis

Being labeled as HIV-positive may put an inmate at undue risk for personal safety. It is important that the rules of confidentiality regarding HIV test results and diagnoses be followed.

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KDOC Policy and Practice:

Consistent with K.S.A. 65-6004, the KDOC developed a procedure within IMPP 10-131 which provides that requests for disclosure of the identity of individual inmates who have tested positive for HIV antibodies, or have symptoms of ARC or AIDS, shall be permitted on a case by case basis as determined by the Health Services Administrator and the medical director in accordance with IMPP 05-107 Confidentiality of Medical Information. A monthly report of the total number of communicable diseases within the facility, including HIV, is provided to each Warden by the facility's clinic supervisor.

VII. Special Correctional Programs

NCCHC Policy Statement Synopsis

HIV-positive inmates and those with AIDS who meet eligibility for parole or other release should be given the same consideration as other inmates.

KDOC Policy and Practice:

HIV/AIDS inmates are referred to the Kansas Parole Board (KPB) for parole consideration according to the same criteria as other inmates. The KPB has consistently given favorable parole consideration for HIV infected inmates. The KDOC recently considered development of a request for a reduction in sentence for a severely ill HIV positive inmate; however, the patient expired prior to the process being completed.

VIII. The HIV Positive Correctional Health Care Worker

NCCHC Policy Statement Synopsis

Mandatory testing of correctional health care workers for HIV infection is not recommended. Health care workers who are HIV-positive should not be required to disclose their HIV state if their work does not include involvement in invasive procedures as defined by the CDC.

KDOC Policy and Practice:

The Kansas Department of Administration - Division of Personnel Services has developed and implemented policies to cover the rights of HIV positive state employees. Steps were taken to protect the confidentiality of state employees who disclosed their HIV status to their employer. Mandatory testing for state employees was not recommended.

A telephone survey of state corrections departments was conducted February 20-21, 1992 to determine the extent to which mandatory HIV/AIDS testing is practiced.

HF3SA
3/4/92
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It was determined that 16 states or approximately one-third of the states conduct mandatory HIV/AIDS testing of all inmates.

States which reported mandatory testing are:

Alabama	Colorado	Georgia	Oklahoma
Idaho	Iowa	Michigan	Rhode Island
Mississippi	Missouri	Nebraska	Utah
Nevada	New Hampshire	North Dakota	Wyoming

Among those states which have mandatory testing, a variety of features exist. The following are noteworthy features of various mandatory testing policies and practices:

- Idaho screens all admissions for HIV. Those who produce a positive are given a conclusive test.
- In North Dakota, all offenders (felony or misdemeanor) who are sentenced to fifteen (15) or more days are tested while in the County jail.
- In Rhode Island, all persons arrested (regardless of crime, conviction or sentence) are incarcerated at one facility. Testing is done on all persons arrested, regardless of crime, conviction, or sentence.
- 9 states responded that they test only upon admission.
- 3 states responded that they test upon admission and annually.
- 3 states responded that they test upon admission and upon exit from the system.
- 1 state responded that it tests upon admission and 6 months later.
- 10 states have been testing for 2-4 years.
- 6 states have been testing for 5-8 years.
- No state indicated testing for longer than 8 years.

In addition to the above 16 states which have mandatory testing for all inmates, 3 states have mandatory testing for certain inmates. Those states are:

- Oregon has mandatory testing of all inmates convicted of specific crimes identified by legislation. Typically, those are sex crimes; however, any inmate convicted of a crime in which body fluids may have been exchanged will be tested.
- South Dakota had mandatory testing of all inmates until 1987 but has since had mandatory testing only for those inmates identified as "high risk."

- Montana has mandatory testing of all inmates who are identified as "high risk" or who are from states with a high incidence of HIV.

In addition to South Dakota (which as stated above had mandatory testing of all inmates until 1987), 3 other states reported that they have discontinued their programs of mandatory testing. Those states are:

- North Carolina had mandatory testing for only 6 months. It was funded through a grant but discontinued when the grant expired.
- New Mexico had mandatory testing for 6 months in 1987 but discontinued due to costs and lack of support by the Department's Medical Director.
- West Virginia discontinued due to lack of funds.

Regarding the housing management of HIV/AIDS inmates:

- 41 of those responding indicate that inmates testing HIV positive are housed in general population unless they have medical needs requiring that they be housed in an infirmary or they have behavioral/security problems necessitating segregation. In either case the segregation/separate housing is not because they are HIV positive.
- One state, Alabama, since 1988 has maintained a separate dormitory at one male and one female facility to house their HIV positive inmates. This was challenged by the ACLU in Federal District Court and the DOC won. They anticipate further appeals.
- Three states, leave HIV positive inmates in the general population but will double bunk them only with other HIV positive inmates or provide single cells.
- Two states house HIV positive inmates in regular dormitories but they have certain cells at one end of the run set aside for HIV positive inmates.
- New Jersey currently mainstreams HIV positive inmates and segregates AIDS inmates but is currently changing that practice to mainstreaming of all inmates regardless.
- In 1984, California began segregating all HIV positive inmates by housing them at one facility. In 1985 due to rising costs, the increase in HIV positive population, and pending litigation California discontinued sending all HIV inmates to the same facility. While California now mainstreams HIV positive inmates, when hospitalization is necessary, HIV inmates are housed separately.

- 7 states who now mainstream HIV inmates reported that they previously segregated them. Three changed after receiving AIDS education; three changed due to pending litigation and the other changed due to a combination of these two reasons. One of the three states who changed their policy due to litigation is Missouri. This was done just one month ago.

Regarding training and education:

- 48 states provide AIDS related education to both staff and inmates.
- 43 states make AIDS related education mandatory for staff.
- 34 states make AIDS related education mandatory for inmates.
- Only one state, Mississippi, does not provide AIDS related education for either staff or inmates.

Among the states that do not have mandatory testing there were a number of policies of interest as follows:

- 27 states responded that they will test upon a Doctor's order.
- 28 states responded that they will test upon request of the inmate.
- Ohio tests on a doctor's order as well as if an inmate receives a tattoo, is caught in a sex act, or is involved in a fight during incarceration.
- Arkansas tests upon inmate request, doctor's order, and those in "high risk" groups; however, they reported they are experiencing a 97% test rate.

Please let me know if you would like additional information on this matter.

GS:wpm

HF/SA
3/4/92
1-17



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS

MEMBER: EDUCATION
PUBLIC HEALTH AND WELFARE
TAXATION

STEPHEN WIARD
REPRESENTATIVE, 68TH DISTRICT
MORRIS AND PART OF DICKINSON AND
LYON COUNTY

RT. 3, BOX 136
COUNCIL GROVE, KANSAS 66846
(316) 787-2271

STATE CAPITOL
TOPEKA, KANSAS 66612
(913) 296-7658

March 4, 1992

To: Chair Sebelius and Committee Members
Re: HB No. 2306

Madam Chair and Committee members. Thank you for the opportunity to appear today in support of HB 2306.

As you can see, this bill has bi-partisan support and is an attempt to set some priorities on the expenditures of state tax dollars. I simply do not want the State of Kansas to use taxpayer dollars to place a sculpture atop the Capitol dome.

I think it makes more sense to place the statue on the Capitol grounds complex for two reasons: (1) as a cost-saving measure, (2) for the practical reason that more school children and adults will be better able to view the fine piece of art that has been crafted to recognize the heritage of our state.

As long as 15% to 20% of the children in our state are living in poverty, I do not think we should support the use of state money to place a statue on the dome.

I have no objections to placing the sculpture on the dome if the necessary funds are raised through the private sector. As we struggle with school finance issues and tax issues I think we need to simply make a policy judgment as to how best to spend taxpayer dollars.

Thank you for listening to my concerns and those of my constituents. I will be available for questions today or in the future. Thank you Madam Chair.

Respectfully,


Steve Wiard

SW:ad

House Federal & State Affairs
March 4, 1992
Attachment #2

STATE OF KANSAS



TOPEKA

HOUSE OF
REPRESENTATIVES

ELOISE LYNCH

REPRESENTATIVE, 71ST DISTRICT

705 S. SANTA FE

SALINA, KANSAS 67401

(913) 823-3594 HOME

(913) 296-7639 CAPITOL OFFICE

COMMITTEE ASSIGNMENTS

CHAIRMAN: JOINT COMMITTEE ON ARTS AND
CULTURAL RESOURCES

MEMBER: ENERGY AND NATURAL RESOURCES
LABOR AND INDUSTRY
PUBLIC HEALTH AND WELFARE

LEGISLATIVE, JUDICIAL AND
CONGRESSIONAL APPORTIONMENT

HB 2306

March 4, 1992

Testimony Before the
Federal and State Affairs Committee

by

Eloise Lynch

Representative 71st District

Salina, Kansas

Madame Chairperson and members of the committee:

I want to thank you for this opportunity to appear before this committee as a matter of long interest to me. I should like to ask you to look over the entire first section down to line 6 on page 2 of HB 2306. This relates concisely the history behind the sculpture "Ad Astra".

It is a work of art which resulted from a legislative mandate stating it was to be placed atop the State Capitol. The Kansas Arts Commission was to be responsible for seeing that the directions of the statute were carried out. Kansas school children in particular and all other interested persons were invited to offer suggestions for the subject matter. Interested artists were then asked to submit sketches. A Capitol Dome Sculpture Committee was named to review all sketches and select finalists to be

*House Federal & State Affairs
March 4, 1992
Attachment #3*

submitted to a second panel of five art professionals for their decision of a winner. Both the director of architectural services and the Kansas Arts Commission were given the task of choosing the Sculpture Selection Committee. K.S.A. 75-2249 further stated very specific criteria as revealed on page 1, lines 39, through page 2 line 3, for the guidelines to be followed in the selection of the winning sculpture. All this has been carried out as directed by the expiration date of July 1, 1989.

Since that time, interested Kansans aided by the Kansas Arts Commission have been working to raise funds from private sources to see that the legislative intent could be fulfilled.

The method of funding to erect a sculpture on the Capitol dome was not specified in the law passed by the legislature in 1984. The Kansas Arts Commission was authorized to receive funds, but is limited by the legislation to accept donations and contributions for the project, not to undertake a formal fund-raising campaign. A committee of private citizens was formed to facilitate that effort, under the auspices of the Kansas Arts Commission.

According to the Kansas Arts Commission's contract with the artist, the total cost for the completion and delivery of the sculpture to the capitol grounds is \$200,000. This includes \$110,000 for the construction and delivery of the sculpture, \$50,000 for the artists' fee

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commission and copyright, \$25,000 for an engineer's evaluation, and a \$15,000 contingency fee.

The additional \$500,000 necessary for completion of the project is based on an estimate of costs from the structural feasibility study conducted by the Topeka firm of Finney and Turnipseed in 1989. At that time, they estimated a total cost of \$412,792 for modifications necessary to accommodate placing the sculpture on the dome. This estimate included a \$6,000 architectural fee, engineering fees of \$17,430, and architectural modification cost of \$20,000, and construction costs of \$369,362.

These costs are high because of the difficult nature of placing the sculpture in its rightful position. Engineering studies, windload testing, the necessary scaffolding both inside and outside the dome, and finally, the 150-ton crane needed to raise the sculpture 360 feet to the top of the dome are all necessary costs associated with installing the sculpture.

The Greater Wichita Community Foundation, classified by the IRS as a 501(c)(3) organization, has been selected to receive donations for the Kansas Capitol Dome Sculpture Project. For a 2 percent handling fee, the foundation will hold all donated funds until they are needed and provide a 5 percent return on all donations.

Even though he has received only partial payment from the Kansas Arts Commission, sculptor Richard Bergen has

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3-3

continued to work toward completion of the sculpture. A 20-foot model, constructed of foam, plaster and clay, stands in a warehouse outside Salina. Recently, Bergen has started the process of making molds and patterns which will be cast in bronze and welded together to complete the sculpture.

A structural engineer's report done in 1989 found that the dome itself is structurally sound and more than capable of bearing the anticipated weight of the sculpture. However, the cupola at the top of the dome must be modified to receive the sculpture. This entails installing a mounting plate to bolt the sculpture to the building, adding several additional two-inch angle iron braces, and rebuilding the lantern portion of the cupola before "Ad Astra" can safely be put in place.

The school children of Kansas were asked to submit their ideas for a sculpture for the top of the Capitol dome, and their overwhelming choice was for a native American. In response to their ideas, sculptor Richard Bergen's "Ad Astra" is a fitting and lasting monument designed to complete the magnificent Capitol Building begun over 130 years ago.

The Kansas Capitol Dome Sculpture Project provides a wonderful opportunity for the people of Kansas to participate in a non-political, non-partisan project with symbolic and lasting significance for the state and her people.

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H F 3 SA
3/4/92
3-4

I come here today to seek your aid in literally helping " to get this project off the ground" and lifted up to its rightful and proper place on the top of our Capitol dome under the beautiful broad Kansas sky, its arrow reaching constant and unwavering (even through difficulty) toward the North Star.

HF 35A
3/4/92
3-5



© COPYRIGHT 1991 BERGEN

AD ASTRA
"A CAPITOL IDEA"

THE KANSAS CAPITOL DOME SCULPTURE
PROJECT

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3/4/92
3-6

THE KANSAS CAPITOL DOME SCULPTURE PROJECT

WHAT'S THE PROJECT ALL ABOUT?

The Kansas Capitol Dome Sculpture Project's mission is to raise the funds necessary to place the 20-foot bronze sculpture, "Ad Astra," atop the state capitol dome in Topeka by September 3, 1992.

A committee of private citizens has been formed to help raise these funds. Approximately \$700,000 is needed, which includes \$200,000 for the completion of the sculpture and an additional \$500,000 to modify the top of the cupola portion of the dome to receive the "Ad Astra" sculpture.

WHY ISN'T THERE ALREADY A SCULPTURE ON THE CAPITOL DOME?

When the capitol building was originally designed in the 1860s, it was intended to be surmounted with a sculpture. In fact, the state held a competition to select a sculpture in 1889, the first of many such efforts through the years, but without result. By 1901, a model of Ceres, the goddess of agriculture, had been chosen, but the Greek and Roman mythological persona created for Ceres was unacceptable to 20th century Kansans, and the sculpture was postponed. Subsequent efforts were made in 1915, 1923, 1937, 1944, 1953 and 1974.

Finally, legislation was passed and signed into law by Gov. John Carlin on May 10, 1984, specifying that the Kansas Arts Commission coordinate the selection of both a subject and an artist for a dome sculpture. Kansas school children and other interested persons were asked to submit ideas about the subject and the commission held three competitions before an artist was selected.

In December 1988, Salina sculptor Dr. Richard Bergen won the final competition with his representation of a Kansa Indian, titled "Ad Astra," from the state motto, "Ad Astra per Aspera," to the stars through difficulties. His sculpture was the unanimous choice, from among three excellent finalists, chosen from a field of outstanding entries.

"AD ASTRA"

"Ad astra per aspera," to the stars through difficulties, is the state motto and exemplifies the aspirations of the people of Kansas. The significance of this attitude has been incorporated into the development of the Capitol Dome sculpture. The students of Kansas overwhelmingly selected an Indian as the subject of the dome sculpture. Therefore, I have chosen the figure of a Kansa Indian as the basis of my sculptural concept to represent this abstract idea visually. The sculpture, "Ad Astra," includes historical aspects of the past, realities of the present, and dreams of the future to illustrate this spirit of Kansas.

"Ad Astra" represents the visionary and stable qualities that characterize the citizens and government of Kansas. The foundation of the state and its government is the people, represented by the Kansa Indian in "Ad Astra." The Kansa Indians were the original people of this area. Thus, the figure in the sculpture links our past and our present. The Indian draws the bow, symbolic of the energy of Kansans and points the arrow, the determination and resolve of the people to achieve their goals, "to the stars," as our state motto declares.

The people of Kansas strive to aim high and work hard to build a better present and future. The Indian's aim is to the North Star, symbolic of a stable government. As the North Star's position remains constant and steady amid the changes and demands of time, so too, our Kansas government remains constant and steady as it continues to guide our state. "Ad Astra," to the stars, points to a strong future for Kansas.

Richard Bergen
Sculptor

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3/4/92
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Testimony
before the House Federal and State Affairs Committee
on House Bill 2306
by Dorothy L. Ilgen, Executive Director
Kansas Arts Commission

March 4, 1992

Thank you, Chairman Sebelius, and members of the Committee, for this opportunity to testify on behalf of the Kansas Arts Commission on House Bill 2306, which deals with the AD ASTRA sculpture. I am here to today to voice the Commission's objections to this bill.

Intitial Legislation

Of primary concern is that the whole AD ASTRA project, which was assigned to the Kansas Arts Commission through the passage of KSA 75-2249 in 1985, was conceived and executed **at Legislative direction** as a project by which a work of sculpture would be selected and placed atop the State Capitol Dome.

To that end, the Kansas Arts Commission, following Legislative mandate, implemented a national competition to select an artist who would be commissioned to create a sculpture for the Capitol Dome. KSA 75-2249, in Section 2(b)(1)(A), directed the Kansas Arts Commission and the selection committee to consider as one of the principal selection criteria "The appropriateness of the artwork to the architectural setting of the State Capitol." Dr. Richard Bergen was selected from among nearly 30 artists with ties to Kansas who entered the Call for Entries.

The selected sculpture, AD ASTRA, was designed--as were all 30 entrants--to be viewed from the ground when placed upon atop the Dome.

A contract, approved by the Attorney General and the legislative counsel of the Secretary of Administration, was issued between Dr. Bergen and the Kansas Arts Commission for the execution of the sculpture. The contract limits the State of Kansas to pay, through installments, for specific expenditures related to the creation of AD ASTRA as funds (public or private) are available for the project.

House Federal & State Affairs
March 4, 1992
Attachment #4

Private Fundraising Efforts

The Kansas Arts Commission has undertaken modest fund-raising activity related to AD ASTRA. However, the primary fund raising for AD ASTRA has been in the private sector. Currently, a statewide committee of citizens, called the Kansas Capitol Dome Sculpture Project, are developing strategies to work with schools, community groups, and other interested citizens to generate private dollars to support the creation of the AD ASTRA sculpture, the reinforcement of the Dome, and the final placement of the sculpture on the top of the Dome. This citizen group is pledging to raise about \$700,000 in private donations for the entire project.

KAC Concerns About HB 2306

The Commission's concerns regarding HB 2306 currently under review are:

1. The Bill **directs the Kansas Arts Commission to raise no more than \$25,000** in private funds to pay for a pedestal for AD ASTRA on the Capitol grounds.

KSA 75-2249 did not specifically direct the Kansas Arts Commission to raise funds for this project. The Commission currently is not involved, beyond receiving funds as a fiscal agent from the sale of limited edition scale replicas of AD ASTRA, in the current fund-raising efforts. The KAC will receive through its Capitol Dome Sculpture Fund private funds donated for the creation of AD ASTRA; these funds will then be dispersed to Dr. Bergen in accordance with the KAC contract.

In light of the commitment of private sector fundraisers to include expenses related to the reinforcement and placement of the sculpture, the KAC discussed with Acting Secretary of Administration Cobler the transfer of funds from the Capitol Dome Sculpture Fund for expenditures related to the Dome. Any funds donated through the Capitol Dome Sculpture Fund in excess of what is needed to meet the KAC's contractual obligations would be paid to the Department of Administration upon issuance of interagency vouchers for expenditures related to reinforcement of the Dome and placement of AD ASTRA.

Directing the Kansas Arts Commission specifically to raise funds for this project **replaces the private initiative with a public-sector fund-raising effort**. Frankly, the Commission and its staff--which experienced a 20% reduction in manpower for FY 92 due to Legislative budget cuts--is not set up to run an effective statewide fund-raising campaign.

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3/4/92
4-2

The Commission also feels that it would **compete for private sector funds with other not-for-profit agencies and local units of government** which also look to the KAC for financial assistance. The Commission does not want to jeopardize local private support for the arts, thereby increasing local agencies reliance on KAC funds.

2. House Bill 2306 appears to place the responsibility of the placement of AD ASTRA with the Kansas Arts Commission through its direction regarding raising funds for the pedestal. However, **the Kansas Arts Commission does not have jurisdiction over the State Capitol nor over the Capitol grounds**; the Department of Administration is the proper agency to execute the placement of the sculpture. The Kansas Arts Commission's contractual obligation for the AD ASTRA project is limited to the creation of the work of art.

3. The discussion of the placement of the work before the private sector fund-raising gets under way **could short-circuit that fund-raising effort**. The KAC experienced difficulty in raising funds for this project due to the negative publicity surrounding the Dome issue. People who want to donate to the Capitol Dome Sculpture don't want their funds later redirected into a different project.

Give Fundraising Efforts A Chance to Succeed

The Commission realizes that House Bill 2306 is an effort to find a solution to the controversy regarding the Capitol Dome Sculpture project. However, the Commission suggests that this Bill be tabled until next Legislative Session to give the private sector fund raising a chance to meet its \$800,000 goal.

The AD ASTRA sculpture is an impressive work of art, worthy of gracing the top of the Capitol Dome. If the private sector fund-raising is successful, the entire project will be completed without the appropriation of state monies to fund any part of the project.

The Kansas Arts Commission asks that the Legislature continue to exhibit good faith in its initial intent and allow a group of committed citizens to accomplish what the Legislature envisioned when it passed KSA 74-2249. If private sector fundraising fails to the \$800,000 goal, the need for alternative site placement for AD ASTRA becomes a critical issue; the private sector group would be the most appropriate vehicle for raising funds for a pedestal or alternative installation.

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3/4/92
4-3



"A CAPITOL IDEA"

THE KANSAS CAPITOL DOME SCULPTURE PROJECT

The Kansas Capitol Dome Sculpture Project is led by a committee of private citizens whose mission is to raise approximately \$700,000 to place the 20-foot bronze sculpture, "Ad Astra," atop the state capitol dome in Topeka by September 3, 1992. These funds include \$200,000 for the completion of the sculpture and an additional \$500,000 to modify the top of the cupola portion of the dome to receive the "Ad Astra" sculpture.

Ray Evans

Honorary Chairman
Shawnee Mission

Lucinda Foster

Coordinator
Wichita

Marcia Anderson

Salina

John Bell

Area Representative
Wichita

Ann Kennett Charles

Parsons

Patty Driscoll

Area Representative
Russell

Randy Duncan

Salina

Jerry Exline

Salina

John Hauptli

Salina

Carolee Jones

Salina

Ray Rothgeb

Area Representative
Independence

Karl Ryan

Salina

Sharon Treaster

Belott

Donna Vanier

Area Representative
Salina

Don Wartman

Wichita

BACKGROUND

When the capitol building was originally designed in the 1860s, it was intended to be surmounted with a sculpture. Legislation was finally passed and signed into law on May 10, 1984, specifying that the Kansas Arts Commission coordinate the selection of both a subject and an artist for a dome sculpture.

The schoolchildren of Kansas were asked to submit their ideas and their overwhelming choice was for a native American. In response, Salina sculptor Dr. Richard Bergen designed a bronze representation of a Kansa Indian, titled "Ad Astra," from the state motto, "Ad Astra per Aspera," to the stars through difficulties.

Bergen won the arts commission's final competition in December 1988. His sculpture was the unanimous choice, from among three excellent finalists, chosen from a field of outstanding entries and is a fitting and lasting monument designed to complete the magnificent capitol building begun over 130 years ago.

WHAT'S THE STATUS OF THE PROJECT TODAY?

Although he has received only partial payment from the Kansas Arts Commission, Bergen has continued to work toward completion of the sculpture. He has built a 20-foot model, constructed of foam, plaster and clay, and has started to make the molds and patterns that will be cast in bronze and welded together to complete the sculpture.

A structural engineer's report done in 1989 found that the dome itself is structurally sound and more than capable of bearing the anticipated weight of the sculpture. However, the cupola at the top of the dome must be modified to receive the sculpture. This entails installing a mounting plate to bolt the sculpture to the building, adding several additional two-inch angle iron braces, and rebuilding the lantern portion of the cupola before "Ad Astra" can safely be put in place.

WHY ARE KANSANS RAISING FUNDS FOR THE PROJECT?

The method of funding to erect a sculpture on the capitol dome was not specified in the law passed by the legislature in 1984. The Kansas Arts Commission was authorized to *receive* funds, but is limited by the legislation to accept donations and contributions for the project, not to undertake a formal fund-raising campaign. The committee of private citizens was formed to facilitate that effort, under the auspices of the Kansas Arts Commission.

The Greater Wichita Community Foundation, classified by the IRS as a 501(c)(3) organization, has been selected to receive donations for the Kansas Capitol Dome Sculpture Project. For a 2 percent handling fee, the foundation will hold all donated funds until they are needed and provide a 5 percent return on all donations.

HOW WILL THE MONEY RAISED BE SPENT?

According to the Kansas Arts Commission's contract with the artist, the total cost for the completion and delivery of the sculpture to the capitol grounds is \$200,000, which includes \$110,000 for the construction and delivery of the sculpture, \$50,000 for the artists' fee commission and copyright, \$25,000 for an engineer's evaluation, and a \$15,000 contingency fee.

The additional \$500,000 needed is based on an estimate of costs from a structural feasibility study conducted by the Topeka firm of Finney and Turnipseed in 1989, when they estimated a total cost of \$412,792 for modifications necessary to accommodate placing the sculpture on the dome. This estimate included a \$6,000 architectural fee, engineering fees of \$17,430, an architectural modification cost of \$20,000, and construction costs of \$369,362.

These costs are high because of the difficult nature of placing the sculpture in its rightful position. Engineering studies, windload testing, the scaffolding both inside and outside the dome, and finally, the 150-ton crane needed to raise the sculpture approximately 300 feet to the top of the dome are all necessary costs associated with installing the sculpture.

I'D LIKE TO HELP! WHAT CAN I DO?

The Kansas Capitol Dome Sculpture Project provides a wonderful opportunity for the people of Kansas to participate in a non-political, non-partisan project with symbolic and lasting significance for the state and her people. It also provides an excellent opportunity for corporations to contribute to a community project in public-private partnership to benefit all citizens, both now and in the future.

Please send your contribution directly to the Kansas Capitol Dome Sculpture Project in care of the Greater Wichita Community Foundation, 151 N. Main, Wichita, KS 67202. And, if you'd like to help raise additional funds in your district, contact the project at P.O. Box 361, Salina, KS 67402-0361. It's a capitol idea!

HP/SA
3/4/92
4-5

ADTRAPAY
 DI/DI
 04-Mar-92
 10:55:35 AM

KANSAS ARTS COMMISSION
 FY91 FUND RAISING: AD ASTRA
 CAPITOL DOME SCULPTURE

VENDOR	VO#	AMOUNT
BERGEN'S SCULPTURE STUDIO	FY91	\$14.39
	91/2	\$7,500.00 PRODUCTION COST 5**\$1500.00
	91/39	\$11,000.00 FIRST INSTALLMENT
	91/890	\$3,000.00 PRODUCTION COST 2**\$1500.00
	91/939	\$6,000.00 PRODUCTION COST 4**\$1500.00

TOTAL \$27,514.39

KANSAS DEPT. OF REVENUE	91/134	\$630.00
	91/18	\$945.00

TOTAL \$1,575.00

GRANT TOTAL PYMNT	\$29,089.39
CONTR #A9111053 7/13/90(\$60000-29089)	\$32,500.00 Encumbrance - contingent

TOTAL PYMNTS + ENC. \$61,589.39

FY91 BEG/BAL. - REAPPROPRIATION	\$12,290.00
FY91 CASH RECEIPTS \$26738.00	\$26,738.00

TOTAL CASH AVAILABLE FY91 \$39,028.00
 TOTAL FY91 ACTUAL PYMNT \$29,089.39

FY91 RECEIPT CARRY FORWARD TO FY92 \$9,938.61

CONTINGENT BALANCE PER CONTRACT \$22,562.00 (\$61589.39 MINUS \$39028.00)

FY92 BEGINNING BALNCE \$9,938.61

FY92 RECEIPTS/COLLECTIONS \$25,119.50

FY92 YEAR-TO-DATE CASH \$35,057.11

FY92 YEAR-TO-DATE DISBURSEMENTS \$12,000.00

FY92 YEAR-TO-DATE BALANCE \$23,057.11

BREAKDOWN OF FY91/92 TOTAL DISBURSEMENT	\$39,514.39
FY91	
FY92	

REPLICAS	
\$16,514.39	
\$3,000.00	
<u>19,514.39</u>	

AD ASTRA	SALES TAX
\$11,000.00	\$1,575.00
\$9,000.00	\$0.00
<u>20,000.00</u>	<u>1,575.00</u>

HF SA
 3/4/92
 4-6



This is the text of a letter sent to Representative
Eloise Lynch.

March 2, 1992

Representative Eloise Lynch
Statehouse, Room #272-W
Topeka, Kansas 66612

Ray Evans

Honorary Chairman
Shawnee Mission

Lucinda Foster

Coordinator
Wichita

Marcia Anderson

Salina

John Bell

Area Representative
Wichita

Ann Kennett Charles

Parsons

Patty Driscoll

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Russell

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Jerry Exline

Salina

John Hauptli

Salina

Carolee Jones

Salina

Ray Rothgeb

Area Representative
Independence

Karl Ryan

Salina

Sharon Treaster

Beloit

Donna Vanier

Area Representative
Salina

Lon Wartman

Garden City

Dear Eloise,

I Have just learned that on Wednesday there will be a hearing on another bill to place the sculpture intended for the Capitol on a pedestal at ground level. I recognize that this could be a well-meant effort to resolve what might be seen as a problem. However, in consideration of that measure, the following should be taken into account.

In 1984 the Kansas Arts Commission was mandated by law to conduct a competition to select a sculpture for the Capitol dome. Three such competitions were held before a sculpture was chosen which in the opinion of the panel (chosen according to the provisions of the law) fulfilled the criteria set forth in the legislation. It was my privilege, as vice-president of the Commission, to preside over the meeting at which the final selection was made. I did not have a vote. All of the entries were designed specifically for the Capitol dome. Taken into consideration by the panel were such issues as silhouette, wind load, visibility at a height of 300 feet, and suitability to the style of architecture. Dr. Richard Bergen's entry was the unanimous choice among the three finalists, based on those criteria. Dr. Bergen has also said that he probably would not have entered the competition for a sculpture at ground level.

When it became clear that budgetary constraints would make it unlikely that there would be state appropriations to complete the project, this committee was formed to raise the funds from private sources. I became coordinator when the first project coordinator found it necessary, in October, to resign to take care of personal and family affairs. The committee has begun its work and much enthusiastic help has been offered from across the state. I think we can look forward to a successful completion of the project.

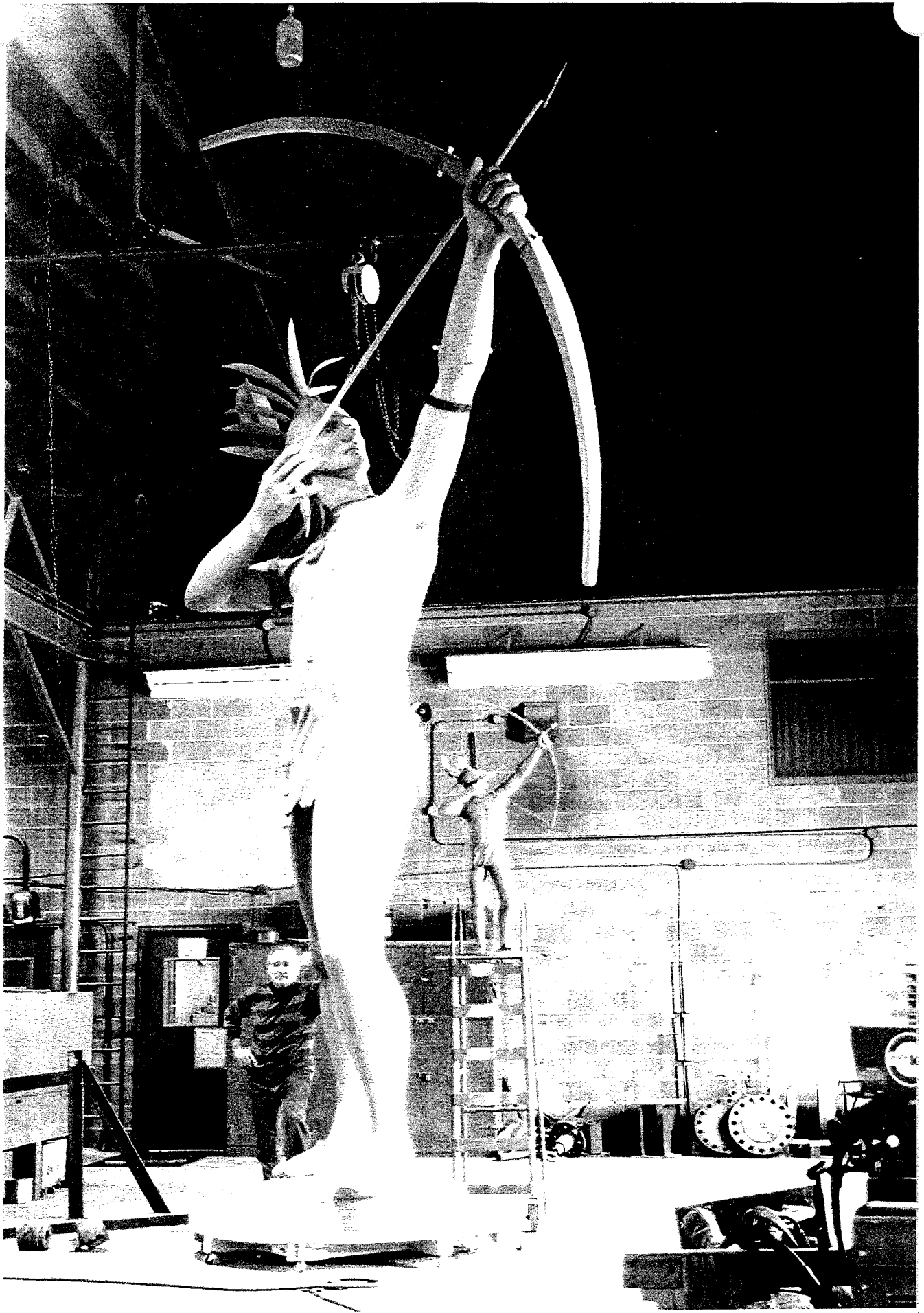
Sincerely,
Licinda Foster

AD ASTRA:
A CAPITOL IDEA



THE KANSAS CAPITOL DOME SCULPTURE
PROJECT

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SCULPTOR RICHARD BERGEN AND THE AD ASTRA MODEL

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3/4/92
4-9

THE KANSAS CAPITOL DOME SCULPTURE PROJECT

WHAT'S THE PROJECT ALL ABOUT?

The Kansas Capitol Dome Sculpture Project's mission is to raise the funds necessary to place the 20-foot bronze sculpture, "Ad Astra," atop the state capitol dome in Topeka in the fall of 1992.

A committee of private citizens has been formed to help raise these funds. Approximately \$700,000 is needed, which includes \$200,000 for the completion of the sculpture and an additional \$500,000 to modify the top of the cupola portion of the dome to receive the "Ad Astra" sculpture.

WHY ISN'T THERE ALREADY A SCULPTURE ON THE CAPITOL DOME?

When the capitol building was originally designed in the 1860s, it was intended to be surmounted with a sculpture. In fact, the state held a competition to select a sculpture in 1889, the first of many such efforts through the years, but without result. By 1901, a model of Ceres, the goddess of agriculture, had been chosen, but the Greek and Roman mythological persona created for Ceres was unacceptable to 20th century Kansans, and the sculpture was postponed. Subsequent efforts were made in 1915, 1923, 1937, 1944, 1953 and 1974.

Finally, legislation was passed and signed into law by Gov. John Carlin on May 10, 1984, specifying that the Kansas Arts Commission coordinate the selection of both a subject and an artist for a dome sculpture. Kansas school children and other interested persons were asked to submit ideas about the subject and the commission held three competitions before an artist was selected.

In December 1988, Salina sculptor Dr. Richard Bergen won the final competition with his representation of a Kansa Indian, titled "Ad Astra," from the state motto, "Ad Astra per Aspera," to the stars through difficulties. His sculpture was the unanimous choice, from among three excellent finalists, chosen from a field of outstanding entries.

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WHAT IS THE METHOD FOR FUNDING THE PROJECT?

The method of funding to erect a sculpture on the capitol dome was not specified in the law passed by the legislature in 1984. The Kansas Arts Commission was authorized to *receive* funds, but is limited by the legislation to accept donations and contributions for the project, not to undertake a formal fund-raising campaign. A committee of private citizens was formed to facilitate that effort, under the auspices of the Kansas Arts Commission.

WHAT'S THE STATUS OF THE PROJECT TODAY?

Even though he has received only partial payment from the Kansas Arts Commission, sculptor Richard Bergen has continued to work toward completion of the sculpture. A 20-foot model, constructed of foam, plaster and clay, stands in a warehouse outside Salina. Recently, Bergen has started the process of making the molds and patterns which will be cast in bronze and welded together to complete the sculpture.

A structural engineer's report done in 1989 found that the dome itself is structurally sound and more than capable of bearing the anticipated weight of the sculpture. However, the cupola at the top of the dome must be modified to receive the sculpture. This entails installing a mounting plate to bolt the sculpture to the building, adding several additional two-inch angle iron braces, and rebuilding the lantern portion of the copula before "Ad Astra" can safely be put in place.

HOW WILL THE MONEY RAISED BE SPENT?

According to the Kansas Arts Commission's contract with the artist, the total cost for the completion and delivery of the sculpture to the capitol grounds is \$200,000. This includes \$110,000 for the construction and delivery of the sculpture, \$50,000 for the artists' fee commission and copyright, \$25,000 for an engineer's evaluation, and a \$15,000 contingency fee.

The additional \$500,000 necessary for completion of the project is based on an estimate of costs from the structural feasibility study conducted by the Topeka firm of Finney and Turnipseed in 1989. At that time, they estimated a total cost of \$412,792 for modifications necessary to accommodate placing the sculpture on the dome.

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This estimate included a \$6,000 architectural fee, engineering fees of \$17,430, an architectural modification cost of \$20,000, and construction costs of \$369,362.

These costs are high because of the difficult nature of placing the sculpture in its rightful position. Engineering studies, windload testing, the necessary scaffolding both inside and outside the dome, and finally, the 150-ton crane needed to raise the sculpture approximately 300 feet to the top of the dome are all necessary costs associated with installing the sculpture.

HOW WILL DONATIONS BE HANDLED?

The Greater Wichita Community Foundation, classified by the IRS as a 501(c)(3) organization, has been selected to receive donations for the Kansas Capitol Dome Sculpture Project. For a 2 percent handling fee, the foundation will hold all donated funds until they are needed and provide a 5 percent return on all donations. Contributions should be sent directly to the Kansas Capitol Dome Sculpture Project in care of the Greater Wichita Community Foundation, 151 N. Main, Wichita, KS 67202.

WHAT IS THE SIGNIFICANCE OF THE KANSAS CAPITOL DOME SCULPTURE PROJECT?

The schoolchildren of Kansas were asked to submit their ideas for a sculpture for the top of the capitol dome, and their overwhelming choice was for a native American. In response to their ideas, sculptor Richard Bergen's "Ad Astra" is a fitting and lasting monument designed to complete the magnificent capitol building begun over 130 years ago.

The Kansas Capitol Dome Sculpture Project provides a wonderful opportunity for the people of Kansas to participate in a non-political, non-partisan project with symbolic and lasting significance for the state and her people. It also provides an excellent opportunity for corporations to contribute to a community project in public-private partnership to benefit all citizens, both now and in the future.

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"AD ASTRA"

"Ad astra per aspera," to the stars through difficulties, is the state motto and exemplifies the aspirations of the people of Kansas. The significance of this attitude has been incorporated into the development of the Capitol Dome sculpture. The students of Kansas overwhelmingly selected an Indian as the subject of the dome sculpture. Therefore, I have chosen the figure of a Kansa Indian as the basis of my sculptural concept to represent this abstract idea visually. The sculpture, "Ad Astra," includes historical aspects of the past, realities of the present, and dreams of the future to illustrate this spirit of Kansas.

"Ad Astra" represents the visionary and stable qualities that characterize the citizens and government of Kansas. The foundation of the state and its government is the people, represented by the Kansa Indian in "Ad Astra." The Kansa Indians were the original people of this area. Thus, the figure in the sculpture links our past and our present. The Indian draws the bow, symbolic of the energy of Kansans and points the arrow, the determination and resolve of the people to achieve their goals, "to the stars," as our state motto declares.

The people of Kansas strive to aim high and work hard to build a better present and future. The Indian's aim is to the North Star, symbolic of a stable government. As the North Star's position remains constant and steady amid the changes and demands of time, so too, our Kansas government remains constant and steady as it continues to guide our state. "Ad Astra," to the stars, points to a strong future for Kansas.



Richard Bergen
Sculptor

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Mike and Patti Hayden

February 10, 1992

Ms. Lucinda Foster
The Kansas Capitol Dome
Sculpture Project
600 Longford Lane
Wichita, KS 67206

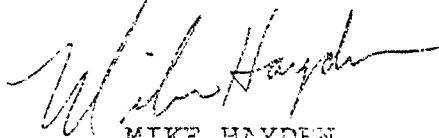
Dear Cindy:

Congratulations on your position as coordinator for the project to install the sculpture on the Capitol Dome. As you know, the Dome project has always been a bit of unfinished business throughout Kansas history. The Ad Astra statue is certainly a Capitol idea and one which can meet with much success under your leadership.

A non-partisan, statewide effort to raise the finances for this project is a very worthwhile idea. As a former Governor, I can say with certainty that it would be a remarkable achievement to finally complete this project. I encourage Kansans from all across the state, of all ages and persuasions, to lend their financial support to this endeavor. It is a project in which the people of our state can participate no matter what walk of life they may be from, and if completed, it would be a great source of pride to them and to posterity. Completion of this project would be a crowning modern-day achievement after these many years.

I wish you and the Board of Directors the most success in the Kansas Capitol Dome sculpture project. Patti and I send our best wishes to our many friends in Kansas.

Sincerely,



MIKE HAYDEN
Assistant Secretary
Fish & Wildlife & Parks

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United States Senate

WASHINGTON, DC 20510-1602

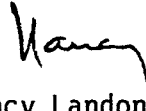
January 29, 1992

To Whom It May Concern:

I want to express my strong support for the efforts now under way to place the "Ad Astra" sculpture atop the Kansas Capitol dome. This bronze statue of a Kansa Indian by Salina sculptor Richard Bergen symbolizes not only our state's proud heritage but our high aspirations as well.

As you know, funding for this effort must be raised from private donors, and it is my hope that people all across our state will join in making this project a reality. I hope that you, your family, your friends, and your community will be a part of this effort.

Warmest regards,



Nancy Landon Kassebaum
United States Senator

NLK:dw

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