

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE.

The meeting was called to order by Chairperson Senator Nancey Harrington at 9:00 a.m. on April 26, 2001 in Room 531-N of the Capitol.

All members were present except: Senator Bob Lyon, Excused
Senator John Vratil, Excused

Committee staff present: Russell Mills, Legislative Research Department
Dennis Hodgins, Legislative Research Department
Theresa Kiernan, Office of the Revisor
Nikki Kraus, Committee Secretary

Others attending: See Attached List

Chairman Harrington opened the meeting by stating she appreciated the committee's willingness to meet at a different time in a different room on rather short notice.

Confirmation Hearings on: James E. Lowther and Thomas J. Corcoran,
Members, State Civil Service Board

Russell Mills, Legislative Research Department, stated that Mr. Lowther had been a long-term member of the House of Representatives from 1975-1996 and was well-respected. A "Senate Confirmation Information Summary" was provided for the committee concerning Mr. Lowther. (Attachment 1).

Judy Krueger, Secretary of Appointments for the Governor's Office, stated that Mr. Corcoran was a very friendly man who had served, as Mr. Lowther had, very well on the Civil Service Board. She stated that the Board was difficult to fill because it could meet two or three days a week every other week, meaning that members had to be on call. In response to a questions from Senator Gooch, Ms. Krueger stated that the members receive seventy dollars a day when they come to Topeka, and that the number of times they could meet annually would probably be determined by their budget. A "Senate Confirmation Information Summary" was provided for the committee concerning Mr. Corcoran. (Attachment 2). Ms. Krueger provided a supplement to this summary for Mr. Corcoran. (Attachment 3).

In response to a question from Senator O'Connor, Ms. Krueger stated that the Board handled all of the Civil Service appeals and complaints. Theresa Kiernan stated that it was an appeals court for classified employees. Russell Mills stated that there were five people on the Board.

Senator Brungardt made a motion to recommend both Mr. Lowther and Mr. Corcoran be recommended favorably for reappointment. Senator O'Connor seconded that motion. The motion passed.

Chairman Harrington opened the hearing on:

HB 2120—Amusement Park Ride Inspection

Chairman Harrington stated that Representative Sloan provided a letter for the committee in favor of amending **HB 2120**. (Attachment 4). Theresa Kiernan explained the balloon amendment to the committee. (Attachment 5). She stated that it was essentially the same, but that section four had been deleted.

In response to a question from Senator Gooch, Chairman Harrington stated that the bill had already been heard in committee. Senator Gilstrap stated that the Insurance Commissioner had been okay with the bill. Ms. Kiernan stated that most of the statutes in the bill were already in the law, but some were buried. Chairman Harrington stated that the changes to the bill would lead to a conference committee unless the House was comfortable with them. Senator Barnett stated that he would like to know what the bill was accomplishing

CONTINUATION SHEET

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE at on April 26, 2001 in Room 531-N of the Capitol.

if the amendment took out the inspection requirements. Ms. Kiernan replied that the amendment from Representative Sloan had some new definitions. Senator O'Connor stated that she had expressed concern to Representative Sloan that the inspection fee would be too burdensome on small owners, and that she felt the bill ought to specify the requirement apply only to operations with 50 or more employees. She stated that he had not wanted to do that and had eliminated the inspection requirement in this amendment and left the operators to sign that the rides were safe and that the operators had been trained. Ms. Kiernan stated that the amendment excluded any operation by a not-for-profit organization.

Senator O'Connor made a motion to amend **HB 2120** according to the balloon amendment and recommend it favorably. Senator Barnett seconded those motions. The motions passed.

The meeting was adjourned at 9:27 a.m. The next meeting is scheduled on Call of the Chair.

SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
GUEST LIST

DATE: April 26, 2001

NAME	REPRESENTING
Krista Gasperich	DofA/OPS
Judy Kruger	Governor's Office

Senate Confirmation Information Summary
Prepared and Submitted by the Office of Governor Bill Graves

Appointee: James E. Lowther

Position: Member, State Civil Service Board

Appointment Date: Upon confirmation by Senate Expiration Date 3/15/05 Term four years

Statutory Authority: KSA 75-2929a Party Affiliation: Republican

- Statutory geographic representation requirements (*indicate any that apply*):
 - Congressional District: First District
 - County: _____
 - Size requirement (*if any*): _____
 - Other, specify: _____

➤ Statutory party affiliation requirement: No more than 3 members from the same political party.

➤ Statutory industry or occupation requirements First District Member

Salary _____ Predecessor: himself – reappointed

Board Composition Prior to Confirmation of New Appointee:

(SEE ATTACHED LIST)

Senate Fed + State
4-26-01
Attachment 1-1

State Civil Service Board

Member Name		County	Party	CD	Occupational Industry	Expiration Date
Corcoran	Thomas	Shawnee	D	2	At Large Appointee	03/15/2001
Dean	William	Johnson	R	3	Third District Appointee	03/15/2002
Fisher	Glenn	Sedgwick	D	4	Fourth District Appointee	03/15/2002
* Lowther	James	Lyon	R	1	First District Appointee	03/15/2001
Pratt	Dick	Shawnee	R	2	Second District Appointee	03/15/2003

* Indicates member being replaced

GOVERNOR'S APPOINTEES ONLY

APPOINTMENTS QUESTIONNAIRE

Office of Governor Bill Graves

Please complete and return this form to the Governor's Appointments Office. Attach additional sheets if necessary.

Name: JAMES E. LOWTHER

Home Address: 1549 BERKELEY RD.

City, State, Zip: EMPORIA, KS 66801

Business Address: —

City, State, Zip: —

Home Phone: (316) 342-1391 Business Phone: —

Date of Birth: 6-20-29 Place of Birth: EMPORIA, KS

Party Affiliation: Republican KBI Check: NA In Process Complete

BACKGROUND

1. List high school, college, or other education institutions attended along with the date attended and degree conferred.

<i>Education Institution</i>	<i>Dates</i>	<i>Degree</i>	
<u>EMPORIA HIGH SCHOOL</u>	<u>1944-1947</u>	<u>NA</u>	
<u>UNIVERSITY OF KANSAS</u>	<u>1947-1951</u>	<u>BS - JOURNALISM</u>	
<u>"</u>	<u>"</u>	<u>1955</u>	<u>Grad. School</u>

2. List memberships in business, trade and professional organizations for the past 10 years.

<i>Organization</i>	<i>Dates</i>
<u>EMPORIA AREA CHAMBER OF COMMERCE</u>	<u>TO PRESENT</u>
<u>KANSAS BANKERS ASSOC.</u>	<u>TO 1992</u>

3. List any public offices you have been elected or appointed to, along with the dates of service.

<i>Office Held</i>	<i>Dates</i>
<u>BOARD MEMBER - USD 253</u>	<u>1975 - 1979</u>
<u>STATE REPRESENTATIVE, KANSAS LEGISLATURE</u>	<u>7/1975 - 12/1996</u>
<u>BOARD MEMBER - KANSAS CIVIL SERVICE BOARD</u>	<u>1998 - 2001</u>

4. List any positions held with a foreign, federal or local government entity along with the dates of service.

<i>Position</i>	<i>Government Entity</i>	<i>Dates</i>

5. List any lobbying activities you have been involved in during the past five years. This includes activities as a registered lobbyist activities for which you were compensated.

<i>Group</i>	<i>Compensation (yes/no)</i>	<i>Dates</i>

6. List experience or interest which qualify you for the position to which you have been appointed.

<u>PREVIOUS EXPERIENCE IN PUBLIC SERVICE</u>
<u>MANAGEMENT (PERSONNEL) IN BANKING</u>

7. Summarize business and professional experience.

<u>NEWSPAPER - ADVERTISING MANAGER & ASSISTANT PUBLISHER</u>
<u>CABLE TV - MANAGER</u>
<u>BANKING OFFICER</u>

8. List any service in the United State military. Include dates of service, branch, date and type of discharge.

<i>Branch</i>	<i>Discharge</i>	<i>Dates</i>
<u>USNAVY - LTJG</u>	<u>HONORABLE</u>	<u>6/1951 - 17/1954</u>

9. Provide details of any arrest, charge or questioning by a federal, state or other law enforcement authority for violation of any federal, state, county or municipal law, regulation or ordinance (excluding traffic violations for which a fine of \$100 or less was imposed).

10. List and provide details of any interests that may present a conflict of interest for this position.

N.A.

I, JAMES E. COWNER, declare that this questionnaire is true, correct and complete to the best of my knowledge.

James S. Cowter
Signature

March 16, 2001
Date

*Return completed questionnaire to Judy Krueger, Secretary of Appointments, State Capitol, Rm 226-S, Topeka, Kansas 66612.
If you have questions, please call 913/296-4052.*

KANSAS GOVERNMENTAL ETHICS COMMISSION

STATEMENT OF SUBSTANTIAL INTERESTS FOR STATE BOARD MEMBERS

FILE JLD
MAY 01 2000
RON THORNBURGH
SECRETARY OF STATE

INSTRUCTIONS. This statement (pages 1 through 4) must be completed by each member of a board, council or commission designated by their agency head (K.S.A. 46-247, 46-248, 46-282, and 46-285). Failure to complete and return this statement may result in a fine of \$10 per day for each day it remains unfiled. Also, any individual who intentionally fails to file as required by law, or intentionally files a false statement, is subject to prosecution for a class B misdemeanor.

Please read the "Guide" and "Definition" section provided with this form for additional assistance in completing sections "C" through "G". If you have questions or wish assistance, please contact the Commission office at 109 West 9th, Topeka, KS or call 785-296-4219.

A. IDENTIFICATION: PLEASE TYPE OR PRINT

L O W T H E R J A M E S E
Last Name First Name MI

V I R G I N I A
Spouse's Name

1 5 4 9 B E R K E L E Y R D
Number & Street Name, Apartment Number, Rural Route, or P.O. Box Number

E M P O R I A K S 6 6 8 0 1
City, State, Zip Code

3 1 6 - 3 4 2 - 1 3 9 1 - -
Home Phone Number Business Phone Number

B. MEMBER OF A STATE BOARD, COUNCIL OR COMMISSION:

C I V I L S E R V I C E B O A R D
List Name of Board, Council or Commission

D E P T O F A D M I N I S T R A T I O N
List name of Agency

* The last four digits of your social security number will aid in identifying you from others with the same name on the computer list. This information is optional.

8 0 3 8

C. OWNERSHIP INTERESTS: List any corporation, partnership, proprietorship, trust, joint venture and every other business interest, including land used for income, and specific stocks or mutual funds in which either you or your spouse has owned within the preceding 12 months a legal or equitable interest exceeding \$5,000 or 5%, whichever is less. If you or your spouse own more than 5% of a business, you must disclose the percentage held. Please insert additional page if necessary to complete this section.
 If you have nothing to report in Section "C", check here .

BUSINESS NAME AND ADDRESS	TYPE OF BUSINESS	DESCRIPTION OF INTERESTS HELD	HELD BY WHOM	PERCENT OF OWNERSHIP INTERESTS
1.			<input type="checkbox"/> You <input type="checkbox"/> Spouse <input type="checkbox"/> Jointly	
2.			<input type="checkbox"/> You <input type="checkbox"/> Spouse <input type="checkbox"/> Jointly	
3.			<input type="checkbox"/> You <input type="checkbox"/> Spouse <input type="checkbox"/> Jointly	
4.			<input type="checkbox"/> You <input type="checkbox"/> Spouse <input type="checkbox"/> Jointly	
5.			<input type="checkbox"/> You <input type="checkbox"/> Spouse <input type="checkbox"/> Jointly	
6.			<input type="checkbox"/> You <input type="checkbox"/> Spouse <input type="checkbox"/> Jointly	
7.			<input type="checkbox"/> You <input type="checkbox"/> Spouse <input type="checkbox"/> Jointly	
8.			<input type="checkbox"/> You <input type="checkbox"/> Spouse <input type="checkbox"/> Jointly	
9.			<input type="checkbox"/> You <input type="checkbox"/> Spouse <input type="checkbox"/> Jointly	
10.			<input type="checkbox"/> You <input type="checkbox"/> Spouse <input type="checkbox"/> Jointly	

D. GIFTS OR HONORARIA: List any person or business from whom you or your spouse either individually or collectively, have received gifts or honoraria having an aggregate value of \$500 or more in the preceding 12 months. If you have nothing to report in Section "D", check here .

NAME OF PERSON OR BUSINESS FROM WHOM GIFT RECEIVED	ADDRESS	RECEIVED BY:
1.		
2.		
3.		

E. RECEIPT OF COMPENSATION: List all places of employment in the last calendar year, and any other businesses from which you or your spouse received \$2,000 or more in compensation (salary, thing of value, or economic benefit conferred on in return for services rendered, or to be rendered), which was reportable as taxable income on your federal income tax returns.

1. YOUR PLACE(S) OF EMPLOYMENT OR OTHER BUSINESS IN THE PRECEDING CALENDAR YEAR.
 IF SAME AS SECTION "B", CHECK HERE .

If you have nothing to report in Section "E"1, check here ____.

	NAME OF BUSINESS	ADDRESS	TYPE OF BUSINESS
1.	LYON COUNTY KS	402 Commercial	COUNTY
2.			

2. SPOUSE'S PLACE(S) OF EMPLOYMENT OR OTHER BUSINESS IN THE PRECEDING CALENDAR YEAR.

If you have nothing to report in Section "E"2, check here ____.

	NAME OF BUSINESS	ADDRESS	TYPE OF BUSINESS
1.			
2.			

F. OFFICER OR DIRECTOR OF AN ORGANIZATION OR BUSINESS: List any organization or business in which you or your spouse hold a position of officer, director, associate, partner or proprietor at the time of filing, irrespective of the amount of compensation received for holding such position. Please insert additional page if necessary to complete this section.

If you have nothing to report in Section "F", check here ____.

	BUSINESS NAME AND ADDRESS	POSITION HELD	HELD BY WHOM
1.	Am. Legion Ball-McClain Post #5 Emporia	Finance Officer	JAMES LOUWER
2.			
3.			
4.			
5.			
6.			
7.			
8.			

G. RECEIPT OF FEES AND COMMISSIONS: List each client or customer who pays fees or commissions to a business or combination of businesses from which fees or commissions you or your spouse received an aggregate of \$2,000 or more in the preceding calendar year. The phrase "client or customer" relates only to businesses or combination of businesses. In the case of a partnership, it is the partner's proportionate share of the business, and hence of the fee, which is significant, without regard to expenses of the partnership. An individual who receives a salary as opposed to portions of fees or commissions is generally not required to report under this provision. Please insert additional page if necessary to complete this section.
 If you have nothing to report in Section "G", check here .

	NAME OF CLIENT / CUSTOMER	ADDRESS	RECEIVED BY
1.			
2.			
3.			
4.			
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H. DECLARATION:

I, JAMES E. LOWMEYER declare that this statement of substantial interests (including any accompanying pages and statements) has been examined by me and to the best of my knowledge and belief is a true, correct and complete statement of all of my substantial interests and other matters required by law. I understand that the intentional failure to file this statement as required by law or intentionally filing a false statement is a class B misdemeanor.

4-24-00
Date


Signature of Person Making Statement

NUMBER OF ADDITIONAL PAGES ____.

Return your completed statement to the Secretary of State, Memorial Hall, First Floor, 120 SW 10th Ave., Topeka, Kansas 66612-1594.

James E. Lowther

1549 Berkeley Road
Emporia, KS 66801
620 - 342 1391

RECEIVED

OBJECTIVE: I have been nominated by Gov. Bill Graves for a second term on the Kansas Civil Service Board.

QUALIFICATIONS

I have served one term on the Kansas Civil Service Board and feel I am qualified to serve a second term. I would appreciate the opportunity.

EDUCATION

1947- 1951 – B. S. in Journalism, William Allan White School of Journalism, University of Kansas
1955 - Graduate School in Journalism, University of Kansas

EMPLOYMENT

1969 -1993 – Vice President, Marketing, Citizens National Bank and Trust Co., and BANK IV

1975 - 1996 – State Representative, Kansas Legislature

1959-1969 – The EMPORIA GAZETTE: Advertising Manager, Assistant Publisher. Manager, Cable TV.

1955-1959 – The Grand Island INDEPENDENT, Advertising

MILITARY SERVICE

During the Korean War I served as an officer in the U. S. Navy on the destroyer, USS Leonard F. Mason, DD 852

act without appropriate procedural safeguards. *Darling v. Kansas Water Office*, 245 K. 45, 774 P.2d 941 (1989).

6. Civil service board ruling as not res judicata against tort action brought under act against discrimination (44-1001 et seq.) examined. *Parker v. Kansas Neurological Institute*, 13 K.A.2d 685, 687, 778 P.2d 390 (1989).

7. Conduct constituting per se cause for discipline (75-2949f), requirements for "hearings of appeals" (75-2929b) examined. *Sanstra v. Kansas Highway Patrol*, 15 K.A.2d 148, 149, 804 P.2d 1007 (1991).

8. Whether PEERA (75-4321 et seq.) agreements covering conditions of employment take precedence over conflicting civil service regulations examined. *State Dept. of Administration v. Public Employees Relations Bd.*, 257 K. 275, 292, 894 P.2d 777 (1995).

75-2926. Definitions. As used in the Kansas civil service act, unless the context otherwise indicates:

(a) "Board" means the state civil service board.

(b) "Director" means the director of personnel services.

(c) "Eligible" includes a person who is in an employment pool and qualified for appointment, promotion or reemployment under this act.

(d) "Employees of courts" includes all officers and employees appointed by or pursuant to the recommendation of a court, or any members thereof and all officers and employees appointed or employed by any such appointee.

(e) "Joint recruiting authority" means that both an agency and the division of personnel services may officially recruit candidates for classified positions.

(f) "Merit principles" mean relative knowledge, skill and ability.

(g) "Nonmerit reason" means any reason specifically based on: (1) Race, national origin or ancestry, religion or political affiliation; (2) sex or age where sex or age does not constitute a bona fide occupational qualification necessary to proper and efficient administration; or (3) disabilities which are qualified disabilities under the Americans with Disabilities Act of 1990, Pub.L. 101-36, and amendments thereto, and which do not prevent the individual from performing the position's essential functions, with or without reasonable accommodation.

History: L. 1941, ch. 358, § 2; L. 1953, ch. 375, § 50; L. 1972, ch. 332, § 56; L. 1978, ch. 332, § 2; L. 1995, ch. 213, § 3; Dec. 17.

Cross References to Related Sections:

Division of personnel, see 75-3745c et seq.

75-2927.

History: L. 1941, ch. 358, § 3; Repealed, L. 1953, ch. 375, § 95; July 1.

75-2928.

History: L. 1941, ch. 358, § 4; Repealed, L. 1972, ch. 332, § 97; July 1.

75-2928a, 75-2928b.

History: L. 1972, ch. 332, §§ 11, 12; Repealed, L. 1978, ch. 332, § 57; July 1.

75-2928c.

History: L. 1972, ch. 332, § 13; L. 1974, ch. 348, § 90; Repealed, L. 1978, ch. 332, § 57; July 1.

75-2928d.

History: L. 1972, ch. 332, § 14; Repealed, L. 1978, ch. 332, § 57; July 1.

75-2929.

History: L. 1941, ch. 358, § 5; L. 1953, ch. 375, § 51; L. 1972, ch. 332, § 57; Repealed, L. 1978, ch. 332, § 57; July 1.

CASE ANNOTATIONS

1. Aggrieved dismissed employee must exhaust remedies under act before resort to courts. *Gray v. Jenkins*, 183 K. 251, 253, 326 P.2d 319.

2. Cited; exhaustion of administrative remedies following employment termination before pursuing independent civil action (44-1009). *Mattox v. Department of Transportation*, 12 K.A.2d 403, 404, 747 P.2d 174 (1987).

75-2929a. State civil service board; appointment, qualifications and terms of members; confirmation by senate. (a) There is hereby created the state civil service board. The board shall consist of five members appointed by the governor, subject to confirmation by the senate as provided by K.S.A. 75-4315b and amendments thereto. Except as provided by K.S.A. 46-2601, no person appointed to the board shall exercise any power, duty or function as a member of the board until confirmed by the senate.

(b) Members shall be in sympathy with the application of merit principles to public employment. Not more than three members of the board shall be of the same political party. Except as otherwise provided in this section, no member of the board may hold any other public office or public employment, except military office or the office of notary public. Subject to the provisions of K.S.A. 75-4315c, and amendments thereto, one member shall be appointed from each congressional district and the remainder shall represent the state at large. Subsequent redistricting of con-

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347, § 54;
§ 16; L. 19

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gressional districts shall not disqualify any member of the board who is serving at the time of redistricting from being reappointed as a member of the board.

(c) Except as provided by subsection (d), upon the expiration of the term of any member, a successor shall be appointed as provided in subsection (a), and shall hold office for a term of four years and until a successor is appointed and confirmed. All vacancies in the board shall be filled by appointment for the unexpired term in the case of vacancies occurring before the end of a term.

(d) The terms of members who are serving on the board on the effective date of this act shall expire on March 15, of the year in which such member's term would have expired under the provisions of this section prior to amendment by this act. Thereafter, members shall be appointed for terms of four years and until their successors are appointed and confirmed.

History: L. 1978, ch. 332, § 3; L. 1982, ch. 347, § 54; L. 1985, ch. 275, § 1; L. 1992, ch. 262, § 16; L. 1995, ch. 241, § 21; July 1.

Cross References to Related Sections:

Appeal to state civil service board of disciplinary action taken against employee for certain communications, see 75-2973.

75-2929b. State civil service board; part of department of administration; management functions; organization and meetings; hearings by members; compensation and expenses of members. (a) The board shall be attached to the department of administration and shall be within the department as a part thereof. All budgeting, purchasing and related management functions of the board shall be administered under the direction and supervision of the secretary of administration. All vouchers for expenditures and all payrolls of the board shall be approved by the chairperson of the board or a person or persons designated by such chairperson and the secretary of administration or a person or persons designated by such secretary.

(b) The board shall organize annually by electing one of its members as chairperson and one as vice-chairperson. The board shall meet regularly at least once each calendar quarter and special meetings may be called by the chairperson or by a majority of the board. A quorum of the board shall consist of three members. No action may be taken by the board without the affirmative vote of at least three members. In the holding of hearings of appeals by employees or appointing authorities

pursuant to the Kansas civil service act, the board may delegate to one or more of its members the authority to serve as a hearing examiner for such a hearing, but action upon any such appeal shall require the concurrence of at least three members of the board.

(c) Meetings of the board shall be open to the public and no meeting or hearing of the board shall be held unless at least three members of the board are present. The director of personnel services shall act as secretary of the board or may designate a person to serve as the secretary of the board. The board shall keep records and minutes of its business and official actions, and such records and minutes shall be public records open to public inspection, subject to rules and regulations specifying the hours and conditions of inspection.

(d) Each member of the state civil service board attending meetings of such board, attending a subcommittee meeting thereof authorized by such board, or serving as hearing examiner at a hearing under the Kansas civil service act shall be paid per diem compensation of \$70 and shall be paid subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto. In addition, each member, who resides more than 100 miles from the location of an authorized meeting or hearing, shall receive per diem compensation of \$35 for each day in travel to or from such meeting or hearing if such travel is on a day other than the day or days of such meeting or hearing.

History: L. 1978, ch. 332, § 4; L. 1985, ch. 275, § 2; L. 1992, ch. 191, § 1; July 1.

Law Review and Bar Journal References:

"Open Meetings Profile: The Prosecutor's View," Bradley J. Smoot and Louis M. Clothier, 20 W.L.J. 241, 242 (1981).

CASE ANNOTATIONS

1. Court may order Department of Administration to pay transcript preparation costs for court review. *Everett v. Topeka Correctional Facility*, 16 K.A.2d 739, 828 P.2d 949 (1992).

75-2929c. Same; transfer of powers, duties and functions; preservation of orders. (a) On and after the effective date of this act, all of the powers, duties and functions of the state civil service commission existing immediately prior to the effective date of this act are hereby transferred to and conferred and imposed upon the state civil service board created by this act, except as herein otherwise provided.

(b) On and after the effective date of this act, the state civil service board created by this act shall be the successor in every way to the powers,

Senate Confirmation Information Summary
Prepared and Submitted by the Office of Governor Bill Graves

Appointee: Thomas J. Corcoran

Position: Member, State Civil Service Board

Appointment Date: Upon confirmation by Senate Expiration Date 3/15/05 Term four years

Statutory Authority: KSA 75-2929a Party Affiliation: Democrat

- Statutory geographic representation requirements (*indicate any that apply*):
 - Congressional District: _____
 - County: _____
 - Size requirement (*if any*): _____
 - Other, specify: _____

➤ Statutory party affiliation requirement: No more than 3 members from the same political party.

➤ Statutory industry or occupation requirements At Large Appointee

Salary _____ Predecessor: himself – reappointed

Board Composition Prior to Confirmation of New Appointee:

(SEE ATTACHED LIST)

*Senate Fed + State
4-26-01
Attachment 2-1*

State Civil Service Board

Member Name		County	Party	CD	Occupational Industry	Expiration Date
* Corcoran	Thomas	Shawnee	D	2	At Large Appointee	03/15/2001
Dean	William	Johnson	R	3	Third District Appointee	03/15/2002
Fisher	Glenn	Sedgwick	D	4	Fourth District Appointee	03/15/2002
Lowther	James	Lyon	R	1	First District Appointee	03/15/2001
Pratt	Dick	Shawnee	R	2	Second District Appointee	03/15/2003

* Indicates member being replaced

GOVERNOR'S APPOINTEES ONLY

APPOINTMENTS QUESTIONNAIRE

Office of Governor Bill Graves

Please complete and return this form to the Governor's Appointments Office. Attach additional sheets if necessary.

Name: THOMAS J. CORCORAN

Home Address: 7171 SW FOUNTAINDALE Rd

City, State, Zip: TOPEKA KS 66614-4627

Business Address: SAME

City, State, Zip: _____

Home Phone: 478-3888 Business Phone: 478-4888

Date of Birth: 11/2/22 Place of Birth: Dubuque IA

Party Affiliation: DEMOCRAT KBI Check: NA In Process Complete

BACKGROUND

1. List high school, college, or other education institutions attended along with the date attended and degree conferred.

<i>Education Institution</i>	<i>Dates</i>	<i>Degree</i>
<u>SAME AS LAST QUESTIONNAIRE</u>		

2. List memberships in business, trade and professional organizations for the past 10 years.

<i>Organization</i>	<i>Dates</i>
<u>NO CHANGE</u>	

3. List any public offices you have been elected or appointed to, along with the dates of service.

<i>Office Held</i>	<i>Dates</i>
<u>NO CHANGE KANSAS CIVIL SERVICE BOARD</u>	<u>7/23/97 3/15/01</u>
<u>" BANKING BOARD</u>	<u>12/23/93 to 7/23/97 to 4/30/99</u>

4. List any positions held with a foreign, federal or local government entity along with the dates of service.

<i>Position</i>	<i>Government Entity</i>	<i>Dates</i>
<i>NO CHANGE</i>		

5. List any lobbying activities you have been involved in during the past five years. This includes activities as a registered lobbyist activities for which you were compensated.

<i>Group</i>	<i>Compensation (yes/no)</i>	<i>Dates</i>
<i>NONE</i>		

6. List experience or interest which qualify you for the position to which you have been appointed.

HAVE SERVED ON BOARD

7. Summarize business and professional experience.

NO CHANGE

8. List any service in the United State military. Include dates of service, branch, date and type of discharge.

<i>Branch</i>	<i>Discharge</i>	<i>Dates</i>
<i>NO CHANGE</i>		

9. Provide details of any arrest, charge or questioning by a federal, state or other law enforcement authority for violation of any federal, state, county or municipal law, regulation or ordinance (excluding traffic violations for which a fine of \$100 or less was imposed).

NONE

10. List and provide details of any interests that may present a conflict of interest for this position.

NONE

I, Thomas J. Carcoran, declare that this questionnaire is true, correct and complete to the best of my knowledge.

Thomas J. Carcoran
Signature

3/24/01
Date

*Return completed questionnaire to Judy Krueger, Secretary of Appointments, State Capitol, Rm 226-S, Topeka, Kansas 66612.
If you have questions, please call 913/296-4052.*

KANSAS GOVERNMENTAL ETHICS COMMISSION

STATEMENT OF SUBSTANTIAL INTERESTS FOR STATE BOARD MEMBERS

FILED
MAY 01 2000
RON THORNBERG
SECRETARY OF STATE

INSTRUCTIONS. This statement (pages 1 through 4) must be completed by each member of a board, council or commission designated by their agency head (K.S.A. 46-247, 46-248, 46-282, and 46-285). Failure to complete and return this statement may result in a fine of \$10 per day for each day it remains unfiled. Also, any individual who intentionally fails to file as required by law, or intentionally files a false statement, is subject to prosecution for a class B misdemeanor.

Please read the "Guide" and "Definition" section provided with this form for additional assistance in completing sections "C" through "G". If you have questions or wish assistance, please contact the Commission office at 109 West 9th, Topeka, KS or call 785-296-4219.

A. IDENTIFICATION: PLEASE TYPE OR PRINT

C O R C O R A N T H O M A S J .

Last Name First Name MI

E V E L Y N M .

Spouse's Name

7 1 7 1 S W F O U N T A I N D A L E R d

Number & Street Name, Apartment Number, Rural Route, or P.O. Box Number

T O P E K A K S

City, State, Zip Code

7 8 5 - 4 7 8 - 3 8 8 8

Home Phone Number

7 8 5 - 4 7 8 - 4 8 8 8

Business Phone Number

B. MEMBER OF A STATE BOARD, COUNCIL OR COMMISSION:

C I V I L S E R V I C E B O A R D

List Name of Board, Council or Commission

List name of Agency

* The last four digits of your social security number will aid in identifying you from others with the same name on the computer list. This information is optional.

*
2 9 3 2

C. OWNERSHIP INTERESTS: List any corporation, partnership, proprietorship, trust, joint venture and every other business interest, including land used for income, and specific stocks or mutual funds in which either you or your spouse has owned within the preceding 12 months a legal or equitable interest exceeding \$5,000 or 5%, whichever is less. If you or your spouse own more than 5% of a business, you must disclose the percentage held. Please insert additional page if necessary to complete this section.

If you have nothing to report in Section "C", check here ____.

	BUSINESS NAME AND ADDRESS	TYPE OF BUSINESS	DESCRIPTION OF INTERESTS HELD	HELD BY WHOM	PERCENT OF OWNERSHIP INTERESTS
1.	CORCORAN Chemical Products 7171 SW FOUNTAINDALE TX	Chemical Products		18% 18%	<input type="checkbox"/> You <input type="checkbox"/> Spouse <input type="checkbox"/> Jointly
2.	BIRTH day Bunch of TOPKA " KS	Stock Club	10%	X X	<input type="checkbox"/> You <input type="checkbox"/> Spouse <input checked="" type="checkbox"/> Jointly
3.	FELCOR Lodging Trust Irving TX	Hotel	500 shares 400 shares 250 shares	JTC BUC	<input checked="" type="checkbox"/> You <input checked="" type="checkbox"/> Spouse <input type="checkbox"/> Jointly
4.					<input type="checkbox"/> You <input type="checkbox"/> Spouse <input type="checkbox"/> Jointly
5.					<input type="checkbox"/> You <input type="checkbox"/> Spouse <input type="checkbox"/> Jointly
6.					<input type="checkbox"/> You <input type="checkbox"/> Spouse <input type="checkbox"/> Jointly
7.					<input type="checkbox"/> You <input type="checkbox"/> Spouse <input type="checkbox"/> Jointly
8.					<input type="checkbox"/> You <input type="checkbox"/> Spouse <input type="checkbox"/> Jointly
9.					<input type="checkbox"/> You <input type="checkbox"/> Spouse <input type="checkbox"/> Jointly
10.					<input type="checkbox"/> You <input type="checkbox"/> Spouse <input type="checkbox"/> Jointly

D. GIFTS OR HONORARIA: List any person or business from whom you or your spouse either individually or collectively, have received gifts or honoraria having an aggregate value of \$500 or more in the preceding 12 months. If you have nothing to report in Section "D", check here ____.

	NAME OF PERSON OR BUSINESS FROM WHOM GIFT RECEIVED	ADDRESS	RECEIVED BY:
1.	THOMAS J. CORCORAN, Jr.	DALLAS TX	WIFE & JOINTLY
2.			
3.			

RECEIPT OF COMPENSATION: List all places of employment in the last calendar year, and any other businesses from which you or your spouse received \$2,000 or more in compensation (salary, thing of value, or economic benefit conferred on in return for services rendered, or to be rendered), which was reportable as taxable income on your federal income tax returns.

1. YOUR PLACE(S) OF EMPLOYMENT OR OTHER BUSINESS IN THE PRECEDING CALENDAR YEAR. IF SAME AS SECTION "B", CHECK HERE ____.

If you have nothing to report in Section "E"1, check here ____.

	NAME OF BUSINESS	ADDRESS	TYPE OF BUSINESS
1.	CORCORAN Chemical Products	SAME	Chemical
2.	STATE CIVIL SERVICE BOARD	Topeka KS	Board Member

2. SPOUSE'S PLACE(S) OF EMPLOYMENT OR OTHER BUSINESS IN THE PRECEDING CALENDAR YEAR.

If you have nothing to report in Section "E"2, check here ____.

	NAME OF BUSINESS	ADDRESS	TYPE OF BUSINESS
1.	CORCORAN Chemical Products	SAME	Chemical
2.			

F. OFFICER OR DIRECTOR OF AN ORGANIZATION OR BUSINESS: List any organization or business in which you or your spouse hold a position of officer, director, associate, partner or proprietor at the time of filing, irrespective of the amount of compensation received for holding such position. Please insert additional page if necessary to complete this section.

If you have nothing to report in Section "F", check here ____.

	BUSINESS NAME AND ADDRESS	POSITION HELD	HELD BY WHOM
1.	Pres CORCORAN Chemical Products	President	Tom
	" " "	Sec - Treas	Livelyn
2.	Chm ST PATRICKS Day Comm.	CHAIRMAN	TOM
3.	LET'S HELP	Board	Tom
4.			
5.			
6.			
7.			
8.			

G. RECEIPT OF FEES AND COMMISSIONS: List each client or customer who pays fees or commissions to a business or combination of businesses from which fees or commissions you or your spouse received an aggregate of \$2,000 or more in the preceding calendar year. The phrase "client or customer" relates only to businesses or combination of businesses. In the case of a partnership, it is the partner's proportionate share of the business, and hence of the fee, which is significant, without regard to expenses of the partnership. An individual who receives a salary as opposed to portions of fees or commissions is generally not required to report under this provision. Please insert additional page if necessary to complete this section.
 If you have nothing to report in Section "G", check here ____.

	NAME OF CLIENT / CUSTOMER	ADDRESS	RECEIVED BY
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			
13.			

H. DECLARATION:

I, Thomas J. Coccoron, declare that this statement of substantial interests (including any accompanying pages and statements) has been examined by me and to the best of my knowledge and belief is a true, correct and complete statement of all of my substantial interests and other matters required by law. I understand that the intentional failure to file this statement as required by law or intentionally filing a false statement is a class B misdemeanor.

4/27/00

Date

Thomas J. Coccoron

Signature of Person Making Statement

NUMBER OF ADDITIONAL PAGES ____.

Re completed statement to the Secretary of State, Memorial Hall, First Floor, 120 SW 10th Ave., Topeka, Kansas



February 23, 1997

Curriculum Vitae

Thomas Joseph Corcoran
7171 SW Fountaindale Rd
Topeka KS 66614-4627
913 478-3888

Born November 12, 1922, Dubuque, Iowa.

Raised in Dubuque, Chicago and Kansas City, Mo.

Educated in Catholic Grade Schools, Rockhurst High School, Rockhurst College and Shrivinham University, England.

Eagle Scout.

Served in Army Air Corp in England, North Africa, Middle East, and Russia.

Married Evelyn Solomon, London, England, October 2, 1945.
Four children, ten grandchildren and two great grandchildren.

Salesman, sales manager, executive in salt, chemical and food businesses. Started own business in 1979.

Past Stockholder, organizer and director in banks. Member of the Kansas State Banking Board.

Appointed by President Lyndon Johnson to a committee of 50 to examine the results physically, economically and culturally of the Marshall Plan for Germany.

Race Sailboats, Commodore, Lake Sherwood Sailing Club, past Commodore Sweet 16 Sailing Association, hunt and fish.

Past President Young Democrats of Kansas, Treasure and Chairman of the Democratic State Committee of Kansas, Democratic National Committeeman and Chairman of the John Kennedy Kansas Campaign Committee.

Past Treasure of the Jayhawk Council of the Boy Scouts, Chairman of the Resource Committee and member of the Board of Lets Help, Chairman of Topeka's St. Patrick's Day Committee.

Knights of Columbus and 4th Degree, Governor Elect, Serra International, District XII-II, Western Missouri and Eastern Kansas, Past President of the Serra Club of Topeka, Past member of the Parish Board of Christ the King, Past member of the Archdiocesan Vocational Advisory Council. Knight of the Equestrian Order of the Holy Sepulchre of Jerusalem.

act without appropriate procedural safeguards. *Darling v. Kansas Water Office*, 245 K. 45, 774 P.2d 941 (1989).

6. Civil service board ruling as not res judicata against tort action brought under act against discrimination (44-1001 et seq.) examined. *Parker v. Kansas Neurological Institute*, 13 K.A.2d 685, 687, 778 P.2d 390 (1989).

7. Conduct constituting per se cause for discipline (75-2949f), requirements for "hearings of appeals" (75-2929b) examined. *Sanstra v. Kansas Highway Patrol*, 15 K.A.2d 148, 149, 804 P.2d 1007 (1991).

8. Whether PEERA (75-4321 et seq.) agreements covering conditions of employment take precedence over conflicting civil service regulations examined. *State Dept. of Administration v. Public Employees Relations Bd.*, 257 K. 275, 292, 894 P.2d 777 (1995).

75-2926. Definitions. As used in the Kansas civil service act, unless the context otherwise indicates:

(a) "Board" means the state civil service board.

(b) "Director" means the director of personnel services.

(c) "Eligible" includes a person who is in an employment pool and qualified for appointment, promotion or reemployment under this act.

(d) "Employees of courts" includes all officers and employees appointed by or pursuant to the recommendation of a court, or any members thereof and all officers and employees appointed or employed by any such appointee.

(e) "Joint recruiting authority" means that both an agency and the division of personnel services may officially recruit candidates for classified positions.

(f) "Merit principles" mean relative knowledge, skill and ability.

(g) "Nonmerit reason" means any reason specifically based on: (1) Race, national origin or ancestry, religion or political affiliation; (2) sex or age where sex or age does not constitute a bona fide occupational qualification necessary to proper and efficient administration; or (3) disabilities which are qualified disabilities under the Americans with Disabilities Act of 1990, Pub.L. 101-36, and amendments thereto, and which do not prevent the individual from performing the position's essential functions, with or without reasonable accommodation.

History: L. 1941, ch. 358, § 2; L. 1953, ch. 375, § 50; L. 1972, ch. 332, § 56; L. 1978, ch. 332, § 2; L. 1995, ch. 213, § 3; Dec. 17.

Cross References to Related Sections:

Division of personnel, see 75-3745c et seq.

75-2927.

History: L. 1941, ch. 358, § 3; Repealed, L. 1953, ch. 375, § 95; July 1.

75-2928.

History: L. 1941, ch. 358, § 4; Repealed, L. 1972, ch. 332, § 97; July 1.

75-2928a, 75-2928b.

History: L. 1972, ch. 332, §§ 11, 12; Repealed, L. 1978, ch. 332, § 57; July 1.

75-2928c.

History: L. 1972, ch. 332, § 13; L. 1974, ch. 348, § 90; Repealed, L. 1978, ch. 332, § 57; July 1.

75-2928d.

History: L. 1972, ch. 332, § 14; Repealed, L. 1978, ch. 332, § 57; July 1.

75-2929.

History: L. 1941, ch. 358, § 5; L. 1953, ch. 375, § 51; L. 1972, ch. 332, § 57; Repealed, L. 1978, ch. 332, § 57; July 1.

CASE ANNOTATIONS

1. Aggrieved dismissed employee must exhaust remedies under act before resort to courts. *Gray v. Jenkins*, 183 K. 251, 253, 326 P.2d 319.

2. Cited; exhaustion of administrative remedies following employment termination before pursuing independent civil action (44-1009). *Mattox v. Department of Transportation*, 12 K.A.2d 403, 404, 747 P.2d 174 (1987).

75-2929a. State civil service board; appointment, qualifications and terms of members; confirmation by senate. (a) There is hereby created the state civil service board. The board shall consist of five members appointed by the governor, subject to confirmation by the senate as provided by K.S.A. 75-4315b and amendments thereto. Except as provided by K.S.A. 46-2601, no person appointed to the board shall exercise any power, duty or function as a member of the board until confirmed by the senate.

(b) Members shall be in sympathy with the application of merit principles to public employment. Not more than three members of the board shall be of the same political party. Except as otherwise provided in this section, no member of the board may hold any other public office or public employment, except military office or the office of notary public. Subject to the provisions of K.S.A. 75-4315c, and amendments thereto, one member shall be appointed from each congressional district and the remainder shall represent the state at large. Subsequent redistricting of con-

gressional member of the redistricting of the board

(c) Except upon the election of a successor section (a), years and until confirmed. All by appointment of vacancies

(d) The term of the board shall expire on the date of the member's term. The provisions of this act. The terms of office are appointed

History: L. 1972, ch. 332, § 54; L. 1978, ch. 332, § 16; L. 1995, ch. 213, § 3

Cross Reference: Appeal to state against employee

75-2929b. Department functions; hearings and expenses of members. (a) There is hereby created the state department functions board. The board shall consist of five members appointed by the governor, subject to confirmation by the senate as provided by K.S.A. 75-4315b and amendments thereto. Except as provided by K.S.A. 46-2601, no person appointed to the board shall exercise any power, duty or function as a member of the board until confirmed by the senate.

(b) Members shall be in sympathy with the application of merit principles to public employment. Not more than three members of the board shall be of the same political party. Except as otherwise provided in this section, no member of the board may hold any other public office or public employment, except military office or the office of notary public. Subject to the provisions of K.S.A. 75-4315c, and amendments thereto, one member shall be appointed from each congressional district and the remainder shall represent the state at large. Subsequent redistricting of con-

gressional districts shall not disqualify any member of the board who is serving at the time of redistricting from being reappointed as a member of the board.

(c) Except as provided by subsection (d), upon the expiration of the term of any member, a successor shall be appointed as provided in subsection (a), and shall hold office for a term of four years and until a successor is appointed and confirmed. All vacancies in the board shall be filled by appointment for the unexpired term in the case of vacancies occurring before the end of a term.

(d) The terms of members who are serving on the board on the effective date of this act shall expire on March 15, of the year in which such member's term would have expired under the provisions of this section prior to amendment by this act. Thereafter, members shall be appointed for terms of four years and until their successors are appointed and confirmed.

History: L. 1978, ch. 332, § 3; L. 1982, ch. 347, § 54; L. 1985, ch. 275, § 1; L. 1992, ch. 262, § 16; L. 1995, ch. 241, § 21; July 1.

Cross References to Related Sections:

Appeal to state civil service board of disciplinary action taken against employee for certain communications, see 75-2973.

75-2929b. State civil service board; part of department of administration; management functions; organization and meetings; hearings by members; compensation and expenses of members. (a) The board shall be attached to the department of administration and shall be within the department as a part thereof. All budgeting, purchasing and related management functions of the board shall be administered under the direction and supervision of the secretary of administration. All vouchers for expenditures and all payrolls of the board shall be approved by the chairperson of the board or a person or persons designated by such chairperson and the secretary of administration or a person or persons designated by such secretary.

(b) The board shall organize annually by electing one of its members as chairperson and one as vice-chairperson. The board shall meet regularly at least once each calendar quarter and special meetings may be called by the chairperson or by a majority of the board. A quorum of the board shall consist of three members. No action may be taken by the board without the affirmative vote of at least three members. In the holding of hearings of appeals by employees or appointing authorities

pursuant to the Kansas civil service act, the board may delegate to one or more of its members the authority to serve as a hearing examiner for such a hearing, but action upon any such appeal shall require the concurrence of at least three members of the board.

(c) Meetings of the board shall be open to the public and no meeting or hearing of the board shall be held unless at least three members of the board are present. The director of personnel services shall act as secretary of the board or may designate a person to serve as the secretary of the board. The board shall keep records and minutes of its business and official actions, and such records and minutes shall be public records open to public inspection, subject to rules and regulations specifying the hours and conditions of inspection.

(d) Each member of the state civil service board attending meetings of such board, attending a subcommittee meeting thereof authorized by such board, or serving as hearing examiner at a hearing under the Kansas civil service act shall be paid per diem compensation of \$70 and shall be paid subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto. In addition, each member, who resides more than 100 miles from the location of an authorized meeting or hearing, shall receive per diem compensation of \$35 for each day in travel to or from such meeting or hearing if such travel is on a day other than the day or days of such meeting or hearing.

History: L. 1978, ch. 332, § 4; L. 1985, ch. 275, § 2; L. 1992, ch. 191, § 1; July 1.

Law Review and Bar Journal References:

"Open Meetings Profile: The Prosecutor's View," Bradley J. Smoot and Louis M. Clothier, 20 W.L.J. 241, 242 (1981).

CASE ANNOTATIONS

1. Court may order Department of Administration to pay transcript preparation costs for court review. *Everett v. Topeka Correctional Facility*, 16 K.A.2d 739, 828 P.2d 949 (1992).

75-2929c. Same; transfer of powers, duties and functions; preservation of orders. (a) On and after the effective date of this act, all of the powers, duties and functions of the state civil service commission existing immediately prior to the effective date of this act are hereby transferred to and conferred and imposed upon the state civil service board created by this act, except as herein otherwise provided.

(b) On and after the effective date of this act, the state civil service board created by this act shall be the successor in every way to the powers,

APPOINTMENTS QUESTIONNAIRE

Office of Governor Bill Graves

Please complete and return this form to the Governor's Appointments Office. Attach additional sheets if necessary.

Name: Thomas J. Corcoran

Home Address: 7171 S. W. Fountaindale Rd.

City, State, Zip: Topeka KS 66614-4627

Business Address: same

City, State, Zip:

Home Phone: 913 478-3888 Business Phone: 913 478-4888

Date of Birth: Place of Birth: Dubuque, Iowa

Party Affiliation: Democrat KBI Check: NA In Process Complete

Appointed as: a member of the State Civil Service Board.

Appointment Date: Expiration Date: 3/15/01

Term Length: 4 years Statutory Authority: KSA 75-2929a

Salary: N/A Predecessor: William Jones

Statutory Requirements: none

BACKGROUND

1. List high school, college, or other education institutions attended along with the date attended and degree conferred.

Education Institution	Dates	Degree
Rockhurst High School	1936-1940	Graduated
Rockhurst College	1940-1943 went to service	
Shrinvinham University	1945 while in service in England	
Rockhurst College	1946 January- December	None

2. List memberships in business, trade and professional organizations for the past 10 years.

Organization	Dates
International Sanitary Supply Assn. , Inc.	1983-present

Senate Fed + State
4-26-01
Attachment 3-1

3. List any public offices you have been elected or appointed to, along with the dates of service.

Office Held

Dates

Kansas State Banking Board

January 28, 1994 - present

4. List any positions held with a foreign, federal or local government entity along with the dates of service.

Position

Government Entity

Dates

None

5. List any lobbying activities you have been involved in during the past five years. This includes activities as a registered lobbyist activities for which you were compensated.

Group

Compensation (yes/no)

Dates

None

6. List experience or interest which qualify you for the position to which you have been appointed.

I have seen much of life and many people. I would hope that this would help me be a just person.

7. Summarize business and professional experience.

I have spent my life in sales, management and ownership of salt, chemical, banking, restaurant and motel business.

8. List any service in the United State military. Include dates of service, branch, date and type of discharge.

Branch	Discharge	Dates
U. S. Army Air Corps	Honorable	3/20/43-12/20/45

9. Provide details of any arrest, charge or questioning by a federal, state or other law enforcement authority for violation of any federal, state, county or municipal law, regulation or ordinance (excluding traffic violations for which a fine of !00 or less was imposed).

None

10. List and provide details of any interests that may present a conflict of interest fort this position.

None

I, declare that this questionnaire is true, correct and complete to the best of my knowledge.

Signature *Thomas J. Corcoran*

Date 6/12/97

Return completed questionnaire to Judy Krueger, Secretary of Appointments, State Capitol, Rm.226 S, Topeka, Kansas 66612.

If you leave questions, please call 913/296-4052.

TOM SLOAN
REPRESENTATIVE, 45TH DISTRICT
DOUGLAS COUNTYSTATE CAPITOL BUILDING
ROOM 446-N
TOPEKA, KANSAS 66612-1504
1-785-296-7677
1-800-432-3924772 HWY 40
LAWRENCE, KANSAS 66049-4174
1-785-841-1526TOPEKA
HOUSE OF
REPRESENTATIVES

April 24, 2001

Dear Senator Harrington:

In the event that our respective schedules again preclude my speaking with you directly, I appreciate your willingness to bring HB 2120 (amusement ride safety inspection bill) up for Committee action.

I have spoken with almost all committee members and found no one opposed to the concept of requiring safety inspections, but some legitimate concern for the costs to small amusement ride operators. While I have enough votes to move the original bill out of Committee, at this stage of the Session I prefer to achieve consensus. Therefore, if it is acceptable to you, I would prefer that the Committee delete the inspection requirement and pass the sections requiring documentation of employee training, posting of safe rider rules, etc. (the language that I provided you prior to our legislative break). Theresa Kiernan has a copy of that same language and can draft the balloon if you so choose.

If the Senate passes the above sections, I will ask Rep. Ray to put the bill in conference (to keep it alive) and then I will immediately move to concur in the Senate amendments.

I realize that this bill is really only important to me, but I hold a legislative seat previously held for 18 years by Democrats, Republicans are a minority by registration. Each term I try to have a "consumer protection" bill passed that I can use for campaign purposes. I sincerely believe that children will be better protected by passage of some or all of HB 2120, without being an unreasonable burden on any amusement ride operator, and its passage will enhance keeping one Lawrence House seat in Republican control.

Thank you again for your consideration of this request and your assistance.

Senate Fed + State
4-26-01
Attachment 4-1

HOUSE BILL No. 2120

By Committee on Local Government

1-23

12 AN ACT concerning amusement rides; relating to inspection and regu-
13 lation thereof; prohibiting certain acts and providing penalties and
14 remedies for violations; **also repealing [K.S.A.] 40-4801, 40-4802, 40-**
15 **4803 and 40-4804.**

16
17 *Be it enacted by the Legislature of the State of Kansas:*

18 **Section 1. This act shall be known and may be cited as the**
19 **amusement ride inspection and regulation act.**

20 Section ~~1~~ 2. As used in this act:

21 (a) (1) "Amusement ride" means any mechanical or electrical device
22 that carries or conveys passengers along, around or over a fixed or re-
23 stricted route or course or within a defined area for the purpose of giving
24 its passengers amusement, pleasure, thrills or excitement and shall in-
25 clude but not be limited to:

26 (A) Rides commonly known as ferris wheels, carousels, parachute
27 towers, bungee jumping, reverse bungee jumping, tunnels of love and
28 roller coasters;

29 (B) equipment generally associated with winter activities, such as ski
30 lifts, ski tows, j-bars, t-bars, chair lifts and aerial tramways; ~~and~~

31 (C) **moon walks and other inflatable equipment; and**

32 ~~(D)~~ (D) equipment not originally designed to be used as an amuse-
33 ment ride, such as cranes or other lifting devices, when used as part of
34 an amusement ride.

35 (2) "Amusement ride" does not include:

36 (A) Games, concessions and associated structures;

37 (B) any single passenger coin-operated ride that: (i) Is manually, me-
38 chanically or electrically operated; (ii) is customarily placed in a public
39 location; and (iii) does not normally require the supervision or services of
40 an operator;

41 (C) nonmechanized playground equipment, including, but not lim-
ted to, swings, seesaws, stationary spring-mounted animal features, rider-
propelled merry-go-rounds, climbers, slides, trampolines, ~~moon walks~~

Senate Fed + State
4-26-01
Attachment 5-1

Sen. Fed + State

5-2

and other inflatable equipment and physical fitness devices;

(D) any nonprofit amusement ride owned by a political subdivision of the state; or

(E) any amusement ride owned and operated by a not-for-profit organization and used by the public at not more than three events per year.

(b) "Certificate of inspection" means a certificate, signed and dated by a qualified inspector, showing that an amusement ride has satisfactorily passed inspection by such inspector.

(c) "Nondestructive testing" means the development and application of technical methods such as radiographic, magnetic particle, ultrasonic, liquid penetrant, electromagnetic, neutron radiographic, acoustic emission, visual and leak testing to:

(1) Examine materials or components in ways that do not impair the future usefulness and serviceability in order to detect, locate, measure and evaluate discontinuities, defects and other imperfections;

(2) assess integrity, properties and composition; and

(3) measure geometrical characters.

(d) "Operator" means a person actually engaged in or directly controlling the operations of an amusement ride.

(e) "Owner" means a person who owns, leases, controls or manages the operations of an amusement ride and may include the state or any political subdivision of the state.

(f) "Parent or guardian" means any parent, guardian or custodian responsible for the control, safety, training or education of a minor or a disabled person, as defined by K.S.A. 59-3002 and amendments thereto.

(g) (1) "Patron" means any individual who is:

(A) Waiting in the immediate vicinity of an amusement ride to get on the ride;

(B) getting on an amusement ride;

(C) using an amusement ride;

(D) getting off an amusement ride; or

(E) leaving an amusement ride and still in the immediate vicinity of the ride.

(2) "Patron" does not include employees, agents or servants of the owner while engaged in the duties of their employment.

(h) "Person" means any individual, association, partnership, corporation, limited liability company, government or other entity.

(i) "Qualified inspector" means a person who holds a current certification or other evidence of qualification to inspect amusement rides, issued by a program specified by rules and regulations adopted under section 3 4, and amendments thereto.

(j) "Serious injury" means an injury that results in:

(1) Death, dismemberment, significant disfigurement or permanent

5-2

loss of the use of a body organ, member, function or system;

(2) a compound fracture; or

(3) other significant injury or illness that requires immediate admission and overnight hospitalization and observation by a licensed physician.

(k) "Sign" means any symbol or language reasonably calculated to communicate information to patrons or their parents or guardians, including placards, prerecorded messages, live public address, stickers, pictures, pictograms, guide books, brochures, videos, verbal information and visual signals.

Sec. ~~2~~ 3. (a) No amusement ride shall be operated in this state unless at the time of operation the owner has in effect an insurance policy, written by an insurance company authorized to do business in Kansas, insuring the owner and operator against liability for bodily injury to persons arising out of the operation of the amusement ride. Such insurance policy shall:

(1) Provide for coverage in an amount not less than \$1,000,000 per occurrence and not less than \$2,000,000 in the annual aggregate; and

(2) name as an additional insured any person contracting with the owner for the amusement ride's operation.

(b) An insurance policy required by this section shall provide that the insurer may not cancel or refuse to renew the policy without 30 days' written notice to the insured unless inspection reveals the ride is unsafe and appropriate repairs cannot or will not be made, in which case coverage may be canceled immediately to force closure of the ride.

(c) A copy of the insurance policy required by this section shall be available for inspection by any person contracting with the owner for the amusement ride's operation.

~~(d) The governing body of a city or county may allow, in lieu of an insurance policy, an owner or operator to be self-insured.~~

~~Sec. ~~3~~ 4. No amusement ride shall be operated in this state unless such: (a) Such ride has a valid certificate of inspection by a person who holds current certification evidencing compliance with the standards required on January 30, 1998, for at least a level 1 (basic) inspector certification of the national association of amusement ride [safety] officials or the amusement industry manufacturers and suppliers international; and (b) a copy of such inspection certificate first has been filed with the manager of the state fair. An amusement ride erected at a permanent location in this state shall be inspected by a qualified inspector at least every 12 months. An amusement ride erected at a temporary location in this state shall have been inspected by a qualified inspector before it is first operated in this state in any calendar year. The May 1, of such year and shall have been inspected at least once every 12 months. The certificate of an inspection required by this sub-~~

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~~section shall be signed and dated by the inspector and shall be available to any person contracting with the owner for the amusement ride's operation. In addition, a visible inspection decal or other evidence of inspection shall be posted in plain view on or near the amusement ride, in a location where it can easily be seen.~~

Sec. ~~4~~ 5. The owner of an amusement ride shall retain at all times current maintenance and inspection records for such ride. Such records shall be available to any person contracting with the owner for the amusement ride's operation.

Sec. ~~5~~ 6. No amusement ride shall be operated in this state unless nondestructive testing of the ride has been conducted in accordance with the recommendations of the manufacturer of the ride and in conformance with standards at least equivalent to those of the American society for testing and materials that are in effect on the effective date of this act.

Sec. ~~6~~ 7. (a) No amusement ride shall be operated in this state unless the operator has satisfactorily completed training that includes, at a minimum:

(1) Instruction on operating procedures for the ride, the specific duties of the operator, general safety procedures and emergency procedures;

(2) demonstration of physical operation of the ride; and

(3) supervised observation of the operator's physical operation of the ride.

(b) No amusement ride shall be operated in this state unless the name of each operator trained to operate the ride and the certificate of each such operator's satisfactory completion of such training, signed and dated by the trainer, is available to any person contracting with the owner for the amusement ride's operation on the premises where the amusement ride is operated, during the hours of operation of the ride.

Sec. ~~7~~ 8. No amusement ride shall be operated in this state unless there is posted in plain view on or near the ride, in a location where they can be easily read, safety instructions **and warnings** for the ride.

~~Sec. 8. (a) Each patron of an amusement ride, by participation, accepts the risks inherent in such participation of which an ordinary prudent person is or should be aware.~~

~~(b) Each patron of an amusement ride has a duty to:~~

~~(1) Exercise the judgment and act in the manner of an ordinary prudent person while participating in an amusement ride;~~

Sec. 9. (a) Each patron shall:

(1) Exercise reasonable care under all circumstances while (A) waiting in the immediate vicinity of an amusement ride to get on the ride; (B) getting on an amusement ride; (C) using an amusement ride; (D) getting off an amusement ride; or (E) leaving an

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amusement ride and still in the immediate vicinity of the ride;

(2) obey all instructions and warnings, written or oral, prior to and during participation in an amusement ride;

(3) refrain from participation in an amusement ride while under the influence of alcohol or drugs **such that the patron is unable to safely use the amusement ride;**

(4) engage all **functioning** safety devices that are provided;

(5) refrain from disconnecting or disabling any safety device except at the ~~express~~ direction of the owner's agent or employee; and

(6) refrain from extending arms and legs beyond the carrier or seating area except at the ~~express~~ direction of the owner's agent or employee.

~~(c)~~ (b) (1) A patron, or a patron's parent or guardian on a patron's behalf, shall report in writing to the owner any injury sustained on an amusement ride before leaving the premises, including:

(A) The name, address and phone number of the injured person;

(B) a full description of the incident, the **known** injuries claimed, any treatment received and the location, date and time of the injury;

(C) the cause of the injury, if known; and

(D) the names, addresses and phone numbers of any witnesses to the incident.

(2) If a patron, or a patron's parent or guardian on a patron's behalf, is unable to file a report because of the patron's injuries, the patron or the patron's parent or guardian on the patron's behalf shall file the report as soon as reasonably possible.

(3) The failure of a patron, or the patron's parent or guardian on a patron's behalf, to report an injury under this subsection shall have no effect on the patron's right to commence a civil action.

~~(d) Any parent or guardian of a patron shall have a duty to reasonably ensure that the patron complies with all provisions of this act.~~

Sec. ~~9~~ 10. Any person contracting with an owner for the amusement ride's operation shall ensure that:

(a) Inspection certificates required by section ~~3~~ 4, and amendments thereto, are available;

(b) maintenance and inspection records required by section ~~4~~ 5, and amendments thereto, are available; and

(c) safety instructions **and warnings** for the ride are posted as required by section ~~7~~ 8, and amendments thereto.

Sec. ~~10~~ 11. Whenever a serious injury results from the operation of an amusement ride:

(a) Operation of the ride shall immediately be discontinued;

(b) operation of the ride shall not be resumed until it has been inspected and the qualified inspector has approved resumption of operation; and

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(c) the owner, within 30 days after the injury, shall notify the manufacturer of the ride, if the manufacturer is known and in existence at the time of the injury.

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4 Sec. ~~11~~ 12. (a) It is a class B misdemeanor for an owner or operator of an amusement ride knowingly to operate, or cause or permit to be operated, any amusement ride in violation of this act.

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7 (b) It is a class C misdemeanor knowingly to violate the provisions of section ~~9~~ 10, and amendments thereto.

8 (c) Each day a violation continues shall constitute a separate offense.

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10 Sec. ~~12~~ 13. The attorney general, or the county or district attorney in a county in which an amusement ride is located or operated, may apply to the district court for an order enjoining operation of any amusement ride operated in violation of this act.

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14 Sec. ~~13~~ 14. The governing body of any city or county may establish and enforce safety standards for amusement rides in addition to, but not in conflict with, the standards established by this act.

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17 Sec. 15. K.S.A. 40-4801, 40-4802, 40-4803 and 40-4804 are hereby repealed.

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19 Sec. ~~14~~ 16. This act shall take effect and be in force from and after 20 January 1, 2002, and its publication in the statute book.

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