

MINUTES OF THE SENATE WAYS AND MEANS COMMITTEE

The meeting was called to order by Chairman Dwayne Umbarger at 10:30 A.M. on March 1, 2005 in Room 123-S of the Capitol.

All members were present except:

Senator David Wysong- excused

Committee staff present:

Jill Wolters, Senior Assistant, Revisor of Statutes  
Alan Conroy, Director, Kansas Legislative Research Department  
J. G. Scott, Kansas Legislative Research Department  
Susan Kannarr, Kansas Legislative Research Department  
Becky Krahl, Kansas Legislative Research Department  
Matt Spurgin, Kansas Legislative Research Department  
Judy Bromich, Administrative Analyst  
Mary Shaw, Committee Secretary

Conferees appearing before the committee:

Frank Smith, Volunteer Field Organizer of the Private Corrections Institute  
Peter Ninemire, Midwest Regional Trainer/Organizer, Families Against Mandatory Minimums  
(written)  
Roger Werholtz, Secretary, Kansas Department of Corrections  
Patrick Hurley, on behalf of Jim Gilliam, Corrections Corporation of America  
Senator Derek Schmidt (written)  
Gary Rowden, Regional Director, Central Region, The GEO Group  
Sheila Lampe, Sunflower Solutions Task Force Chairman  
Vernon Burkhart, Mayor, City of Yates Center (written)  
Andy Sanchez, Executive Director, Kansas Association of Public Employees  
Rusty Arnold, Superintendent of Schools, Woodson Unified School District 366 (written)

Others attending:

See attached list.

### Bill Introduction

Senator Emler moved, with a second by Senator Teichman, to introduce a bill providing for the issuance of bonds by the Kansas Development Finance Authority for Kansas energy projects (5rs1063). Motion carried on a voice vote.

Chairman Umbarger opened the public hearing on:

**SB 242--The state is prohibited from entering into contracts for the placement of inmates in a private prison outside of Kansas**

Staff briefed the committee on the bill.

The Chairman welcomed the following conferees:

Senator Derek Schmidt submitted written testimony as neutral on **SB 242 (Attachment 1)**.

Frank Smith, Volunteer Field Organizer of the Private Corrections Institute, Bluff City, Kansas, testified in favor of the intent of **SB 242 (Attachment 2)**. Mr. Smith explained that there might slight technical problems with the language of the bill which he detailed in his written testimony. He noted that he does oppose placement of Kansas prisoners in any for-profit facility outside Kansas.

## CONTINUATION SHEET

MINUTES OF THE Senate Ways and Means Committee at 10:30 A.M. on March 1, 2005 in Room 123-S of the Capitol.

Roger Werholtz, Secretary, Kansas Department of Corrections, testified in opposition to **SB 242** (Attachment 3). Secretary Werholtz urged the committee to reject the bill because he felt it was bad policy and feels it has the potential to cost the State money and close off options that have served the State well in the past. He noted that currently there are no prisoners housed outside of the State of Kansas. In closing, Secretary Werholtz mentioned that **SB 242** would remove the flexibility to utilize an option for the housing of inmates at a very competitive rate that is also subsidized by a federal grant. Committee questions and discussion followed.

Pat Hurley, on behalf of Jim Gilliam, Senior Director, Business Development, Corrections Corporations of America (CCA), testified in opposition to **SB 242** (Attachment 4). Mr. Hurley, on behalf of CCA, expressed concern that the passage of **SB 242** would have the unintended consequences of hindering the State's flexibility, punishing taxpayers, and potentially compromising public safety. This is detailed in the written testimony.

Written testimony was submitted by Peter Ninemire, Midwest Regional Organizer for Families Against Mandatory Minimums (FAMM) (Attachment 5).

There being no further conferees to appear before the committee, the Chairman closed the public hearing on **SB 242**.

Chairman Umbarger opened the public hearing on:

### **SB 243--Allowing construction and operation of private prisons**

Staff briefed the committee on the bill.

Written testimony was submitted by Senator Derek Schmidt in support of **SB 243** (see Attachment 1 under testimony for **SB 242**).

Gary Rowden, Regional Director, Central Region, The GEO Group, Inc., testified in support of **SB 243** (Attachment 6). Mr. Rowden provided the background of The GEO Group, Inc., formerly known as the Wackenhut Corrections Corporation. He mentioned that the Kansas Department of Corrections and the GEO Group have the same objectives and the primary goal is the interest of public safety, the safety of staff, prisoners in the institutions. Details are found in Mr. Rowden's testimony.

Sheila Lampe, Chairman, Sunflower Solutions Task Force, Woodson County, testified in favor of **SB 243** (Attachment 7). Ms. Lampe indicated that the City of Yates Center has continued to work and plan toward the formation of this project. She noted that struggling for economic survival, they have witnessed not only the employment opportunities take a down trend, but the tax base has also plummeted. Ms. Lampe explained that location of a privatized correctional facility within the city limits of Yates Center would provide employment for local citizens and the surrounding communities. Ms. Lampe distributed copies of Sunflower Solutions, A Private Prison Task Force (Attachment 8).

Jack Newcomb, Sunflower Private Prison Task Force, Woodson County, testified in support of **SB 243**. Mr. Newcomb explained that, in regard to economic development, if there is a willingness to spend those monies out of state, there should be a willingness to consider at possibilities of spend monies in the state. He noted that there is a lot of accountability in the bill in regard to what the contractor will do and urged the Committee's support of **SB 243**. (No written testimony was submitted.)

Janie Massoth, Sunflower Private Prison Task Force, Woodson County, testified in support of **SB 243**. Ms. Massoth noted that she has been in the community for many years and has witnessed their population drop and the valuation dropped 1 mill for the city of Yates Center. She explained that, if a privatized or state-owned prison, were to be built in their community it would provide employment opportunities that all of the surrounding counties could support. (No written testimony was submitted.)

CONTINUATION SHEET

MINUTES OF THE Senate Ways and Means Committee at 10:30 A.M. on March 1, 2005 in Room 123-S of the Capitol.

Jay Leedy, Sunflower Private Prison Task Force, Woodson County, spoke in testified of **SB 243**. Mr. Leedy mentioned that he is the Mayor of Neosho Falls and noted that little towns tend to be forgotten. He explained that often drug dealers migrate to small towns and that becomes a problem. Mr. Leedy addressed getting a prison facility with training in the prison system regarding drug intervention. (No written testimony was submitted.)

Vernon D. Burkhart, Mayor, City of Yates Center, testified in support of **SB 243** and explained that the location of a privatized correctional facility within their city would more than triple the tax base, provide employments for local citizens and surrounding communities. Mr. Burkhart noted that they are strongly committed to their original offer in 1985 to provide the land and infrastructure for the needed facility (Attachment 9).

Written testimony was submitted by Rusty Arnold, Superintendent of Schools, Woodson Unified School District 366 (Attachment 10).

Frank Smith, Volunteer Field Organizer of the Private Corrections Institute, testified in opposition to **SB 243** (Attachment 11). Mr. Smith explained that he felt passage of the bill would certainly expose Kansas to immense liability in far more escapes, inmate-on-inmate assaults and inmate-on-inmate assaults, and provided details in his written testimony. He noted that for-profit prisons do not save hosting states any money.

Andy Sanchez, Executive Director, Kansas Association of Public Employees, spoke in opposition to **SB 243** (Attachment 12). Mr. Sanchez explained that their opposition to the bill is fundamentally based on incarceration being a responsibility to be carried out by government. He noted that they support this claim for the following reasons:

1. Corporations create a risk to public safety in their pursuit of profits.
2. Private prisons target rural areas with empty promises of economic development.
3. Legal responsibility, or the lack of indemnification is an inherent flaw of for-profit prisons.

Pat Hurley, on behalf of Jim Gilliam, Senior Director, Business Development, Corrections Corporations of America (CCA), testified in opposition to **SB 243** (See Attachment 4 under the testimony presented for **SB 242**). Mr. Hurley explained that CCA opposes the bill because by restricting and hampering the ability to site, build and operate a correctional facility in Kansas, the bill has the unintended consequence of shutting the door on economic development for communities. It was noted in the testimony to achieve the full benefit of privatization, the vendor must be allowed to implement best practices within a reasonable set of contractual parameters.

Written testimony was submitted by Peter Ninemire, Midwest Regional Organizer for Families Against Mandatory Minimums (FAMM), in opposition to **SB 243** (See Attachment 5 under the testimony presented for **SB 242**).

Roger Werholtz, Secretary, Kansas Department of Corrections, testified as a neutral regarding **SB 243** (Attachment 13). Secretary Werholtz explained that the bill provides statutory authority for the construction and operation of private prisons that would be available for the incarceration of out of state prisoners. He mentioned that while the Kansas Department of Corrections, on its own as well as in conjunction with Layette County, has contracted with private entities for the construction and/or operation of conservation camps, minimum security community residential centers and day reporting centers, the use of those facilities has been limited to offenders convicted of felony crimes committed in Kansas. The Secretary explained that **SB 243** would permit use of privately constructed and operated correctional facilities for the incarceration of offenders from other states, thus providing an exception to K.S.A. 75-52,133.

Secretary Werholtz also addressed, in considering the issue of private prisons, the Department believes that it is important to distinguish between prisons in which only Kansas offenders are placed as opposed to prisons which would hose prisoners from other states. In regard to the former, he explained that the Secretary

CONTINUATION SHEET

MINUTES OF THE Senate Ways and Means Committee at 10:30 A.M. on March 1, 2005 in Room 123-S of the Capitol.

of Corrections has the ultimate control over the type of inmate that will be incarcerated at a private facility and whether the facility would be used at all. He explained that, in effect, this allows the Secretary of Corrections to control such private facilities virtually to the same extent as state correctional facilities relative to the myriad of operational issues that confront the management and operation of a correctional facility.

The meeting adjourned at 12:35 p.m. The next meeting is scheduled for March 2, 2005.





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**Senator Derek Schmidt**  
**Majority Leader**

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Vice-Chair: Assessment & Taxation  
Organization Calendar & Rules  
Member: Judiciary  
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**Testimony in Support of Senate Bill 243**  
**Neutral Testimony on Senate Bill 242**  
**Presented to the Senate Ways & Means Committee**  
**by Senator Derek Schmidt**

**March 1, 2005**

Chairman Umbarger, members of the committee, thank you for conducting this hearing today on legislation to authorize construction of private prisons in Kansas.

The Senate last year passed Senate Bill 275, which was similar to this year's Senate Bill 243. The measure would have eliminated the current-law prohibition on use of private prisons in Kansas to house state inmates and would have put in place a strict regulatory regime to govern private prisons in our state. It passed the Senate 26 to 14 but encountered opposition in the House of Representatives.

This year's Senate Bill 243 is similar to last year's Senate Bill 275. The reasons to pursue this option – and it would be an *option* available to help manage our inmate population – are the same as last year. While we have a slight reprieve in inmate numbers, the long-term trends are the same. And the demands on our state budget, particularly in light of school finance needs, are even greater than last year. Therefore, I have attached my testimony from last year in support of Senate Bill 275. Some of the details have changed with time, but the basic points remain valid.

In addition, you are considering Senate Bill 242, which would prohibit the state from housing Kansas inmates in out-of-state private facilities. I am neutral on this legislation, but I believe it is important to consider it. Much of the resistance to allowing private prisons in Kansas is, to my way of thinking, intellectually flabby. Some critics of allowing private prisons in Kansas, where our state would have strict regulatory control over their operations, do not hesitate for a moment to allow Kansas to house inmates in out-of-state private facilities, which we cannot control.

By considering Senate Bill 242 and 243 together, you face a choice. Either private prisons are an acceptable option for managing the Kansas inmate population, in which case we should allow their construction and operation in Kansas – where we have greater control and get greater management and economic benefit. Or they are not an acceptable option, in which case we should not use them anywhere - either in state or out.

I encourage your serious consideration of approving Senate Bill 243.

Senate Ways and Means  
3-1-05  
Attachment 1

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**Testimony in Support of Senate Bill 275**  
**“The Private Contract Prison Act”**  
**Presented to the Senate Ways & Means Committee**  
**By Senator Derek Schmidt**

**January 27, 2004**

Chairman Morris, members of the committee, thank you for conducting this hearing today and for allowing me to testify. You are focused on one of the most important and least glamorous issues we must deal with as state public officials – how to manage our prison space in the best interest of public safety and of taxpayers.

You know the statistics. We are out of space today for medium and maximum-security male inmates. We will reach overall capacity in 2007, according to the Kansas Sentencing Commission.

I am here to urge you to enact legislation such as Senate Bill 275 that would authorize the construction and operation of one or more private prisons in our state, under strict state regulation, as one part of the strategy to address our overcrowding problem. This common-sense approach to minimizing the costly burden of prison construction on taxpayers and to maximizing flexibility in our overall corrections system is long overdue. Private prisons operate effectively in more than half the states, including our neighbors of Colorado, Oklahoma and Missouri. They are authorized in Nebraska. But they are effectively prohibited in Kansas.

**I. Adding capacity is unavoidable**

Further sentencing adjustments alone cannot solve our prison crowding problem. Despite at least two rounds of sentencing reductions in recent years aimed at easing the growth of our inmate population, Kansas prisons are full. Our actions in recent years to give priority to violent offenders are working – but one result is that our prisons are increasingly occupied by violent offenders. That sharply limits options for future rounds of sentencing reductions as a strategy for dealing with overcrowding.

The Sentencing Commission projects that our adult male inmate population will grow by 1,113 over the next decade even with no changes to current sentencing laws.

- 1,107 of those new beds will be occupied by the most serious offenders. 427 more beds (61.9% growth) needed for off-grid crimes (the most serious violent offenses); 436 more beds (62.1% growth) needed for Non-drug Level 1 crimes (the second most serious violent offenses); and 244 more beds needed (49.9% growth) for Drug Level 1 crimes (manufacturers).
- The net increase for all other categories of offenders over the next decade is six beds.

Unless we are prepared to release or ease sentences on violent offenders, we cannot solve our prison crowding problem through further sentencing adjustments alone. We will need to add capacity.

## **II. Expanding state-owned prisons will not alone solve overcrowding**

The most likely option for expanding prison space in Kansas in the traditional manner is to construct a new “pod” at the El Dorado Correctional Facility. The current proposal would add 128 cells that could house up to 256 more medium-security male prisoners. The estimated construction cost exceeds \$7.1 million. But according to the Sentencing Commission, those 256 new beds would serve only to delay by two years – until 2009 instead of 2007 – the date by which Kansas prisons would be full.

To accommodate all of the expected growth in violent offender population over the next decade, Kansas taxpayers would have to undertake four similar-sized construction projects. Even the most conservative estimate puts that cost at more than \$30 million in construction costs alone. The actual cost likely would be much higher because we are approaching the limits of our ability to expand existing state facilities – and constructing new facilities is much more costly.

## **III. Construction of one or more private prisons should be part of the solution**

Kansas already has turned – quietly – to private prisons as a key part of our strategy for managing our overcrowding problem. In recent years, Kansas has sent 100 inmates to a private facility in Colorado. Kansas currently has 48 inmates in a private facility in Texas. Our experience with both has been positive.

We also have allowed at least two private prisons to be built and operated in Kansas. Corrections Corporation of America (CCA) operates a large private prison in Leavenworth, and the experience with both has been positive. When the current expansion of that facility is complete, it will have a capacity of nearly 750 inmates. But

all of its prisoners are federal prisoners – from the U.S. Marshal’s Service and from the Immigration and Naturalization Service. CCA also operates the juvenile boot camp in Labette County.

But, although Kansas public policy allows private prisons to operate in our state and allows our state to contract with private prisons to house Kansas offenders, our law effective precludes private prisons from operating in Kansas to house state-level inmates. (K.S.A. 75-52,133). That makes no sense.

#### **IV. My interest in this subject.**

My interest in private prisons began as a constituent matter. I represent Woodson County, and community leaders there have worked for two decades – yes, two decades – to try to cause the construction of a private prison in that community as part of the local economic development strategy. My predecessor, Senator Talkington, was one of the proponents of this effort. Attached to this testimony is a letter from the multi-county local task force called Sunflower Solutions, which is working to bring a private prison to Woodson County.

But as I have studied this issue, I have become convinced that private prisons make sense from the standpoint of our state’s corrections system. They are one option we should allow as part of our overall strategy for maintaining a balanced, flexible corrections system that can handle the offender populations we anticipate well into the future.

Knowing of my interest in this subject, Attorney General Kline last summer appointed me chairman of that portion of his Task Force on Crime and Sentencing that was assigned to study alternative incarceration options. Our committee conducted a day-long field hearing in Yates Center and heard testimony for supporters and opponents of authorizing a private prison in our state. The committee recommended enactment of Senate Bill 275 or similar legislation. Our report is attached to my testimony.

#### **V. Advantages of private prisons**

Private prisons are not a substitute for a state-run corrections system. But having one or more private facilities in Kansas as part of our state’s corrections system would offer several advantages:

**Cost savings:** We should mandate in the authorizing legislation that a private prison operating in Kansas would have to guarantee Kansas taxpayers savings compared with the cost of incarcerating an inmate in a state-owned facility. I would favor a required cost savings of 10 percent below the cost of state facilities.



**Avoidance of Construction Costs:** Because private investors would pay the cost of constructing the private prison, taxpayers would not have to finance up-front construction costs. That would free millions of dollars for use in other important state programs.

**Flexibility:** By giving Kansas “bumping rights” at an in-state private prison, our corrections system would obtain maximum flexibility. If we need 20 extra beds, that’s what we rent. If we need 400, that’s what we rent. We don’t pay for 400 when we only need 20.

**Proximity:** Kansas is now sending prisoners to out-of-state private prisons, including one in Texas. Keeping those prisoners at a private facility in Kansas would save on transportation costs and would tend to promote inmate rehabilitation and reintegration by promoting visitation.

**Economic Development:** Kansas today is sending tax dollars out-of-state to house Kansas prisoners in private facilities. If we had one or more private facilities in Kansas, our tax dollars would recycle here through property taxes paid, salaries, purchase of supplies, and similar activities.

## **VI. Key provisions in the legislation**

Because the private prison industry is now mature, Kansas has the advantage of being able to learn from the experiences of other states. To that end, we have the ability to craft authorizing legislation that fully protects our state’s interests. Key elements of any authorizing bill (included in Senate Bill 275) include:

- The state must have ample control over the siting, operations and activities of any private prison.
- To maximize flexibility, we should have “bumping rights” to use as many of the beds in the local private prison as we determine desirable but should not be required to use any.
- There should be a guarantee of savings (as compared with the cost of incarcerating an inmate at a state-owned facility) for Kansas when we place inmates in an in-state private prison.
- There should be a prohibition on using classic economic development incentives, such as property tax abatements, to attract private prisons to Kansas (this provision should be added to Senate Bill 275).
- There should be provisions fully indemnifying the state against any lawsuits or similar claims arising out of actions at the private prison.

- There should be provisions requiring the private prison to meet all standards governing the operation of state-owned prisons in Kansas.
- There should be provisions governing the disposition of any private prison property in an orderly and responsible manner that best serves the public interest in the event the private contractor wishes to sell the facility.

## **VII. Next steps**

Finally, Mr. Chairman, let me thank the Department of Corrections and Secretary Werholz for his interest in this subject. I have met with him on several occasions. The Department is not taking a position on the policy question of whether to authorize construction of private prisons in Kansas, but the Secretary does have several specific recommendations on changes that would improve Senate Bill 275. I believe the Secretary's recommendations are positive and, if you concur, I would like to work with him to strengthen Senate Bill 275 and bring back to this committee an improved work product for your further consideration.

Thank you for allowing me to testify. I would be glad to stand for questions.

Frank Smith  
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March 1, 2005

Ways & Means Committee  
Kansas State Senate

Mr. Chairperson and members of the Committee:

My name is Frank Smith. I'm the volunteer Field Organizer of the Private Corrections Institute. For purposes of identification only, I'm also a member of the Kansas Silver Haired Legislature. I've been a researcher in criminal justice and drug abuse treatment for over three decades, and have directed diversion, treatment and prevention programs, in-house prison programs and post-release programs.

I wish to testify in favor of the intent of SB 242, although I've only just received and reviewed it this morning. I was in Denver last week, testifying at the request of the sponsor of a state House bill to prohibit the importation of out-of-state prisoners to for-profit prisons in Colorado.

There might be slight problems with the language of the bill as written. New section 1, paragraph (e) seems as though it could be written more clearly. Paragraph (f) does not take into account the many prisons around the nation that may be owned by states or municipalities, but are operated by for-profit providers.

In Sec. 3, K.S.A. 2004 Supp. 75-5210, the final sentence in paragraph (b) reads: "The security custody status designated by the department shall not be subject to judicial review." Does this mean that inmates could not appeal a hypothetical whimsical or insupportable DOC security determination after exhausting administrative procedures? Would this language violate the separation of powers?

In Sec. 4, K.S.A. 2004 Supp. 75-52, 129 section (a), does the language "before attempting to place..." refer only to placements that might be attempted *before* July 1, 2005? It would seem the Secretary would be prohibited from engaging in such consideration on or after that date.

I oppose placement of Kansas prisoners in any for-profit facility outside Kansas. The profit motive and lack of oversight virtually guarantees disaster. In July I visited the site of a massive riot in Olney Springs, Colorado, 40 hours after it began. It was initiated by Washington State prisoners, and joined by Wyoming and Colorado inmates and was eminently predictable. The next day, Colorado inmates rioted at Tallahatchie, Mississippi. Both incidents had been festering and both were reportedly touched off by gratuitous physical abuse of out-of-state inmates.

Senate Ways and Means  
3-1-05  
Attachment 2

A similar riot had occurred in May in CCA's Diamondback facility in Oklahoma, with similar precipitating causes, involving Hawaiian and Arizona prisoners. I visited the site of still another CCA riot that occurred in September at CCA's Lee County Adjustment Center at Beattyville, Kentucky, after regular complaints of mistreatment by Vermont inmates, including a series of reported assaults by one guard to which neither the for-profit management nor Vermont officials responded appropriately to while the rapes continued.

I have read dozens of reports regarding similar disturbances, and have visited facilities and investigated massive disturbances precipitated by low paid, poorly trained guards, and tight fist ed corporations such as at a CCA Florence, Arizona facility. I maintain regular correspondence with whistleblowers from all the major for-profit corporations including an executive vice president, a warden, an assistant warden, a regional director of training, unit managers, sergeants and nurses.

My informants include current and former supervisory security staff of CiviGenics, the Massachusetts corporation holding Kansas prisoners in their eight, sixteen and twenty four-man, brown recluse spider infested, Texas cells. They speak of abysmally inadequate inmate medical care in their Texas prisons, filthy cells, inedible food, a vehicle accident caused by corporate refusal to properly repair after notification of a defective van that crippled both an employee and an inmate, poor screening of new hires, wages ranging from \$6.45 to \$7.25 hourly for guards and sergeants, sexual abuse of prisoners, etc.

These whistleblower reports are confirmed with contacts with inmates, former inmates and inmates' families: The father of one Kansas inmate testified here in the Kansas Senate Judiciary committee last year.

The second reason I support this bill is that there is a substantial body of research conducted over the last 80 years that demonstrates that if prisoners do not maintain regular contact with family and friends, and support systems such as churches and employers, their rate of recidivism rises astronomically. One California study of a remote public prison found that inmates receiving visits from three or more persons during the last year of their incarceration had one-sixth the rate of parole failure in the year after release as did those who received no visits at all.\*

I'd be happy to answer any questions from the Committee chair or from members, through him.

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\* Please see: "Punishment for the Whole Family,"  
[http://www.salon.com/mwt/feature/2002/05/08/contact\\_visits/index.html](http://www.salon.com/mwt/feature/2002/05/08/contact_visits/index.html)

And: Maintaining Family Contact... Florida House of Representatives Justice Council Committee on Corrections <http://www.fcc.state.fl.us/fcc/reports/family/famiii.html>

# KANSAS

KANSAS DEPARTMENT OF CORRECTIONS  
ROGER WERHOLTZ, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

Testimony on SB 242  
to  
The Senate Committee on Ways and Means

By Roger Werholtz  
Secretary  
Kansas Department of Corrections

March 1, 2005

SB 242 prohibits the use of private prisons located outside the State of Kansas by the Department of Corrections. Additionally, the Secretary of Corrections is required, within ten days of the effective date of the act, to return to Kansas any inmate who the secretary had placed in an out of state private prison. SB 242 provides that its provisions shall become effective upon publication in the *Kansas Register*.

The Department of Corrections has used private prisons located in Colorado and Texas for the incarceration of inmates sentenced to the Secretary's custody. Currently, the department has no offenders confined in an out of state private prison. However, a contract for the placement of KDOC inmates, at the discretion of the secretary, in a private prison in Texas remains in effect.

The department does not support SB 242. The department believes that SB 242 removes an option for the management of the Kansas inmate population. The department is required to provide a safe and humane environment for every offender sentenced to its custody. If the operational capacities of the department's correctional facilities are insufficient for the number of offenders in the secretary's custody, alternative correctional facilities must be used. Out of state private prisons are one option that is available to the department to address a fluxuating inmate population.

It should be noted that current law, K.S.A. 75-52,129, already requires the department to first consider using the facilities of Kansas cities and counties for the incarceration of medium or higher custody inmates before resorting to an out of state placement. However, K.S.A. 75-52,129 also addresses the State's fiscal resources, by requiring that contracts for the placement of KDOC offenders with a local governmental entity must be at least substantially equal to the out of state proposal.

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Senate Ways and Means  
3-1-05  
Attachment 3



Fortunately for the taxpayers of Kansas, currently there are several thousand vacant private prison beds nationwide. Additionally, the State is able to use federal Violent Offender Incarceration/Truth In Sentencing (VOI/TIS) grant funds to pay for 90% of the cost of the confinement of offenders in private facilities. Pursuant to federal law, this subsidy is not available for the payment of correctional services provided by government entities.

SB 242 would remove the flexibility to utilize an option for the housing of inmates at a very competitive rate that is also subsidized by a federal grant. The department recommends that SB 242 not be passed.

Cc: Legislation file

March 1, 2005

The Honorable Dwayne Umbarger  
Chairman, Senate Ways and Means Committee  
State Capitol, Room 120-S  
300 SW 10<sup>th</sup> Street  
Topeka, Kansas 66612

**RE: Written Testimony in Opposition to Senate Bill 242 and Senate Bill 243**

Mr. Chairman,

Thank you for the opportunity to offer testimony on Senate Bill 242 and Senate Bill 243. First, please allow me to provide you and the committee with some background information on my company, Corrections Corporation of America (CCA). CCA, and the private corrections industry for that matter, was founded in 1983 as a full service correctional services provider. Today, 22 years later, CCA is the sixth largest corrections system in the United States, with 65 facilities located in 19 states. Last night, 23 states, the federal government and several local municipalities entrusted us with the care and custody of over 63,000 offenders.

CCA naturally opposes any legislation that prohibits or restricts the company's ability to provide our needed services to our governmental partners. However, there are broader, more serious implications for public policy makers, corrections agencies and ultimately the taxpayers if the alternative of inmate placement out of state is taken off the table and the restrictive regulation of private prisons is adopted. I ask that you consider the following written testimony in opposition to SB 242 and SB 243.

**Senate Bill No. 243**

CCA opposes this bill, as written, for several reasons. By restricting and hampering the ability to site, build and operate a correctional facility in Kansas, the bill has the unintended consequence of shutting the door on economic development for communities. Unlike public correctional facilities, privately owned and managed facilities are subject to state/local taxes such as property and sales taxes. Those revenues, along with the jobs and payroll that a private corrections company brings, are a significant boost to the local economy for a host community. This is particularly relevant for communities where the ability to attract industry/jobs is limited. SB 243 is by its nature anti-business and therefore creates for Kansas an anti-business reputation.

It may please you to know that without the presence of either of these bills, CCA has been successfully operating a private detention facility in Leavenworth for more than 12 years, housing maximum security inmates for the U.S. Marshals Service. During that time, the facility has proven to be a good corporate citizen in the community, providing significant economic benefits (see attached economic impact sheet).

Lastly, most of the issues and concerns addressed by the bill are already addressed through contractual requirements and correctional industry standards. To achieve the full benefit of privatization, the vendor must be allowed to implement best practices within a reasonable set of contractual parameters.

### **Senate Bill No. 242**

The passage of SB 242 will have the unintended consequences of hindering the State's flexibility, punishing taxpayers, and potentially compromising public safety. Most states do not prohibit the out of state placement of inmates. In fact, the trend is going towards lessening or abolishing prohibitive legislation against this practice (ex. - Mississippi, Montana, and Oklahoma).

The out of state placement of inmates is a common, time-tested alternative utilized successfully by numerous states over the years – including Kansas. The ongoing reality of tightening budgets coupled with growing demand for correctional capacity makes out of state placement of inmates a necessary, temporary solution for states. In 2001 and 2002, The Kansas Department of Corrections housed male inmates in CCA's Kit Carson Correctional Facility located in Burlington, Colorado.

Denying a state such an important alternative is potentially harmful to an existing public corrections system faced with the inherently dangerous conditions that come with overcrowding. Such costly conditions put staff and inmates at greater risk, diminish the opportunities for inmate's rehabilitative needs to be met and ultimately threaten public safety. Denying a state such an important alternative can also be unjustly punitive to law abiding, taxpaying citizens who would have no choice but to bear the brunt of funding more costly alternatives. Consider the following case in point:

- Faced with a federal court order to either relieve inmate overcrowding immediately or face huge fines daily, the State of Alabama entered into a temporary, emergency contract with CCA to house more than 1,300 state inmates in a company owned/managed facility in Mississippi while policy makers worked on a more permanent solution.
- Without that option, Alabama would have faced fines mounting in the millions over the course of a year – a financial burden that would have been born by the taxpayer. Without the option of out of state placement, local jails where state inmates had been backlogged for weeks and months would have plummeted local governments into financial crisis and threatened public safety.

- For the host state of Mississippi, allowing the out of state placement of inmates from Alabama lead to significant job growth and development in one of the State's most economically depressed regions. Since that time, the State of Mississippi has been able to address its own growing capacity needs more quickly and cost effectively by placing inmates at the same facility. In addition to Mississippi inmates, the prison continues to safely and securely house inmates from other states (Hawaii and Colorado currently).
- Following the departure of Alabama inmates at the end of a successful temporary contract, the State of Mississippi's support and confidence in CCA was such that the State ***passed legislation to ease restrictions***, enabling CCA's prison to house inmates from all custody levels.

Passage of these two bills - that were proposed at the bidding of special interests - will only benefit a self-serving agenda, while undermining the public welfare of Kansas citizens and tarnishing the State's nationwide image as pro-business. I urge you to oppose these bills and any similar legislation.

Thank you,

Jim Gilliam

## Facility Fact Sheet 2005

Facility Name	Source of Prisoners/Inmates	Security Level	Number Employed	Rated Capacity	Date Opened/ Assumed
Leavenworth Detention Center	USM, TRANSCOR, County	Maximum	151	767	Jun-92

### Economic Impact

- ❑ CCA currently employs 151 corrections professionals at the Leavenworth Detention Center, with a combined annual payroll of approximately \$5.9 million.
- ❑ CCA pays approximately \$664,000 annually in property taxes for this facility.
- ❑ CCA pays an estimated \$300,000 a year in state/local sales, use and franchise taxes.
- ❑ CCA also pays out approximately \$411,000 annually for local utilities in the Leavenworth Detention Center area.
- ❑ These dollars turn over in the local/area economy several times over the course of a year, resulting in increased wealth to the community.



## Quality of Service

- Leavenworth Detention Center operates in accordance with the standards of the American Correctional Association (ACA), which represent the highest corrections standards in the country. The institution's commitment to such high standards has earned them accreditation by the ACA.
- Leavenworth Detention Center is program-intensive, providing comprehensive programs that emphasize counseling, substance abuse treatment, education and vocational opportunities to prepare inmates for a successful re-entry into society. Additionally, inmates participate in religious and recreational activities and programs sponsored by facility staff and local volunteers.
- CCA recognizes that being a good corporate citizen means being responsive and actively engaged in the communities in which we operate. Like all CCA facilities, Leavenworth Detention Center has a community relations committee that consists of facility managers as well as community representatives, including nearby residents, local officials/leaders and local media. The committee discusses the facility's operations and activities and addresses community questions or concerns. The Leavenworth Detention Center gives back to community in a variety of ways, such as making quilts to donate to the VA, nursing homes, and other community agencies.

**From:** "pj9mire" <pj9mire@sbcglobal.net>  
**To:** <umbarger@senate.state.ks.us>  
**Date:** Tue, Mar 1, 2005 9:08 AM  
**Subject:** Support SB242 & Oppose SB243

Senator Umbarger,

I regret that I cannot attend and present at the hearings this morning on SB 242, which I support, and SB243, which I oppose.

It was my understanding that today was a Performa day, and applied to both chambers, so this vital opportunity slipped by me.

I am the Midwest Regional Organizer for Families Against Mandatory Minimums (FAMM). We support sentencing policies that promote public safety, while utilizing the most efficient and effective use of our limited state resources.

SB243 would allow private prisons to contract and operate in Kansas. Aside from the obvious conflict of interest that the bottom line entails with privatization, this does not compel us to promote any type of sentencing reform on our own. The private prison officials will purport that they can incarcerate for less, but when the numbers of incarcerated increase, that is soon not the case.

Rep. McCreary's HB2231 is a much better option. It would allow around 500 drug use offenders with no violence on their records to petition their respective courts to be placed into a 12 - 18 month drug treatment program similar to SB123 clients. Perhaps this would alleviate any perceived prison capacity problems in the short term long enough for Rep. Lloyds SB45 bill on Recodification, rehabilitation and restoration to come into effect. This is a comprehensive research based bill and study on better placement of offenders in the Kansas Department of Corrections. We feel this will eventually result in getting low-level drug offenders/addicts and other offenders treatment and rehabilitation, and free up prison beds for more violent and predatory offenders.

I plan to be in Topeka in the coming weeks, and look forward to the opportunity to visit and talk about these bills. In the meantime, please feel free to contact me in relation to above issues.

Sincerely,

Peter Ninemire  
Families Against Mandatory Minimums  
Midwest Regional Trainer/Organizer  
Wichita, KS - Ph: (316)651-5852  
E-mail: pj9mire@sbcglobal.net

Senate Ways and Means  
3-1-05  
Attachment 5

Testimony In Support of SB243  
Senate Ways and Means Committee  
Senator D.Umbarger, Chairman.  
March 1, 2005

Presented by Mr. Gary Rowden  
Regional Director, Central Region  
The GEO Group, Inc.  
Boca Raton, Florida.

Thank you Mr. Chairman and members for the committee, for the opportunity to provide this testimony regarding the benefits of privatization to include a brief background of our organization. The GEO Group, formerly known as the Wackenhut Corrections Corporation, is the world leader in the delivery of correctional, detention management services and health and mental health services to federal, state and local government agencies around the globe. Our turnkey approach includes design, construction, financing and operations. The Company represents government clients in the United States, Australia, South Africa, New Zealand, Cuba, Canada and the United Kingdom. Approximately 30,000 beds are currently under contract in our North American services alone. In the continental United States, there are three regional offices that ensure quality and consistency in the delivery of services. Kansas is located in our Central Region, which is serviced from our Texas regional office. I am Gary Rowden, Regional Director representing Mr. Don Houston the Central Regional Vice President. His staff and I are available to provide information and insight into our organization upon request.

The Kansas Department of Corrections and the GEO Group have the same objectives, managing correctional facilities that ensures public safety, the safety of staff that work within the facility as well as *the safety of the offenders that reside in that facility*. We achieve those objectives in a very similar manner, by designing and constructing a facility that is secure, that can be safely managed, and establishes a system that screens and hires professional staff that are properly trained. Both organizations design and establish policy, procedures and post orders that meet federal and state constitutional requirements, state statutes and industry standards while fulfilling the mission of the Agency.

Private corrections, however, does some things differently. The GEO Group has a profit and loss statement that is reviewed at all levels of the company, both weekly and monthly. This results in a very careful control of costs. We are required to compete and that requires us to provide the best quality at the best price. As a result of competition, we are required to continuously explore ways that we can improve operations, often resulting in progressive changes that may be adopted by the Agency, as we share our processes and innovations. Private providers are required by contract to be performance based and are required to meet the highest standards in our industry. If we fail to perform we can have our contract terminated. This is a very real incentive to build quality operations and have a sound audit system in place that ensures and maintains compliance with contractual requirements.

As a reflection of our commitment to quality, GEO Group facilities are designed and operated in general accordance with the recommendations of the American Correctional Association (ACA), National Commission on Correctional Health Care (NCCHC) and the Joint Commission on Accreditation of Healthcare Organizations (JCAHO). Twenty-two facilities in the continental USA are currently accredited by ACA, while nine are accredited by either JCAHO or NCCHC.

Senate Ways and Means  
3-1-05  
Attachment 6

Further, most agreements provide for full time agency monitors on-site to ensure that quality and operational standards are being met.

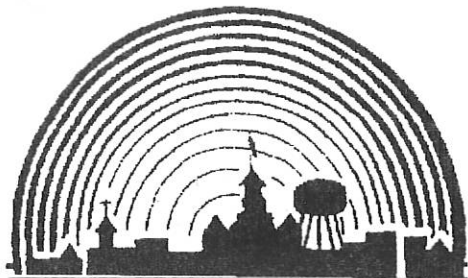
The GEO Group manages a full range of correctional facilities from close custody to work release, and community residential programs. We also manage a "special needs" facility and have several residential drug treatment programs that provide excellent programs with very positive results. *The GEO Group strives to favorably impact the recidivism rate through innovative programs such as the Federal Prison Industry Enhancement Program (PIE) that is in place at Lockhart, Texas. The GEO Group recruited private industry to establish operations within the facility, to provide marketable skills to offenders while paying for their labor. Part of the monies earned are returned to the state for such things as "room and board" and child support payments with some monies placed in an account and returned to the offender upon release.*

At times, the private sector is accused of "cherry picking" or taking the "cream of the crop" when managing offender populations. The terms of the contract or agreement identify the populations and services to be provided. Whatever the Agency needs may be, we can provide *professional management services. Any professional administrator, whether private or public, when given a properly designed facility and well trained staff, can manage any category of offender population. Our correctional professionals can meet the challenges. The GEO Group's strengths are creativity, innovation, but most of all, flexibility. Not only can the in-house GEO Group Design Services provide technical design support to insure that the client receives a state of the art physical plant to meet the needs of the targeted population, we can also customize offender programs to meet the needs of the client. This could include but not be limited to work opportunities, academic and vocational education, counseling, substance abuse awareness and structured leisure activities.*

*In addition, The GEO Group provides detention, corrections and custodial services to the Federal Bureau of Prisons, the Department of Homeland Security-Bureau of Immigration & Customs Enforcement (DHS-BICE) and the Marshals Service, thus making the GEO Group one of the largest providers of correctional services to the United States Federal Government.*

GEO is very aware that most Governmental Agencies are operating under difficult budget limitations and therefore are looking for the best services for their dollars. While there is some disagreement as to the exact figures, several legitimate studies show that private prisons do provide cost savings. Conservatively estimated, savings range from 5% to 15%. To that end, cost savings can be realized through both construction and operations. *Operational flexibility and cost efficiencies can be designed in while maintaining security and insuring safety. In addition, effective design and construction techniques allow for "fast track construction".*

In closing, on the basis of quality services, sound operational expertise, corporate resources, financial strength and general liability protection, we feel the The GEO Group is the premier provider of private sector correctional management services, with a solid foundation in place for future growth and success. The GEO Group looks forward to having the opportunity to working with the State of Kansas, and I would be pleased to answer any questions the committee may have.



*Woodson County Chamber of Commerce*

*108 S. Main P.O. Box 233*

*Yates Center, Kansas 66783*

*620 625 3235*

*Fax 620 625 2416*

*chamber@wccc.kscoxmail.com*

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February 28, 2005

To Whom It May Concern:

The Sunflower Solutions Task Force has been in place for many years now. The Task Force consists of many members from through the Region of Southeast Kansas. The City of Yates Center has continued to work and plan toward the formation of this project. Struggling for economic survival, we have witnessed not only the employment opportunities take a down trend but tax base has also plummeted. The location of a privatized correctional facility within the city limits of Yates Center and would provide employment for our local citizens but it would also provide employment for our surrounding communities. The private industry would put money back into the economy and triple our tax base. I have included letters of support from the inception of this project in 1985 to the current time.

The people that are here today include members of the Sunflower Solutions Task Force, Janie Massoth City of Yates Center City Clerk and Communications Officer for the Task Force. Jack Newcomb Facilitator for the Q.U.A.D. Enterprise Facilitation Group, Jay Leedy the Mayor for the City of Neosho Falls, and myself Shelia Lampe Executive Director of the Woodson County Chamber of Commerce, and the Chairman of the Task Force. Two of the four us in attendance have toured private facilities in Texas with what was the Wakenhut group now GEO. There has been much time effort and research put in on behalf of this project, working with the legislators over the last few years to accomplish this goal seems to bring us inching closer to the end results. We urge you to take a close look at what this could do not only for our town but the state and the region.

Sincerely,

Shelia Lampe  
Sunflower Solutions Task Force Chairman

Senate Ways and Means  
3-1-05  
Attachment 7



# Sunflower Solutions

## A Private Prison Task Force

117 East Rutledge Street, Yates Center, Kansas 66783  
Phone 620-625-2118 ~ Fax 620-625-3119

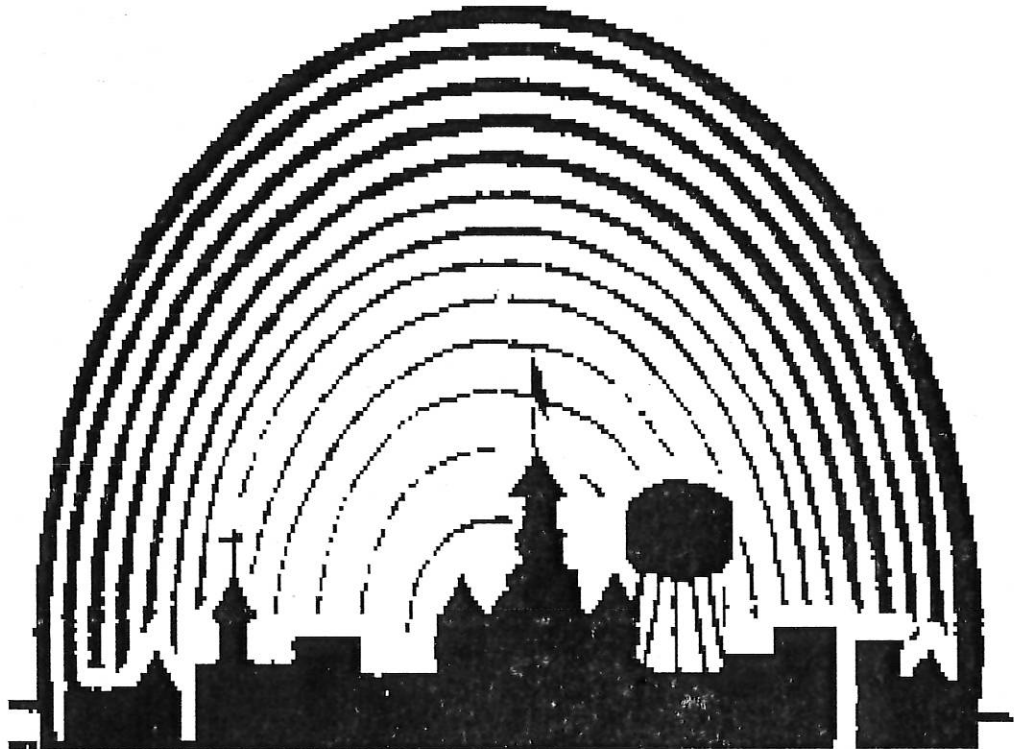
**Yates Center Mayor**  
Vernon D. Burkhart

**Chairman**  
Shelia Lampe

**Public Relations**  
Janie Massoth

**Media**  
Chris Faimon

**Members**  
Rusty Arnold  
Don Barney  
Ron Call  
Donna Curry  
John Danler  
Julie Galemore  
Evelyn Hendrickson  
Jon Hotaling  
Jay Leedy  
Bill Linde  
Jim Lomon  
Gene Merry  
Jack Newcomb  
Bill Norris  
Cliff Parks  
Sheriff Mark Taylor  
Ross Thornburg  
Les Wilhite



Senate Ways and Means  
3-1-05  
Attachment 8

**ITEMS OFFERED BY THE CITY OF YATES CENTER AND  
WOODSON COUNTY TO PROMOTE A PRIVE PRISON IN  
OUR COMMUNITY**

- Land Immediately Available
- Environmental Study completed on proposed land
- Local public support of 95% to 97%
- New 2.6 million dollar wastewater plant just completed
- Infrastructure in place at building site
- All utilities available at building site
- Fiber optics available at building site
- Trucking firm adjacent to building site
- Two major highways, U.S. Highway 54 and U.S. Highway 75 intersect within the city limits
- Railroad spur available
- Excellent volunteer ambulance service 24 hours a day with a new ambulance barn and meeting room
- Excellent law enforcement service 24 hours a day
- 18 member volunteer fire department with the recent purchase of a 2002 Commercial Freightliner Fire Truck
- A new four-bay fire station located in the center of the city
- Very active Quad County Enterprise group
- IDL Room at high school
- Centrally located with distances to area cities:

Emporia	60 miles
Wichita	80 miles
Topeka	80 miles
Pittsburg	100 miles
Girard	85 miles
Oswego	97 miles
ElDorado	60 miles
Kansas City	100 miles
Toronto Honor Camp	20 miles
- Two medical clinics in the city with one clinic staffed with two doctors on call 24 hours a day
- Local dentist

- Distance to area hospitals:
 

Burlington	19 miles
Iola	20 miles
Chanute	30 miles
Eureka	30 miles
Fredonia	30 miles
- Paved Airports available:
 

Iola (small jets)	20 miles
Chanute (small jets)	30 miles
Burlington (small jets)	25 miles
Fredonia	30 miles
- Yates Center has a lighted grass airstrip within two miles of the city
- The city has one of the few Carnegie Libraries in existence.
- Excellent school system with a progressive school board
- All denominational faiths available with a active Ministerial Alliance

Capitol Office  
State Capitol, Room 143-N  
Topeka, Kansas 66612  
(785) 296-7398

District Office  
304 North Sixth Street  
P.O. Box 747  
Independence, Kansas 67301  
(620) 331-1800



**Senator Derek Schmidt**  
15th District

Committee Assignments

Agriculture (Chairman)  
Judiciary  
Reapportionment  
Natural Resources  
Elections and Local Government  
Legislative Post Audit

Message Only (800) 432-3924  
During Session

**Opening Statement of Senator Derek Schmidt  
Chairman, Committee on Alternative Incarceration Options  
Attorney General's Task Force on Crime and Sentencing  
Yates Center Meeting  
December 12, 2003**

Good morning. Welcome to Woodson County and to the meeting of the Alternative Incarceration Options committee of the Attorney General's Task Force on Crime and Sentencing.

We are here at the urging of the attorney general to consider non-traditional policy options for incarcerating prisoners and handling offenders. Our recommendations will go first to the attorney general and, later, to the legislature for consideration starting in January.

We are to pursue two goals: To improve public safety by strengthening the capacity of our corrections system to handle offenders and to relieve taxpayers and users of other state services by reducing the burden incarceration places on public coffers.

Kansas prisons are near capacity. To address that problem, Kansas in recent years has repeatedly adjusted sentencing rules downward to reduce the number of persons incarcerated under Kansas law. Kansas also has resisted needed new criminal justice reforms because of concerns about "bed space impact."

For example, within the past year, I personally have advocated legislation that passed the Senate but stalled in the House of Representatives because of bed space concerns that would make it a crime to knowingly have a child present at a methamphetamine laboratory, that would make the crime of child endangerment a felony instead of a misdemeanor, that would sentence repeat rapists to at least 40 years in prison, that would increase penalties for committing battery on a law enforcement officer, that would make it illegal for criminals to use body armor, that would reinstate penalties for methamphetamine manufacturing that were law until the Court of Appeals struck them down, and that would require at least *some* prison time – instead of only probation – for persons convicted of at least *three* burglaries.

Each of these reforms – and more – is stalled by "bed space" concerns.



# CITY OF YATES CENTER

117 East Rutledge Street  
Yates Center, Kansas 66783-1403

Member League of Kansas Municipalities

Vernon D. Burkhart  
Mayor

Lana J. Massoth, CMC  
City Clerk

Thomas L. Wilson  
City Attorney

Telephone (620)625-2118  
Fax (620)625-3119  
E-Mail: yatescityhall@kscable.com

February 18, 2003

Kansas Department of Commerce and Housing  
Community Development Division  
Attention: Marilyn Graham  
1000 S.W. Jackson Street, Suite 100  
Topeka, Kansas 66612-1354

RE: Annual Community Achievement Awards Nomination

Dear Sirs:

The Governing Body for the city of Yates Center would like to nominate the city as a candidate for the Seventh Annual Community Achievement Awards. Being a rural agricultural-based community with very little manufacturing we struggle to maintain our tax base. We have undertaken many necessary projects to keep the city up-to-date with community needs. By actively seeking outside funding for our projects and prioritizing the importance of our improvements, we feel that we have succeeded in making a difference in Yates Center and promoting our community.

The following is a list of Kansas Department of Commerce and Housing programs the city of Yates Center has utilized within the last three years.

1. **1999 - \$200,000 CDBG Housing Rehabilitation Grant**

Recognizing that affordable and structurally sound homes were needed for our low-moderate income residents and for our elderly residents, the city formed a housing committee and applied for a housing rehabilitation grant and matched the application with \$50,000 of city funds. Many homes in our community are from 40 to 100 years old. During the Housing Committee's survey 193 of the 739 residential housing units were moderately deteriorated, 55 were severely deteriorated, and 20 were considered dilapidated. With the assistance from KDOC&H, the city was able to renovate fifteen homes bringing them to livability standards. In one instance we were able to move a family of 4 from a home before a tragic electrical fire. The cost of rewiring the structure was far more than what the home was valued. Also, 5 severely deteriorated homes were demolished.

25. New vehicles purchased within the last three years include: new police car, two new pickups for the water department, and a new one ton flatbed pickup for the street department.
26. Levied an additional ¾% local sales tax to be divided as follows:
  - 45% - Economic Development
  - 20% - Fire Truck Financing
  - 20% - Street Improvements
  - 10% - Fire Station Financing
  - 5% - Park Improvements
27. Provided free radio advertisement for each business within the city limits that chose to participate during the holiday season.

Citizen involvement within the Yates Center community is very active and without their participation, the projects that we have participated in would not be a reality.

1. A group of citizens have formed a corporation, Woodson Grand Hotel, to save the historical hotel located on the northwest corner of our town square. This structure is an anchor for our historical town square and has not been maintained as it should have been over the years. The west wall of the structure is literally caving in. Community fund-raisers are held monthly, usually a pancake feed, to raise funds to save this magnificent structure. The group was recently awarded a Kansas Heritage Trust Fund Grant for the renovation.
2. Yates Center Days is held annually on Saturday of Memorial Weekend. This will be our 24th year for the celebration. It has quickly become a time for alumni to return to the community for reunions. Last year class reunions from 65 years to 5 years were held.
3. On Sunday of Memorial Weekend, is the Yates Center Volunteer Fire Department's Annual Car Show. This is an annual fund-raiser for our firemen to help with the funding of a new fire station and equipping it. 151 cars participated last year and they are currently preparing for their 8<sup>th</sup> annual car show.
4. A Veterans' Memorial Wall was just completed in 2002 and located in the southwest corner of the Historical Woodson County Court House yard. Many, many hours of volunteer time, fund raisers, and memorials went in to the beautiful structure to honor our military family.





# CITY OF YATES CENTER

117 East Rutledge Street  
Yates Center, Kansas 66783-1403

Member League of Kansas Municipalities

Vernon D. Burkhart  
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City Attorney

Telephone (620)625-2118  
Fax (620)625-3119  
E-Mail: [yatescityhall@ksccable.com](mailto:yatescityhall@ksccable.com)

December 1, 2003

To Whom It May Concern:

The city of Yates Center is in complete support of locating a privatized correctional facility within our city. Struggling for any form of business opportunities, we have witnessed over the past ten years our tax base and employment opportunities plummeting. Within the past two months, National Mills, one of our major employers, closed its doors along with 38 jobs. The location of a privatized correctional facility within our city would more than triple our tax base, provide employment opportunities for our local citizens, and provide employment opportunities for surrounding communities, which are experiencing the same downward economic trend.

The city has been very supportive of this project since its conception in 1985 with a very active and updated prison task force. We also have had a private corporation since 1985 that will come to Yates Center and build the correctional facility, put it on the tax rolls, and employ our citizens. The city stands by its original offer from 1985; to provide the land and infrastructure for this needed facility. Along with the land, the city has shown a progressive trend by the construction of a new city water reservoir in 1986 and the recent completion a \$2.6 million renovation on their wastewater plant.

Our fire protection is very progressive for a city our size. We currently are serviced by an eighteen member volunteer fire department. In 2002 a new Commercial Freightliner fire truck was purchased and the city has just finished the construction of a new four-bay fire station located in the heart of our city. Our citizens currently experience the highest fire rating that a volunteer fire department can provide for their community. We also have mutual aid agreements with five surrounding city fire departments if needed.

The Governing Body is in full support for the city of Yates Center to be selected as a site for the construction of a privatized correctional facility and will serve you in any way that we can.

Thank you for your consideration.

Sincerely,

Vernon D. Burkhart  
Mayor

## Chamber of Commerce

---

**From:** "Bill Linde" <blinde@cox.net>  
**To:** "Iola City Hall Beth Ann" <baturner@iolaks.com>  
**Cc:** "Derek Schmidt" <dschmidt@sehc-law.com>; "City of Yates Center" <cityoffices@yatescenterks.net>; "KS-Coffey" <VBirk@coffeycountyks.org>; "KS-Woodson" <wococlrk@woodsoncounty.net>; "KS-Wilson" <wilsoncoclerk@twinmounds.com>; "KS-Neosho" <no.county.clerk@wan.kdor.state.ks.us>; "KS-Montgomery" <cschmidt@mgcountyks.org>; "KS-Miami" <micoclrk@micoks.net>; "KS-Linn" <linnclrk@kanza.net>; "KS-Labette" <lschreppel@labettecounty.com>; "KS-Greenwood" <greenwoodcountyclerk@yahoo.com>; "KS-Franklin" <sperry@franklincoks.org>; "KS-Elk" <EKCLERK@terraworld.net>; "KS-Crawford" <kevina@ckt.net>; "KS-Cherokee" <ck.county.clerk@wan.kdor.state.ks.us>; "KS-Chautauqua" <cq\_county\_clerk@wan.kdor.state.ks.us>; "KS-Bourbon" <countyclerk@bourboncountyks.org>; "KS-Anderson" <pgettler@hotmail.com>; "KS-Allen" <coclerk@allencounty.org>; "Judy (KAC) Moler" <moler@kansascounties.org>; "Allen, KAC Randy" <allen@kansascounties.org>; "Chamber of Commerce" <chamber@wccc.kscoxmail.com>  
**Sent:** Sunday, December 07, 2003 10:22 AM  
**Attach:** Bill Linde.vcf  
**Subject:** Senate Bill 275

Beth: The below is what I have written for the Woodson County Commission. I am going to propose signage of this on Tuesday when we meet in session. Bill Linde

Yates Center Prison Committee  
 Yates Center City Hall  
 Yates Center, Kansas 66783

Ladies and Gentlemen:

In light of the constant over-crowding of our State Correctional Facilities and the burdens there-of placed on the Community Correctional Programs, with early releases, we the Woodson County Board of County Commissioners, support the immediate passage of Senate Bill 275, Authorization of the Construction of Private Correctional Facilities in the State of Kansas.

---

William Ireland, Chairperson

---

Glady "Corkey" Yoho Vice Chairman

---

William W. Linde Member

12/8/2003

# *Coffey Health System*

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December 8, 2003

To Whom It May Concern:

Coffey Health System is supportive of a Private Prison in Woodson County. We will provide support by offering health services to the prison population and the new employees in the community. We are in a collaborative relationship with Dr John Atkin and Dr. Timothy Spears of Yates Center Medical Clinic who just became employees of Coffey Health System. We are committed to high quality health care in the rural community of Coffey County, Woodson County and surrounding area. Quality Health Services is the most important issue to the survival of rural communities.

This project would be a great benefit for both Woodson and Coffey counties, because the project would create new employment, increased tax base for Woodson County and a new patient base to support the survival of health services in both communities. Under the current reimbursement system, patient volume is the key to long term success of health care services in the rural community.

To quote an old saying, this is a neighbor-helping-a neighbor. I am very excited for Woodson County on how the Private Prison will increase the economic health of a great and deserving community.

I would be glad to visit with any one to learn more about Coffey Health System and to illustrate how a quality health care organization will create a high quality of life in the rural community.

Thank you for your consideration of the Private Prison and to allow me to voice my support of the project and Woodson County residents and business.

Sincerely,



Dennis L. George, CEO  
Coffey Health System



# KANSAS

DEPARTMENT OF HUMAN RESOURCES  
Jim Garner, Secretary

KATHLEEN SEBELIUS, Governor

December 10, 2003

Sunflower Committee for Woodson County  
108 S. Main  
Yates Center, KS 66783

Dear Committee Members,

The Chanute Workforce Development Center, an office of Kansas Department of Human Resources, wishes to make it known to the committee, Sunflower Solutions of Woodson County, and prospective employers, that all resources available to our office will be used in the promotion, and advertising of employment openings connected with the proposed correctional facility to be located in the Woodson County area.

The Chanute Workforce Development Center commits to working with the Sunflower Committee and the employer's staff to customize this office's services to meet the employer's needs. Our staff will list the job openings, along with work requirements, for those positions on the Kansas Department of Human Resources internet website known as Kansas Job Link. Those listings have the potential to reach anyone using an internet linked computer anywhere in the world. All of the job orders we list will also be sent to America's Job Bank, again, making them available to any internet computer user.

The Chanute WDC will make use of public service announcements on radio and television, both locally and statewide, whenever possible to give the opportunity of drawing qualified applicants from the entire State of Kansas to meet the workforce needs of the employer.

Please be assured that our continued commitment of service to employers, prospective employers, and the prospective employees in our office's four county service area, and the extended region, is our primary goal. The task at hand, the recruitment of qualified employees for the proposed correctional facility, will be our main objective. We will focus the available resources of the Chanute Workforce Development Center and the Kansas Department of Human Resources toward that objective. We welcome the opportunity to be involved in meeting your employment needs, and the needs of the citizens of Kansas! You may reach us at 620-431-4950.

Sincerely,



Randal E Neely  
Program Services Manager II  
Chanute Workforce Dev. Center



Office of **Emergency Preparedness** Coffey County Courthouse  
110 S 6th St. Burlington, Ks. 66839 Phone 620-364-2721 Fax 620-364-8643

Date: December 9, 2003  
To: Whom It May Concern  
From: Coffey County Emergency Preparedness  
Subject: Prison at Yates Center, Kansas

Coffey County Emergency Preparedness recognizes the importance of having the capability to respond to an emergency that might arise at a facility housing a special population, such as a prison. Planning for a possible emergency event at Wolf Creek Generating Station has provided us with experience in this area. We can provide assistance in emergency planning, exercising the plans or actual response to Woodson County and, through them, the City of Yates Center, if needed. Memorandums of understanding are in place between Woodson and Coffey Counties for response in the event of emergency or disaster.

We support you in this important project and wish you success.

Rebecca J. Jewett  
Coordinator

# Coffey County Airport

PHONE: 316-364-5346  
FAX: 316-364-5661  
1899 HWY. 75  
BURLINGTON, KS 66839-8918



To whom it may concern;

The Coffey County Airport Board of Commissioners would like to take this opportunity to express their support of a privatized prison facility that would be located in Yates Center Kansas. The Coffey County Airport being located only twenty-five miles from Yater Center would be able to support a privatized prison facility with 100LL and Jet A aviation fuels. We also have a concrete runway that is 5,500 feet long and 75 feet wide to handle many types of aircraft, also the airport has being installed an Automated Weather Automation Service with current local weather, a pilots lounge and full service maintenance facility to handle our customers needs.

The Staff at Coffey County Airport are courteous and have delt with prisoner transport aircraft in the past and would welcome any like activity in the future.

Respectfully,

A handwritten signature in cursive script, appearing to read "Myrl Dorcas", written over a horizontal line.

Myrl Dorcas  
Coffey County Airport Commissioner





## Piqua State Bank

1356 Xylan Road • P.O. Box 305  
Piqua, Kansas 66761  
620-468-2555  
620-365-6692

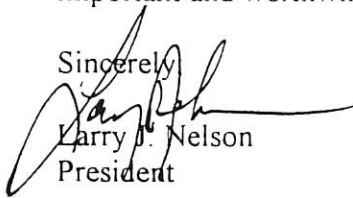
December 4, 2003

To Whom It May Concern;

This letter is to inform you that the Piqua State Bank both applauds and supports Sunflower Solutions, a private prison task force, in their efforts to bring a private prison to the Yates Center, Kansas area. We feel that this project would provide a significant boost to the local economy in the form of jobs and revenue so sorely needed by both the City of Yates Center and Woodson County. The Piqua State Bank is a full service bank serving the entire Woodson County Community, and stands ready to help in any way possible, Sunflower Solutions and the State of Kansas, in making this goal a reality.

Please contact the bank, if we can provide any assistance in support of this important and worthwhile project.

Sincerely,



Larry J. Nelson  
President

# BOURBON COUNTY

FORT SCOTT, KANSAS

66701


December 5, 2003

To Whom It May Concern:

The Board of Bourbon County Commissioners supports SB275, which allows private prisons to operate in the state of Kansas, providing each county has the final say as to whether a private prison is operated in its county.

Sincerely,

The Board of Bourbon County Commissioners

 \_\_\_\_\_, Terry Graham-Chairman

 \_\_\_\_\_, Gary Houston-Commissioner

 \_\_\_\_\_, Robert Query-Commissioner



December 5, 2003

City of Yates Center  
ATTN: Prison Committee  
117 E. Rutledge  
Yates Center, KS 66783

Re: Private Prisons in Kansas

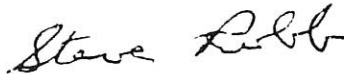
Ladies & Gentlemen:

It is a sad state of affairs in our society when we have to continue to build more and more prison space to accommodate that part of society that breaks the law. However, it is reality and we cannot ignore it.

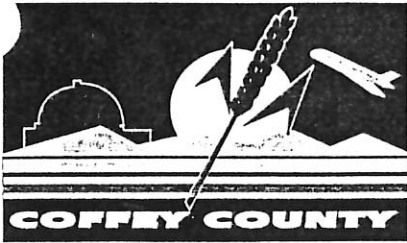
As long as we have to do this, I would like to lend support to your efforts to have such facilities built and operated by the private sector. Especially in the Southeast part of Kansas, the main job growth for years has been in public sector jobs. We do not need more government jobs; we need private industry jobs. Private industry has proved time after time that it can provide services more efficiently than the public sector.

It is not reasonable to expect a sparsely populated area like Woodson County to be able to attract manufacturing companies and similar facilities. Yet you have a dependable workforce and the space to accommodate confinement facilities on an efficient and cost-productive basis. We fully support your efforts to obtain private prisons in Kansas.

Sincerely,



Steve Robb, Director  
Grants & Special Projects



Coffey County Economic Development  
110 S. 6th St.  
Burlington, Kansas 66839  
(620) 364-8780  
Fax (620) 364-8643  
www.coffeycountyks.org  
jhotaling@coffeycountyks.org

December 5, 2003

Ms. Lana J. Massoth, CMC  
Yates Center City Clerk  
117 E Rutledge St  
Yates Center, KS 66783-1403

Dear Ms. Massoth:

Coffey County Economic Development strongly supports the City of Yates Center in its effort to pass legislation allowing private prisons to operate in Kansas with the intention of locating such a prison in your community.

The operation of a private prison in Yates Center would provide jobs to residents of southern Coffey County. This part of our county has the highest unemployment and was hit especially hard with layoffs at several manufacturing plants in Coffey County.

Coffey County Economic Development operates an employment program for Coffey County in conjunction with the Southeast Kansas Area Agency on Aging. The coordinator of this program could assist the private prison operator by providing pre-screened applicants for employment.

As a member of the SEK, Inc. Legislative Council, I would be pleased to assist with lobbying members of the legislature on this issue. I would also work closely with Whitney Damron who is the lobbyist for Coffey County on this issue.

I look forward to the next prison task force meeting and hope Coffey County Economic Development can assist you in making this economic development project come to fruition.

Sincerely,

Jon Hotaling, Director  
Coffey County Economic Development

Dec 11 - 2003

To: whom it may concern

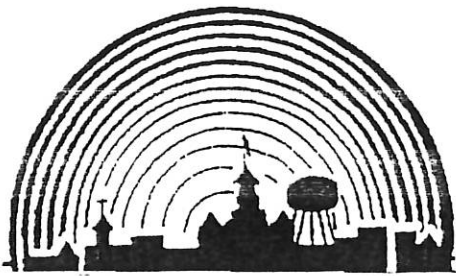
From: City of Neosho Falls

Subject - Need for private prison  
in Woodson County

The City Council of Neosho  
Falls Mo is 100% in favor of  
a private prison in Woodson  
Co.

With Labs & Drugs ARE AN  
extreme problem in rural  
Areas & small towns (180 people),  
the fiber of our communities  
is being destroyed by the  
over use of probation AND  
NO real threat of prison.

Jay E Leedy  
MAYOR.



*Woodson County Chamber of Commerce*

*108 S. Main P.O. Box 233*

*Yates Center, Kansas 66783*

*620 625 3232*

*Fax 620 625 2416*

*chamber@wccc.kscoxmail.com*

December 8, 2003

To Whom It May Concern:

This letter is expressing the support of the Woodson County Chamber of Commerce we encourage and support the Sunflower Solutions private prison task force. This project would not only boost our local economy but the region as well. We stand ready to pledge our support and help in anyway that is deemed necessary by the task force.

Sincerely,

Shelia Lampe  
Executive Director  
Woodson County Chamber of Commerce



# Yates Center Chamber of Commerce

123 N. STATE P.O. BOX 211  
YATES CENTER, KANSAS 66783  
(316) 625-3235

LINDA CALL  
EXECUTIVE DIRECTOR

July 5, 1985

Legislative Selection Committee  
for Penal Institutions  
State of Kansas  
Topeka, Kansas

Gentlemen:

The Yates Center Chamber of Commerce owns approximately 31 acres in our Industrial Site located on the west edge of our city. This tract is on city water and the sewer could be extended to it without difficulty.

We would be willing to donate this tract of land to the State of Kansas for use in building a Penal Facility. The city has indicated a willingness to extend water and sewer lines to this property if it was used for this purpose.

We feel that the benefits to the City and the Chamber of Commerce, should a Penal Facility be built on this location, would far exceed the value of the property.

We are in total support of the possibility of a Penal Institution being located in or near Yates Center and will cooperate with your committee in every way possible to obtain this end.

Very Truly Yours,

*Linda Call*

Linda Call  
Executive Director

*Carolyn Standifler*  
Carolyn Standifler  
President

THOMAS L. WILSON LAW OFFICE  
120 WEST RUTLEDGE  
P.O. BOX 181  
YATES CENTER, KANSAS 66783

Thomas L. Wilson  
Leo T. Gensweider

TELEPHONE  
316-625-3277

July 8, 1985

Mr. John Danler  
State Exchange Bank  
101 South State  
Yates Center, Kansas 66783

Re: Proposed prison

Dear Sirs:

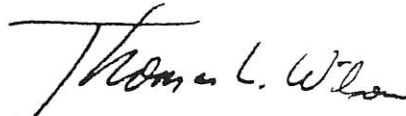
My wife, Dr. Ruth Weber, has asked that I write to you. She is currently completing her residency in family practice at Wesley Medical Center, Wichita, Kansas. She will begin her practice of medicine in Yates Center, Kansas, July 1, 1987.

If the State were to place a medium security prison in Woodson County, my wife has asked me to confirm in writing, on her behalf, that she would be willing to see and treat inmates at that institution.

If there is any additional information which you need, my wife can be reached through Wesley Family Practice Program, Wesley Medical Center, Wichita, Kansas.

Thank you very much!

Yours truly,



Thomas L. Wilson

TLW:kak

**BOARD MEMBERS**

ALLEN COUNTY  
EUGENE MYERS M.D.  
LESLIE NORTON  
EDWARD E. LONG M.D.  
ANDERSON COUNTY  
TERRY SOLANDER  
LORAN WILSON  
ANITA DENNIS  
BOURBON COUNTY  
HENRY BENEDICT  
VIRGIL SCHILLING  
ROY LAMER  
LINN COUNTY  
JOYCE SERGENT  
JANICE WURTZ  
LENA SAUNDERS  
NEOSHO COUNTY  
ELIZABETH PIEPER  
SHIRLEY HADDEN  
RICHARD HINES  
WOODSON COUNTY  
EDWARD MISCHÉ  
RICHARD JOHNSON

**SOUTHEAST KANSAS MENTAL HEALTH CENTER**

**Administrative Office:**

1106 South Ninth Street

Humboldt, Kansas 66748

Paul R. Thomas, MSW, ACSW, Administrator  
S E Pomerantz, M.D., Psychiatrist

**Offices at:**

1106 South Ninth Street  
Post Office Box 39  
Humboldt, Kansas 66748  
Phone: (316) 473-2241

207 East First Street  
Post Office Box 704  
Fort Scott, Kansas 66701  
Phone: (316) 223-5030

318 East Sixth Street  
Post Office Box 312  
Garnett, Kansas 66032  
Phone: (913) 448-6806

13 North Lincoln Street  
Post Office Box 335  
Chanute, Kansas 66720  
Phone: (316) 431-7890

119 South Sixth Street  
Post Office Box 343  
Mound City, Kansas 66056  
Phone: (913) 795-2254

July 8, 1985

Legislative Selection Committee for Penal Institutions  
State of Kansas  
State House  
Topeka, Kansas 66612

Ref: Medium Security Facility

The Southeast Kansas Mental Health Center wishes to support Woodson County as a site for a medium security facility.

This Center will support this selection by providing community mental health services and consultation educational services to the staff and residents of such a facility.

This Center has provided staff training to the Toronto and Fall River Honor Farms and the Kansas Highway Patrol.

Your serious consideration of the selection of Woodson County as the site of this facility would be appreciated.

Sincerely,



Paul R. Thomas, MSW, ACSW, LSCSW  
Administrator

PRT:bt



ALLEN COUNTY COMMUNITY COLLEGE

1801 NORTH COTTONWOOD

IOLA, KANSAS 66749-1698

July 8, 1985

(316) 365-5116  
Dr. Jack T. Lundy  
Vice President  
for Academic Affairs

Department of Corrections  
Topeka, KS 66612

Attn: Michael Barbera

Dear Sir:

I have learned of the intention of the Chamber of Commerce at Yates Center, Kansas, to petition the Department of Corrections to establish a penitentiary.

Should this become a reality, Allen County Community College would be willing to contract with the Department of Corrections to develop Vocational, Educational and Adult General Education classes for the inmates.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jack T. Lundy".

Jack T. Lundy  
Vice-President for Academic Affairs

dc

Woodson School District No. 366

Post Office Box 160

YATES CENTER, KANSAS 66783

Telephone 316 625-3205

BILLY M. NORRIS  
Superintendent of Schools

DORIS M. RYAN, Clerk  
Board of Education

July 5, 1985

Mr. John Danler, Vice President  
State Exchange Bank  
Yates Center, Kansas 66783

Dear John:

I am writing you in regards to your question concerning the availability of courses to enable people to pass a G.E.D. course.

The G.E.D. testing for our area is located at Allen County Community College. Dr. Jack Lundy is the person responsible.

In previous years Yates Center High School has provided facilities and instructors for residents of Toronto Honor Camp. Most recently the instructors have driven to Toronto to teach their classes.

We would work with any group in providing instruction which would allow someone to be better prepared to successfully pass their G.E.D. test. This could be done at the local high school.

Also on different occasions we have had people from the Honor Camp take part in the Allen County Outreach Program in which classes are taught here in our facilities. Classes may be taken for college credit or for learning skills that would enable a person to be better qualified for a job. The classes usually available in the academic areas are language arts, psychology, history, accounting and computer programming which would enable a person to receive a bachelor degree.

The vocational offerings are usually auto mechanics, welding, woodworking (carpentering and furniture repair) and computer programming.

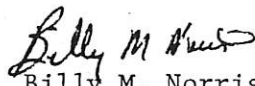
We do have one of the best equipped vocational facilities in the area and could provide instruction to meet most of the needs in that area.

A person could possibly get an associate arts degree by taking outreach programs here at Yates Center.

I am sure that we could provide the educational facilities and people to meet the needs of the population of the institution that you are speaking of.

John should you desire more information please don't hesitate to let us know. We will be glad to provide any service that we can.

Sincerely,

  
Billy M. Norris  
Superintendent

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# Allen County Hospital, Inc.

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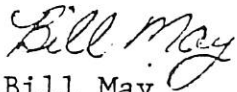
July 8, 1985

TO WHOM IT MAY CONCERN:

Allen County Hospital is an acute care hospital with the capability of providing primary acute care to our patients. We are willing to provide this type of care to the inmates of a ~~medium~~ security prison in our area.

If you have any questions or need additional information, please contact me.

Sincerely,



Bill May  
Executive Director

BWM:dw



Yates Center, Kansas  
July 8, 1985

The Honorable Phil Kline, chairman  
The Legislative Committee of Penal Correction  
Topeka, Kansas 66600

Dear Committee Members,

As a member of the Yates Center Community, I feel that we can serve the state by the establishment of a minimum security prison in Yates Center.


Yates Center has adequate churches, schools, communication services, transportation, and personnel to support such a prison. There are five hospitals available with good highways for their availability.

The Honor Camp established at Toronto, Kansas, is a credit to the state with every needed accommodation met by the community.

Due to fewer and larger farm operations we have many employees available for any positions necessary.

Thank you for considering Yates Center. Our community is willing to meet all requirements necessary for the prison and will cooperate fully with your committee.

Sincerely yours,

  
Maynard Stockebrand  
R.R.1  
Yates Center, Kansas 66783

# KANSAS SENATE

ROBERT V. TALKINGTON  
SENATE PRESIDENT

P.O. BOX 725  
TOPEKA, KANSAS 666749



## OFFICE OF THE PRESIDENT

STATE CAPITOL  
TOPEKA, KANSAS 66612  
913-296-2419

July 8, 1985

CHAIRMAN:  
LEGISLATIVE COORDINATING COUNCIL

CHAIRMAN:  
ORGANIZATION, CALENDAR AND RULES

MEMBER:  
INTERSTATE COOPERATION  
JUDICIARY  
WAYS AND MEANS

Senator Joseph Harder, Chairman  
Joint Building & Construction Committee  
State House  
Topeka, Kansas 66612

Dear Chairman Harder:

It is my understanding the Yates Center Chamber of Commerce and other interested parties from Woodson County will appear before your committee concerning the construction of a medium security prison in the Yates Center area.

Mrs. Linda Call, of the Yates Center Chamber of Commerce, contacted me and advised the community was very interested in working with the committee on the Department of Corrections in an effort to have this medium security prison located in their area.

The Honor Camp at Toronto is in close proximity to Yates Center and the community has had no problems with the Honor Camp being located so near.

Any consideration given to their presentation concerning the location of this medium security prison will be greatly appreciated and considered a personal favor.

Thank you very much.

Very truly yours,

A handwritten signature in black ink that reads "Robert V. Talkington". The signature is written in a cursive, flowing style.

Robert V. Talkington  
President Kansas Senate

RVT:hb

W. D. "RED" DeLONG  
Sheriff

Office — 316-625-2147  
Home — 316-625-2129

LEON BALES  
Undersheriff

Office — 316-625-2147  
Home — 316-625-2539



EMERGENCY  
911

ADMINISTRATIVE  
316-625-2147

INVESTIGATION  
316-625-2148

July 5, 1985

John Danler, Vice-President  
State Exchange Bank  
Yates Center, Kansas 66783

Dear Sirs:

In regard to the building of a medium security institution, It is my understanding that Woodson County and more particularly, the Yates Center area may be considered for a construction site.

I feel that this area has much to offer. One such benefit would be that it is located in Eastern Kansas where the largest population of the state is concentrated, but still away from a large city if problems involving escape or police action should arise.

This letter is to offer my support as Woodson County Sheriff in getting the institution located in this area.

Sincerely,

W. D. "Red" DeLong, Sheriff  
WOODSON COUNTY KANSAS

eh



# CITY OF YATES CENTER

117 East Rutledge Street  
Yates Center, Kansas 66783-1403

Member League of Kansas Municipalities

**Vernon D. Burkhart**  
Mayor

**Lana J. Massoth, CMC**  
City Clerk

**Thomas L. Wilson**  
City Attorney

Telephone (620)625-2118  
Fax (620)625-3119  
E-Mail: [yatescityhall@kscable.com](mailto:yatescityhall@kscable.com)

February 28, 2005

To Whom It May Concern:

The City of Yates Center has applauded the location of a privatized correctional facility within our city limits since the conception of the idea in 1985. A prison task force was appointed at that time and remains an active voice in the city's endeavor to locate such a facility.

Yates Center is located in Woodson County, one of the most underserved and impoverished counties in the State of Kansas. We have witnessed our tax base and employment opportunities plunge to the bottom of the scale over the past fifteen years. The Governing Body struggles at keeping the tax levy within reason to allow our citizens to continue living in our great city. The location of a privatized correctional facility would be a boost in our economy more than one could possibly comprehend or write about.

We are strongly committed to our original offer made in 1985 to provide the land and infrastructure for this needed facility. Along with the land, the city has shown a progressive trend by the construction of a new city water reservoir in 1986 and the recent completion a \$2.6 million renovation on our wastewater plant. In 2003 a new Freightliner firetruck pumper was purchased and housed in a new four-bay fire station.

The location of a privatized correctional facility within our city would more than triple our tax base, provide employment opportunities for our local citizens, and provide employment opportunities for surrounding communities, which are experiencing the same downward economic trend. With this facility we can make life better for the wonderful, hard-working rural people of our community that we serve.

We ask that you once again consider the proposal of a privatized correctional facility that could so desperately change, not only our community, but the State of Kansas. It is time that we face our challenge to meet our obligations to the people of this state by incarcerating those that have chosen to be a threat to our society.

Thank you again for your consideration.

Vernon D. Burkhart, Mayor

Senate Ways and Means  
3-1-05  
Attachment 9

# Woodson Unified School District 366

P.O. Box 160, 101 W. Butler  
Yates Center, Kansas 66783  
Telephone (620) 625-8804 Fax (620) 625-8806

**Rusty Arnold**  
Superintendent of Schools  
[rarnold@usd366.net](mailto:rarnold@usd366.net)

**Connie Morrison**  
Board of Education Clerk  
[cmorrison@usd366.net](mailto:cmorrison@usd366.net)

**Brenda Tracy**  
Board of Education Deputy Clerk  
[brtracy@usd366.net](mailto:brtracy@usd366.net)

## Board of Education

**Mary Whisler**, President

**Edward Pennuto**, Vice-President

**Beth Clarke**

**Judy Lair**

**Donna Leach**

**Danny McNett**

**Lee Robbins**

February 28, 2005

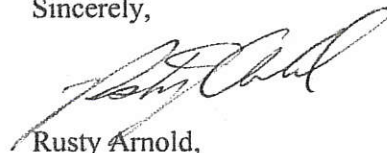
To Whom It May Concern,

I am writing this letter in support of constructing a prison facility in Woodson County near the town of Yates Center. I have personally lived in Yates Center for the past five years and witnessed the gradual decline of our local economy; I believe that a private or public prison facility will rejuvenate a steadily declining local economy. Toronto Honor Camp, a minimum-security facility, is located in Woodson County near Yates Center and has proven to be a positive asset to our county by providing support during crisis such as natural disasters. I believe a prison facility or expansion of the Toronto facility will be a positive addition to our county and/or communities.

Woodson School District 366 is one of the sponsoring school districts for the Southeast Kansas Educational Service Center (Greenbush) that currently provides educational services for the Kansas Department of Corrections. Our district is willing to cooperatively work to continue educational services through SEKSC or create an educational system to meet the needs of the inmates while incarcerated in any new facility located within our district.

I strongly support constructing a correctional facility and look forward to cooperatively working with the Department of Corrections to meet the educational needs of inmates. I am willing to speak with you personally concerning this issue, please contact me at your convenience by calling my home at 620-625-3395 or office at 620-625-8802.

Sincerely,



Rusty Arnold,  
Superintendent of Schools

Member  
**NCA**

North Central Association  
of Colleges and Schools

Frank Smith  
390 S.E. 110 Ave.  
Bluff City, KS 67018-7630  
(620)967-4616 (phone & fax)  
[fsmith@kanokla.net](mailto:fsmith@kanokla.net)  
March 1, 2005

Ways & Means Committee  
Kansas State Senate

Mr. Chairperson and members of the Committee:

My name is Frank Smith. I'm the volunteer Field Organizer of the Private Corrections Institute. For purposes of identification only, I'm also a member of the Kansas Silver Haired Legislature. I've been a researcher in criminal justice and drug abuse treatment for over three decades, and have directed diversion, treatment and prevention programs, in-house prison programs and post-release programs.

I wish to testify against SB 243, although I've only just received and reviewed it this morning. I was in Denver last week, testifying at the request of the sponsor of a state House bill to prohibit the importation of out-of-state prisoners to for-profit prisons in Colorado.

At the Denver hearing, a representative from CCA testified that if his corporation were not allowed to import prisoners from other states, they would be forced to close one of their four rural Colorado prisons, but they refused to identify which one it would be. They had created four constituencies against the bills, even though it appears that all beds CCA owns in the state will be occupied by Colorado prisoners, in the not too distant future. The threat worked and the bill failed, even though a majority of the committee indicated they were very uncomfortable with for-profit prisons and the problems they've brought the state. The sponsor indicated that although the state charged CCA \$305,000 for riot control, the actual costs were \$680,000. A constitutional tax cap prohibited the higher charge. The reluctant "no" votes made it clear the corporation had the state between a rock and a hard place. In Montana, the legislature had allowed construction of a CCA prison at Shelby, with the strong proviso that no out of state inmates would be allowed. When parole policy modifications caused a decline in prison population, CCA testified that it would not be able to remain open without accepting such imports. The legislature, responding to the arm-twisting as did the Colorado committee, reluctantly reversed itself.

DOC Secretary Werholtz made a statement in testimony last year, regarding a similar bill. He said that it was his fear, that if for-profits were allowed to expand in Kansas, they would soon "drive policy." Nothing could be truer. The biggest corporations, GEO and CCA, have used purchased leverage in ALEC to push for "tough on crime," "Three Strikes," and "Truth in Sentencing,"-type legislation. This would increase the prisoners in Kansas, should they come here, and hence their market and market share, at taxpayers'

Senate Ways and Means

3-1-05  
Attachment 11



expense.

GRW, which operates a minimum facility for Kansas, testified that if they could not import prisoners, they would be out of business at their women's prison in Brush. Not coincidentally, many suspect, the news of sexual abuse of these prisoners by GRW guards and the smuggling of contraband, was finally released for the next morning's paper by Colorado's DOC, long after they become aware the scandal.

Passage of this bill would certainly expose Kansas to immense liability. I'm attaching an article\* that deals with this aspect. For profit prisons experience far more escapes, inmate-on-inmate (69% more) assaults, inmate-on-staff assaults (49% more). It continues:

"(A)ll these extra assaults and escapes cause extra lawsuits. And unlike in public prisons, guards in private facilities are not protected to some degree from litigation under state and federal law. This means that the costs of the suits are passed on to governments.

"Private prison companies have promised states that they will reduce or eliminate government liability," says Ira Robbins, an American University law professor and author of *The Legal Dimensions of Private Incarceration*. "But it's absolutely clear [under federal and state laws] that the states cannot divest themselves. If companies make that promise, it's an absolutely false promise."

*(The Phoenix) New Times* asked Robbins to critique the Senate bill supported by Burns and Pearce that would order the sale of several public prisons to private companies.

"Some of the things in this bill are incredible," Robbins says. "It appears to me that, through SB 1126, the state is throwing up its hands and saying, 'Bail us out.' But clearly the law does not allow the state to sell off its liability in this manner."

I could spend a week on the shortcomings of for-profit prisons, not the least of which is that they don't save hosting states any money. But let me just deal with the bill before you this morning:

New Section 5. (d) Mandated savings have not come to fruition in other states.

New Section 6. (b) American Correctional Association standards set a low bar, ignored in the breach. Colorado did a post-Crowley riot report showing damage to supposedly standard facilities. The ACA accredited facilities such as the CCA Youngstown prison, the Wackenhut/GEO Jena, Louisiana juvenile facility, and the Cornell New Morgan Academy juvenile prison in Pennsylvania, just before each was forced to close by state officials or the courts.

(C) Insurance can't be expected to cover liability. A wrongful death in a CSC facility resulted in a judgment of \$37 million, I believe, and the insurer fought its liability for the \$25 million cap.

(d) The notion that the for-profit will provide adequate medical services is not well founded. The New York Times had a story this weekend on the dominant provider, PHS,



that was absolutely frightening.

(j) The for-profits make their money by "creaming" prisoners as standard practice. I can't imagine they would accept this proviso (which would force them to take assigned prisoners who were psychotic, or with AIDS, or extremely violent, for instance).

(l) What happens when the out-of-state prisoner escapes, as often happens, such as a recent breakout by two Wyoming cons in Texas, with assistance from guards? What happens when an out of state prisoner kills a guard or other inmate? Kansas becomes liable for the prosecution, defense and appeals.

(m) Review has not kept Colorado from immense difficulties. They claimed at the Thursday hearing that they reject 35% of proposed out of state inmates, but few believe this is true, and they dump some of their worst inmates on jails and prisons out of Colorado, that are clearly unable to deal with them.

New Sec. 8. (1.) I can't imagine how the Secretary could say, take over a prison in rural Woodson County, where GEO has indicated it wants to build. There simply isn't the staff available. GEO last year said it could bring in out of state supervisors but mass resignations immediately after riots in Colorado and Kentucky (about 36 in each prison) showed how hard this is to accomplish.

(3.) Same as #1. For-profit guards in CO and KY ran away when the riots broke out.

(c.) In Tallulah, Louisiana, three for-profit operators were unable to run the prison. When the state tried to close it, Wall Street threatened to lower its bond rating, even though it was not a state debt.

New Sec. 15. (a) In Harper County, we are dealing with a prospective unwanted landfill, thanks to unwise and unsophisticated former commissioners. We have incurred immense liability, extraordinary litigation expenses, and incompatible use. Naïve county officials simply cannot be expected to have the expertise to deal with high-powered salesmen such as work for the for-profit prison industry.

Sec. 22, K.S.A. 2004 Supp. 75-52 amendment proposal: This would seem to conflict with SB 242, should that pass.

Lastly, I would like to point out that after careful deliberation, a host of religious denominations have come out strongly against construction of for-profit prisons. These include the Presbyterians, the Methodists, the United Church of Christ, the Society of Friends, the Episcopalians, and the Catholics.

\* <http://www.phoenixnewtimes.com/issues/2003-04-03/news/feature.html>

**the Kansas  
Association of  
Public Employees**

**KAPE**

Working to Protect Kansas Public  
Employees since 1962

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**Working Together,  
We Make A Difference!**



**Testimony on SB 243  
Before the  
Senate Ways and Means Committee  
March 1, 2005**  
Presented by Andy Sanchez, Executive Director  
Kansas Association of Public Employees

Thank you Mr. Chairman and members of the Committee. I appreciate the opportunity to appear before you today and offer our opposition to SB 243. As most of you already know, KAPE represents state, city and county employees across the state. KAPE is the bargaining representative for all of the state correctional facilities except Lansing. Our opposition to this bill is fundamentally based on incarceration being a responsibility to be carried out by government. We support this claim for the following reasons:

- I. Corporations create a risk to public safety in their pursuit of profits.**
- II. Private prisons target rural areas with empty promises of economic development.**
- III. Legal responsibility, or the lack of indemnification is an inherent flaw of for-profit prisons.**

I. Private prisons exist to make a profit and it is worth noting just how a profit is accomplished. It is done by cuts in the basic functions necessary to operate a prison, such as staff wages and benefits, staff levels, staff training, inmate programs and care. Medical care and food service are two examples of inmate care. A December 2003 "Grassroots Leadership" report (a corporate research project of Good Jobs First and Prison Privatization Report International) cites these very reasons as a recipe for disaster and adds staff turnover as another contributor. In a March 2000 report by the Federal Bureau of Prisons it found that almost half of the private prisons had a separation rate (turnover) of 50% or more. This report was mandated by the U.S. Congress because of the very issues and concerns we share with you today.

We believe private prisons continue to build a poor track record of violent outbreaks, riots and escapes. Also worth noting is that this occurs despite the private prisons preference to lower level security inmates. This is what is known as "cherry-picking", or selectively choosing inmates based on how they are classified.

Senate Ways and Means  
3-1-05  
Attachment 12



II. The private prison industry has become adept at targeting rural areas with the promise of economic development. The hope is that the construction and operation of a facility will bring good paying jobs providing "linkages" to other aspects valuable to a local economy. Expectations are that prison employees will buy local houses, purchase local products, and services and increase local tax revenue. Then the linkages would have a multiplier effect of new jobs to the community. But, there is no data to support such claims. In fact, just the opposite is more likely to occur. In a 2003 Iowa State University report by Terry Besser and Margaret Hanson they concluded there was no benefit to prison building to other small town businesses. In another report by the "Sentencing Project" titled Big Prisons, Small Towns: Prison Economics in Rural America, their analysis makes similar claims, no economic growth, no impact on unemployment rates and no impact on income. Here is why, the dynamics of the labor market are such that they create these results. The construction of a facility requires specialty tradesman, requirements most local applicants do not meet. Once built, Correctional Officers that staff the facility reside in neighboring counties and not the host county. Local businesses may not stock the raw materials (nor the volume) for the construction of a prison facility to benefit on such an undertaking. Last, local residents may find themselves in competition with inmates as inmates are sometimes used in a joint venture of business a government.

The Sentencing Report also cites employees not living in the host county as a factor prohibiting economic development. Last year KAPE decided to look at this claim and apply it to the host city of some of our public prisons in Kansas. The majority of positions required for a prison are Correctional Officers. In Kansas a look at El Dorado, Ellsworth, Larned, and Winfield reveal that Correctional Officers drive an average of 23.5 miles to commute to work in these towns.

Last, the state cannot completely free itself from responsibility with the tightest of contracts. Thus, monitoring and negotiating contracts of private prison services will be more expensive than estimates. The state also cannot simply free itself from liability. And it is here, where unseen costs can add up quickly. Litigation because of an out break of violence or the mistreatment of inmates can be costly to the state.

These are just some of our concerns with SB 243. We encourage long term solutions to our prison system and not a quick fix. If there are cumbersome laws that make our system inefficient lets fix them. If alternatives exist such as reclassifying older and disabled inmates let's consider doing that. But, let's not throw our hands up and say you (the contractor) take care of it.

Thank You



# KANSAS

KANSAS DEPARTMENT OF CORRECTIONS  
ROGER WERHOLTZ, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

Testimony on SB 243  
to  
The Senate Ways and Means Committee

By Roger Werholtz  
Secretary  
Kansas Department of Corrections

March 1, 2005

SB 243 provides statutory authority for the construction and operation of private prisons that would be available for the incarceration of out of state prisoners. While the Kansas Department of Corrections, on its own as well as in conjunction with Labette County, has contracted with private entities for the construction and/or operation of conservation camps, minimum security community residential centers and day reporting centers, the use of those facilities has been limited to offenders convicted of felony crimes committed in Kansas. SB 243 would permit use of privately constructed and operated correctional facilities for the incarceration of offenders from other states, thus providing an exception to K.S.A. 75-52,133.

The prohibition against importing inmates from other states for incarceration in private prisons located in Kansas was established in 1990. Following that enactment, the Interim Special Committee on the Judiciary in 1990 conducted a study of private prisons. That Committee recommended that a moratorium on the construction of private prisons to house prisoners from other states be extended indefinitely. The Committee questioned the economic feasibility of the plans, the potential exposure of local governments or the state to civil liability, and that the proposal raised the basic issue of the fundamental role of government. As a result of the interim study, HB 2003 was introduced in the 1991 session to extend the moratorium indefinitely. K.S.A. 75-52,133 was enacted, providing that no city, county or private entity shall authorize, construct, own or operate any type of correctional facility for the placement of inmates from any agency of another state.

In considering the issue of private prisons, the Department believes that it is important to distinguish between prisons in which only Kansas offenders are placed as opposed to prisons which would house prisoners from other states. In regard to the former, the Secretary of Corrections has the ultimate control over the type of inmate that will be incarcerated at a private facility and whether the facility will be used at all. In effect, this allows the Secretary of Corrections to control such private facilities virtually to the same extent as state correctional

facilities relative to the myriad of operational issues that confront the management and operation of a correctional facility. In contrast, prisoners that have been convicted in other states do not fall under the custody or jurisdiction of the Kansas Secretary of Corrections, thus neither the State nor the Department of Corrections has the authority to inspect, monitor, or regulate the day to day operations or emergency response capabilities of a private correctional facility absent specific statutory authority to do so.

I would like to preface my comments regarding the detailed issues that arise in regard to private correctional facilities with my opinion that it is preferable for a state to operate its own correctional facilities whenever possible. In addition to the management of the facility regarding the day to day operations and emergency responses alluded to above, state ownership of the facility allows the State to change the mission or operation of a facility without having to take into consideration the property and contract rights of a private entity. Secondly, any excess capacity of a state's correctional facilities may be leased to other jurisdictions, but on the terms and in accordance with the regulations, operational orders, standards and policies that the Department of Corrections controls.

The flexibility derived from State ownership of correctional facilities to address the changing needs of the State in the incarceration and rehabilitation of its offenders is illustrated by the extensive renovation in the mid 1990's of the Lansing Correctional Facility's segregation unit into a therapeutic community housing unit for substance abuse treatment. The State's ownership of the Larned Correctional Mental Health Facility was critical to the State's ability to provide a secure facility for the treatment of civilly committed sexually violent predators on behalf of the Department of Social and Rehabilitation Services. Likewise, the mission and functions of the Topeka Correctional Facility, the Lansing Correctional Facility East Unit, and the El Dorado Correctional Facility have been modified to address the needs of the State's changing inmate population.

State ownership of the facility gives the State control of the facility design and construction. The design and control of the facility is dependant upon the mission and custody level of a facility, which in turn is related to the alternative uses or missions the facility could be called upon to perform in the future. The absence of the State's participation in the design and control of a facility not only hinders flexibility, it can result in a facility that is abandoned by a private vendor to the detriment of the economy of the community, or forces the Department to take over a facility that is ill-suited for the incarceration of its inmate population due to its level of security, design, or location.

Finally, in regard to capital costs, a private entity simply cannot construct a stand alone correctional facility at a lower cost than the State can increase its capacity by adding to an existing facility. Additionally, Congress has stopped the federal subsidy of private prisons whereby 90% of the payment of the per diem charge of a private prison could be paid with federal VOI/TIS funds. Therefore, states will have to pay the entire cost of construction and operations (because this is typically included in the per diem charge), yet never have any equity in the facility.

Building a prison on speculation as an economic development tool is questionable. Nationwide, there are several thousand vacant private prison beds.

While, I favor state ownership of correctional facilities as opposed to renting prison capacity, the department extensively and successfully utilizes outsourcing when it is in the best interest of the State. Currently, 23.5% of the Department's budget (excluding capital improvements) is for outsourced services. For Fiscal Year 2006, 27.9% of the Governor's recommended budget would be outsourced.

As pointed out above, the department has used the services of private entities in Kansas to provide conservation camps, community residential centers, and day reporting centers. The department also out sources its food services, medical and mental health services, and rehabilitation programs. I believe that the success of those operations is directly related to the extensive control maintained by the department through the Request for Proposal and contract process followed by monitoring and inspections.

The department has also successfully used a private correctional facility located in Colorado for the housing of offenders sentenced to the department's custody. The department's experience was favorable and was due in no small part to the role of the Colorado Department of Corrections in providing oversight of private prisons in that state. The department has also placed medium custody inmates at the privately operated Limestone County Detention Center in Groesbeck, Texas. Likewise, various levels of Texas government have oversight responsibilities in the housing of out of state prisoners in Texas by private entities. The use of those private facilities also resulted in significant financial savings due to the State's ability to use Violent Offender Incarceration/Truth In Sentencing (VOI/TIS) federal grant funds to pay for 90% of the cost of the confinement of offenders in private facilities. However, the last Congressional appropriation for VOI/TIS grants was in 2001 and it is anticipated that Kansas will have spent all of its VOI/TIS grant funds by the end of FY 2006.

However, the department is also aware of instances nationwide where the operation of private correctional facilities was detrimental to the safety of the public, staff, and inmates. The department's experience in using private correctional facilities and its observations of the experience of other states cause me to bring to the attention of the Committee issues for consideration in your deliberations on SB 243.

During the 2004 Legislative Session, SB 275 and HB 2638 were introduced. Those bills would have authorized the incarceration of out of state prisoners in Kansas private prisons. In my testimony before the Legislature last session, I raised the issues of the design and construction of a private prison meeting design and construction specifications established by the department; the importance of screening inmates proposed to be placed in the facility; the costs of screening, monitoring and inspection; state regulation of disciplinary rules; and standards of operation. It is my belief that SB 243 provides less protection to the interests of the State and public safety than was provided last year by Substitute for HB 2638 (2004 Session).

## **Liability**

The two recent incidents in which the State of Colorado was forced to intervene and take over private prisons in that state illustrate the need to clearly and appropriately address liability for the costs incurred when State resources are required to respond to emergencies at private prisons. When the Department first began considering use of private correctional facilities, it retained the services of Richard Crane, a national expert on corrections privatization. It was his recommendation that any regulatory or contractual relationship between state governments clearly set out the liability obligations of the parties. The entity that should be primarily liable for any costs incurred by the state in responding to emergencies at private prisons should be, of course, the private operator of the facility. Several communities are considering or pursuing this change in policy, not as a public safety measure, but as an economic development strategy. It therefore seems reasonable that they should assume the risk and responsibility for that strategy. In the event the private vendor is unable to pay for those costs, the host community should be liable. The community that benefits economically from having a private prison should also be responsible for the resources expended by the State if it has to respond to an incident in order to protect the public's safety.

## **Design and Construction**

SB 243 at page 2, Sec 6(b) and (c) provides;

“(b) the design for any private contract prison constructed, owned or operated by the licensee shall meet or exceed all requirements of the association responsible for adopting national correctional standards consistent with the American correctional association standards;

(c) the design for any private contract prison, including, but not limited to, siting, shall meet or exceed any standard established by the American correctional association;”

While the American Correctional Association has, for example, standards regarding cell size and plumbing requirements, the Association does not provide standards for security hardware or lines of sight which are critical for staffing efficiency and good security. The design of the facility should determine the staffing of the facility and the custody level of the offenders incarcerated at the facility. The Department does not believe these provisions adequately address the interests of the State. The standards of the American Correctional Association have minimal relevance to the design and security features of a correctional facility. The Department recommends that it approve the design and construction plans for any private correctional facility to be licensed by the State to ensure that the physical plant is compatible with the proposed staffing and custody level of the offenders.



## **Liability and Insurance**

SB 243 at pages 2 – 3, Sec 6(e) provides :

“(e) the licensee shall indemnify the state and the secretary, including their subdivisions, officials and agents, against any and all liability including, but not limited to, any civil rights claims. The secretary shall require proof of satisfactory insurance. The amount of insurance shall be consistent with industry standards;”

The department does not believe that this provision is in the best interest of the State. The benchmark for the amount of liability insurance to be the “industry standards” is too vague and merely invites litigation over the issue. Substitute for HB 2638 (2004 Session) provided that the amount of insurance required was to be determined by the Secretary. Additionally, as pointed out above, the community that benefits from the siting of the private facility should also be secondarily responsible for the costs of that facility in the event the State must use its resources to protect public safety.

## **Standards of Operation**

SB 243 at page 3, Sec 6(g) provides:

“(g) the licensee shall agree to abide by operations standards for correctional facilities as identified by the American correctional association;”

The department does not believe this provision is sufficient to protect the interests of the State in the safe and secure operation of prisons within its borders. The standards of the American Correctional Association regarding operations do not address many of the day to day operations of a correctional facility even though those operations directly impact the safe and secure operation of the facility. Additionally, ACA standards in respect to many correctional operations and activities only require that a written policy be adopted, but do not direct that a particular policy be adopted. Last year, HB 2638 provided that the “licensee shall agree to abide by operations standards for correctional facilities adopted by the secretary.”

SB 243 at page 4, Sec 6(o) limits the Secretary’s ability to regulate the many aspects of the operation of a correctional facility that are not specifically addressed by provisions of the Private Prison Act. Rather SB 243 makes the regulatory authority of the State subject to the contract between the private operator and the entity hosting the site or placing offenders at the facility. HB 2638 clearly provided that the secretary could regulate any other aspect of the operation of a private prison to the degree necessary and appropriate for carrying out the purpose of the act.

SB 243 at page 4, sec. 7(b) permits the Secretary to review disciplinary rules applicable to non-Kansas inmates. However, the Secretary would not have the authority to reject any such rules or procedures. Last year Substitute HB 2638 (2004 Session) specified that the Secretary shall review those disciplinary rules and had the authority to approve or reject such rules and penalties. The department’s study of problems that have occurred in other jurisdictions housing

offenders from various states leads it to conclude that uniformity and fairness in the application of disciplinary rules among all inmates is critical to the safe operation of a correctional facility.

### **Licensing and Monitoring Costs**

SB 243 at page 5, Sec 8(a)(3) refers to “general cost parameters” in regard to a private operator having to have contingency plans and identifying how the state is to recover its costs if it has to assume operation or otherwise intervene. It is not clear what that phrase means, but it appears that it is meant to establish a cap on the liability of the operator.

SB 243 provides that the licensee shall bear the costs of monitoring the facility, the department conducting inmate record reviews and costs associated with licensing. However in Section 21 of SB 243 at pages 7-8, monitoring costs are not included. It would be the department’s expectation that an ongoing monitoring of the facility’s operations would be necessary and that the operator should be responsible for that cost. Substitute HB 2638 (2004 Session) provided that fees would be established by regulation.

### **Contract Approval**

SB 243 provides two distinct roles for the Department of Corrections. Those roles are regulator and potential consumer. SB 243 provides for the department to license and regulate private prisons irrespective of the source of the inmates incarcerated. The department would not be required to use a private prison in the placement of its inmates. The distinction between the state being the regulator of private prisons as opposed to it contracting for bed space is significant in analyzing whether contract provisions are sufficient in protecting the State’s interests. Since neither the department nor the State will necessarily use a private prison to house its inmates, or even be a party to every placement, establishing necessary standards and conditions regarding the operation of a private correctional facility by contract is insufficient to protect the State’s interests. Measures necessary for the safe and secure operation of prisons should be required by law and not left to a contractual agreement.

SB 243 at page 7, Sec 16 provides that any contract between a private operator and a county shall only be reviewed by the Attorney General as to form and legal sufficiency. Last year, Substitute HB 2638 (2004) provided for review of contracts by the secretary of corrections to determine whether the contract is in the State’s best interest considering proposed prison space, custody level of the facility and whether it would be beneficial to the management of the state corrections system. SB 243 not only excludes the State from any substantive role in regulating private prison contracts, as pointed out above, SB 243 also provides that such contracts would supercede and restrict the department in establishing policies and standards necessary in operating safe and secure facilities.

A balloon incorporating the department’s proposals to address its concerns is attached as is a history of private prison legislation proposals and the department’s capacity expansion plan.

## History of Privatization in Kansas

1988-Department of Corrections contracted with a company (VIP) for operation of community residential centers in Topeka and Wichita. The contract was terminated in 1989 due to the failure of the contractor to deliver services in compliance with the terms of the contract.

HB 2835 was considered in the 1990 session but was not enacted. It would have permitted the creation of regional prison authorities by cities or counties with the power to construct or purchase prison facilities.

SB 748 (1990 Legislature): Provides that, unless authorized by Kansas statute, local units of government and private entities are prohibited from authorizing, constructing, owning, or operating any type of correctional facility for the placement or confinement of inmates from any agency of another state until such time as the Legislature has reviewed and provided a public policy regarding such activity. Provisions expire July 1, 1991.

Studied by interim Special Committee on Judiciary (1990): Committee recommended that the moratorium on the construction of private prisons to house prisoners from other states be extended indefinitely. The Committee questioned the economic feasibility of the plans, the potential exposure of local governments or the state to civil liability, and that the proposal raised the basic issue of the fundamental role of government. As a result of the interim study HB No. 2003 was introduced in the 1991 session to extend the moratorium indefinitely. K.S.A. 75-52,133 was enacted, providing that no city, county or private entity shall authorize, construct, own or operate any type of correctional facility for the placement of inmates from any agency of another state.

March, 1994: Attorney General Opinion 94-27 issued. Opinion concludes that with some narrowly drawn exceptions, cities, counties and private entities are prohibited from authorizing, constructing, owning or operating a correctional facility for the placement or confinement of inmates from any agency of another state. There is no constitutional or statutory impediment which would prevent a city, county or the state from contracting with a private entity for the construction or operation of a jail or correctional facility for the placement or confinement of persons held pursuant to Kansas law.

1997: HB 2576(e)-Ch. 192 Sec. 45 Session Laws: preparation and issue of request for proposals for design, construction, and operation of a 200 bed medium security facility and a 200 bed low cost special management unit; bidders could bid on both projects; DOC could submit proposals. Award based on review of updated inmate population projections and approval of the state finance council.

- RFP issued in June 1997 (assisted in preparation by Richard Crane, national expert on privatization)
- Responses received August 1997
- Review of inmate population projections resulted in a recommendation to defer additional capacity expansion to the 1999 session. No award made of a contract from the RFP.

1997: HB 2571 would permit any county to construct, own or operate any type of correctional facility for the placement or confinement of inmates from the department of corrections and any agency of another state. HB 2571 was not passed.

Privatization was discussed in the 10 year Strategic Development Plan prepared for the State in January, 1998.

1998-KDOC issued an RFP for operation of a female conservation camp.

2004: SB 275 proposed. Bill would have permitted use of privately constructed and operated correctional facilities for the incarceration of offenders from other states. Bill was not enacted.

# KANSAS

KANSAS DEPARTMENT OF CORRECTIONS  
ROGER WERHOLTZ, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

January 26, 2005

Honorable Doug Mays  
Speaker of the House

Honorable Steve Morris  
President of the Senate


Dear Speaker Mays and President Morris:

Section 2 of House Substitute for SB 45, enacted during the 2004 session, provides that the Secretary of Corrections shall file with the Legislature by February 1, 2005 a comprehensive plan for the expansion of maximum, medium, and minimum security prison capacity, for specialized facilities, and for a training academy. A copy of the plan that has been developed is attached hereto.

I have presented this plan to several legislative committees as well as to the Kansas Criminal Justice Recodification, Rehabilitation and Restoration Project Committee and the Kansas Sentencing Commission. I would also welcome the opportunity to discuss it with you or with other committees or members.

Please let me know if you have any questions regarding this plan.

Sincerely,

  
Roger Werholtz  
Secretary

Attachment

Cc: Chair, Senate Ways and Means Committee  
Chair, House Appropriations Committee  
Chair, Senate Federal and State Affairs Committee  
Chair, House Federal and State Affairs Committee  
Chair, House Committee on Corrections and Juvenile Justice Oversight  
Chair, Joint Committee on State Building Construction

This report is also posted online at:

[http://www.dc.state.ks.us/Legis\\_testimony/2005/SB45\\_Report.pdf](http://www.dc.state.ks.us/Legis_testimony/2005/SB45_Report.pdf)

### Housing Expansions Options

	Estimated Construction Cost	Estimated Const. Cost Per Bed	Estimated Operating Cost	Estimated Cost Per Inmate/Yr	Estimated Cost Per Inmate/Day	Estimated One Time Start up Cost
<b><u>General Population – Maximum Security</u></b>						
EDCF – 2 Housing Units 256 Max Beds	\$16,232,800	\$63,409	\$5,930,000	\$23,164	\$63.46	\$829,000
<b><u>General Population – Medium Security</u></b>						
EDCF -2 Housing Units 512 Med. Beds	16,232,800	31,705	7,645,000	14,932	40.91	910,000
EDCF-1 Housing Unit 256 Med Beds	9,117,000	35,613	3,841,000	15,004	41.11	507,000
EDCF-Yates Center Unit 500 Med Beds	47,580,100	95,160*	10,092,000	20,184	55.30	2,498,000
NCF-Stockton Unit 500 Med Beds	48,410,000	96,820*	10,209,000	20,418	55.94	2,498,000
<b><u>General Population – Minimum Security</u></b>						
EDCF- Housing Unit 100 Bed	3,003,800	30,038	1,410,000	14,100	38.63	319,000
ECF- Housing Unit 100 Bed	3,194,800	31,948	1,540,000	15,400	42.19	311,000
NCF-Stockton Unit Expansion 72 Beds	3,325,900	46,193	797,000	11,069	30.33	330,000
EDCF-Toronto Expansion 75 Beds	2,541,400	33,885	975,000	13,000	35.62	325,000
<b><u>Special Needs – Mental Health</u></b>						
LCMHF-Housing Unit 256 Med Beds	13,922,600	54,385	3,476,000**	13,578	37.20	500,000
<b><u>Special Needs – Medical</u></b>						
HCF-East Unit 258 Med Beds	5,736,400	22,234	3,068,000	11,891	32.58	400,000
ECF-Century Building 178 Med & 112 Min Beds	6,217,300	21,439	3,937,000	13,576	37.19	719,000
TCF-Housing Unit 200 Med and 40 Work Release Beds	12,300,500	51,252	4,802,000	20,008	54.82	550,000

\* Land survey not completed, estimated cost may vary once land survey and subsoil investigation is completed. Project estimated with no work being performed by inmate crews.

\*\*These figures do not include any costs for Larned State Hospital to provide food service, laundry and some utility services.



### Privately Submitted Housing Expansions Option

	Estimated Construction Cost	Estimated Const. Cost Per Bed	Estimated Operating Cost	Estimated Cost Per Inmate/Yr	Estimated Cost Per Inmate/Day	Estimated One Time Start up Cost
<u>Special Programs Facility-Ellsworth</u> InnerChange Freedom Initiative 264 Beds	\$7,998,800	30,299	\$4,269,000	\$16,170	\$44.30	\$737,000

### Central Training Option

Estimated Construction Cost	Estimated Const. Cost Per Bed	Estimated Operating Cost	Estimated Cost Per Inmate/Yr	Estimated Cost Per Inmate/Day	Estimated One Time Start up Cost
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Central Training Academy  
Osawatomie State Hospital-Rush Building

1,984,803	N/A	\$1,009,000	N/A	N/A	\$395,000
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OPERATING COST ESTIMATES - HOUSING EXPANSION OPTIONS

Project	Salaries and Wages	OOE	Food Service	Health Care	Programs	Total	FTE
EDCF - 256 Max. Beds	3,958,000	931,000	379,000	376,000	286,000	5,930,000	108.0
EDCF - 512 Med. Beds	4,118,000	1,207,000	758,000	990,000	572,000	7,645,000	113.0
EDCF - 256 Med. Beds	2,176,000	624,000	379,000	376,000	286,000	3,841,000	59.0
EDCF - 500 Med. Beds (YC)	6,625,000	1,201,000	740,000	967,000	559,000	10,092,000	179.0
NCF - 500 Med. Beds (SU)	6,625,000	1,201,000	740,000	1,084,000	559,000	10,209,000	179.0
EDCF - 100 Min. Beds	1,031,000	231,000	148,000	0	0	1,410,000	27.0
EDCF - 75 Min. Beds (TU)	684,000	180,000	111,000	0	0	975,000	19.0
ECF - 100 Min. Beds	1,035,000	229,000	148,000	128,000	0	1,540,000	27.0
NCF - 72 Min. Beds (SU)	509,000	181,000	107,000	0	0	797,000	14.0
LCMHF - 256 Med. Beds	1,352,000	586,000	0	1,252,000	286,000	3,476,000	37.0
HCF - 258 Med. Beds	1,801,000	296,000	384,000	299,000	288,000	3,068,000	47.0
ECF - 290 Med./Min. Beds (CB)	2,297,000	523,000	429,000	489,000	199,000	3,937,000	63.5
TCF - 240 Med./Min. Beds	3,109,000	595,000	355,000	520,000	223,000	4,802,000	84.0
ECF - 264 Med. Beds (IFI)	2,447,000	691,000	391,000	445,000	295,000	4,269,000	68.0
Centralized Training Academy	636,000	373,000	0	0	0	1,009,000	13.0

Note: For comments regarding the operating cost estimates, refer to the following page.

## OPERATING COST ESTIMATES – HOUSING EXPANSION OPTIONS

1. From FY 2000 to FY 2005 the department's budget for facility and community-based programs has been reduced by approximately 45%. This has resulted in the elimination of some programs, and significant reductions in others. The amounts identified for inmate programs in this plan therefore understate the actual situation. There is a need to restore programs for the existing inmate population as well as to provide programs for the additional inmates who will be added to the system. The programs provided as a result of the funds identified herein only serve to keep the problem from worsening. The need to restore programs to the existing inmate population in order to better prepare offenders for a successful return to the community remains.
2. The estimated amounts for food service are based upon costs that would be incurred under the existing contract. To the extent that any of these projects would require a renegotiation of the food service contract that would have the impact of increasing the per meal cost (or the per diem cost for LCMHF), the operating cost estimate would be affected accordingly.
3. Under the existing contract, the cost to provide food service at LCMHF is based upon a per diem charge, rather than a per meal cost, because meals are prepared by the Larned State Hospital (LSH). In addition, the LCMHF project could also have other impacts on hospital operations. However, at this time, we are unsure of what the additional operating costs incurred by LSH would be.
4. The estimated amounts for health care are based upon contract provisions that result in additional per capita costs when a facility's population exceeds the contract operating capacity by increments of 10 percent. To the extent that any of these projects would require a renegotiation of the contract that would have the impact of increasing per capita costs, the operating cost estimate would have to be adjusted accordingly.

Because the 500-bed capacity expansions at Yates Center and Stockton would be operated as units of the El Dorado and Norton correctional facilities, respectively, the health care cost estimates are based upon the per capita adjustments for those facilities. Because these adjustments would not account for other costs that are incurred when significant capacity additions are undertaken at satellite locations, it can be expected that the additional resources that would be needed to provide health care services, if either the Yates Center or Stockton expansion option is approved, would exceed the cost estimate.

5. The estimates reflect FY 2006 dollars.

Classification	Project	Total Project Cost	Annual Debt Service based on Final Maturity			
			5 Years	10 Years	15 Years	20 Years
<b>General Population - Maximum Security</b>	EDCF - 2 Housing Units 256 Max Beds	\$17,061,800	\$3,827,000	\$2,145,000	\$1,610,000	\$1,365,000
<b>General Population - Medium Security</b>	EDCF - 1 Housing Unit 256 Med Beds	\$9,624,000	\$2,163,000	\$1,213,000	\$915,000	\$775,000
	EDCF - 2 Housing Units 512 Med. Beds	\$17,142,800	\$3,843,000	\$2,152,000	\$1,618,000	\$1,373,000
	EDCF - Yates Center Unit 500 Med Beds	\$50,078,100	\$11,202,000	\$6,275,000	\$4,722,000	\$3,998,000
	NCF - Stockton Unit 500 Med Beds	\$50,908,000	\$11,391,000	\$6,382,000	\$4,797,000	\$4,066,000
<b>General Population - Minimum Security</b>	ECF - Housing Unit 100 Bed	\$3,505,800	\$793,000	\$441,000	\$334,000	\$283,000
	EDCF - Housing Unit 100 Bed	\$3,322,800	\$751,000	\$421,000	\$318,000	\$266,000
	NCF - East Unit Expansion 72 Beds	\$3,655,900	\$825,000	\$461,000	\$350,000	\$294,000
<b>Special Needs - Medical</b>	ECF - Century Bldg 178 Med & 112 Min Beds	\$6,936,300	\$1,559,000	\$875,000	\$660,000	\$556,000
	HCF - East Unit 258 Med Beds	\$6,136,400	\$1,381,000	\$773,000	\$582,000	\$494,000
	TCF - Housing Unit 200 Med and 40 Work Release Beds	\$12,850,500	\$2,882,000	\$1,615,000	\$1,217,000	\$1,029,000
<b>Special Needs - Mental Health</b>	LCMHF - Housing Unit 256 Med Beds	\$14,422,600	\$3,234,000	\$1,813,000	\$1,363,000	\$1,153,000
<b>Special Programs Facility - Ellsworth</b>	InnerChange Freedom Initiative 264 Beds	\$8,735,800	\$1,964,000	\$1,099,000	\$828,000	\$699,000
<b>Central Training Academy</b>	Osawatomie State Hospital - Rush Building	\$2,379,803	\$536,000	\$301,000	\$225,000	\$192,000



**SENATE BILL No. 243**

By Committee on Ways and Means

2-9

9 AN ACT concerning correctional facilities; relating to construction by  
10 private companies; amending K.S.A. 2004 Supp. 75-52,129 and re-  
11 pealing the existing section.

12  
13 *Be it enacted by the Legislature of the State of Kansas:*

14 New Section 1. This act may be referred to as the private contract  
15 prison act.

16 New Sec. 2. Definitions. As used in the private contract prison act:

17 (a) "Private contract prison" means a correctional facility situated in  
18 this state that is not owned by the state of Kansas or any subdivision  
19 thereof or by the federal government or any subdivision thereof.

20 (b) "Private owner" means any corporation, partnership, limited lia-  
21 bility company, trust, person or other legal entity that engages in, or  
22 proposes to engage in, the construction or ownership or both of a private  
23 contract prison in this state.

24 (c) "Private operator" means any corporation, partnership, limited  
25 liability company, person or other legal entity that engages in, or proposes  
26 to engage in, the operation of a private contract prison in this state.

27 (d) "Private contractor" means a private owner or a private operator  
28 or both.

29 (e) "Secretary" means the secretary of corrections.

30 (f) "Department" means the department of corrections.

31 (g) "Applicant" means a private contractor making application to the  
32 department of corrections for a license as provided by this act.

33 (h) "Licensee" means a private contractor to which a valid license has  
34 been issued by the department of corrections as provided by this act.

35 (i) "Private correctional officer" means a correctional officer as de-  
36 fined by subsection (f) of K.S.A. 75-5202, and amendments thereto, ex-  
37 cept that such officer is not an employee of the state of Kansas or any  
38 subdivision thereof.

39 (j) "Non-Kansas inmate" means any inmate in the custody of any  
40 jurisdiction other than the state of Kansas or any of its political  
41 subdivisions.

42 (k) "Kansas inmate" means any inmate in the custody of the secretary  
43 of corrections.

1 New Sec. 3. Except as authorized by K.S.A. 75-52,127 or 75-52,133,  
2 and amendments thereto, no private contractor shall authorize, construct,  
3 own or operate any private contract prison in this state for the placement  
4 or confinement of inmates unless such private contractor possesses a valid  
5 license as provided by this act.

6 New Sec. 4. The secretary is hereby authorized to license, monitor  
7 and regulate one or more private contractors meeting the requirements  
8 of this act to construct, own or operate one or more private contract  
9 prisons in this state.

10 New Sec. 5. The secretary shall not approve any application for a  
11 license pursuant to this act unless the secretary has, after due diligence,  
12 made the following findings:

13 (a) The applicant has the qualifications, experience and management  
14 personnel necessary to design, construct, own or operate a private con-  
15 tract prison in a manner that satisfies the requirements of this act;

16 (b) the applicant has the ability, if circumstances warrant, to expedite  
17 the siting, design and construction of a private contract prison;

18 (c) the applicant has the ability to comply with applicable laws, court  
19 orders and state and national correctional standards; and

20 (d) if Kansas inmates are being housed in the private contract prison,  
21 the private operator has the ability to provide correctional services to the  
22 state of Kansas at a cost that is no more than 90% of the department's  
23 average per capita operating cost for the previous fiscal year for compa-  
24 rable state correctional facilities and services.

25 New Sec. 6. Any license issued pursuant to this act shall require as  
26 conditions of such license all of the following:

27 (a) All private correctional officers employed by the licensee must be  
28 certified, at the licensee's expense, as having met the minimum qualifi-  
29 cations and training requirements established for correctional officers by  
30 the secretary and as are required of state correctional officers;

31 (b) the design for any private contract prison constructed, owned or  
32 operated by the licensee shall meet or exceed all requirements of the  
33 association responsible for adopting national correctional standards con-  
34 sistent with the American correctional association standards;

as determined by the  
secretary;

35 (c) the design for any private contract prison, including, but not lim-  
36 ited to, siting, shall meet or exceed any standard established by the Amer-  
37 ican correctional association;

secretary;

38 (d) the licensee shall at all times consult the secretary during the  
39 design and construction of the private contract prison;

40 (e) the licensee shall indemnify the state and the secretary, including  
41 their subdivisions, officials and agents, against any and all liability includ-  
42 ing, but not limited to, any civil rights claims. The secretary shall require  
43 proof of satisfactory insurance. ~~The amount of insurance shall be consis-~~

, the amount to be determined  
by the secretary;



~~tent with industry standards;~~

(f) the licensee shall seek, obtain and maintain accreditation by the American correctional association. In addition, the licensee shall comply with the association's amendments to the accreditation standards upon approval of such amendments by the secretary. The secretary shall not unreasonably withhold approval so as to facilitate compliance with required standards by the licensee;

(g) the licensee shall agree to abide by operations standards for correctional facilities, ~~as identified by the American correctional association;~~

(h) if Kansas inmates are being housed in the private contract prison, the licensee shall be responsible for the range of dental, medical and psychological services and diet, education and work programs at least equal to those services and programs provided by the secretary at comparable state correctional facilities. The work and education programs shall be designed to reduce recidivism;

(i) the secretary shall monitor all private contract prisons and the secretary and the department shall have unrestricted access to all private contract prisons for that purpose. The licensee shall bear the costs of monitoring the facility ~~through the administration of the licensing fee pursuant to section 21, and amendments thereto;~~

(j) if the department contracts to house Kansas inmates at the licensee's private contract prison, the licensee shall incarcerate all inmates assigned to the private contract prison by the department and as specified by the contract and may not reject inmates assigned to it by the department. The department shall have the right of first refusal to any space in the licensee's private contract prison, whether or not such space is occupied by non-Kansas inmates. The department may not exceed the maximum occupancy designated in the contract for the private contract prison;

(k) the licensee may not benefit financially from the labor of inmates except that inmates housed in any private contract prison operated by the licensee in this state may be given job assignments that assist in the operation and maintenance of the facility, including but not limited to janitorial or food service, or constitute work crews for the state or nearby communities if the inmates have the appropriate custody designation;

(l) if the licensee enters into a contract to house non-Kansas inmates, the licensee must require as a condition of that contract that each such inmate to be released from custody must be released in the sending state;

(m) whenever any non-Kansas inmate is proposed to be brought into this state for the purpose of being incarcerated at a private contract prison, all records regarding each such inmate, including, but not limited to, custody records, facility history records, disciplinary records and medical and mental health records, shall be reviewed by the department prior

and the National Commission on Correctional Health Care.

those associations'

adopted by the secretary;

1 to such inmate being transported into this state. The cost of such review  
2 shall be borne by the licensee through the administration of the licensing  
3 fee pursuant to section 21, and amendments thereto. The secretary shall  
4 have authority to refuse to allow any non-Kansas inmate to be transported  
5 to or incarcerated in any private contract prison;

6 (n) the licensee shall be subject to review by the legislative division  
7 of post audit; and

8 (o) any other provision the secretary considers necessary and appro-  
9 priate for carrying out the purpose of this act ~~consistent with the con-~~  
10 ~~tractual agreement with the private contractor.~~

11 New Sec. 7. No license issued pursuant to this act shall be construed  
12 as authorizing, allowing or delegating authority to the licensee to:

13 (a) With regard to Kansas inmates being housed at a private contract  
14 prison, reject any inmate appropriately classified by the Kansas custody  
15 classification system for the custody level or levels of the private facility;

16 (b) with regard to Kansas inmates who are being housed at a private  
17 contract prison, develop or adopt disciplinary rules or penalties that differ  
18 from the disciplinary rules and penalties that apply to inmates housed in  
19 correctional facilities operated by the secretary. With regard to non-Kan-  
20 sas inmates, the licensee may develop or adopt disciplinary rules or pen-  
21 alties consistent with the requirements of the sending entity provided that  
22 the secretary shall retain authority to review any such rules or penalties;

23 (c) make a final determination on a disciplinary action that affects the  
24 liberty of an inmate. The licensee may remove an inmate from the general  
25 prison population during an emergency, before final resolution of a dis-  
26 ciplinary hearing in response to an inmate's request for assigned housing  
27 in protective custody or when otherwise necessary to maintain order and  
28 security of the private contract prison;

29 (d) make a decision that affects the sentence imposed upon or the  
30 time served by an inmate, including a decision to award, deny or forfeit  
31 earned time;

32 (e) make recommendations to the Kansas parole board with respect  
33 to the denial or granting of parole or release except the licensee may  
34 submit written reports to the Kansas parole board and shall respond to  
35 any written request for information by the Kansas parole board;

36 (f) develop and implement requirements that inmates engage in any  
37 type of work not previously authorized in this act, except to the extent  
38 that those requirements are accepted by the department; and

39 (g) determine inmate eligibility for any form of release from a cor-  
40 rectional facility including any private contract prison.

41 New Sec. 8. (a) No private contract prison shall house inmates until:

42 (1) The private operator has submitted to the secretary, and the sec-  
43 retary has approved, a plan for the secretary to assume temporary control

and approve or reject

1 and operation of the private contract prison in the event the private op-  
 2 erator becomes unable to meet the requirements of this act;

3 (2) each private contractor, whether a private owner or a private op-  
 4 erator, or both, involved in the private contract prison has submitted to  
 5 the secretary, and the secretary has approved, a plan for the temporary  
 6 assumption of operations and purchase of the private contract prison by  
 7 the secretary in the event of bankruptcy or the financial insolvency of any  
 8 such private contractor; and

9 (3) the private operator has submitted to the secretary, and the sec-  
 10 retary has approved, a plan to address emergencies including, but not  
 11 limited to, inmate disturbances, employee work stoppages, employee  
 12 strikes, escapes, natural disaster threats, bomb threats, riots, hunger  
 13 strikes, taking of hostages, fires, explosions, evacuations, hazardous ma-  
 14 terial spills or other serious events. The plan shall comply with applicable  
 15 national correctional standards. The plan shall identify how the state shall  
 16 recover its costs for such assumptions of operation or other interventions  
 17 ~~and the general cost parameters.~~

18 (b) The secretary may from time to time require the private contrac-  
 19 tor to review, revise or update any plan required by this section. The  
 20 private contractor shall comply promptly with any request by the secretary  
 21 pursuant to this subsection, and failure by any private contractor to do so  
 22 within a reasonable period of time shall constitute cause for suspension  
 23 of such private contractor's license.

24 (c) Nothing in this section shall be construed to require the state to  
 25 purchase or lease any private contract prison or to assume responsibility  
 26 for the operation of any private contract prison or to assume costs asso-  
 27 ciated with events described in this section.

28 New Sec. 9. The secretary may suspend or revoke a license for cause,  
 29 including, but not limited to, failure to obtain or maintain facility accred-  
 30 itation or failure to comply with any requirement of this act, after written  
 31 notice of material deficiencies and after 60 workdays have been provided  
 32 to the contractor to submit a plan of action to correct the material  
 33 deficiencies.

34 New Sec. 10. If, as determined by the secretary, an emergency oc-  
 35 curs involving the noncompliance with or violation of the requirements  
 36 of this act and presents a serious threat to the safety, health or security  
 37 of the inmates, employees or the public, the secretary may require im-  
 38 mediate or timely corrective action or may, without prior notice, tem-  
 39 porarily assume operation and control of the private contract prison.  
 40 Nothing in this section shall be construed to require the state to assume  
 41 responsibility for the operation of private contract prisons or for costs  
 42 associated with events described in this section. If the state chooses, it  
 43 may assume responsibility upon approval by the legislature through the

The private operator shall be liable for all expenses incurred by the state and its subdivisions in responding to any emergency or serious event. The local unit of government in which the private contract prison is located shall be secondarily liable for expenses incurred by the state and its subdivision in responding to any emergency or serious event.

1 enactment of legislation.

2 New Sec. 11. If a private owner intends to sell, convey, transfer, do-  
3 nate, trade, barter or otherwise alienate title to a private contract prison,  
4 the private owner shall first give notice of such intent to the secretary.  
5 The state shall have the right of first refusal to lease or purchase such  
6 private contract prison at fair market value, although the state shall not  
7 be required to do so. Except as provided in this section, a private contract  
8 prison may be transferred only to an entity that is licensed as required by  
9 this act.

10 New Sec. 12. Each private operator shall require applicants for em-  
11 ployment at a private contract prison to submit a set of fingerprints to  
12 the Kansas bureau of investigation for a criminal background check. The  
13 Kansas bureau of investigation may accept fingerprints of individuals who  
14 apply for employment at a private contract prison and who shall be subject  
15 to background checks. For the purpose of conducting background checks,  
16 to the extent provided for by federal law, the Kansas bureau of investi-  
17 gation may exchange with the secretary criminal history records, whether  
18 state, multi-state or federal, of individuals who apply for employment at  
19 a private contract prison.

20 New Sec. 13. This act shall not apply to the contracts between cities  
21 and counties and the secretary under which the city or county agrees to  
22 house the backlog of inmates as provided by K.S.A. 75-52,128 and 75-  
23 52,129, and amendments thereto, which contracts shall be governed by  
24 such.

25 New Sec. 14. Any private operator licensed under this act shall col-  
26 lect and maintain data with respect to all Kansas and non-Kansas inmates  
27 housed by the private contractor, in a fashion compatible with Kansas  
28 department of corrections practices and procedures for inmate data col-  
29 lection and maintenance, as specified by the secretary.

30 New Sec. 15. (a) Any county that meets the requirements of this  
31 section may contract with a private contractor to develop and construct,  
32 own or operate a private contract prison in such county.

33 (b) No private contract prison shall be constructed, owned or oper-  
34 ated pursuant to this act in any county unless the county commission has  
35 received written notice of approval from the sheriff of such county and  
36 the secretary of corrections. Upon receipt of such notice, the board shall  
37 adopt a resolution placing on the ballot the question in subsection (c).  
38 No private prison shall be constructed pursuant to this section until the  
39 question has been submitted to and approved by a majority of the qual-  
40 ified voters of the county voting at an election thereon. Such election  
41 shall be called and held in the manner provided by the general bond law.

42 (c) The form of the question described in subsection (b) shall be:  
43 "Shall construction and operation of a private contract prison, pursuant

1 to the Private Contract Prison Act, be allowed in \_\_\_\_\_ County?"

2 (d) Except for land donation, no direct incentives, such as property  
3 tax abatement, industrial revenue bonds, tax increment financing or utility  
4 cost reductions, shall be offered by the county to the private contractor  
5 wishing to construct, own or operate a private contract prison in such  
6 county.

7 (e) At the discretion of the parties, the contract may allow for the  
8 leasing of the private contract prison by the private owner to the county  
9 or to the state.

10 New Sec. 16. No contract for site construction between the county  
11 and the private contractor authorized by this act shall enter into force  
12 until reviewed and approved by the attorney general, as to form and legal  
13 sufficiency.

14 New Sec. 17. A contract entered into under this act does not accord  
15 third-party beneficiary status to any inmate or to any member of the  
16 general public.

17 New Sec. 18. In the event any provision of any contract authorized  
18 by this act conflicts with any provision of any license issued pursuant to  
19 this act, the provision of the license shall supersede the provision of the  
20 contract. In the event any provision of any contract authorized by this act  
21 conflicts with any provision of this act, the provision of this act shall su-  
22 persede the provision of the contract.

23 New Sec. 19. Nothing in this act shall be construed as requiring the  
24 department of corrections to place Kansas inmates in any private facility  
25 constructed, owned or operated pursuant to this act. Placement of Kansas  
26 inmates in such private facility shall be at the discretion of the secretary  
27 based on department needs and the best interest of the state and shall  
28 only be pursuant to contract between the secretary and the private  
29 operator.

30 New Sec. 20. Not later than December 1 of each year, beginning  
31 with the 2006 fiscal year, the secretary shall submit a report to the speaker  
32 of the house of representatives and the president of the senate concerning  
33 the status of contracts in effect and licenses issued, and with respect to  
34 completed prisons, the effectiveness of each private contract prison op-  
35 erated pursuant to this act.

36 New Sec. 21. There is hereby created in the state treasury the cor-  
37 rections licensing fee fund. All moneys collected by the secretary from  
38 licensing application fees, shall be remitted to the state treasurer in ac-  
39 cordance with the provisions of K.S.A. 75-4215, and amendments thereto.  
40 Upon receipt of each such remittance, the state treasurer shall deposit  
41 the entire amount in the state treasury to the credit of the corrections  
42 licensing fee fund. All the moneys collected and deposited pursuant to  
43 this subsection shall be used solely for payment of reasonable inspection

, and the secretary, as to  
determination of the best  
interests of the state of  
Kansas. In determining  
whether to approve or  
disapprove any such contract,  
the secretary shall consider  
whether the addition of the  
proposed prison space,  
including the proposed  
custody designations for the  
proposed private contract  
prison, would be beneficial to  
the management of the state  
corrections system.

, monitoring fees, and any  
other fees authorized by the  
Act

of the costs associated with  
the implementation and  
enforcement of this Act. The  
secretary shall establish rules  
and regulations prescribing  
the fees necessary for the  
implementation and  
enforcement of this Act.

1 ~~costs associated with licensing and the costs of inmate record review pur-~~  
2 ~~suant to subsection (m) of section 6, and amendments thereto.~~

3 Sec. 22. K.S.A. 2004 Supp. 75-52,129 is hereby amended to read as  
4 follows: 75-52,129. (a) The secretary of corrections is hereby authorized  
5 to negotiate and enter into contracts with Kansas cities and counties for  
6 the placement of inmates, who are classified as medium custody or any  
7 higher custody or security classification, in facilities owned and operated  
8 by the cities and counties. If the secretary of corrections proposes to place  
9 any inmates classified as medium custody or any higher custody classifi-  
10 cation for confinement in facilities other than correctional or other insti-  
11 tutions or facilities owned and operated by the department of corrections  
12 or any other state agency, the secretary of corrections shall give first con-  
13 sideration to entering into contracts with Kansas cities and counties under  
14 this section before attempting to place any such inmate for confinement  
15 at any *private contract prison, as defined in section 2, and amendments*  
16 *thereto, or any* location outside the state of Kansas if the facilities to be  
17 provided under such contracts are substantially equal to *private contract*  
18 *prisons or facilities* at locations outside the state of Kansas and if arrange-  
19 ments can be made in a timely manner. Except as provided in subsection  
20 (b), the provisions of this section and any contract or preliminary letter  
21 of commitment entered into pursuant to this section shall not apply to  
22 any minimum custody or community custody status inmates, or any other  
23 custody or security classification lower than medium custody, or to any  
24 inmate who may be placed in a work release or prerelease program, cen-  
25 ter or facility by the secretary of corrections, who is eligible for parole or  
26 who is placed pursuant to the interstate corrections compact. Contracts  
27 entered into pursuant to this section shall not be subject to competitive  
28 bid requirements under K.S.A. 75-3739 and amendments thereto.

29 (b) The secretary shall not enter into any contract as provided in  
30 subsection (a) with any city or county of this state for the placement of  
31 inmates that does not provide that such city or county shall provide and  
32 maintain appropriate and recognized standards of safety, health and  
33 security.

34 Sec. 23. K.S.A. 2004 Supp. 75-52,129 is hereby repealed.

35 Sec. 24. This act shall take effect and be in force from and after its  
36 publication in the statute book.