

## MINUTES OF THE HOUSE APPROPRIATIONS COMMITTEE

The meeting was called to order by Chair Sharon Schwartz at 9:00 A.M. on January 24, 2008, in Room 514-S of the Capitol.

All members were present except:

- Representative Masterson - excused.
- Representative Yoder - excused.

Committee staff present:

- Alan Conroy, Legislative Research Department
- J. G. Scott, Legislative Research Department
- Reed Holwegner, Legislative Research Department
- Cody Gorges, Legislative Research Department
- Julian Efird, Legislative Research Department
- Audrey Dunkel, Legislative Research Department
- Jim Wilson, Revisor of Statutes
- Nobuko Folmsbee, Revisor of Statutes
- Nikki Feuerborn, Chief of Staff
- Shirley Jepson, Committee Assistant

Conferees appearing before the committee:

- Representative Kenny Wilk
- Diane Duffey, Vice-President, Board of Regents
- Steve Martino, Executive Director, Racing and Gaming Commission

Others attending:

See attached list.

- Attachment 1      Expansion of Public-Private Partnership by Representative Wilk
- Attachment 2      Update on Deferred Maintenance
- Attachment 3      Overview of Racing and Gaming Commission

### **University Foundations - Expanded Public Private Partnership**

Representative Kenny Wilk presented an overview of a proposal for expansion of the partnership between the Board of Regent universities' Foundations and the Kansas Pooled Money Investment Board (PMIB) whereby the Foundation would invest funds from the Pooled Money Investment Fund (PMIF), including state funds, tuition and research/grants ([Attachment 1](#)). The approach is proposed because of the rate of return realized by the Foundations on their investments as opposed to the rate of return realized by PMIB. For the period June 2007 through December 2007, the rate of return realized by PMIB was 5.27 per cent. The rate of return for this same period of time by the universities Foundation's asset allocation produced a return of approximately 9 per cent.

Representative Wilk stated that if such a proposal moves forward, negotiations would need to take place between the State and the Regent universities to address all aspects of the partnership. It is proposed, to guard against the potential loss of principal, that legislation could address the establishment of a reserve account for the protection of the principal. In addition, incentives and rewards could be put in place for the universities who choose to partner. Representative Wilk felt that this concept is an opportunity to offer an advantage for both the universities and the State.

Responding to questions from the Committee, Representative Wilk indicated that involvement by the universities:

- Should not be mandated but rather offer the universities to "opt-in";
- Funds should be invested in a conservative portfolio;
- Average earnings that would have been realized from investment of PMIF, would be returned to that fund;
- A need to address tax credits;
- There would be no fiscal note to the State.

## CONTINUATION SHEET

MINUTES OF THE House Appropriations Committee at 9:00 A.M. on January 24, 2008, in Room 514-S of the Capitol.

The Committee voiced a concern with regard to the open meetings law in reference to the Foundations' meetings and requested that Jim Wilson, Revisor of Statutes, review the statutes.

### Update on Deferred Maintenance

Diane Duffy, Vice-President, Board of Regents, presented an update on deferred maintenance at the Regent universities, as well as the implementation of **Substitute for HB 2237**, enacted during the 2007 Legislative Session, which provided \$90 million in direct state funding over a period of 5 years to address the deferred maintenance issue at the state universities (Attachment 2).

Ms. Duffy stated that the Board of Regents has approved 5-year maintenance project plans for each of the state universities with the allocated funding. In addition, steps have also been taken to implement the bond program as authorized by the legislation for Washburn University, the 19 community colleges, and the 5 technical colleges. Ms. Duffy noted that a disadvantage of the bond program for the smaller community and technical colleges, is that the date of maturity on the bonds which may not exceed 8 years. This is a cause for concern and the Board of Regents may recommend moving to a 20-year payback schedule.

### Racing and Gaming Commission

Steve Martino, Executive Director, Racing and Gaming Commission, presented an overview of the Racing and Gaming Commission and implementation of **SB 66** (Attachment 3). Mr. Martino noted that security staff will be increased to provide 24-hour law enforcement at gaming facilities with costs to be reimbursed by each facility. Mr. Martino stated that permanent rules and regulations for the gaming facilities are in the process of being developed. In addition to approval by the Racing and Gaming Commission, the regulations will be reviewed and approved by the Department of Administration, Attorney General, and the Legislative Rules and Regulations Committee.

In response to a question from the Committee regarding approval of the rules and regulations, Jim Wilson, Revisor of Statutes, stated that law enacted by the Legislature provides for the authority of the Rules and Regulations Committee to make recommendations on subjects brought before them. The Legislature or a legislator may attempt to change the rules and regulations either by introducing legislation or through a court of law. Mr. Martino noted that the Racing and Gaming Commission holds a public hearing where individuals may present recommendations and opinions regarding the proposed rules and regulations.

With regard to the 5-year restrictive covenant as part of the Code of Conduct, Mr. Martino indicated that he thought a violation would be difficult to enforce in a court of law. However, the Commission felt it was important to include the language and would hope that it would be adhered to by former commission members, employees, or agents.

In response to a question with reference to the Woodland facility, Mr. Martino stated that the facility plans to renovate a portion of the present facility to house the gaming section with the intent of building a permanent facility in the future that would house both the racing and gaming functions. At this time, no gaming contract has been signed for either the Woodland or Camptown facilities with the Racing and Gaming Commission.

The meeting was adjourned at 10:35. The next meeting of the Committee will be held on January 29, 2008.

  
Sharon Schwartz, Chair

**House Appropriations Committee**  
**January 24, 2008**  
**9:00 A.M.**

NAME	REPRESENTING
Rep Seiber	Hon Law Firm
Liz May	LITTLE GOD RELATIONS
Gene Wynn	Ruffin Center
Cynthia Enright	
MARK BORAN '94	CAPITOL STRATEGIES
JW/K	NAB
HOWARD SMITH	PITTSBURG STATE UNIVERSITY
SUE PETERSON	IC STATE
Todd Powell	FORT ALYS STATE
Brad Smoot	KUSA
Mark Desetti	KNEA

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**UNIVERSITY FOUNDATIONS  
EXPANDED PUBLIC PRIVATE PARTNERSHIP**

**Testimony to House Appropriations  
January 24, 2008**

**Introduction:**

**University Foundations/Endowments Statutorily Recognized 1969**

**Tremendous Success Story for the Universities and Kansas**

**Founding of a productive Public Private Partnership (PPP)**

**Last 35 years the Foundations have a "Proven Performance" record**

**Time to discuss a possible expansion of the relationship...**

**Expansion of Public Private Partnership:**

Regent university funds are currently invested through the Kansas Pooled Money Investment Board (PMIB) in the Pooled Money Investment Fund (PMIF). This includes state funds, tuition, and research/grants. From June 2007 through December 2007, the Regent universities had an average balance in the PMIF of **\$296,717,818**. The average rate of return on the PMIF during this time frame was 5.27%. The average annualized earnings on the average PMIF balance are approximately **\$15,637,028**.

The conservative component of one our university Foundation's asset allocation produced a return of approximately 9%. If the Foundation would have been willing to invest the PMIF funds in the conservative component of its asset allocation at 9%, the annualized earnings would be **\$28,121,676**. The annual difference in earnings would be **\$12,484,642**.

A concern may be raised regarding the potential loss of principal if the foundations and endowments invest the PMIF balance. The conservative component of the asset allocation offers a great deal of liquidity and the flexibility necessary to move assets quickly if ever there was the danger of a loss of principal. Reserves should be required to provide an additional cushion against the loss of principal. If the Foundations and endowments would like to partner we should negotiate a guarantee against the potential loss of principal.

There are details to study, understand and work out. I believe our University Foundations are a tremendous asset and a natural extension for us to work with to better manage and leverage cash for the benefit of the universities and the state of Kansas.

I would suggest if we want to move forward with the concept there should be incentives and rewards built-in for the universities that choose to partner. From the state side of the equation I think it would be reasonable to request that the SGF receive the average return of the PMIF. Any remaining balances should remain with the respective institutions. How those funds might be expended should be negotiated. I would offer one possible alternative that would serve the universities and the state.

The Kansas Legislature enacted legislation during the 2007 legislative session that provides an infrastructure funding mechanism for Kansas colleges and universities known as Substitute for Senate Substitute for House Bill No. 2237. The legislation targets the maintenance and repair of facilities utilizing a tax credit that can be applied for by individuals and corporations as an offset against direct state general fund appropriations. A total of approximately \$90 million has been authorized beginning in 2008 and ending in 2012.

This legislation is a good step toward a long-term solution for arresting and reversing the deterioration of the physical assets of Kansas colleges and universities. This past fall some issues were raised regarding the potential effectiveness of the legislation. Below are some points that should be reviewed, clarified and/or possibly modified to deliver the desired results.

Individual donors generally aren't interested in contributing to pipes, wires, boilers and other unglamorous infrastructure. They want to contribute to scholarship programs, faculty chairs and other higher profile initiatives. And they perceive that it is the state's responsibility to provide the funds necessary to maintain a university's infrastructure.

Corporate donors also feel the same way. Corporate foundations make contribution decisions based upon mission-driven parameters that do not include infrastructure expenditures.

Corporate tax departments make contribution decisions on a business basis. If their donations produce a competitive financial return or are no worse than cost neutral, they may be inclined to participate.

The Kansas university/college infrastructure program provides a tax credit of 50% for donations made to universities and 60% for donations made to community and technical colleges.

The statute does not appear to provide a tax credit for technology donations at Kansas universities

– only when given to community and technical colleges.

Several steps could be taken to ensure the viability and success of this program. In its current state it appears there could be significant challenges to convincing individual donors to make donations for infrastructure purposes. It will be even more challenging to show corporate donors how it is in their best interest to make such donations. In passing this statute the Legislature intended to leverage private donations to be paired with public dollars to fund the infrastructure needs of the state institutions for higher learning. For community and technical colleges, approximately **\$28,124,000** is allocated for tax credits over five years. An amount of approximately **\$18,750,000** is anticipated to be contributed by private donors for a total amount of approximately **\$46,875,000**.

For universities, approximately **\$61,875,000** is allocated for tax credits over five years. A like amount is anticipated to be contributed by private donors for a total amount of approximately **\$123,750,000** to fund infrastructure on university campuses including the following institutions:

- ▶ University of Kansas
- ▶ University of Kansas Medical Center
- ▶ Kansas State University
- ▶ Wichita State University
- ▶ Emporia State University
- ▶ Pittsburg State University
- ▶ Fort Hays State University
- ▶ Washburn University

If we do encounter challenges marketing these tax credits, we could allow an increased credit with the understanding that the interest spread would be used to fund the difference. I believe it is imperative that the tax credit program work for the deferred maintenance program. Again, if we choose to creatively partner with the foundations/endowments I believe we can ensure the programs success. The details and specifics would need to be work-out but I believe we can find a win-win for all involved parties.

The extra funds generated would have a long list of requests. If we pursue this concept it should be done in a true partnership fashion working with the foundations and regents to ensure a positive result for all.

This past fall at the CSG (Council of State Governments) national convention there were several speakers strongly encouraging developing and expanding public, private partnership. The innovative states are aggressively pursuing these relationships in a variety of ways. We are fortunate in that we do not have to create a relationship for this concept but merely positively expand an existing partnership. Public private partnerships are a unique American entity. This concept with the university foundations is an opportunity to offer a small additional advantage in the every expanding global competitive environment.

**PMIP/MIP AVERAGES FY 00-FY 07**

7-4-1

	PMIP Avg. Balance	MIP Avg. Balance	Total PMIP	Regents Avgerages
FY 00	\$ 1,357,082,458	\$ 421,454,550	\$ 1,778,537,008	
FY 01	\$ 1,161,364,215	\$ 458,991,971	\$ 1,620,356,186	
FY 02	\$ 1,020,311,793	\$ 478,322,303	\$ 1,498,634,096	
FY 03	\$ 896,323,581	\$ 380,307,057	\$ 1,276,630,638	
FY 04	\$ 1,064,141,389	\$ 382,983,701	\$ 1,447,125,090	
FY 05	\$ 1,140,129,185	\$ 461,514,053	\$ 1,601,643,238	
FY 06	\$ 1,439,604,618	\$ 585,410,695	\$ 2,025,015,313	
FY 07	\$ 1,742,465,233	\$ 765,769,622	\$ 2,508,234,855	
FY 08	\$ 2,052,289,638	\$ 794,545,958	\$ 2,846,835,596	\$ 296,717,818
(6/07 Thru 12/07)				

**76-156a. Investing agents for state educational institutions.** The Kansas university endowment association is hereby authorized to act as the investing agent for any endowment or bequest to the university of Kansas. The Kansas state university foundation is hereby authorized to act as the investing agent for any endowment or bequest to Kansas state university of agriculture and applied science or to Kansas state university—Salina, college of technology. The Wichita state university foundation is hereby authorized to act as the investing agent for any endowment or bequest to Wichita state university. The Fort Hays Kansas state university endowment association is hereby authorized to act as the investing agent for any endowment or bequest to Fort Hays state university. The Emporia state university foundation, inc., is hereby authorized to act as the investing agent for any endowment or bequest to Emporia state university. The Pittsburg state university foundation, inc., is hereby authorized to act as the investing agent for any endowment or bequest to Pittsburg state university.

Any such investing agent may exercise such fiscal management and administrative powers as may be necessary or appropriate for the lawful and efficient management of any such endowment or bequest. Each investing agent is hereby authorized to execute any agreements or other legal papers appropriate to the accomplishment of the purposes of this act with respect to any such endowment or bequest.

**History:** L. 1969, ch. 413, § 1; L. 1976, ch. 105, § 1; L. 1977, ch. 237, § 12; L. 1980, ch. 295, § 1; L. 1988, ch. 297, § 16; L. 1989, ch. 281, § 1; L. 1991, ch. 272, § 15; L. 1992, ch. 16, § 1; L. 2001, ch. 2, § 2; July 1.





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## House Appropriations Committee January 24, 2008

### *Deferred Maintenance Update*

**Diane Duffy**  
**Vice President for Finance & Administration**

Chairwoman Schwartz, Ranking Member Feuerborn, and members of the Committee, thank you for the opportunity to appear before you this morning. I would like to update you on the implementation of Senate Substitute for House Bill 2237 (2007 Session), and provide you with an overview of the second quarterly report for FY 2008, which details the expenditure of the direct state funds/university interest earnings portion of this legislation.

The 2007 Legislature enacted legislation creating the Postsecondary Educational Institution Long-Term Infrastructure Maintenance Program as well as several important financing components that will be implemented over the next five years. These components include: (1) direct state funds of \$90 million and \$44 million in interest earnings from university funds to begin to address the documented \$663 million backlog of deferred maintenance projects at the state universities; (2) \$100 million in interest-free bonding authority available to Washburn University, the 19 community colleges, and five technical colleges to be used for infrastructure improvement projects; and (3) state-funded tax credits intended to generate up to \$158 million in private contributions to the state's six universities, Washburn University, the 19 community colleges, and five technical colleges.

For the state's six universities alone, the five-year maintenance plan will provide \$90 million in direct state funding, approximately \$44 million in retained interest earnings, and up to \$118 million in private contributions generated by state-funded tax credits. If these separate funding mechanisms are fully realized, this legislation will allow the state universities to address approximately 38% of the documented maintenance backlog that currently exists on those campuses.

As you may know, the Governor included \$15 million for state university deferred maintenance in her FY 2009 budget recommendations. In addition, at the Board's request, HB 2610 was introduced and it would further address the deferred maintenance backlog by completely freeing-up the use of the Educational Building Fund (\$15 million/year for five years).

**HOUSE APPROPRIATIONS**

DATE 1-24-2008  
ATTACHMENT 2

## 1) Direct State Funds/University Interest Earnings Portion of the Legislation

In June, the Board of Regents formally approved five-year maintenance project plans for each of the state universities. In August, the Legislature's Joint Committee on State Building Construction formally passed out the first year of these state university maintenance projects as "reviewed favorably." The Committee's formal review allowed the state universities to begin work on their campuses. I especially would like to thank Representatives Feuerborn and Pottorff, members of this Committee who also serve on the Building Committee, for their commitment and oversight this past interim and for their insight and assistance in helping us to get this important maintenance program up and running.

The amount of state university maintenance funding (tax credits excluded) made available through the legislation and the number of projects initiated in the first year of the five-year maintenance plan are as follows:

Year 1 (FY 2008):	<u>Projects</u>	<u>Funding</u>
Emporia State University	7	\$2,461,000
Fort Hays State University	7	\$2,668,000
Kansas State University	6	\$12,566,500
Pittsburg State University	5	\$2,820,000
University of Kansas	3	\$9,951,000
University of Kansas Medical Center	9	\$3,634,500
Wichita State University	13	\$4,254,000
TOTAL:	50	\$38,355,000

The attached quarterly report, which is required by the legislation, covers the second quarter of FY 2008, ending December 31, 2007. As of the end of the quarter, the state universities have actual expenditures of \$782,567. The expenditure report includes only FY 2008 funds available through direct state funds (\$30,000,000) and through interest earnings from university funds (\$8,355,000).

The following is an abbreviated narrative update on the progress being made by the state universities. Additional expenditure details can be found in the spreadsheets attached for your review (Attachment A).

### Emporia State University:

1. Physical Education Building Roof Replacement - Project is under contract and is under construction. The contract bid was \$990,900. Work will proceed as weather permits. Estimated completion is May 2008.
2. WAW Library HVAC Repairs/Replacement - Contracts have been approved for Consultant fees with Brack & Associates (Topeka, Ks.). Preliminary and final planning to be completed by May 2008. Construction will commence upon the completion of the planning phase.

3. WAW Library Electrical Repairs/Replacement - Contracts have been approved for Consultant fees with Brack & Associates (Topeka, Ks.). Preliminary and final planning to be completed by May 2008. Construction will commence upon the completion of the planning phase.
4. Utility Tunnels Repairs - Asbestos removal and re-insulation contracts (\$263,057) have been signed and replacement valves have been purchased. Work has started with valve replacements and asbestos abatement will start immediately after the steam has been shut off after the heating season. Additional tunnel work will be started upon the completion of the asbestos and re-insulation work.
5. Roosevelt Hall Foundation Stabilization - B&G Consultants have been selected to provide engineering consultant services. A fee proposal is being developed. Asbestos removal and re-insulation contracts (\$76,705) in the crawl spaces have been signed. Asbestos removal and re-insulation will begin March 2008 and be completed May 2008. Preliminary and final planning to begin May 2008 and be completed by August 2008.
6. Roosevelt Hall HVAC Replacement - Project for the replacement of existing roof top units has been bid. It was awarded (\$135,984). Construction will commence immediately after the execution of the contract and will continue, as weather permits, until it is completed. Estimated completion is May 2008.
7. Roosevelt Hall Plumbing Replacement - Specifications are being prepared for the repairs and/or replacement of the hot/cold water main supply lines and the main sewer line from the building to the city sewer main. Work cannot proceed until access to the crawl space is permitted after the removal of the existing asbestos insulation. Work is expected to be completed by March 2008. Work on the supply water mains is expected to start June 2008 and be completed by September 2008.

Fort Hays State University:

1. Picken Hall Improvements are now in the schematic design phase.
2. On-call consultants are currently working on construction documents for the Utility Tunnel Replacement and the Service Building masonry restoration project.
3. The Sheridan Hall re-roof project has been bid and will commence when weather permits.

Kansas State University:

1. Utilities Infrastructure and Power Plant Improvements - Replacement of campus steam line design and construction documents are being prepared and are currently about 5% complete. Boiler replacement in Power Plant construction documents are 40% complete. Repair and replace antiquated 4160 volt electrical system has been advertised and engineer interviews is scheduled on January 23, 2008 to design and prepare bid documents for this project.

2. Renovate Academic and Academic Support Space in Old Memorial Stadium - Master planning to schedule the sequence of repair and replacement of different components of building is 20% complete.
3. Leasure Hall Renovation - On call architect has completed the plans to replace the old residential elevator in Leasure Hall with a code compliant commercial unit. The project bids February 12.
4. Willard Hall - On call architect is 90% complete with plans to repair and replace exterior stone walls. Plans are being prepared in-house to waterproof the lower level at the north and northwest side of the building. This work effort is 60% complete. A preliminary mechanical, electrical and plumbing replacement study has been completed by on-call engineers. Advertising for engineering selection process will begin in February. Demolition and removal of broken coolers and asbestos abatement is in progress with in-house labor. Plans are being prepared by on-call architects to correct life safety and ADA concerns in the building. This work is 80% complete. Plans are being prepared by an on-call architect to correct mechanical and electrical deficiencies in the basement areas.
5. Seaton Court - On-call architects are working on preliminary design to prepare cost estimate for phased roof replacement.
6. Roofs and Other Projects - McCain Hall low roof replacement is completed. Calvin Hall re-roof project will bid on January 15, 2008.

Pittsburg State University:

1. Anderson MacAdam Architects were selected for design and construction administration services for the McCray Hall Renovation Project. Existing conditions and field investigation has been completed and the design process has begun.
2. Utilizing on-call architecture/engineer contracts, work has begun on the campus electrical switchgear replacements in Heckert-Wells Hall and Weede Hall. On site field investigation has been completed and the design is in process. Construction documents for the Axe Library masonry restoration is complete and in final review before going out for bid. It is anticipated that bids will be received by the end of February or early March. Design services for the campus steam line replacement project will be contracted as soon as the interest money has accrued.
3. Russ Hall façade restoration work has begun. Atkins Weatherproofing was awarded a contract and has mobilized the site and begun removing damaged terra cotta pieces and sand blasting the metal flashings. Weather has been a factor for the tuck pointing scope of work but to date there has not been a request for a time extension. Contract completion date is April 10, 2008.

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The University of Kansas:

1. The Utility Tunnel Improvements project is in design. The project will be released for bidding in late February with construction anticipated to start as early as April 2008.
2. Wescoe Hall Improvements - Design is complete and contracts for construction are in process. Construction is anticipated to start by mid to late January 2008. Completion of first floor work is scheduled for August 2008 and the work on 2nd and 3rd floors are scheduled to complete by January 2009.
3. Haworth Hall Improvements - Purchase and design of the fume hoods is complete. Installations of the fume hoods are expected to start in March 2008. FY 2008 Deferred Maintenance funding is adequate to fund the fume hood replacements and start design of the HVAC system improvements. The University will release the project for advertisement for design services in January 2008.
4. Regarding energy conservation improvements, request for pre-audit has been released to five firms. Assuming there are energy savings projects that qualify for the FCIP program, final selection of the firm to provide energy performance contract is expected by March 2008.

The University of Kansas Medical Center:

1. Initiated a 5-year contract for exterior masonry restoration. Wall restoration work on Dykes Library is planned to commence this spring.
2. Cleaned and sanitized sound attenuators and supply-air chambers on Lied research building air-handling units.
3. The Wahl Hall East air-handling unit that serves one of the largest lecture rooms on campus was replaced during the Christmas break.
4. Black & Veatch Engineers was retained to perform engineering services for the Applegate Energy Center & utility distribution system project. B&V completed the first phase of work to analyze and recommend a prioritized list of projects based upon risk reduction and energy savings that fit within the annual funding allocation.

Wichita State University:

1. Duerksen Fine Arts Center - Study of HVAC system replacement/program statement completed and selection of consultant will occur on February 5. On-call services have been initiated for replacement of existing storefronts, upgrades to existing electrical service, and demolition of obsolete boilers, including associated required abatement of asbestos.
2. Engineering Building - On-call services have been initiated for replacement of the HVAC system.

3. Grace Wilkie Hall - On-call services have been initiated for study of the HVAC system replacement and preparation of needed program statement.
4. Visual Communications Building - On-call services have been initiated for preparation of construction documents for upgrade of existing electrical service.
5. Wallace Hall - On-call services have been initiated for preparation of construction documents for upgrade of existing electrical service. The university is preparing specifications for replacement and upgrade of building elevator components.
6. Ahlberg Hall - On-call services have been initiated for preparation of construction documents for upgrade of existing electrical service. The university is preparing specifications for replacement and upgrade of building elevator components.
7. McKnight Art Center - The university is preparing specifications for replacement and upgrade of building elevator components and HVAC building controls.
8. Central Energy Plant - On-call services have been initiated for preparation of construction documents involving upgrade of electrical service and replacement of the motor control center.
9. Lindquist Hall - The university is preparing specifications for replacement and upgrade of building elevator components.
10. Jardine Hall - The university is preparing specifications for replacement and upgrade of building elevator components.
11. Campus Infrastructure - On-call services have been initiated for preparation of construction documents for expanded and improved fire flow and fire hydrant coverage and also for preparation of construction documents for waterproofing a segment of utility tunnel in the vicinity of the Engineering Building and Ahlberg Hall.
12. Heskett Center - The university is preparing specifications for the replacement of HVAC building controls.
13. National Institute for Aviation Research (NIAR) - The university has completed the preparation of specifications for replacement of HVAC building controls. The project has been bid and work should begin in mid to late January, 2008.

## 2) Bond Portion of the Legislation

The legislation authorized \$100 million in bonds (\$20 million each fiscal year) beginning in FY 2008. The bonds are to be requested by the Board of Regents from the Kansas Development Finance Authority for Washburn University, the 19 community colleges, and the five technical colleges. The principal and interest for the bonds will be paid from the State General Fund, with the institutions reimbursing the State General Fund for the principal portion of the payments each year. The date of maturity on the bonds may not exceed eight years from the date of issuance. The Board is authorized to enter into loan agreements with the eligible institutions to provide for payment of principal on the bonds. When approving applications for financing under the program, the Board shall take into consideration the need for the project and the financial ability of the institution to meet its obligation if the application is approved. The capacity to repay the bonds will be further reviewed by KDFFA. The Board is required to provide an annual report to the Legislature disclosing the aggregate amount of bonds issued, the amount of the bonds issued at the request of each postsecondary educational institution and an overview of the projects financed by such bonds.

**Projects Eligible for Financing:** As defined in the legislation, “project” or “infrastructure project” means the maintenance, repair, reconstruction, remodeling or rehabilitation of a building located at a postsecondary education institution, any additions to a building, any utility system and other infrastructure relating to such a building, any life-safety upgrades to such building, any improvements necessary to be made to such building in order to comply with the requirements of the Americans with Disabilities Act or other federal or state law.

“Infrastructure improvement project” shall not mean:

- (A) the new construction of buildings;
- (B) the maintenance, repair, reconstruction or rehabilitation of any building used as an athletic facility that does not directly support the delivery of academic pursuits; or
- (C) the maintenance, repair, reconstruction or rehabilitation of the residence of the president or chief executive officer of a postsecondary educational institution.

The following steps have been taken to implement the bond program:

- July, the Kansas Development Finance Authority prepared a summary of the bond provisions of the legislation and shared it with all eligible institutions.
- July 25, 2007, Board staff and KDFFA convened a meeting of all 25 eligible institutions to discuss the program and gather input about the implementation. The decision was made for Board staff and KDFFA to initiate a survey to gauge demand for the program and gather preliminary information.
- Board staff and KDFFA developed and distributed a survey to all eligible institutions for completion. The purpose of the survey was to gather data from the eligible institutions to get a sense of the demand for the loan program in its current form and to also gather information about the demand implications of expanding the 8-year amortization to a longer duration. The survey results included 470 projects identified by 22 institutions.

No attempt was made to screen the identified projects and their associated descriptions for compliance with the statutory authorization.

- Board staff and KDFA developed a loan application. The Year One application was sent to all eligible institutions. The on-line loan application deadline was December 21, 2007. Board staff and KDFA responded to written questions and requests for clarification from institutions and posted the responses to the web site.
- An independent review committee was formed to review applications in accordance with statutory criteria and to rate projects in accordance to "need" as directed in the statute.
- Review team sought additional information and answers to questions from individual institutions that submitted applications.
- The Board of Regents approved the \$20 million in loan applications from 13 institutions at their meeting on January 16, 2008 (Attachment B).

The general time frame for the Year 1 issuance is as follows:

Application Deadline	December 21, 2007
Loan Review	December 21, 2007- January 11, 2008
Loans Approved by KBOR for Inclusion in Loan Portfolio (Funds will be available once a final loan agreement is signed and the associated bond transaction has closed.)	January 16, 2008
KDFA Initiates Rating Call	January 29, 2008-February1, 2008
Approved by KDFA Board of Directors	February 7, 2008
Bond Pricing	First week of March, 2008
Funds Available	March 18, 2008 (estimated date, assuming no delays in bond transactions, etc.)

### 3) Tax Credit Portion of the Legislation

The tax credit provisions establish a new tax credit based on a percentage of a taxpayer's contribution made on or after July 1, 2008, to a community college for capital improvements (60% of the contribution), a technical college for deferred maintenance or purchases of technology or equipment (60% of the contribution) or universities for deferred maintenance (50% of the contribution). The credit, effective for tax years 2008 through 2012, is applicable to



corporate and individual income tax, insurance premiums tax, and financial institutions privilege tax. The credits would sunset after tax year 2012. The credit on a contribution to a community or technical college is refundable, if in excess of income tax liability. The university credits would be non-refundable but could be carried forward for up to three years. All credits would be transferable to other taxpayers if originally claimed by not-for-profit entities. The credit process would be developed and implemented for all institutions in a manner designed to assure that qualifying contributions also would qualify for federal and state income tax deductions.

According to the legislation's fiscal note, the tax credits would be expected to generate the following amounts of contribution (in millions) for each sector of postsecondary education, assuming contributions would be received to fully utilize the tax credits.

Fiscal Year	Total	State Universities Washburn University	Community/Technical Colleges
2009	\$14.375	\$11.250	\$3.125
2010	27.750	22.500	6.250
2011	38.333	30.000	8.333
2012	38.333	30.000	8.333
2013	38.333	30.000	8.333
Total	\$158.125	\$123.750	\$34.375

Assuming that contributions will be received to fully utilize the maximum amount of tax credits, the fiscal impact of the credits to the State General Fund (in millions) will be as follows.

Fiscal Year	Total	State Universities Washburn University	Community/Technical Colleges
2009	\$(7.500)	\$(5.625)	\$(1.875)
2010	(15.000)	(11.250)	(3.750)
2011	(20.000)	(15.000)	(5.000)
2012	(20.000)	(15.000)	(5.000)
2013	(20.000)	(15.000)	(5.000)
Total	\$(82.500)	\$(61.875)	\$(20.625)

The allotment of the tax credits in the legislation is handled differently for state universities and Washburn than community and technical colleges. The legislation specifies that for tax year 2008, each community and technical college is allotted \$78,125 in tax credits. For tax year 2009, this amount increases to \$156,250 and for tax years 2010 through 2012, further increases to \$208,233. Assuming that all tax credits are utilized, each of the 24 institutions will generate private contributions for projects of \$130,308 in tax year 2008, \$260,416 in tax year 2009, and \$347,208 for tax years 2010 through 2012.

For the state universities and Washburn University, a total of \$5,625,000 in tax credits will be divided between the 7 institutions for tax year 2008. This total amount increases to \$11,250,000 for tax year 2009, and further increases to \$15,000,000 for tax years 2010 through 2012. The legislation stipulates that the Board of Regents, in consultation with the Secretary of Revenue

and university foundation or endowment associations for each institution, will make the allotment of tax credits in advance of any credit issuance each year, with not more than 40 percent of the total credits being allotted to any one institution, unless all institutions are in agreement.

The following steps have been taken to prepare for the July 1, 2008, date when taxpayers can make contributions:

- May 21, 2007, the Department of Revenue sent all eligible institutions a summary of the tax credit provisions of the legislation along with a Q & A fact sheet.
- July 25, 2007, the Department of Revenue convened a meeting inviting the participation of all 31 postsecondary institutions to discuss the legislation and gather input on the drafting of the program's regulations. The Department of Revenue's draft regulations are moving through the review process.
- July 25, 2007, representatives from the universities and the Board office met with Secretary Wagon to agree upon a methodology for the tax credit allotment. Based upon the language and intent of the statute, it was determined that the allocation take into consideration the square footage, age, and complexity of the buildings and infrastructure at each state educational institutions. This is known as the "adjusted square footage." The percentage of the adjusted square footage each institution represents of the total will be applied to the total available project funds from private sources resulting from the tax credits.
- October 24, 2007, President Robinson provided a written update on the implementation to Representatives Schwartz (Chair, House Appropriations) and Wilk (Chair, House Taxation), including proposed allotment of tax credits. President Robinson also briefed the Joint Committee on State Building Construction and Legislative Budget Committee on the proposed allotment.
- December 20, 2007 board meeting, the Council of Presidents endorsed the COBO recommendation that the CY 2008 tax credit efforts be focused on projects identified in the \$200 million list approved last February.
- The Board of Regents approved the following university allocations for CY 2008 at their meeting on January 16, 2008:

University of Kansas	\$1,540,566
University of Kansas – Medical Center	588,471
Kansas State University	1,624,381
Wichita State University	553,879
Emporia State University	324,481
Pittsburg State University	370,910
Fort Hays State University	371,220
Washburn University	251,092
<b>TOTAL</b>	<b>\$5,625,000</b>

Thank you for your time this morning. I would be pleased to respond to any questions that you may have.

Attachment A  
**Kansas Board of Regents**  
**University Deferred Maintenance Quarterly Report**  
**Summary of Project Status, Quarter Ending December 31, 2007**

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University	FY 2008 Approved Budget		Actual Expenditures			
	IMP	UI	Current Quarter		Total to Date	
			IMP	UI	IMP	UI
University of Kansas	\$8,601,000	\$1,350,000	\$202,726	\$0	\$202,726	\$58,952
University of Kansas Medical Center	\$3,285,000	\$349,500	\$0	\$29,967	\$0	\$29,967
Kansas State University	\$9,066,000	\$3,500,500	\$65,555	\$358,783	\$70,925	\$385,121
Wichita State University	\$3,093,000	\$1,161,000	\$0	\$4,375	\$0	\$4,375
Emporia State University	\$1,812,000	\$649,000	\$96	\$0	\$96	\$0
Pittsburg State University	\$2,070,000	\$750,000	\$0	\$0	\$0	\$0
Fort Hays State University	\$2,073,000	\$595,000	\$0	\$30,044	\$0	\$30,406
<b>Total</b>	<b>\$30,000,000</b>	<b>\$8,355,000</b>	<b>\$268,377</b>	<b>\$423,168</b>	<b>\$273,747</b>	<b>\$508,820</b>

**Kansas Board of Regents  
Deferred Maintenance Quarterly Reporting Form**

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University of Kansas

For the Quarter Ending: December 31, 2007

Project/Building Name*	Original Budget			Revised Budget			FY 2008 Approved Budget		Actual Expenditures				Project Status	
	Total	IMP	UI	IMP	UI	Date Approved	IMP	UI	Current Quarter		Total to Date		Projected	
									IMP	UI	IMP	UI	Completion mm/yy	% Complete
Utility Tunnel Improvements	\$8,800,000	\$8,800,000					\$6,000,000		\$5,622		\$5,622		12/09	6%
Wescoe Hall	\$4,910,000	\$3,560,000	\$1,350,000				\$1,961,000	\$1,350,000	\$197,104		\$197,104	\$58,952	01/09	15%
Haworth Hall	\$2,600,000	\$2,600,000					\$640,000						11/09	5%
<b>Total</b>	<b>\$16,310,000</b>	<b>\$14,960,000</b>	<b>\$1,350,000</b>	<b>\$0</b>	<b>\$0</b>		<b>\$8,601,000</b>	<b>\$1,350,000</b>	<b>\$202,726</b>	<b>\$0</b>	<b>\$202,726</b>	<b>\$58,952</b>		

\*Italicized projects not part of original 5-year plans approved by Board in June 2007

IMP - Infrastructure Maintenance Program Funding

UI - University Interest Earnings Funding

**Kansas Board of Regents  
Deferred Maintenance Quarterly Reporting Form**

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University of Kansas Medical Center

For the Quarter Ending: December 31, 2007

Project/Building Name*	Original Budget			Revised Budget			FY 2008 Approved Budget		Actual Expenditures				Project Status		
	Total	IMP	UI	IMP	UI	Date Approved	IMP	UI	Current Quarter IMP	UI	Total to Date IMP	UI	Projected Completion mm/yy	% Complete	
Campus Exterior Maintenance	\$100,000		\$100,000					\$100,000		\$0		\$0	06/08	0%	
Campus Infrastructure Improvements	\$45,000		\$45,000					\$45,000		\$7,910		\$7,910	06/08	18%	
Wahl Hall East Basement AHU Replacement	\$80,000		\$80,000					\$80,000		\$22,057		\$22,057	01/08	28%	
Mechanical Infrastructure - Wichita	\$24,500		\$24,500					\$24,500		\$0		\$0	06/08	0%	
Applegate Motor Control Center	\$100,000		\$100,000					\$100,000		\$0		\$0	06/08	0%	
Applegate Energy Center Replace No. 5,6 Chillers	\$2,235,000	\$2,235,000						\$2,235,000		\$0		\$0	06/08	0%	
Applegate Energy Center Replace Motor Control Centers, Transformers	\$200,000	\$200,000						\$200,000		\$0		\$0	06/08	0%	
Applegate Energy Center Replace No. 4 Boiler with Summer Boiler	\$650,000	\$650,000						\$650,000		\$0		\$0	06/08	0%	
Applegate Energy Center Install Plate/Frame Heat Exchanger	\$200,000	\$200,000						\$200,000		\$0		\$0	06/08	0%	
<b>Total</b>	<b>\$3,634,500</b>	<b>\$3,285,000</b>	<b>\$349,500</b>	<b>\$0</b>	<b>\$0</b>			<b>\$3,285,000</b>	<b>\$349,500</b>	<b>\$0</b>	<b>\$29,967</b>	<b>\$0</b>	<b>\$29,967</b>		

\*Italicized projects not part of original 5-year plans approved by Board in June 2007  
 IMP - Infrastructure Maintenance Program Funding  
 UI - University Interest Earnings Funding

**Kansas Board of Regents  
Deferred Maintenance Quarterly Reporting Form**

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Kansas State University

For the Quarter Ending: December 31, 2007

Project/Building Name*	Original Budget			Revised Budget			FY 2008 Approved Budget		Actual Expenditures				Project Status	
	Total	IMP	UI	IMP	UI	Date Approved	IMP	UI	Current Quarter IMP	UI	Total to Date IMP	UI	Projected Completion mm/yy	% Complete
Utility Infrastructure and Power Plant Improvements	\$18,423,000	\$14,378,000	\$4,045,000				\$2,970,000	\$0	\$51,459		\$51,459		12/2012	1.73%
Renovate Academic & Academic Support Spaces in Old Memorial Stadium	\$10,000,000	\$2,600,000	\$7,400,000				\$600,000	\$1,740,000	\$0	\$0	\$0	\$0	11/2010	0.00%
Leasure Hall	\$3,600,000	\$2,863,000	\$737,000				\$216,000	\$0	\$0	\$0	\$0	\$0	12/2010	0.00%
Willard Hall	\$10,000,000	\$5,357,000	\$4,643,000				\$5,100,000	\$0	\$14,096		\$14,096		12/2012	0.28%
Seaton Court	\$2,000,000	\$2,000,000	\$0				\$180,000	\$0	\$0		\$5,370		12/2009	2.98%
Roofs and Other Projects	\$1,760,500	\$0	\$1,760,500				\$0	\$1,760,500		\$358,783		\$385,121	07/2008	21.88%
<b>Total</b>	<b>\$45,783,500</b>	<b>\$27,198,000</b>	<b>\$18,585,500</b>	<b>\$0</b>	<b>\$0</b>		<b>\$9,066,000</b>	<b>\$3,500,500</b>	<b>\$65,555</b>	<b>\$358,783</b>	<b>\$70,925</b>	<b>\$385,121</b>		

\*Italicized projects not part of original 5-year plans approved by Board in June 2007

IMP - Infrastructure Maintenance Program Funding

UI - University Interest Earnings Funding

**Kansas Board of Regents  
Deferred Maintenance Quarterly Reporting Form**

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Wichita State University

For the Quarter Ending: December 31, 2007

Project/Building Name*	Original Budget			Revised Budget			FY 2008 Approved Budget		Actual Expenditures				Project Status	
	Total	IMP	UI	IMP	UI	Date Approved	IMP	UI	Current Quarter IMP	Current Quarter UI	Total to Date IMP	Total to Date UI	Projected Completion mm/yy	% Complete
Duerksen Fine Arts Center	\$5,568,000	\$1,506,000	\$4,062,000				\$24,000	\$1,161,000		\$4,375		\$4,375	09/08	3.69%
Engineering Building	\$1,050,000	\$1,014,000	\$36,000				\$101,000	\$0					10/08	
Grace Wilkie Hall	\$1,134,000	\$1,134,000	\$0				\$70,000	\$0					10/08	
Visual Communications Building	\$192,000	\$156,000	\$36,000				\$120,000	\$0					06/08	
Wallace Hall	\$662,000	\$562,000	\$100,000				\$220,000	\$0					06/08	
Ahlberg Hall	\$348,000	\$348,000	\$0				\$300,000	\$0					09/08	
McKnight Art Center	\$504,000	\$474,000	\$30,000				\$450,000	\$0					06/08	
Central Energy Plant	\$408,000	\$384,000	\$24,000				\$300,000	\$0					06/08	
Lindquist Hall	\$294,000	\$252,000	\$42,000				\$252,000	\$0					06/08	
Jardine Hall	\$60,000	\$36,000	\$24,000				\$36,000	\$0					06/08	
Infrastructure	\$680,000	\$680,000	\$0				\$680,000	\$0					09/08	
Heskett Center	\$300,000	\$300,000	\$0				\$300,000	\$0					06/08	
National Institute for Aviation Research	\$240,000	\$240,000	\$0				\$240,000	\$0					06/08	
<b>Total</b>	<b>\$11,440,000</b>	<b>\$7,086,000</b>	<b>\$4,354,000</b>	<b>\$0</b>	<b>\$0</b>		<b>\$3,093,000</b>	<b>\$1,161,000</b>	<b>\$0</b>	<b>\$4,375</b>	<b>\$0</b>	<b>\$4,375</b>		

\*Italicized projects not part of original 5-year plans approved by Board in June 2007

IMP - Infrastructure Maintenance Program Funding

UI - University Interest Earnings Funding



**Kansas Board of Regents  
Deferred Maintenance Quarterly Reporting Form**

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Emporia State University

For the Quarter Ending: December 31, 2007

Project/Building Name*	Original Budget			Revised Budget			FY 2008 Approved Budget		Actual Expenditures				Project Status	
	Total	IMP	UI	IMP	UI	Date Approved	IMP	UI	Current Quarter IMP	UI	Total to Date IMP	UI	Projected Completion mm/yy	% Complete
Physical Education Building Roof Replacement	\$1,000,000	\$351,000	\$649,000				\$351,000	\$649,000	\$16	\$0	\$16	\$0	05/08	0%
William Allen White Library HVAC Repairs/Replacement	\$1,825,000	\$1,438,000	\$387,000				\$230,000		\$0	\$0	\$0	\$0	04/08	0%
Electrical Repairs/Replacement	\$737,000	\$519,000	\$218,000				\$410,000		\$0	\$0	\$0	\$0	04/08	0%
Utility Tunnel Repairs/Replacement	\$1,000,000	\$936,000	\$64,000				\$339,000		\$0	\$0	\$0	\$0	05/08	0%
Roosevelt Hall Foundation Stabilization/Repairs	\$1,000,000	\$819,000	\$181,000				\$272,000		\$80	\$0	\$80	\$0	08/08	0%
HVAC Repairs/Replacement	\$450,000	\$175,000	\$275,000				\$175,000		\$0	\$0	\$0	\$0	05/08	0%
Plumbing Repairs/Replacement	\$160,000	\$35,000	\$125,000				\$35,000		\$0	\$0	\$0	\$0	09/08	0%
<b>Total</b>	<b>\$6,172,000</b>	<b>\$4,273,000</b>	<b>\$1,899,000</b>	<b>\$0</b>	<b>\$0</b>		<b>\$1,812,000</b>	<b>\$649,000</b>	<b>\$96</b>	<b>\$0</b>	<b>\$96</b>	<b>\$0</b>		

\*Italicized projects not part of original 5-year plans approved by Board in June 2007  
IMP - Infrastructure Maintenance Program Funding  
UI - University Interest Earnings Funding

**Kansas Board of Regents  
Deferred Maintenance Quarterly Reporting Form**

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Pittsburg State University

For the Quarter Ending: December 31, 2007

Project/Building Name*	Original Budget			Revised Budget			FY 2008 Approved Budget		Actual Expenditures				Project Status	
	Total	IMP	UI	IMP	UI	Date Approved	IMP	UI	Current Quarter		Total to Date		Projected Completion mm/yy	% Complete
									IMP	UI	IMP	UI		
McCray Hall	\$2,300,000	\$2,300,000	\$0				\$2,070,000	\$0					11/08	C
Russ Hall	\$150,000	\$0	\$150,000				\$0	\$150,000					04/08	C
Axe Library	\$250,000	\$0	\$250,000				\$0	\$250,000					07/08	C
Various Buildings-Replace Electrical Switch Gear	\$150,000	\$0	\$150,000				\$0	\$150,000					08/08	C
Steam Line Replacement	\$200,000	\$0	\$200,000				\$0	\$200,000					08/08	C
<b>Total</b>	<b>\$3,050,000</b>	<b>\$2,300,000</b>	<b>\$750,000</b>	<b>\$0</b>	<b>\$0</b>		<b>\$2,070,000</b>	<b>\$750,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>		

\*Italicized projects not part of original 5-year plans approved by Board in June 2007

IMP - Infrastructure Maintenance Program Funding

UI - University Interest Earnings Funding

**Kansas Board of Regents  
Deferred Maintenance Quarterly Reporting Form**

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2

Fort ~~Hayes~~ State University

For the Quarter Ending: December 31, 2007

Project/Building Name*	Original Budget			Revised Budget			FY 2008 Approved Budget		Actual Expenditures				Project Status	
	Total	IMP	UI	IMP	UI	Date Approved	IMP	UI	Current Quarter IMP	UI	Total to Date IMP	UI	Projected Completion mm/yy	% Complete
Picken Hall Improvements	\$3,845,000	\$3,455,000	\$390,000				\$2,073,000			\$19,333		\$19,690	05/10	2%
Utility Tunnel Replacement - Center of Quadrangle to Rarick Hall	\$260,000		\$260,000					\$260,000		\$5,600		\$5,605	09/08	3%
Sheridan Hall Roof Repairs	\$70,000		\$70,000					\$70,000		\$5,111		\$5,111	05/08	10%
Service Buildings Masonry Cleaning and Sealing	\$90,000		\$90,000					\$90,000		\$0		\$0	08/08	1%
Repaint Cunningham Hall Gyms 100, 101, 102 & 121	\$35,000		\$35,000					\$35,000		\$0		\$0		
Felten-Start Theatre Seating Replacement	\$90,000		\$90,000					\$90,000		\$0		\$0		
Campus Exterior Graphics-Phase II	\$50,000		\$50,000					\$50,000		\$0		\$0		
<b>Total</b>	<b>\$4,440,000</b>	<b>\$3,455,000</b>	<b>\$985,000</b>	<b>\$0</b>	<b>\$0</b>		<b>\$2,073,000</b>	<b>\$595,000</b>	<b>\$0</b>	<b>\$30,044</b>	<b>\$0</b>	<b>\$30,406</b>		

\*Italicized projects not part of original 5-year plans approved by Board in June 2007  
 IMP - Infrastructure Maintenance Program Funding  
 UI - University Interest Earnings Funding

## Attachment B

Kansas Board of Regents				
Postsecondary Education Institution Loan Program, HB 2237				
Applications Submitted 12/21/2007, Staff Review Committee Recommendations 1/14/08				
Approved by the Kansas Board of Regents 1/16/08				
Institution	Short Project Description	Total Project Cost	Loan Amount Requested	KBOR Loan Approved
Barton County CC	Repair/remodel library	\$2,435,000	\$1,300,000	\$1,300,000
Institution Total		\$2,435,000	\$1,300,000	\$1,300,000
Butler County CC	Repair exterior envelope	\$548,403	\$548,403	\$548,403
	Repair concrete floor	\$225,055	\$225,055	\$225,055
	Remodel, move classrooms/ offices to bldg	\$178,858	\$178,858	\$178,858
	Replace roof library/ Hubbard Ctr	\$165,784	\$165,784	\$165,784
	Replace roof automotive tech facility	\$92,288	\$92,288	\$92,288
	Replace roof classroom/gym	\$263,479	\$263,479	\$263,479
	Upgrade electrical infrastructure, Fine Arts Bldg	\$47,990	\$47,990	\$47,990
	Campus improvements ADA/life safety	\$288,900	\$288,900	\$288,900
	Remodel, reconstruct ag facility	\$411,950	\$411,950	\$411,950
Institution Total		\$2,222,707	\$2,222,707	\$2,222,707
Coffeyville CC	Repair and replace campus roofs	\$300,485	\$300,485	\$300,485
	Move administrative services from flood-prone basement, accessibility related to ADA	\$283,425	\$283,425	\$283,425
	Improve accessible parking for and A & S Building	\$65,000	\$65,000	\$65,000
	Repair HVAC and replace windows A&S Bldg & Union	\$305,550	\$305,550	\$250,550
Institution Total		\$954,460	\$954,460	\$899,460
Dodge City CC	Remodel Scienc-Math Bldg, ADA compliance	\$625,000	\$625,000	\$625,000
	Reconstruct computer lab, ADA	\$225,000	\$225,000	\$225,000
Institution Total		\$850,000	\$850,000	\$850,000
Highland CC	Replace roof math/science and auditorium seating CTMS Bldg and life safety upgrades	\$450,000	\$450,000	\$450,000
	Repair library wall, remodel- roof, paint, carpet	\$250,000	\$250,000	\$220,000
	Install HVAC and new roof admin. Bldg	\$200,000	\$200,000	\$200,000
	Improvements Irvin Hall - window, fire/ safety, HVAC, roof	\$100,000	\$100,000	\$100,000
Institution Total		\$1,000,000	\$1,000,000	\$970,000
Hutchinson CC	Renovate and Expand Science Bldg	\$7,219,100	\$7,219,100	\$3,427,217
	Renovate and Expand Industrial Ctr	\$614,000	\$614,000	\$552,053
Institution Total		\$7,833,100	\$7,833,100	\$3,979,270
Kansas City KS CC	Replace campus A/C chiller & cooling tower	\$1,285,000	\$1,250,000	\$1,250,000

	Replace 9 separate fire alarm systems	\$1,500,000	\$1,500,000	\$825,000
	Remove, replace roofs	\$450,000	\$450,000	\$450,000
Institution Total		\$3,235,000	\$3,200,000	\$2,525,000
Labette CC	Replace non-code compliant doors - Main Bldg	\$77,400	\$77,400	\$77,400
	Install central heat, A/C Health Science Bldg	\$950,000	\$950,000	\$950,000
	Renovate & remodel library (Main Bldg)	\$186,500	\$186,500	\$186,500
Institution Total		\$1,213,900	\$1,213,900	\$1,213,900
Manhattan ATC	Replace main bldg A/C, heaters	\$120,000	\$120,000	\$120,000
	Repair floor, renovate restrooms, ADA	\$57,500	\$57,500	\$57,500
	Remodel for dental hygiene facility	\$275,000	\$275,000	\$235,000
Institution Total		\$452,500	\$452,500	\$412,500
Northwest KS TC	Replace roof, new heating/cooling units	\$229,950	\$229,950	\$114,975
	Replace boiler/chiller	\$126,000	\$126,000	\$200,000
	Replace deteriorated overhead door, diesel tech bldg	\$7,555	\$7,555	\$7,555
	Replace heating systems	\$15,750	\$15,750	\$15,750
Institution Total		\$379,255	\$379,255	\$338,280
Pratt CC	Remodel and expand nursing facility	\$300,000	\$300,000	\$300,000
	Replace fire alarm system	\$95,883	\$95,883	\$95,883
	Replace flat portion of roof	\$30,000	\$30,000	\$30,000
	Replace HVAC control valves	\$150,000	\$150,000	\$150,000
	Remodel restrooms	\$48,000	\$48,000	\$48,000
Institution Total		\$623,883	\$623,883	\$623,883
Seward County CC	Replace boilers, chillers	\$390,000	\$390,000	\$390,000
	Replace breaker panels	\$435,000	\$435,000	\$435,000
	Install fire alarm system	\$95,000	\$95,000	\$55,000
	Improvements campus exhaust system, HVAC, control	\$101,000	\$101,000	\$101,000
	Renovate washrack in ag bldg	\$71,000	\$71,000	\$71,000
	Repair, deteriorated brick, entryways	\$208,000	\$208,000	\$208,000
Institution Total		\$1,300,000	\$1,300,000	\$1,260,000
Washburn Univ	Upgrade HVAC in Morgan Hall, Union, Library	\$3,190,000	\$3,190,000	\$2,990,000
	Replace HVAC controls	\$415,000	\$415,000	\$415,000
Institution Total		\$3,605,000	\$3,605,000	\$3,405,000
GRAND TOTAL		\$26,104,805	\$24,934,805	\$20,000,000

The Board of Regents provides a structure for integrated coordination of post-secondary education

Kansas Board of Regents			
Governed Institutions	Coordinated Institutions		
Emporia State Univ. Fort Hays State Univ. Kansas State Univ. University of Kansas Pittsburg State Univ. Wichita State Univ.	Washburn Univ.	Community Colleges Allen Cty CC Barton Cty CC Butler Cty CC Cloud Cty CC Coffeyville CC Colby CC Dodge City CC Fort Scott CC Garden City CC Highland CC Hutchinson CC Independence CC Johnson Cty CC Kansas City KS CC Labette CC Neosha CC Pratt CC Seward CC	Technical Institutions Flint Hills TC Manhattan Area TC N. Central Area TC NE KS Area TC NW KS Area TC Wichita Area TC  Kansas City Area TS Kaw Area TS Salina Area TS SW Area TS  TC = Technical College  TS = Technical School

Source: Kansas Board of Regents.



# KANSAS

KANSAS RACING AND GAMING COMMISSION

KATHLEEN SEBELIUS, GOVERNOR

**PRESENTATION TO  
THE HOUSE COMMITTEE ON APPROPRIATIONS**

**January 24, 2008**

**Kansas Racing and Gaming Commission**

**Stephen L. Martino, Executive Director**

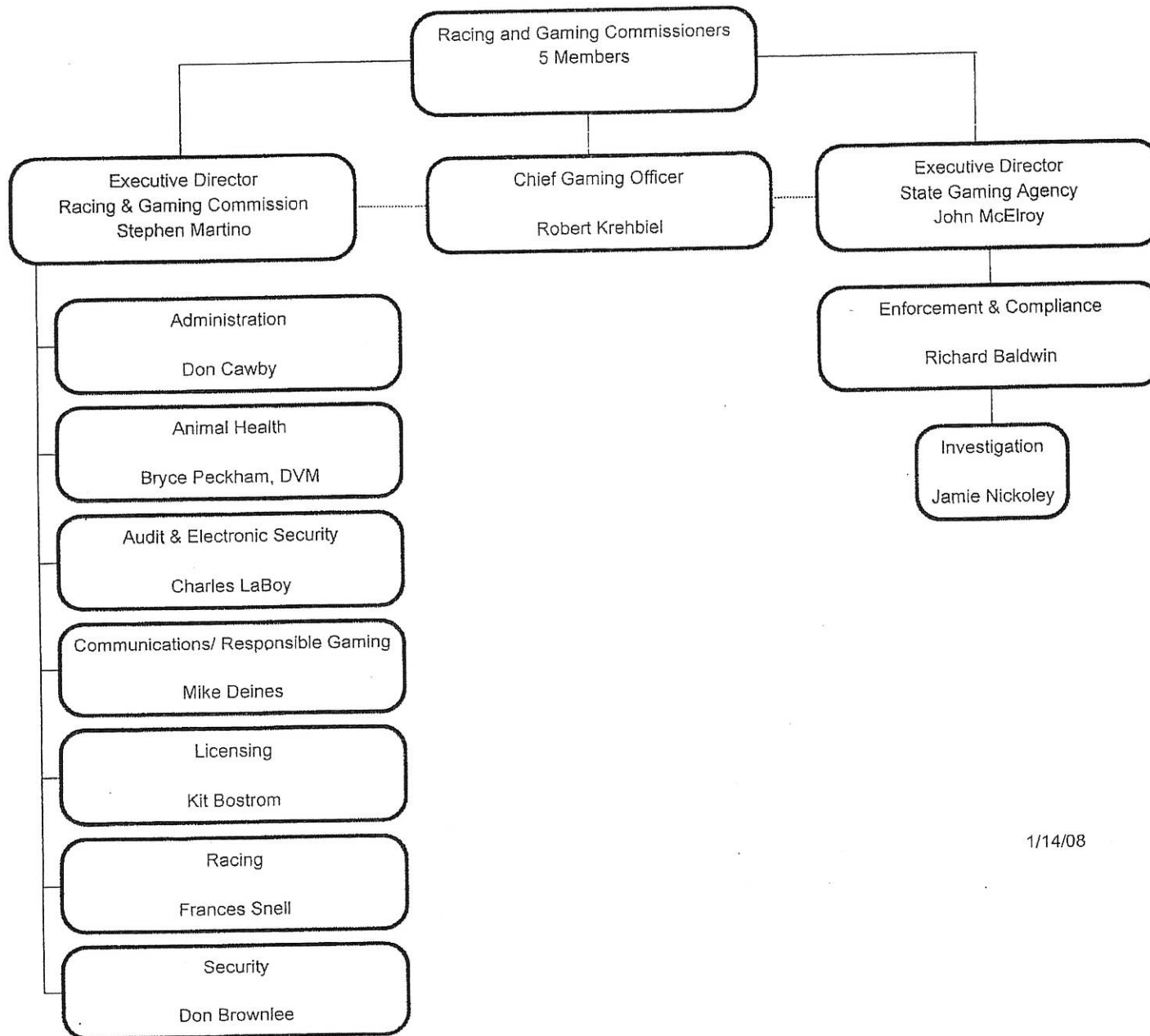
**HOUSE APPROPRIATIONS**

DATE 1-24-2008

ATTACHMENT 3

3-2

# Kansas Racing and Gaming Commission

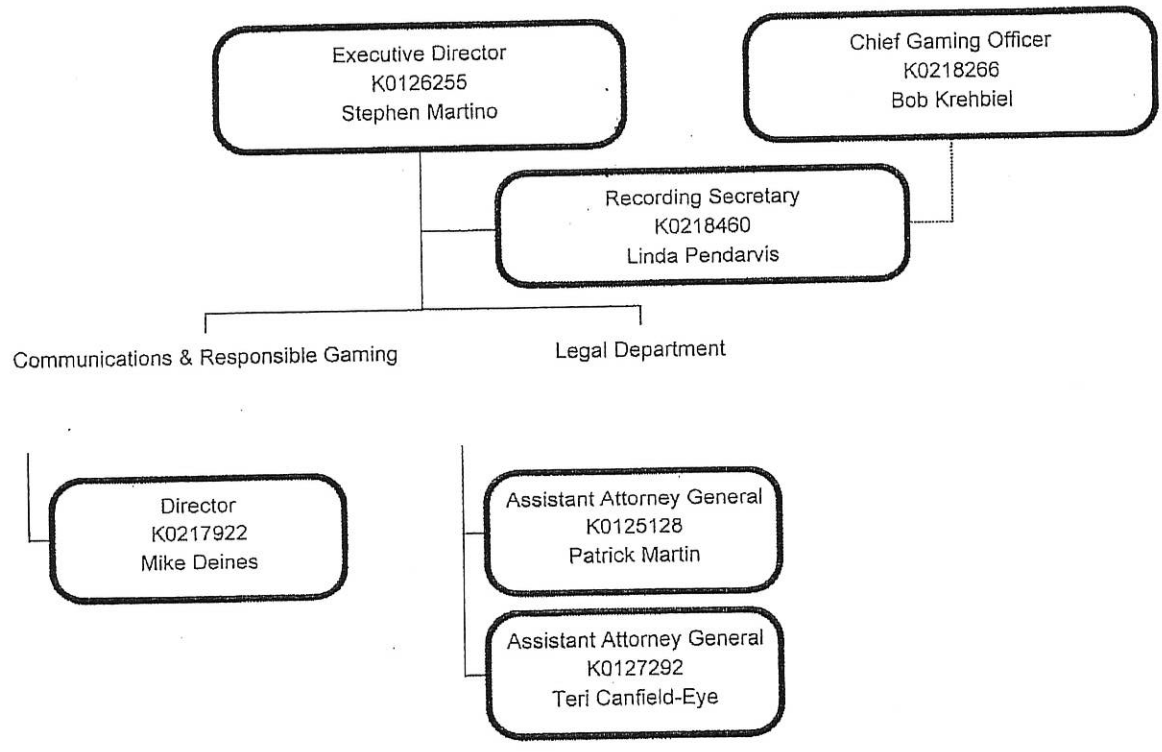


1/14/08



# Executive Division

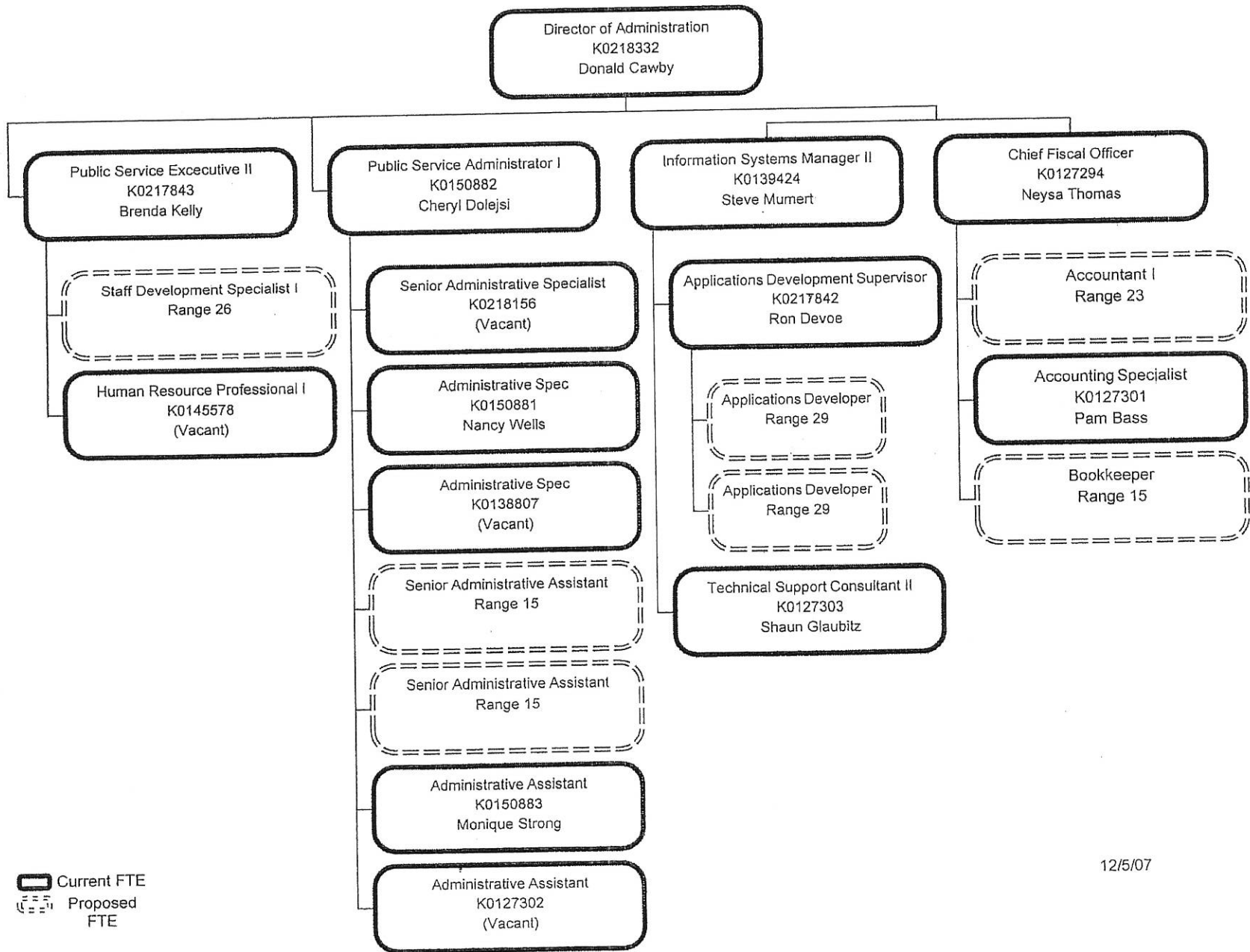
3-3




1/14/07

Administration Department

4-3-1

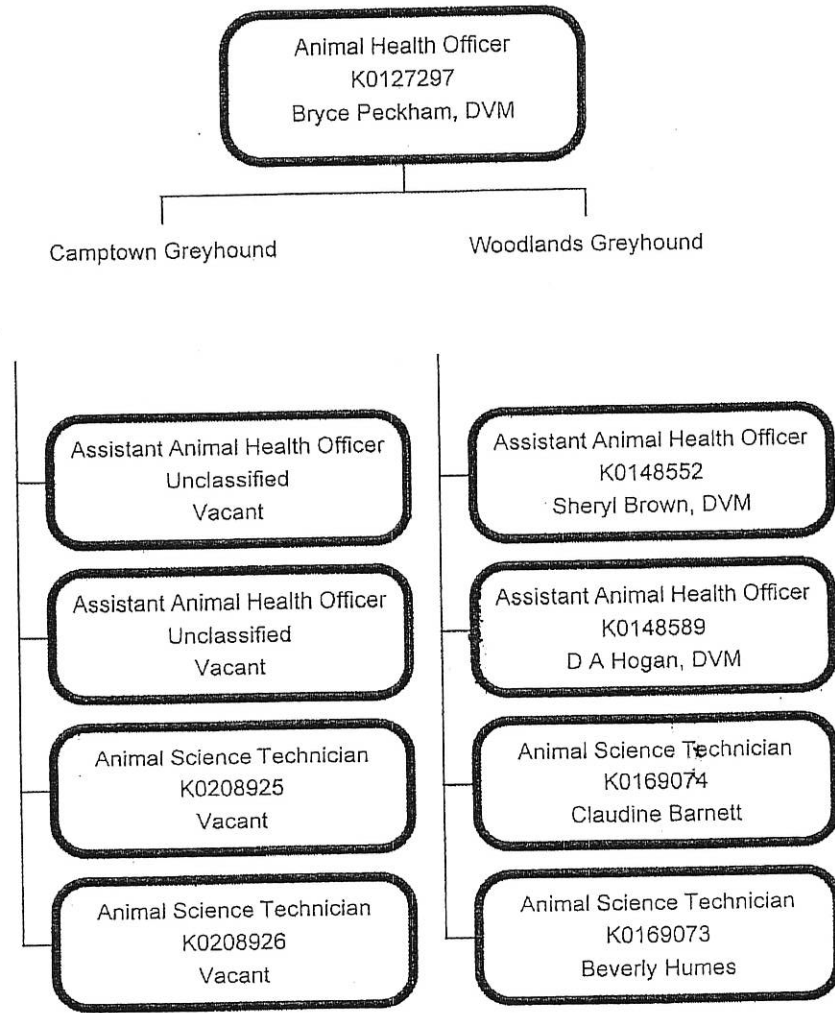


 Current FTE  
 Proposed FTE

12/5/07

# Animal Health Department

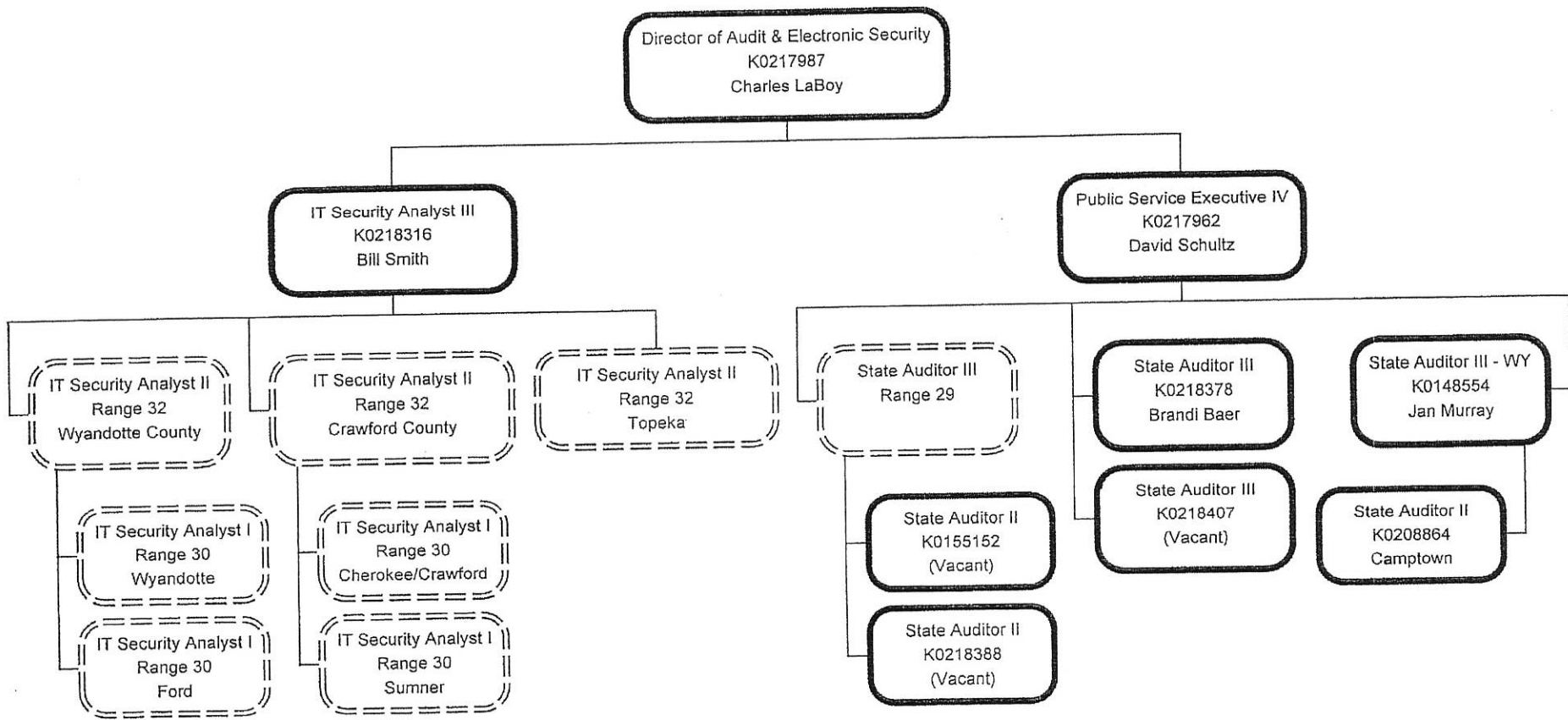
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12/5/07

# Audit and Electronic Security

3-6

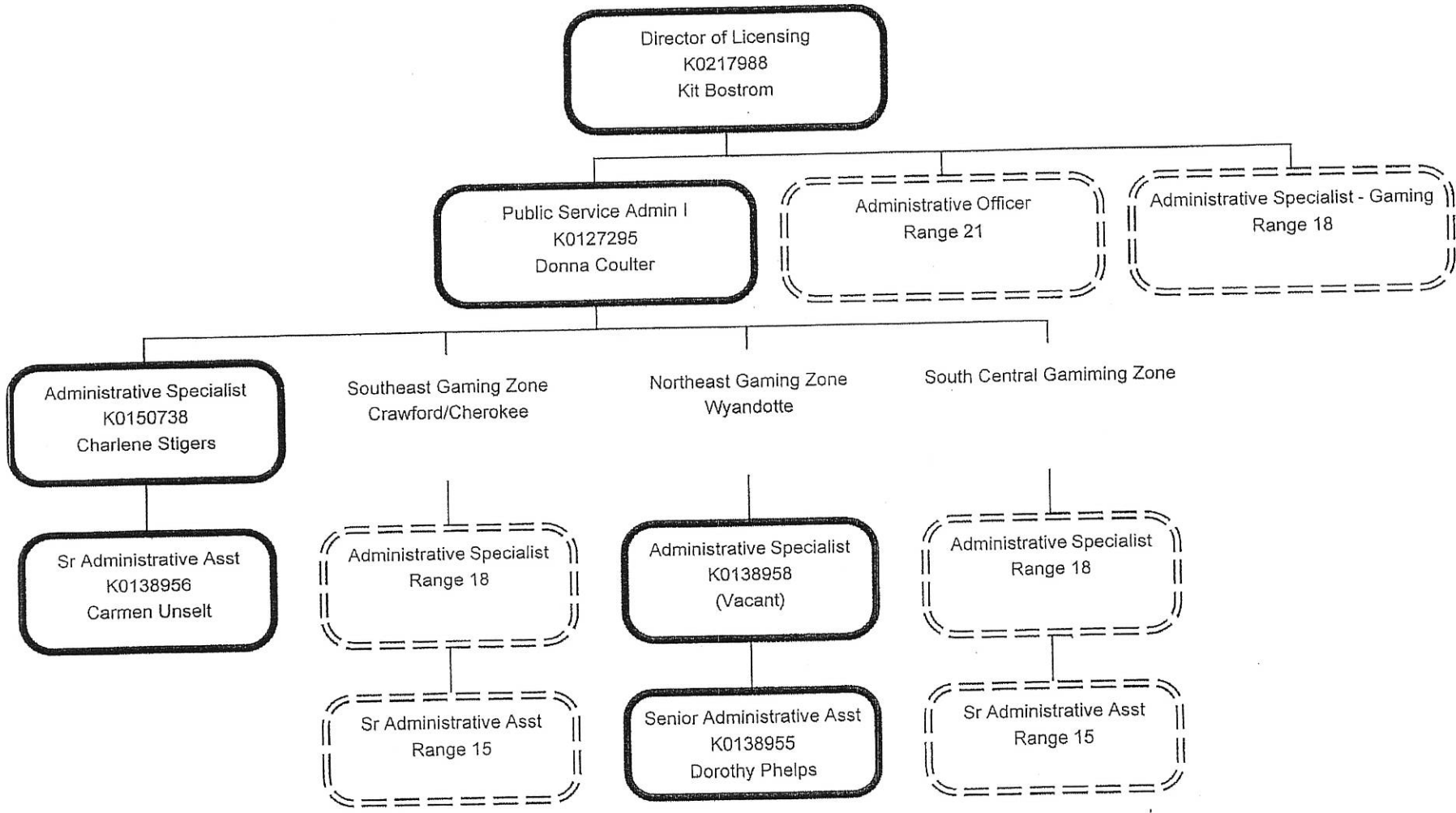




1/14/08

  Current FTE  
  Future FTE

3-7

# Licensing Department

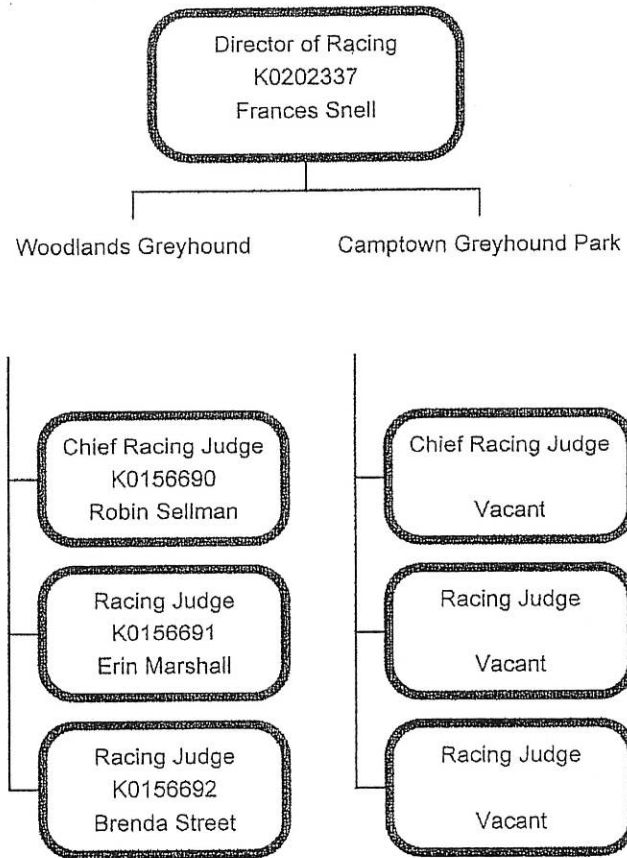


 Current FTE  
 Proposed FTE

12/6/07

8-3

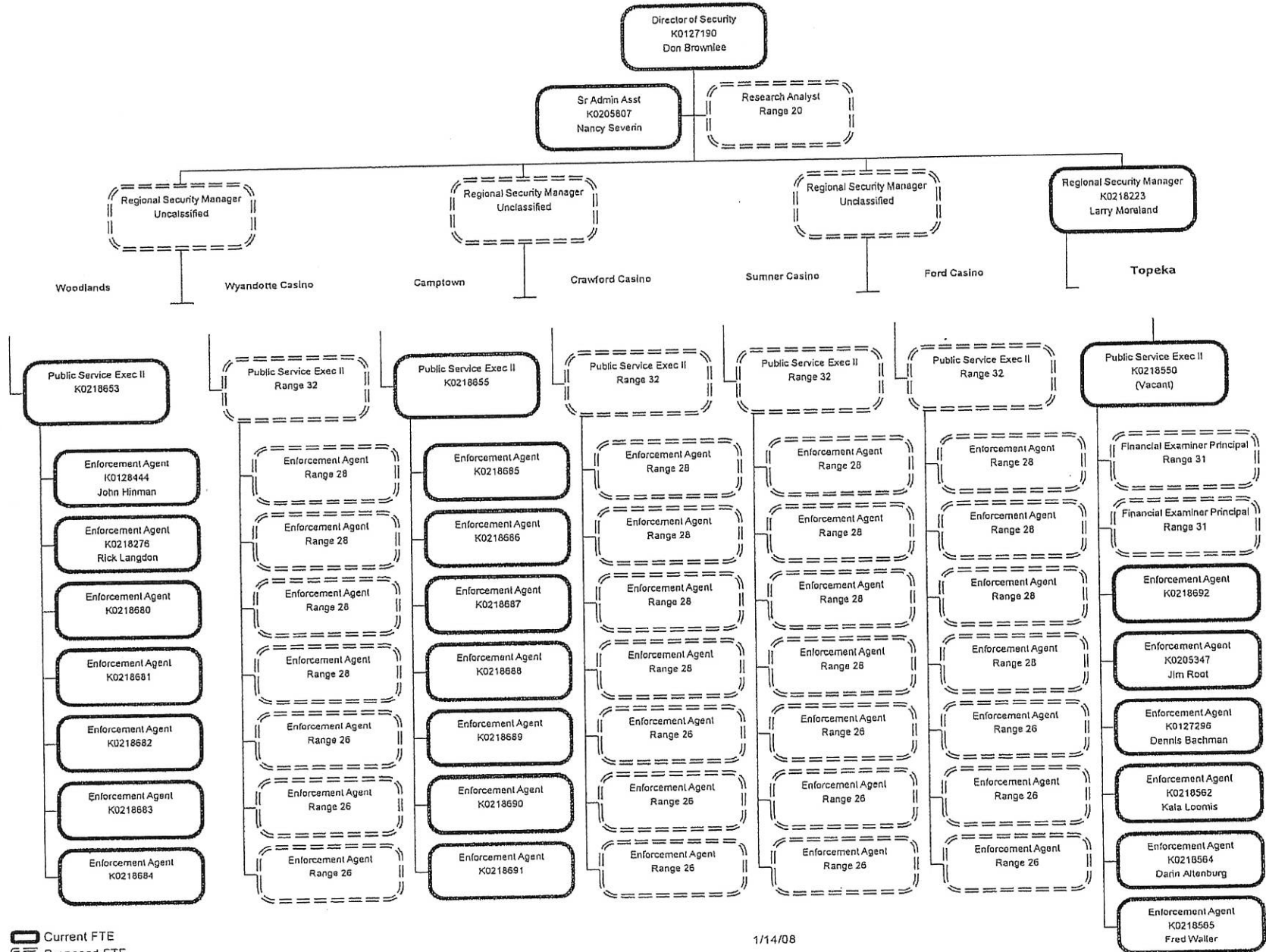
# Racing Department



12/7/07

Security Department

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Current FTE  
 Proposed FTE

1/14/08

**KRG C Proposed gaming regulations**  
**Working draft as of 1/14/2008**

- Article 112-100    General provisions and definitions
- Preliminary KRG C approval: December 6, 2007  
Department of Administration stamp: December 18, 2007  
Office of the Attorney General stamp: Pending  
Joint Committee on Rules/Reg review: Pending  
Public hearing: Pending
- Article 112-101    Gaming manager licensing
- Preliminary KRG C approval: November 16, 2007  
Department of Administration stamp: November 30, 2007  
Office of the Attorney General stamp: Pending  
Joint Committee on Rules/Reg review: Pending  
Public hearing: Pending
- Article 112-102    Gaming supplier and non-gaming supplier
- Preliminary KRG C approval: November 2, 2007  
Department of Administration stamp: November 15, 2007  
Office of the Attorney General stamp: 3 out of 15 regulations  
approved December 27, 2007  
Joint Committee on Rules/Reg review: Pending  
Public hearing: Pending
- Article 112-103    Employee licensing
- Preliminary KRG C approval: November 2, 2007  
Department of Administration stamp: November 20, 2007  
Office of the Attorney General stamp: Pending  
Joint Committee on Rules/Reg review: Pending  
Public hearing: Pending
- Article 112-104    Minimum accounting and internal control standards
- Preliminary KRG C approval: November 16, 2007  
Department of Administration stamp: January 9, 2008  
Office of the Attorney General stamp: Pending  
Joint Committee on Rules/Reg review: Pending  
Public hearing: Pending



Article 112-105 Security

Preliminary KRGC approval: November 2, 2007  
Department of Administration stamp: November 20, 2007  
Office of the Attorney General stamp: 4 out of 7 regulations approved December 6, 2007  
Joint Committee on Rules/Reg review: Pending  
Public hearing: Pending

Article 112-106 Surveillance

Preliminary KRGC approval: November 2, 2007  
Department of Administration stamp: November 20, 2007  
Office of the Attorney General stamp: 6 out of 7 regulations approved December 6, 2007  
Joint Committee on Rules/Reg review: Pending  
Public hearing: Pending

Article 112-107 Electronic Gaming Machines

Preliminary KRGC approval: November 16, 2007  
Department of Administration stamp: Pending  
Office of the Attorney General stamp: Pending  
Joint Committee on Rules/Reg review: Pending  
Public hearing: Pending

Article 112-108 Gaming equipment

Preliminary KRGC approval: Pending  
Department of Administration stamp: Pending  
Office of the Attorney General stamp: Pending  
Joint Committee on Rules/Reg review: Pending  
Public hearing: Pending

Article 112-109 Rules of the games

Preliminary KRGC approval: Pending  
Department of Administration stamp: Pending  
Office of the Attorney General stamp: Pending  
Joint Committee on Rules/Reg review: Pending  
Public hearing: Pending

Article 112-110 Technical Standards

Preliminary KRGK approval: November 16, 2007  
Department of Administration stamp: Pending  
Office of the Attorney General stamp: Pending  
Joint Committee on Rules/Reg review: Pending  
Public hearing: Pending

Article 112-111 Involuntary exclusions

Preliminary KRGK approval: December 6, 2007  
Department of Administration stamp: December 19, 2007  
Office of the Attorney General stamp: 2 out of 5 regulations  
approved January 9, 2008  
Joint Committee on Rules/Reg review: Pending  
Public hearing: Pending

Article 112-112 Responsible gaming

Preliminary KRGK approval: October 12, 2007  
Department of Administration stamp: November 7, 2007  
Office of the Attorney General stamp: November 7, 2007  
Joint Committee on Rules/Reg review: Pending  
Public hearing: Pending

Article 112-113 Sanctions

Preliminary KRGK approval: December 6, 2007  
Department of Administration stamp: December 18, 2007  
Office of the Attorney General stamp: Pending  
Joint Committee on Rules/Reg review: Pending  
Public hearing: Pending

Article 112-114 Rules of hearings

Preliminary KRGK approval: December 6, 2007  
Department of Administration stamp: December 19, 2007  
Office of the Attorney General stamp: 6 out of 14 regulations  
approved January 9, 2008  
Joint Committee on Rules/Reg review: Pending  
Public hearing: Pending

## TECHNICAL STANDARDS DEVELOPMENT FOR CENTRAL COMPUTER SYSTEM

Senate Bill 66 requires that all electronic gaming machines be linked directly to a central computer at a location determined by the Lottery Commission's executive director for purposes of security, monitoring and auditing. The KRGC has been working with consultants in developing these technical standards for the Lottery Commission's central computer system.

KRGC staff met with staff of the Lottery Commission on various occasions in August to gain a consensus on the draft technical standards. In mid-September representatives from the KRGC and the Lottery went to Delaware and Rhode Island to look at the central computer systems used in those jurisdictions. On November 16 the KRGC gave preliminary approval of technical standards for the central computer system.

According to the approved standards, KRGC will:

- Have access to all reports made available to the Lottery.
- Have the ability to create ad-hoc reports as needed.
- Be able to make modifications to what information is collected.
- Approve remote or non-gaming terminal connections into the CCS.
- Approve IT security of remote or non gaming terminal connections into the CCS.
- Approve of all programs, data files and operating systems on the CCS.
- Have input on requirements for wide-area progressive system.
- Approve of progressive controllers.
- Conduct acceptance testing.
- Impose modification requirements in case of failed acceptance testing.
- Determine functionality of production system.
- Have a terminal at each facility and at Topeka to access information.
- Have a separate database of gaming information for auditing purposes at Topeka.

## INFORMATION TECHNOLOGY

### Licensing System

KRGC staff looked at several options for a licensing system, realizing that our current AS/400 system has long needed replacement and has not been updated because of funding shortfalls in the agency. The Iowa Racing and Gaming Commission provided us with its licensing system free of charge. There were many advantages to using its system:

- **Ease of Conversion.** KRGC only had to make some fairly routine changes to make it work for Kansas. The most significant alteration to the system is to change the key identifier from the licensee's Social Security number to a unique identification number to comply with state law. Some other changes include integration with live fingerprint scanning and an optical system, allowing for credit card payments, tightening security for users, enhancing audit trail capabilities, as well as adding Kansas specific information.
- **Ownership.** We will have full ownership of the software when it is completed, giving us the ability to make program changes for pari-mutuel licensing ourselves.
- **Cost.** Because of the small price tag on those modifications (\$130,000) compared to the estimate for a custom built system (\$3.7 million), it seemed to be the best fit and most cost effective decision for the agency. Also there are no associated maintenance fees and we will be able to make modifications and upgrades later on our own, with no mandatory consultant costs.
- **Timing.** Compared to other options, this system was the quickest and easiest solution. It also eventually will provide the ability to get our antiquated pari-mutuel system upgraded and in the same system as gaming licensing. It was also flexible enough to let us make the gaming upgrades first and then update the pari-mutuel system later when it fits our schedule and deadlines.

### Other Information Technology Expenses

The agency's total IT project cost is estimated at \$1.8 million. These additional expenditures will include IT infrastructure expenses at all six of the gaming sites. All of these costs will be billed back to the destinations as the costs are incurred. However, at this time, our up-front costs are only for the modifications to the licensing system and server upgrades to accommodate the system and the associated imaging, badge system and eventual fingerprinting operations. We anticipate having some unforeseen costs for IT once we begin implementation and once we understand the magnitude of the workload, paperwork and public demand generated from our new tasks.

**BUDGET AND CASHFLOW**

The 2007 Legislature gave the KRGC the authority to draw down up to \$3.0 million in funding to cover the start-up costs associated with gaming regulation. At the same time, the agency realizes that this was a loan and not an appropriation, so these funds will need to be repaid once all gaming facility managers have been selected.

KRGC estimates that it will spend about \$2.35 million in FY 2008 to be staffed fully and prepared to regulate electronic gaming machines at the Woodlands and Camptown racetracks. Of this \$2.35 million, we expect to be reimbursed approximately \$550,000 in FY 2008 from the two racetrack gaming facilities, creating a loan draw of approximately \$1.8 million for the current year.

For FY 2009, we estimate that at least two of the casino management companies will be selected early in the fiscal year, and we will have adequate funds for operation within the \$3.0 million loan until all four gaming facilities have been selected and we are able to bill for reimbursement of costs accrued from July 1, 2007, up to and including approval of the facility.

## OTHER ITEMS

**Website Redesign:** KRGC has contracted with Stonecreek Media to do a full redesign of our website. This will include an updated look of the site as well as new and improved content to reflect our new duties around expanded gaming. We expect to have the new site up and running sometime after January 1.

**Document Imaging:** Our Licensing Division has scanned all license applications, ownership registrations and case files since 2005. We will also be scanning all of the 2005-2007 kennel registrations. Because of space limitations we are actively scanning all historical applications and case files for current licensees and eventually all historical files. We plan to scan all pari-mutuel and gaming applications, including the background disclosure forms.

We are working with Ex-Cel Solutions, our current electronic document retention software provider, to upgrade our scanning abilities at the main office and to provide capabilities at all facility sites. Our Administration Division is also seeking to significantly reduce storage needs by scanning all major history documents and required records into a searchable electronic file system.

**Live Fingerprint Scanning:** The Commission takes fingerprints from applicants for a pari-mutuel or gaming license. The fingerprints are used for criminal records checks to assist us with suitability decisions. Livescan fingerprinting would electronically capture fingerprints and send them to the KBI and/or FBI electronically. The current method of collecting fingerprints is the age-old practice of inking fingers, rolling fingerprints on a paper card and then mailing it to KBI. That process takes about three weeks to get a response and puts a large burden on the KBI. The livescan technology gives us an immediate response from the KBI and two day response from the FBI and does not require people intervention.

Our IT staff has evaluated livescan equipment over the past two months and the current timeline is that our preferred fingerprint scanning vendor will have its software updated to KBI requirements in January.

**Additional Space:** We will be expanding into an additional 6,500 square feet of space on the fifth floor of Eisenhower State Office Building to accommodate the additional staff necessary for the regulation of gaming. The move will occur within a couple of months after the current space is vacated.

**Operational Policies and Procedures:** We have undertaken a major rework of our operational policies and procedures. With the addition of numerous new regulations and regulatory responsibilities, we performed a review and revision of our policies. We currently have around 80 operational policies and have already identified 70 more policies we will need to efficiently and effectively operate a responsive and accountable regulatory agency of such a broad size and scope.

Three major policies that have already been adopted this year are:

- Code of Conduct – setting standards of ethical conduct for both the Commission and staff.
- Employee Background Investigations – formalizing the initial and updating process for background investigations of employees.
- Fingerprinting of Licensure – updating our current process to allow for reasonable reciprocity standards in pari-mutuel licensing and allowing for the inclusion of gaming licensees.

## RESULTS OF COUNTY ELECTIONS with Resulting Deadlines for Lottery Gaming Facility Manager Applications

### Wyandotte County

Election June 26, 2007 – Certified July 2, 2007  
 Deadline to submit to Lottery, December 31, 2007 (as extended)  
 Deadline for Lottery to submit to LGFRB, March 31, 2008  
 Deadline for LGFRB decision, May 30, 2008

<u>Casino</u>			<u>Electronic Gaming Machines at Racetrack</u>		
Yes	16,138	(80.87%)	Yes	16,350	(82.05%)
No	3,818	(19.13%)	No	3,577	(17.95%)

### Cherokee County

Election June 5, 2007 – Certified June 8, 2007  
 Deadline to submit to Lottery, December 6, 2007 (as extended)  
 Deadline for Lottery to submit to LGFRB, March 5, 2008  
 Deadline for LGFRB decision, May 5, 2008

Yes	4,663	(69.42%)
No	2,054	(30.58%)

### Crawford County

Election April 3, 2005 – Approved by Lottery Commission May 16, 2007  
 Deadline to submit to Lottery, December 6, 2007 (as extended)  
 Deadline for Lottery to submit to LGFRB, March 5, 2008  
 Deadline for LGFRB decision, May 5, 2008

<u>Casino</u>			<u>Electronic Gaming Machines at Racetrack</u>		
Yes	5,791	(60.78%)	Yes	5,919	(62.02%)
No	3,737	(39.22%)	No	3,625	(37.98%)

### Ford County

Election June 26, 2007 – Certified June 29, 2007  
 Deadline to submit to Lottery, December 26, 2007 (as extended)  
 Deadline for Lottery to submit to LGFRB, March 25, 2008  
 Deadline for LGFRB decision, May 27, 2008 (May 26 is Memorial Day)

Yes	3,273	(64.05%)
No	1,837	(35.95%)

### Sumner County

Election December 20, 2005 – Approved by Lottery Commission June 22, 2007  
 Deadline to submit to Lottery, December 28, 2007 (per Sedgwick Co. certification 08/13/07 and extension)  
 Deadline for Lottery to submit to LGFRB, March 27, 2008  
 Deadline for LGFRB decision, May 26, 2008

Yes	4,842	(63.05%)
No	2,838	(36.95%)

### Sedgwick County

Election August 7, 2007  
 Certified August 13, 2007

<u>Casino</u>			<u>Electronic Gaming Machines at Racetrack</u>		
Yes	45,410	(43.90%)	Yes	51,624	(49.88%)
No	58,035	(56.10%)	No	51,868	(50.12%)



## LOTTERY GAMING FACILITY REVIEW BOARD

**Matt All, Chairman**

Lawrence

Appointed by the Governor

**James Bergfalk**

Mission

Appointed by the Governor

**Bob Boaldin**

Elkhart

Appointed by the President of the Senate

**Garry Boston**

Newton

Appointed by the Speaker of the House

**Jack Brier**

Topeka

Appointed by the Speaker of the House

**Dean Ferrell**

Topeka

Appointed by the President of the Senate

**Jackie Vietti, Ph.D.**

El Dorado

Appointed by the Governor

## Kansas Racing and Gaming Commission

### Responsible Gaming Regulations Summary

#### 1. Responsible Gaming Plan

- Each licensee will submit responsible gaming plan
- Procedures for compliance with Commission's self-exclusion program
- Procedures for creating and disseminating promotional material to educate patrons about responsible gaming
- Details about training employees on responsible gaming matters
- Procedures to prevent underage gambling
- Licensees will report semiannually to Commission on the status and success of responsible gaming plan

#### 2. Self exclusion list

The Racing and Gaming Commission is working to develop a state of the art voluntary-exclusion program for the state of Kansas. We have taken the best of what other states are doing and added a step that we think makes our program one of the strongest in the nation.

Persons will be able to voluntarily exclude themselves from state-owned gaming facilities. They will have the choice of applying for either a lifetime ban or a two-year ban. A person who signs for the two-year ban must complete a "re-entry" program including an assessment by a certified gambling counselor before they can come off the list. **This "re-entry" program is unique to the state of Kansas.**

People on the list face possible trespassing charges if they are discovered at a gaming facility, and any winnings would be surrendered to the problem gambling and addictions fund. Gaming facilities also would face sanctions if they knowingly allow a person on the self-exclusion list into a gaming area.

#### 3. Responsible Gaming Alliance

The KRGC is also taking the lead in creating a Responsible Gaming Alliance. The idea is to partner with other state agencies to develop a coordinating body for the state's responsible and problem gaming initiatives to avoid any duplication of services. Membership would include:

- Kansas Racing and Gaming Commission,
- Kansas Lottery,
- Department of Social and Rehabilitation Services,
- Department of Corrections,
- Coalition on Problem Gambling,
- Gaming industry representatives, and
- Community representatives.

Other stakeholders also would be welcome to be a part of the alliance. Membership would not be binding, and there would not be any budget for the alliance. Each member would have the choice on whether to help fund any particular alliance project.

# KANSAS

KANSAS RACING AND GAMING COMMISSION

KATHLEEN SEBELIUS, GOVERNOR

<b>Subject</b>		<b>Number</b>	<b>Draft #</b>
<b>Code of Conduct</b>		<b>1-02</b>	<b>(2007-006)</b>
<b>Adopted</b>	<b>Last Revision</b>	<b>Rescinds</b>	
September 20, 2007			
<b>Executive Director Authorization</b>		<b>Commission Authorization</b>	
Signatures on file.			
Stephen L. Martino, Executive Director	Date	Carol H. Sader, Chairperson, KRGC	Date

**A. Purpose/Background**

In the discharge of its powers, duties and responsibilities, the Kansas Racing and Gaming Commission (Commission) must conduct itself according to high ethical standards. The Commission's members, employees and agents are expected to discharge their duties with loyalty and in such a manner as to promote and preserve public trust and confidence in the Commission and the regulatory process.

It is therefore essential that the Commission's members, employees and agents must avoid situations where private interest in outside business activities and opportunity for financial or personal gain could influence their decision in giving favored treatment to any organization or person. They must avoid circumstances and conduct in outside activities that appear questionable to the general public.

**B. Policy/Procedure**

1. Policy and Application.

- a. The purpose of this Code is to assure that the Commission's members, employees and agents avoid situations, relationships or associations that may lead to or represent a conflict of interest for the Commission or its members, employees and agents. The provisions in this Code are intended to augment statutory provisions. All Commission members, employees and agents should remain aware of their responsibilities under the Kansas Expanded Lottery Act and other statutes governing gaming law and ethical conduct of public officials and state employees and agents. For purposes of this Code the terms "employee" or "agent" shall include all state employees in the service of the Commission. If an employee or agent of the Commission has a question or concern as to the applicability of this Code to a current or prospective situation, relationship or association, that question or concern should be presented to the Executive Director for clarification or guidance.
- b. Each member of the Commission and all of its employees are directed to read and comply with this Code of Conduct. Upon accepting an appointment to the Commission or employment with the Commission, each member or employee shall sign a statement acknowledging that they have read the Code of Conduct, understand its terms and agree

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to abide by its terms as currently adopted or as may be amended from time to time. Should a member of the Commission or employee find himself or herself unable or unwilling to comply with the Code of Conduct as adopted herein or as may be amended, such member or employee shall immediately inform the members of the Commission and the Executive Director.

- c. No Commission member, employee or agent shall use or attempt to use his or her official position to secure any privilege, advantage, favor or influence for himself, herself or others.
- d. Commission members, employees and agents of the Commission shall bear responsibility for adherence to this policy and to the specific prohibitions and restrictions set forth in this Code.
- e. Certain of the prohibitions in this Subpart (1) affect or extend to the spouses, parents and children of Commission members, employees or agents. For purposes of this Code, these represent the lineal relations of Commission members, employees and agents and, in the case of children, legally adopted children. It is recognized that in some cases, a Commission member, employee or agent may have limited influence over the decisions of lineal relatives, and that limited influence will be taken into consideration in evaluating the circumstances of an alleged violation.

## 2. Duty to Avoid Conflict of Interest

- a. Commission members, employees and agents and their respective spouses, parents and children have a duty to avoid relationships that may cause or have the appearance of causing a conflict of interest. A conflict of interest means a situation in which a Commission member's, employee's or agent's private interest, whether personal, financial or otherwise, influences or creates the appearance that it may influence the Commission member's, employee's or agent's judgment in the performance of his or her regulatory duties and responsibilities in a fair and impartial manner.

## 3. Gambling and Other Restrictions

- a. Except as may be required in the conduct of official duties, a Commission member, employee or agent shall not engage in gambling at any lottery gaming facility or racetrack gaming facility in Kansas, or engage in legalized gambling in any establishment identified by Commission action that, in the judgment of the Commission, could represent a potential for a conflict of interest.<sup>1</sup>
- b. Commission members, employees or agents shall not engage in excessive or inappropriate fraternization with licensees and adhere to policies and directives regarding personal conduct while on the premises of any entity subject to licensure or approval by the Commission.
- c. Commission members, employees or agents are prohibited from accepting any complimentary services from any entity or individual licensed by the Commission.
- d. No Commission member, employee or agent shall stay overnight in a guest room at any facility licensed or certified by the Commission except in the normal course of his/her duties.

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<sup>1</sup> This section provides for restrictions on gambling in addition to those provided in the Kansas Expanded Lottery Act prohibiting Commission members, employees and agents and their family members from gambling at Kansas lottery gaming facilities and racetrack gaming facilities.

#### 4. Other Employment

- a. Commission members, employees and agents must not hold or pursue employment, office, position, business or occupation that may conflict with the Commission member, employee or agent's official duties. Commission members, employees and agents may engage in other employment so long as it does not interfere or conflict with their duties, provided that such employment is disclosed to the Executive Director of the Commission and approved by the Commission or its designee.
- b. Disclosure of other employment must be made at the time of appointment to the Commission or at the time the employee is hired to work for the Commission or prior to accepting the other employment. Any Commission member who discloses outside employment to the Commission shall recuse himself or herself from any discussion and decision made by the Commission relative to his/her outside employment.
- c. Commission members, employees and agents may not solicit, suggest, request or recommend the appointment of any person to an office, place or position or the hiring of any person for direct or indirect employment to any applicant for or holder of a license issued by the Commission or to any representative or agent of such applicant for or holder of a license issued by the Commission.

#### 5. Restrictions on Receiving Gifts

- a. Commission members, employees and agents and their spouses, children and parents may not, directly or indirectly, accept any gift, gratuity, service, compensation, travel, lodging or any thing of value, with the exception of unsolicited items of an incidental nature, from a Commission licensee, applicant, or their affiliates, key personnel and representatives. This prohibition may be extended by Commission action to any entity or individual that, in the judgment of the Commission, could represent a potential for a conflict of interest.

#### 6. Prohibition on Holding or Acquiring Ownership

- a. Commission members, employees or agents and their spouses, children and parents may not, directly or indirectly, hold or acquire or cause or encourage any other person to acquire any actual or contingent form of ownership interest or other financial interest in a Commission licensee, applicant, or its affiliates, key persons and representatives. This prohibition may extend to the holding or acquisition of an interest in any entity identified by Commission action that, in the judgment of the Commission, could represent the potential for or the appearance of a conflict of interest. The holding or acquisition of an interest in such entities through an indirect means – such as through a mutual fund – shall not be prohibited, except that the Commission may identify specific investments or funds that, in its judgment, are so influenced by gaming holdings as to represent the potential for or the appearance of a conflict of interest.<sup>2</sup>
- b. A Commission member leaving office, or an employee or agent's termination or resignation from employment with the Commission, is precluded for a period of 1 year from acquiring any actual or contingent form of ownership interest, or other financial interest in, a licensee, applicant, or their affiliates, key personnel and representatives. This prohibition may be extended by Commission action to any entity that, in the judgment of the Commission, could represent a potential for or the appearance of a

<sup>2</sup> These provisions are in addition to those in the Kansas Expanded Lottery Act making it a criminal offense for Commission members, employees and certain family members to enter into any business dealing, venture or contract with an owner or lessee of a Kansas lottery gaming facility or racetrack gaming facility.

conflict of interest. The holding or acquisition of an interest in such entities through an indirect means – such as through a mutual fund – shall not be prohibited, except that the Commission may identify specific investments or funds that, in its judgment, are so influenced by gaming holdings as to represent the potential for or the appearance of a conflict of interest.

#### 7. Prohibition on Economic Associations

- a. Commission members, employees or agents and their spouses, children and parents shall not be employed by or solicit employment or directly or indirectly under contract with, or have any economic association with:
  - i. licensee,
  - ii. applicant,
  - iii. licensee or applicant affiliates,
  - iv. licensee or applicant key personnel and
  - v. representatives of any race track, racing association or any person, organization or entity engaged in the conducting of greyhound or horse racing in the State of Kansas.

#### 8. Disclosure of Economic Associations

- a. Each Commission member who owns or is employed by a firm or business entity shall, to the best of the member's ability, identify any current economic relationship, whether direct or indirect, which could create the appearance of a conflict of interest that may exist between the Commission member's firm or business entity and any licensee, applicant, their affiliates, key personnel and representatives. The Commission member shall declare his or her intention to refrain from deliberations and voting on questions related to the gaming entity in such relationship. This requirement may be extended by Commission action to any entity or individual that, in the judgment of the Commission, could represent the potential for or the appearance of a conflict of interest.

#### 9. Restrictions on Professional Service Agents

- a. For purposes of this provision, professional service agents of the Commission include any person, corporation or organization providing legal, accounting, financial, public relations, auditing, architectural, data processing, gaming regulatory or management consulting services.
- b. Professional service agents of the Commission may be subject to terms and conditions relating to restrictions or prohibitions in representation, employment and contracting with licensees, applicants, their affiliates, key personnel or representatives. Such restrictions and prohibitions shall be contained in the professional service contracts of the Commission.

#### 10. Disclosure statements

- a. Commission members and employees required by law to submit a Statement of Substantial Interest shall complete and timely file such statements and provide a copy to the Commission for its review in addition to filing with the Office of the Secretary of State. The financial disclosure statements shall be filed with the Executive Director.

#### 11. Restrictive Covenant

- a. Former Commission members, employees or agents shall not for a period of 5 years after termination of their Commission appointment or employment engage in any employment or contractual relations with, or have any financial interest in, any licensee, applicant, their affiliates, key personnel or representatives.

#### 12. Violations

- a. Violation of this Code by a member of the Commission may result in written notification to the Office of the Attorney General for consideration of a possible ouster action, per K.S.A. 74-714. Violation of this Code by a Commission employee or agent may result in discipline up to and including termination. Violation of this Code by professional service agents of the Commission may result in warning letters leading up to termination of the professional service agent contract with the Commission.

#### 13. Ex Parte Communications

- a. No member of the Commission shall knowingly have *ex parte* communications relating to a matter pending before the Commission that may require a public vote of the Commission with any party or any representative or agent of a party to the matter pending before the Commission or any person with a material interest in the outcome of the matter pending before the Commission. As *ex parte* communications, either oral, written, electronic or otherwise communicated, may occur inadvertently, any member of the Commission participating in such communication shall report the details about the communication to the Executive Director.

### D. Citations/References

K.S.A. 74-714; Kansas Expanded Lottery Act (2007 S.B. 66)

### E. Attachments

Code of Conduct Receipt Form

### F. Action

The provisions of this Code shall be effective and binding as of September 20, 2007, upon the Kansas Racing and Gaming Commission's members, employees and agents. Amendments to the Code shall be effective and binding on the date of adoption.