

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 10:30 a.m. on February 3, 2009, in Room 136-N of the Capitol.

All members were present except:
Senator Steve Morris- excused

Committee staff present:
Jason Long, Office of the Revisor of Statutes
Julian Efird, Kansas Legislative Research Department
Connie Burns, Committee Assistant

Conferees appearing before the committee:
Michael Hutfles, Southwestern Association
Jeffery Brandau, Kansas Bureau Investigation
Chris Joseph, Bail Bondsmen Association
Charlie Estes, AERIES
Susan Riley, Emporia Senior Center
LeRoy Bailey, VFW - Holton
Debbie Kreutzman, Positive Directions, Wichita
Charles Yunker, American Legion , Topeka

Others attending:
See attached list.

Introduction of Bills

Senator Faust-Goudeau, requested a bill introduction to amend Article 15 of the Constitution of the State of Kansas by adding a new section concerning equal rights for men and women.

Senator Faust-Goudeau moved that this request should be introduced as a committee bill. Senator Francisco seconded the motion. The motion carried.

Senator Ostmeyer requested a bill introduction that concerns exceptions for amusement ride operation requirements for home owned amusement rides.

Senator Ostmeyer moved that this request should be introduced as a committee bill. Senator Owens seconded the motion. The motion carried.

Senator Owens introduced Michael Hutfles, Southwestern Association, who requested a bill introduction that exempts non-highway vehicle titling requirements for heavy construction equipment. (Attachment 1)

Senator Owens moved that this request should be introduced as a committee bill. Senator Ostmeyer seconded the motion. The motion carried.

Final Action:

SB 1 - William Inge Theatre Festival designated as the official theatre festival of the state.

Senator Reitz moved to pass SB 1 out favorably and placed on the Consent Calendar. Senator Owens seconded the motion. The motion carried.

Secretary Roger Werholtz, Department of Corrections, provided the committee with an update on the Department of Corrections. (Attachment 2) Part of the budget cuts for FY 2009 is the closing of three facilities; Osawatimie a 70 bed unit, which is part of the Lansing Correctional Facility on February 6, Toronto on February 26, which is part of the El Dorado Correctional Facility; and Stockton on April 1. Update does not reflect the boot camps that were operated under contract in Oswego, the women's camp that is already closed and the men's camp is scheduled to close on July 1; and the two residential programs in Johnson County and Sedgwick County Community Corrections set to cease receiving state funding effective July 1.

CONTINUATION SHEET

Minutes of the Senate Federal And State Affairs Committee at 10:30 a.m. on February 3, 2009, in Room 136-N of the Capitol.

Secretary Werholtz provided the committee an update on the Crumbling Prisons Projects, the Capacity Expansion Projects, and turnover rates on both uniformed staff and overall turnovers.

Also provided was a per diem chart requested on the average cost per day of incarceration per facility. (Attachment 3)

SB 116 - Private detectives; permit to carry a concealed firearm.

Chairman Brungardt opened the hearing on **SB 116**.

Staff provided an overview bill. (Attachment 4)

Jeffery Brandau, Kansas Bureau Investigation, appeared in favor of the bill. (Attachment 5) The bill makes amendment to various statutes regarding permitting a private detective to carry a concealed firearm, which would require the disclosure of arrests, convictions and diversions of individuals to the Attorney General's office if the individual is applying for a permit to carry a concealed weapon as a private detective. In addition, the bill defines a "Bounty Hunter" and requires that those "involved in locating any person who has been released on bail," commonly referred to as "bounty hunting" is required by this bill to have a PI license and conform to those requirements.

Chris Joseph, Kansas Professional Bail Bond Association, (KPBBBA) appeared in opposition to the bill. (Attachment 6) The KPBBBA is opposed to Section 3 of the bill, which attempts to bring "bounty hunters" under the umbrella of persons required to be licensed private investigators:

1. This language would result in regulating all bondsmen, not just "bounty hunters"
2. The Insurance Commissioner and the courts already regulate bondsmen
3. Would prohibit bondsmen, who are not licensed private investigators, from "obtaining information" about the "movement" and "whereabouts" of persons who post bonds in criminal cases
4. Runs afoul of federal and Kansas law
5. When read in conjunction with KSA 75-7b03, would result in licensing for only a fraction of all bondsmen

Section 3 would limit only bondsmen who are not insurance agents writing bonds backed by insurance, and would limit only bondsmen writing bonds secured by Kansas real estate.

Dennis Berndt, B&K Bonding, LLC, Salina, (Attachment 7) and Doug Smith, Kansas Professional Sureties, provided written testimony in opposition to the bill. (Attachment 8)

Chairman Brungardt closed the hearing on **SB 116**

SB 107 - Bingo games; increasing the prize limits, time and location for conducting games.

Chairman Brungardt opened the hearing on **SB 107**

Charlie Estes, AERIES, appeared in favor of the bill. (Attachment 9) Mr. Estes stated that through bingo workshops throughout the state that the top issues and changes needed were:

- raise payouts - higher game limits, higher nightly limits, higher drawing limit, more drawings, and raise starting limit for progressives
volunteers - need more avenues to get volunteers, would like to compensate volunteers, and need more and better callers
- open up the limits - more than two nights per week, more than one hour for pull tabs before regular session, and more than one hour for mini bingo

Susan Riley, Emporia Senior Center, spoke as a proponent of the bill. (Attachment 10) Ms. Riley stated that much of the deficit in the operating expense is made up from the profits made by hosting Bingo. The local 7th grade class operates the snack bar cash box; this give the students an opportunity to learn how to make change as well as become more comfortable meeting the seniors of their community. Bingo (other than casinos) in the State of Kansas is only operated by non-profit organizations.

CONTINUATION SHEET

Minutes of the Senate Federal And State Affairs Committee at 10:30 a.m. on February 3, 2009, in Room 136-N of the Capitol.

LeRoy Bailey, VFW - Holton, appeared in favor of the bill. (Attachment 11) In section 79-4706 (B) at the end of the paragraph the words were added, "or the beneficiary organization"; the VFW; like most organization have trouble getting volunteers, due to age and abilities. This sentence was added in hope of broadening the base of people that can be used to help run games of Bingo.

Debbie Kreutzman, Positive Directions, Wichita, spoke in favor of the bill. (Attachment 12) Ms. Kreutzman stated that as a member of Kansas Charities Cooperative, a group of non-profit organizations in Sedgwick County that holds Charitable Gaming licenses to conduct Bingo in leased facilities. The groups represent a variety of charities including Abstinence Education, Knights of Columbus, Optimists and Youths Sports to name a few, and stand united in support of the proposed changes to the Bingo Statutes. The proposed changes to bingo regulations will expand their ability to continue the charitable work within their communities.

Charles Yunker, American Legion , Topeka, spoke in opposition to the bill. (Attachment 13) The American Legion opposes the bill and urges the committee to not promote the passage of the bill.

Ken Stodgell, Kansas VFW, provided the committee with written testimony in opposition of the bill. (Attachment 14)

Chairman Brungardt closed the hearing on **SB 107**.

The Chairman requested staff to review other states' Bingo laws and best practices.

The next meeting is scheduled for February 4, 2009. The meeting was adjourned at 12:02 pm

SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

GUEST LIST

DATE 2-03-09

NAME	REPRESENTING
Spencer Duncan	Capitol Connection ks
Charles m Yunker	The American Legion
Denny Koch	POLSIWELL LAW
JOHN W. ELYS	KS ASSOC. OF PRIV. INV.
Ralph Snyder	THE AM. LEGION
Christina Wood	Sen. Faust - Goodman
Patsy Congrove	KDOC
Debi Kreutzman	Positive Directions
CHARL ESKIS	EAGLES #55
LERoy BAILEY	VFW POST 1367
SUSAN PILEY	Emporia Senior Center
Kari Ann Rinker	KS NOW
Kevin Barone	Ks. Prof. Bail Bonds Assoc.
Aaron Gunderson	Ks. Prof. Bail Bonds Assoc.
Doug Smith	Pinegar, Smith & Associates
J.P. Small	Stockton
Nick Jordan	Capitol Strategies
Kari Prestey	Kearney & Associates
Joe Mosimann	Hein Law Firm
Dennis Williams	Corrections
JEREMY S BARCLAY	KDOC
ROGER WERHOLTZ	KDOC
David R Corbin	KDOR
Alana Lillibridge	Page
Kara Gamison	Page

ISSUE: Kansas Certificate of Title law exemptions for agricultural equipment, construction equipment, lawn and grounds care and forestry equipment.

OBJECTIVE: Amend Kansas Statutes 8-198 to codify current titling practices. The proposed amendment would clarify that agricultural, construction, forestry, lawn care and grounds equipment are excluded from the definition of non-highway vehicle, thereby exempting them from non-highway vehicle titling requirements.

BACKGROUND: Kansas Statutes 84-9-311 provides that the filing of a financing statement is not effective to perfect a security interest in property subject to any Kansas certificate-of-title law "covering automobiles, trailers, mobile homes, boats, farm tractors, or the like, which provides for a security interest to be indicated on the certificate. 8-197(b)(1)(b) defines a "Non-highway vehicle" as including "any motor vehicle which cannot be registered because it is not manufactured for the purpose of using the same on the highways of this state and is not provided with the equipment required by state statute for vehicles of such type which are used on the highways of this state. Kansas Statutes 8-198 (b) provides that the purchaser of any non-highway vehicle shall obtain a non-highway certificate of title.

These two statutes create the following confusion:

- (1) the purchaser of a vehicle, that is not designed primarily for highway use, that DOES NOT have all of the equipment required by state for occasional highway use, must obtain a non-highway vehicle certificate of title and any creditor using that equipment as collateral must have their lien noted on that title to have a priority interest in that off-road vehicle; and
- (2) the purchaser of a vehicle, that is not designed primarily for highway use, that DOES have all of the equipment required by state for occasional highway use, is not required to obtain a non-highway vehicle certificate of title and any creditor using that equipment as collateral must file a UCC-1 Financing Statement to have a priority interest in that off-road vehicle.

IMPACT ON KANSAS BUSINESSES: It places an undue burden on Kansas sellers and purchasers of agricultural equipment, construction equipment, forestry equipment, and lawn care and grounds equipment to determine if a non-highway certificate of title is required. It also creates confusion for lenders to determine if they should protect their investment in that equipment purchase by having their interest noted on a non-highway certificate of title or on a UCC-1 Financing Statement.

ARGUMENT:

- Most states apply a general rule that a certificate of title is not required to purchase or record a lender's interest in almost all agricultural equipment, construction equipment, forestry equipment, and lawn care and grounds equipment.
- Agricultural equipment, construction equipment, forestry equipment, and lawn care and grounds equipment are all designed for off-road use.
- Kansas Statues 8-128 exempts farm tractors and other off-highway vehicles from registration, suggesting that registration and titling requirements are aimed at motor vehicles whose primary function is highway use.
- Agricultural equipment, construction equipment, forestry equipment, and lawn care and grounds equipment are all designed primarily for off-highway use, not for the highway transportation of people or products; therefore they should be exempt from the non-highway vehicle certificate of title requirements.

PROPOSED LEGISLATION:

New section 8-198(k):

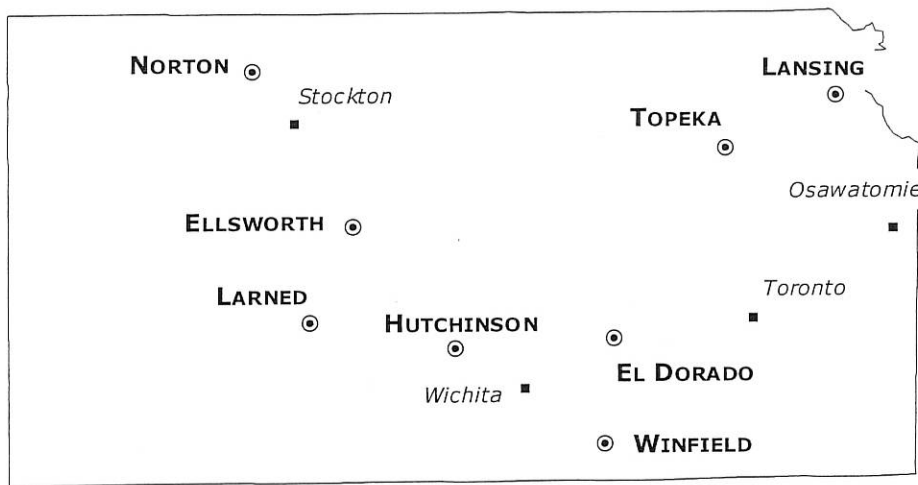
k) The following nonhighway vehicles are exempt from any requirement in K.S.A. 8-198, K.S.A. 8-135 or K.S.A. 8-199, and amendments thereto, or other law that a nonhighway certificate of title be issued with respect to such vehicle or that a security interest in or other lien or encumbrance on such vehicle be indicated on a certificate of title as a condition of perfection: (1) any farm tractor or other implement of husbandry; (2) any non-highway vehicle consisting of construction, forestry, earthmoving or lawn- or grounds-care equipment (3) lawn and grounds care equipment (4) any work-site utility vehicle; and (5) any all-terrain vehicle. The provisions of this subsection (k) apply to any such nonhighway vehicle in existence on or after [date], but shall not impair the perfection or priority of any security interest, lien or other encumbrance that was perfected in accordance with applicable law prior to such date.

Presentation to Senate Federal and State Affairs Committee

Roger Werholtz
Secretary of Corrections
Feb. 3, 2009

1

Location of KDOC Correctional Facilities

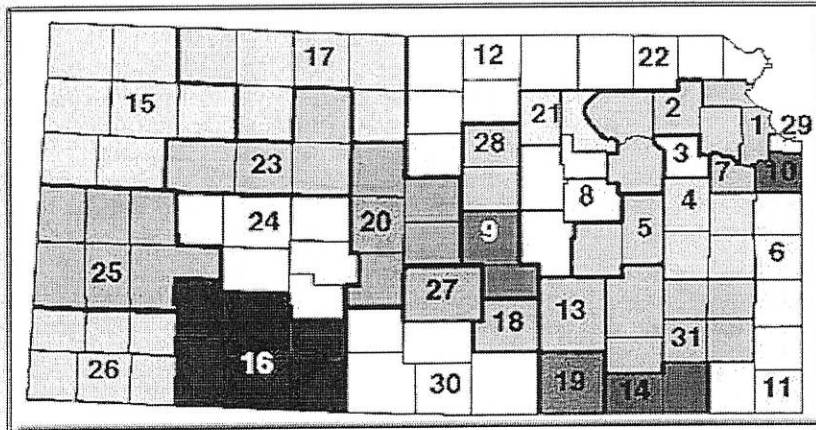


CENTRAL UNIT LOCATION

*Administrative Subunit Location*₂



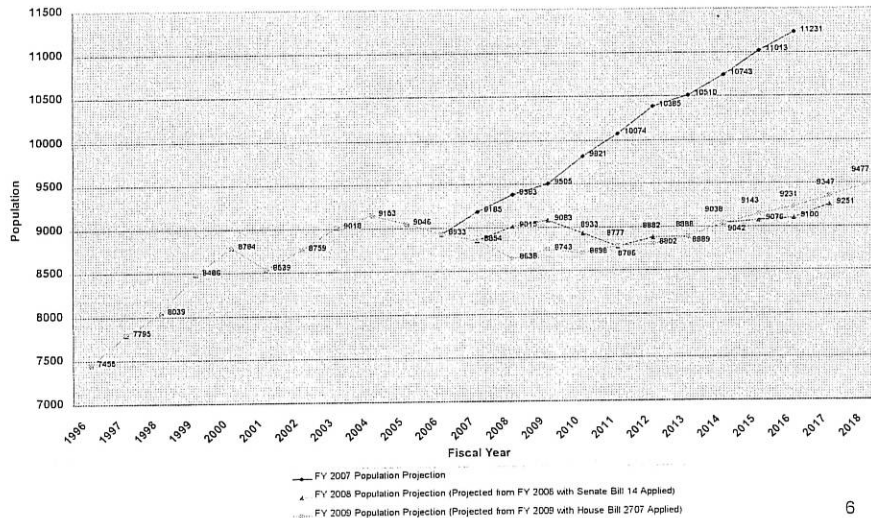
Kansas 31 Judicial Districts – Adult Probation/Court Services



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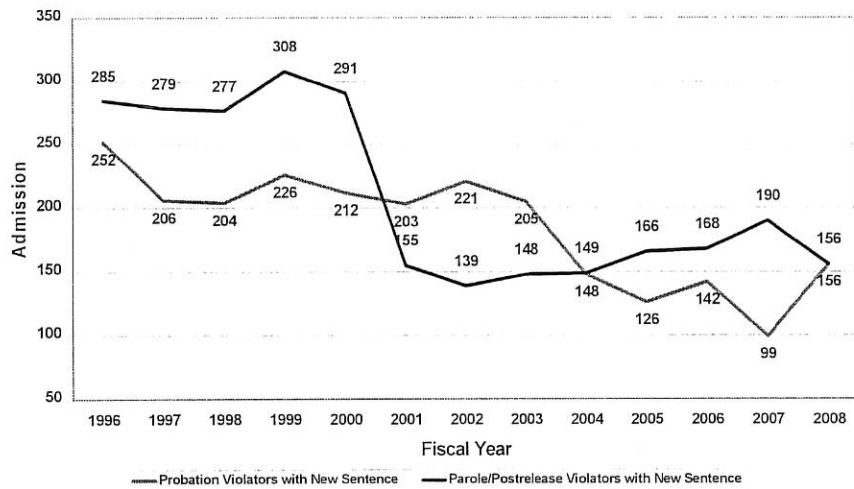
FY 2007 -2009 Population Projections

Kansas Prison Population Trend - Actual and Projected



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KANSAS PRISON ADMISSION TRENDS
Comparison between Probation and Parole/Postrelease Violators with New Sentence



Source: KDOC admission files

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KDOC Performance Measures

- 8,514 – facility population on 1/12/09 (9,251 on 2/19/04)
- 5,875 – Parole Population on 1/12/09 (4,261 on 2/19/04, 4,167 on 6/30/03)
- 106 – FY 2008 monthly parole revocation rate (FY 2003 rate = 203/month)
- 99 – FY 2009 to date monthly parole revocation rate
- 217 – number of parole absconders on 1/12/09 (739 on 6/30/00, 467 on 6/30/03, 248 on 6/30/08, 197 on 12/11/08)
- 35% reduction in felony convictions for crimes committed on parole (FY 1998 – 2000 avg. compared to FY 2004 – 2007 avg.)

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Funding for FY 2009

FY2009 Funding Legislative

Appropriation

Adult Supervision Funding (AISP)	
\$11,031,552.00	
SB123 Supervision Funding (SB123)	
\$2,449,340.00	
Adult Residential Services (RES)	\$2,068,020.00
Risk Reduction Grant (SB14)	
\$4,000,000.00	

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Community Corrections Population June 30 2008

- Adult Intensive Supervision – 8024
- Residential Services – 390
- Interstate Compact – 568
- Absconders – 1468

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SB 14 Provisions

- Establish funding to expand or create risk reduction efforts in community corrections
- Create incentives for inmates with selected offenses to participate in selected programs and treatment interventions targeted toward risk
- Increase the good time rate for inmates with lower severity level crimes

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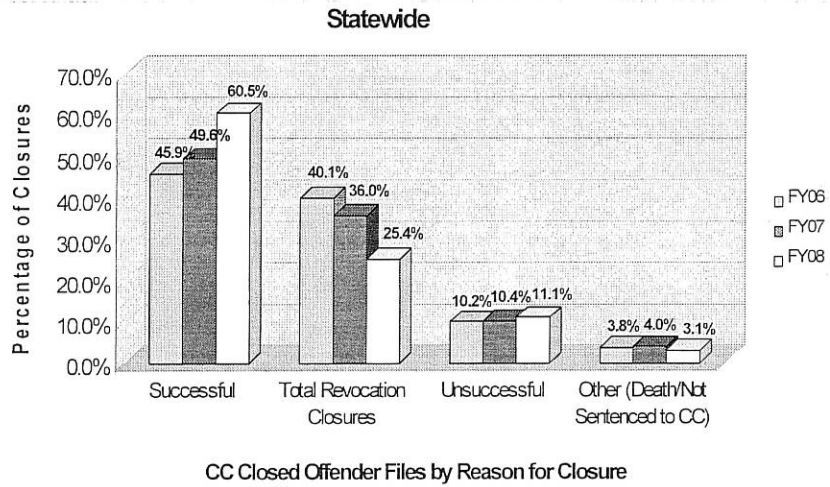
Senate Bill 14: Inmates

Through August 18, 2008:

- 108 inmates had been admitted with SB 14 offense.
- Two of these inmates have been released and discharged (4 and 5 months sentences with no PRS obligation).
- Approximately 60% of the inmates admitted with SB 14 sentences are eligible for program credit.
- Seven inmates eligible for SB 14 program credit are currently participating in a qualifying program. There have been no completions to date.
- There are 34 SB 14 inmates at EDCF-RDU, so they are beginning to arrive.

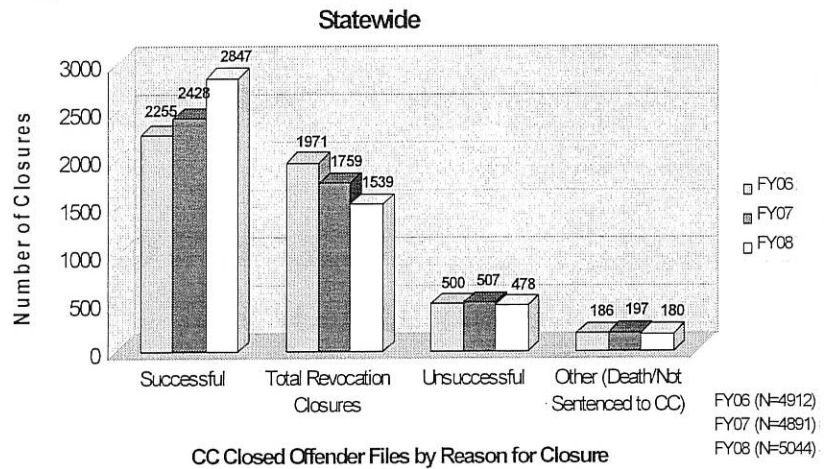
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Statewide

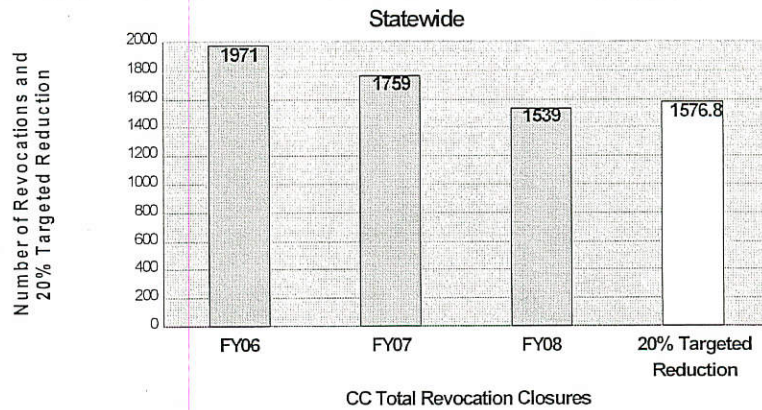


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Statewide



14



*To meet the 20% reduction, the FY08 number must be smaller than the number in the 20% targeted reduction bar.

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Crumbling Prisons Projects

- Total budget = \$21,806,082
- Primary funding - \$19,250,000 bond funds
- Balance from settlement on EDCF steam tunnel

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Projects

- Ellsworth Correctional Facility
 - Locking System Building 2
 - Fire Alarm Upgrade
 - Telephone System
- El Dorado Correctional Facility
 - Fire Alarm Upgrade
 - Razor Wire on Perimeter Fence
 - Segregation Exercise Yards Hardened
 - Telephone System
 - Replace Main Base Radio

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Projects (cont.)

- Hutchinson Correctional Facility
 - Locking Systems - A,B,C Cellhouses
 - Perimeter Detection System – East Unit
 - Fire Alarm Upgrades – East, Central, South Units
 - ADA Upgrades – Manpower Building
 - Locking System – D Cellhouse
 - Perimeter Detection at industrial Yard
 - Upgrade Door Controls at Rotunda Post

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Projects (cont.)

- Hutchinson Correctional Facility
 - Replace Fire Alarm Devices – Central, East, South Units
 - Replace Sliders in Rotunda and Sallyports
- Lansing Correctional Facility
 - Replace Clinic/Infirmary
 - Fire Alarm Upgrade Phases I, II & III
 - Upgrade Perimeter Security – Medium & Industries
 - Upgrade Razor Wire at Medium Perimeter

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Projects (cont.)

- Lansing Correctional Facility
 - Telephone System
 - Upgrade Fire Alarm – East Unit
 - Replace Fire Alarm Devices – Central Unit
- Norton Correctional Facility
 - Water Treatment Plant
 - Medium Dining Room
 - Decentralizing of Utilities
 - Telephone System

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Projects (cont.)

- Norton Correctional Facility
 - Perimeter Security Upgrade
 - Delete Fire Alarm Devices in Central Unit
- Winfield Correctional Facility
 - ADA Upgrades to Birch & Admin. Bldgs.
 - Replace Steam Heating System
- Wichita Work Release Facility
 - Elevator to Lower & Upper Floors

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Projects (cont.)

- Central Office
 - System Wide Security Upgrades (cameras, package scanners, vests, metal detectors, etc.)
 - Fire Alarm On-Call Contract
 - Radios

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Capacity Expansion Projects

- Four projects approved
 - 512 medium male beds at EDCF
 - 240 minimum male treatment beds at Yates Center
 - 100 minimum male beds at ECF that free up 65 medium male beds
 - 72 minimum male beds at Stockton
- Total original bonding authority - \$39.525 million
- 2008 legislature reduced bonding authority to \$19.525 million and limited any expenditures prior to 7/1/09 to planning, land or soil surveys

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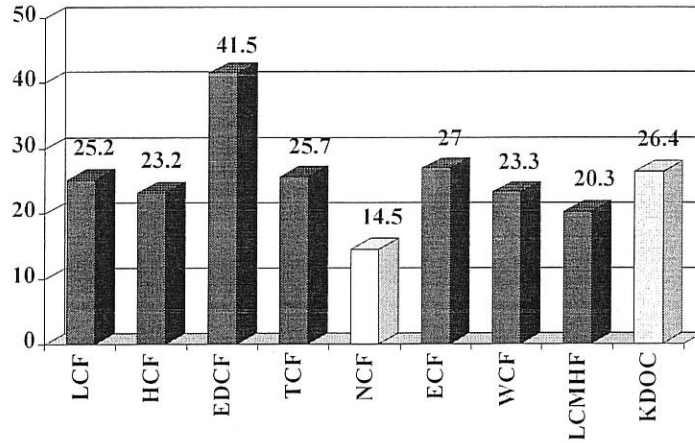
Capacity Expansion Projects

- \$994,057 (estimated) to be expended from bond proceeds to do planning for the four projects.
- No construction scheduled until population projections (annual or legislative impact estimates) indicate the need exists
- Having designs done in advance will cut time from authorization to opening by 6 – 8 months depending on the project.

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FY 2008 Turnover Rates Uniformed Staff Only

by percent

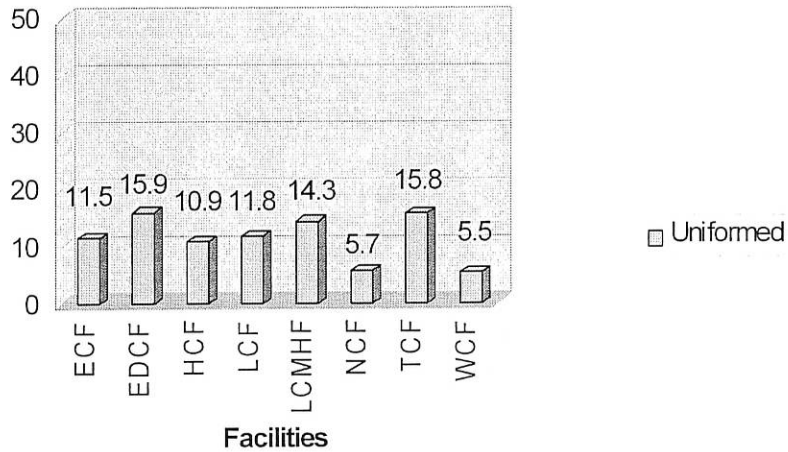


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FY 2009 Turnover

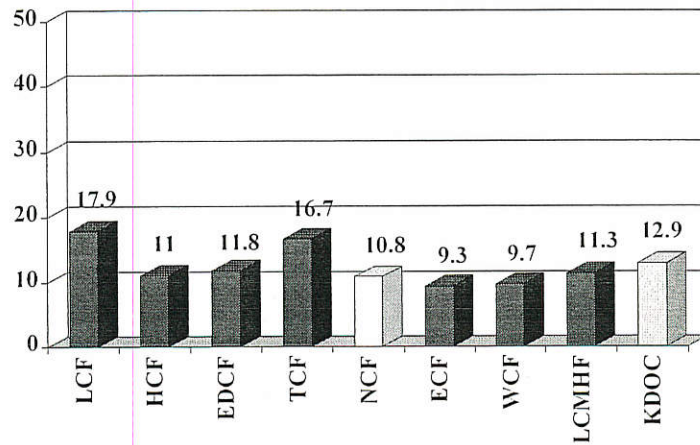
Uniformed



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FY 2008 Turnover Rates Non-Uniformed Staff Only

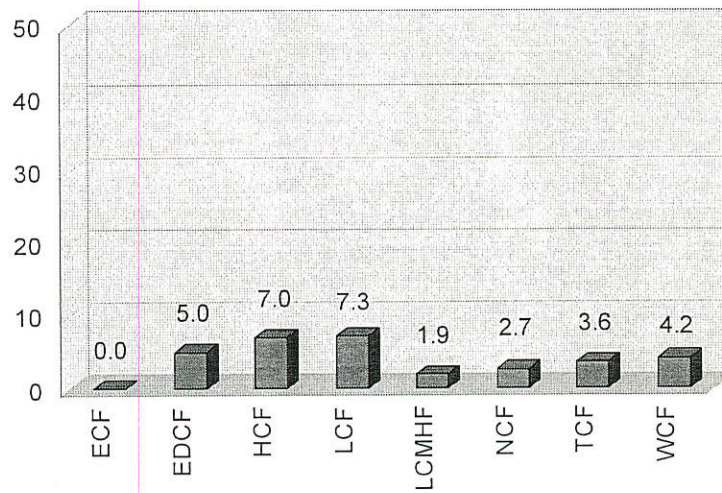
by percent



27



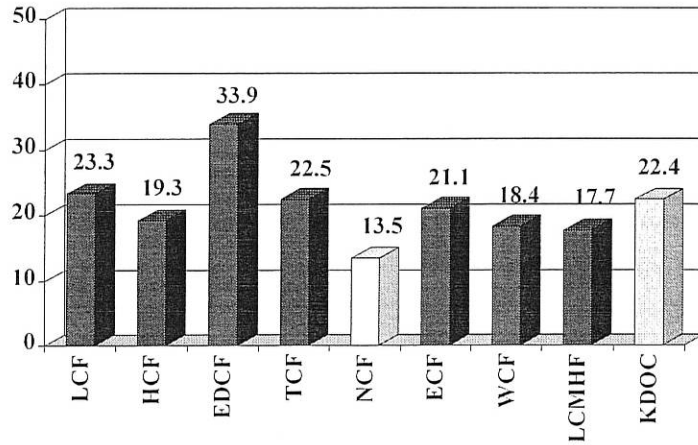
FY 2009 Non-Uniformed Staff Turnover Rates



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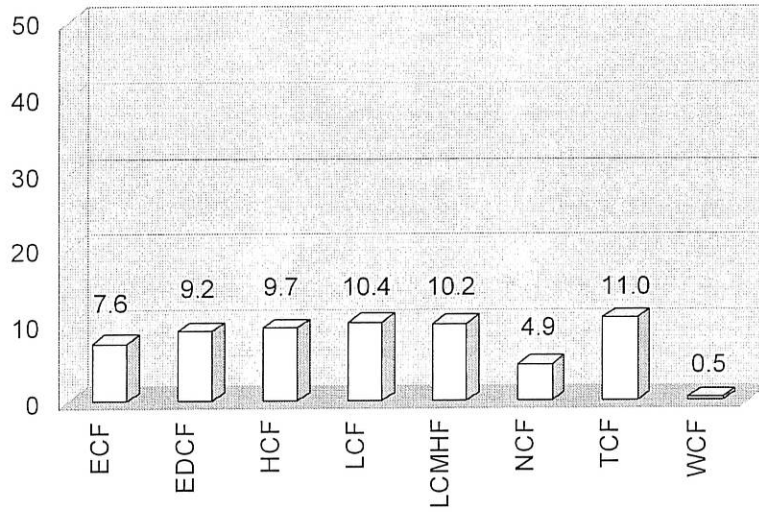
Total Staff Turnover Rates FY 2008

by percent



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FY 2009 Combined Staff Turnover Rates



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Impact of Turnover Rates

- Every new officer must complete 240 hours of training prior to assuming a post independently – With the current turnover rate that equates to 61 uniformed positions being open all year.
- It takes on average about 30 days to fill each uniformed position - With the current turnover rate, that equates to an additional 44.7 uniformed positions being open all year.
- 105.7 uniformed positions open all year due solely to turnover

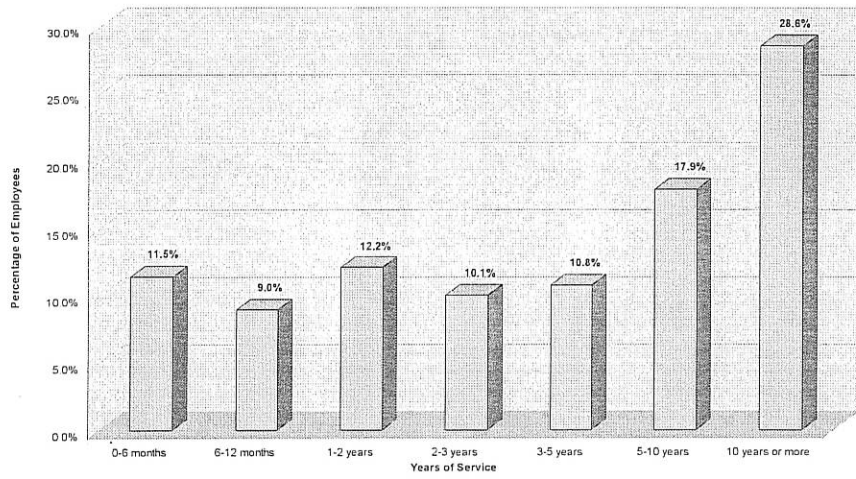
31

Vacancies/Absences in Uniformed Ranks

- Turnover is not the only issue – 8/15/08 snapshot
 - 80 uniformed positions vacant
 - 51 uniformed positions on extended sick leave, FMLA, shared leave, return to work status
 - 16 uniformed employees on workers comp.
 - 27 uniformed employees on military leave
 - 174 total uniformed positions unfilled or unable to work on 8/25/08. (8.7% of our uniformed positions)

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Years of Service - Corrections Officers I & II, CSI's (August 15, 2008)



	PERCENTAGE OF EMPLOYEES	NUMBER OF EMPLOYEES
0-6 months	11.5%	191
6-12 months	9.0%	150
1-2 years	12.2%	203
2-3 years	10.1%	169
3-5 years	10.8%	180
5-10 years	17.9%	299
10 years or more	28.6%	476
	TOTAL	1667

**KANSAS DEPARTMENT OF CORRECTIONS
BUDGET REDUCTIONS - FISCAL YEAR 2009 - \$7,945,182**

1/13/0.

<u>Item</u>	<u>Amount</u>
Delete unobligated amount for offender programs	(900,000)
Health care contract savings - reduced facility populations	(423,000)
Health care contract savings from intentionally holding positions vacant and delaying equipment purchases	(348,000)
Food service contract savings - reduced inmate population	(454,436)
Close day reporting centers on January 15, 2009 (\$969,000) and retain \$231,883 for partial continuation of services	(737,117)
Reduced payments for support of female conservation camp due to lower than budgeted average daily population for the first six months of the fiscal year	(80,000)
Close female conservation camp effective January 1, 2009	(483,000)
Replace financing of the health care contract with transfer from Correctional Industries Fund	(468,447)
Increase central office shrinkage rate to 5 percent	(295,000)
Assess shrinkage rate of 5 percent against JEHT reentry program positions	(120,000)
Increase budgeted amount for vehicle purchases	38,044
Reduce KSIP expenditures	(726)
Delete funding for replacement of major computer systems (OMIS and TOADS)	(1,461,500)
Replace community corrections funding with unexpended FY 2008 grant moneys already in local program accounts	(1,000,000)
Suspend operations of Osawatomie and Toronto correctional facilities effective April 1, 2009	(374,000)
Restructure debt service payments	(40,000)
Reduce debt service on infrastructure bond issue due to a shift in the expenditure of capitalized interest moneys and availability of moneys in the principal and interest account	(798,000)
Total	<u>\$ (7,945,182)</u>

Note: These reductions exclude amounts of (1) \$1,149,449 - FY 2008 savings reappropriated to FY 2009; (2) \$355,902 - reentry program savings; and (3) \$1,403,649 - financing shifts (including an additional transfer of \$653,649 from the Correctional Industries Fund) that were utilized to offset facility budget deficits (\$2,231,000) and restore a legislative base budget reduction (\$678,000). In addition, these reductions exclude removal of supplemental appropriation (\$737,117) for continuation of day reporting centers.

**KANSAS DEPARTMENT OF CORRECTIONS
BUDGET REDUCTIONS - FISCAL YEAR 2010 - \$20,114,568**

11'

	Amount
Delete unallocated amount for offender programs	(904,000)
Reduce funding for offender programs	(3,284,075)
Replace financing for offender programs with additional commissions from inmate telephone contract	(750,000)
Food service and health care contract savings - reduced inmate population	(553,407)
Health care contract savings from intentionally holding positions vacant and delaying equipment purchases	(600,000)
Close Correctional Conservation Camps	(3,371,324)
Close day reporting centers (\$2,134,520) and retain \$1,265,000 for partial continuation of services	(869,520)
Suspend operations of the Osawatomie Correctional Facility	(902,699)
Suspend operations of the Toronto Correctional Facility	(907,393)
Eliminate funding for 4th time DUI offenders (offset by increasing DOC share of district court fines and forfeitures)	(538,000)
Replace financing of the health care contract with transfer from the Correctional Industries Fund	(1,202,904)
Reduce funding for community corrections grants, excluding adult residential centers, by three percent	(525,000)
Increase central office shrinkage rate to 5 percent	(305,000)
Assess shrinkage rate of 5 percent against JEHT reentry program positions	(166,000)
Suspend operations of the Stockton Correctional Facility	(1,647,927)
Delete funding for residential centers in Johnson and Sedgwick counties	(2,068,020)
Delete funding for replacement of major computer systems (OMIS/TOADS)	(450,000)
Restructure debt service payments	(835,000)
Partially suspend payments for fringe benefit employer contributions	(5,723,552)
Restore legislative base budget reduction (\$500,000 for central office operations; \$100,000 for GPS monitoring of high-risk offenders; and \$78,000 for parole services operations)	678,000
Replace one-time financing for victims services program	349,676
Continue replacement of special revenue financing for JEHT reentry program	772,468
Other base budget increases	190,016
Offset facility budget deficits (shrinkage, utilities, other operating costs)	2,852,693
Provide one-half of base increase in funding for health care contract	646,400
Total	\$ (20,114,568)

**KANSAS DEPARTMENT OF CORRECTIONS
ADDITIONAL BUDGET REDUCTIONS - FISCAL YEAR 2009**

2/2/09

2-20

	<u>1.0% Reduction</u> <u>(\$2,721,000)</u>	<u>1.5% Reduction</u> <u>(\$4,100,000)</u>	<u>3.4% Reduction</u> <u>(\$9,300,000)</u>	<u>5% Reduction</u> <u>(\$13,415,000)</u>
Suspend operations of Stockton Correctional Facility, effective 4/1/2009	(339,000)	(339,000)	(339,000)	(339,000)
Suspend operations of Norton Correctional Facility, effective 4/1/2009	-	-	(2,489,000)	-
Suspend operations of Winfield Correctional Facility, effective 4/1/2009	-	(2,036,000)	(2,036,000)	(2,036,000)
Terminate all offender treatment and intervention programs and shift Correctional Industries Fund and inmate benefit fund financing to the food service contract, effective 4/1/2009	-	-	(2,430,000)	(1,830,000)
Accelerate FY 2010 program reductions	(625,000)	(625,000)		
Reduce parole and postrelease supervision, effective 4/1/2009; other reductions	(345,000)	(345,000)	(1,251,000)	-
Abolish parole and postrelease supervision, effective 4/1/2009	-	-	-	(2,330,000)
Suspend operations of the Hutchinson Correctional Facility, effective 4/1/2009	-	-	-	(5,635,000)
Adjustments associated with facility closures/other reductions	(755,000)	(755,000)	(755,000)	(1,245,000)
Undetermined reductions	<u>(657,000)</u>	<u>-</u>	<u>-</u>	<u>-</u>
Total	<u>\$ (2,721,000)</u>	<u>\$ (4,100,000)</u>	<u>\$ (9,300,000)</u>	<u>\$ (13,415,000)</u>



3

DRAFT

Fiscal Services (cont'd)

Graphs—Per Capita Costs

Per Capita Operating Costs: KDOC Facilities (based on Governor's budget recommendations)

FY 2009

Facility	ADP	Total Expenditures	Annual Per Capita	Daily Per Capita
Lansing Correctional Facility	2,375	\$37,242,183	15,681	\$42.96
Hutchinson Correctional Facility	1,715	28,775,133	16,779	45.97
El Dorado Correctional Facility	1,340	24,103,886	17,988	49.28
Topeka Correctional Facility	591	13,175,093	22,293	61.08
Norton Correctional Facility	737	14,357,410	19,481	53.37
Ellsworth Correctional Facility	820	12,518,041	15,266	41.82
Winfield Correctional Facility	677	12,383,884	18,292	50.12
Larned Correctional Mental Health Facility	315	9,517,168	30,213	82.78
Subtotal	8,570	\$152,072,798	\$17,745	\$48.62
Inmate Medical and Mental Health Care	8,570	46,160,620	5,386	14.76
Inmate Programs	8,570	7,446,667	869	2.38
Food Service	8,570	13,458,685	1,570	4.30
Total Expenditures	8,570	\$219,138,770	\$25,570	\$70.06

FY 2010

Facility	ADP	Total Expenditures	Annual Per Capita	Daily Per Capita
Lansing Correctional Facility	2,380	\$36,584,121	\$15,371	\$42.11
Hutchinson Correctional Facility	1,725	28,400,063	16,464	45.11
El Dorado Correctional Facility	1,330	23,403,038	17,596	48.21
Topeka Correctional Facility	597	13,198,036	22,107	60.57
Norton Correctional Facility	745	12,706,195	17,055	46.73
Ellsworth Correctional Facility	822	12,309,227	14,975	41.03
Winfield Correctional Facility	681	12,320,032	18,091	49.56
Larned Correctional Mental Health Facility	320	9,670,928	30,222	82.80
Subtotal	8,600	\$148,591,640	\$17,278	\$47.34
Inmate Medical and Mental Health Care	8,600	46,558,995	5,414	14.83
Inmate Programs	8,600	4,846,874	564	1.55
Food Service	8,600	13,766,482	1,601	4.39
Total Expenditures	8,600	\$213,763,991	\$24,857	\$68.11

4

MARY ANN TORRENCE, ATTORNEY
REVISOR OF STATUTES
JAMES A. WILSON III, ATTORNEY
FIRST ASSISTANT REVISOR
GORDON L. SELF, ATTORNEY
FIRST ASSISTANT REVISOR



OFFICE OF REVISOR OF STATUTES
KANSAS LEGISLATURE

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Legislative Committees and Legislators
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Legislative Coordinating Council
Kansas Commission on
Interstate Cooperation
Kansas Statutes Annotated
Editing and Publication
Legislative Information System

Briefing on Senate Bill 116

Jason B. Long
Assistant Revisor
Office of Revisor of Statutes

February 3, 2009

Senate bill 116 makes amendments to various statutes regarding permitting a private detective to carry a concealed firearm. Sections 1 and 2 of the bill make amendments to the municipal and county expungement statutes. These amendments would require the disclosure of arrests, convictions and diversions of individuals to the attorney general’s office if the individual is applying for a permit to carry a concealed weapon as a private detective.

Section 3 of the bill amends K.S.A. 75-7b01(a) defining “detective business.” The new definition would include bounty hunting as being a part of the detective business.

Section 4 amends K.S.A. 75-7b17, the concealed carry permit statute for private detectives. First, on page 14, in line 4, the bill would add the requirement that the licensee meet all of the requirements of subsection (a) of K.S.A. 75-7c04 except for paragraphs (1), (9), (10) and (13). I have attached that statute to this memorandum. Paragraph (1) pertains to the residency of the licensee. Paragraph (9) requires the intent to carry for lawful self-defense, and this is already required by K.S.A. 75-7b17. Paragraph (10) requires completion of a weapons safety and training course, and this is also already required by K.S.A. 75-7b17. Finally,

paragraph (13) requires the licensee be a U.S. citizen.

The second amendment to K.S.A. 75-7b17 is on page 14, in line 37, where a new subsection is added. This new subsection requires that each applicant be subject to a state and national criminal history background check.

The third amendment appears on page 15, in line 40, amending the attorney general's duty to revoke or suspend a permit under this statute. Current law mandates revocation or suspension of a permit if a licensee's private detective license is revoked or suspended. In other circumstances the attorney general is given discretion on whether to revoke or suspend the permit. This bill would mandate revocation or suspension in the enumerated instances thereby removing the attorney general's discretion.

The last significant amendment to K.S.A. 75-7b17 is on page 16, in line 20, where subsection (g) is stricken in its entirety. This subsection prohibits the issuance of a permit to an organization, an individual declared by a court to be incapacitated or mentally ill, or an individual that suffers from alcohol or drug addiction.

75-7c04. Same; qualifications; weapons safety and training course. (a) The attorney general shall issue a license pursuant to this act if the applicant:

(1) Is a resident of the county where application for licensure is made and has been a resident of the state for six months or more immediately preceding the filing of the application, residency to be determined in accordance with K.S.A. 77-201, and amendments thereto;

(2) is 21 years or more of age;

(3) does not suffer from a physical infirmity which prevents the safe handling of a weapon;

(4) (A) has been convicted or placed on diversion for an act that constitutes a felony under the laws of this state or any other jurisdiction and: (i) Such felony is expungeable pursuant to K.S.A. 21-4619, and amendments thereto, or similar provision from another jurisdiction; (ii) such felony has been expunged; and (iii) the requirements of subsection (d) are otherwise met;

(B) has not been convicted or placed on diversion, in this or any other jurisdiction, for an act that constitutes a felony under the laws of this state and such felony is not subject to expungement pursuant to K.S.A. 21-4619, and amendments thereto, or adjudicated, in this or any other jurisdiction, of committing as a juvenile an act that would be a felony under the laws of this state if committed by an adult;

(5) has never been convicted, in this or any other jurisdiction, for an act that constitutes a misdemeanor crime of domestic violence, as defined by 18 U.S.C. 921(a)(33)(A) or adjudicated, in this or any other jurisdiction, of committing as a juvenile an act that would be a misdemeanor crime of domestic violence under 18 U.S.C. 921(a)(33)(A) if committed by an adult;

(6) has not been, during the five years immediately preceding the date the application is submitted: (A) Convicted or placed on diversion, in this or any other jurisdiction, for an act that constitutes a misdemeanor under the provisions of the uniform controlled substances act or adjudicated, in this or any other jurisdiction, of committing as a juvenile an act that would be a misdemeanor under such act if committed by an adult; (B) convicted or placed on diversion, in this or any other jurisdiction, two or more times for an act that constitutes a violation of K.S.A. 8-1567, and amendments thereto; (C) convicted or placed on diversion, in this or any other jurisdiction, for an act that constitutes a domestic violence misdemeanor under any municipal ordinance or article 34 or 35 of chapter 21 of the Kansas Statutes Annotated or adjudicated, in this or any other jurisdiction, of committing as a juvenile an act that would be a domestic violence misdemeanor under article 34 or 35 of chapter 21 of the Kansas Statutes Annotated if committed by an adult; or (D) convicted or placed on diversion, in this or any other jurisdiction, for an act that constitutes a violation of K.S.A. 2008 Supp. 75-7c12, and amendments thereto, or a violation of subsection (a)(4) of K.S.A. 21-4201, and amendments thereto, or adjudicated, in this or any other jurisdiction, of committing as a juvenile an act that would be a violation of K.S.A. 2008 Supp. 75-7c12, and amendments thereto, or a violation of subsection (a)(4) of K.S.A. 21-4201, and amendments thereto, if committed by an adult;

(7) has not been charged with a crime which would render the applicant, if convicted, ineligible for a license or, if so charged, final disposition of the charge has occurred and no other charges are pending which would cause the applicant to be ineligible for a license;

(8) has not been ordered by a court to receive treatment for mental illness pursuant to K.S.A. 59-2966, and amendments thereto, or for an alcohol or substance abuse problem pursuant to K.S.A. 59-29b66, and amendments thereto, or, if a court has ordered such treatment, has not been issued a certificate of restoration pursuant to K.S.A. 2008 Supp. 75-7c26, and amendments thereto, not less than five years before the date of the application;

(9) desires a legal means to carry a concealed weapon for lawful self-defense;

(10) except as provided by subsection (g) of K.S.A. 2008 Supp. 75-7c05, and amendments thereto, presents evidence satisfactory to the attorney general that the applicant has satisfactorily completed a weapons safety and training course approved by the attorney general pursuant to subsection (b);

(11) has not been adjudged a disabled person under the act for obtaining a guardian or conservator, or both, or under a similar law of another state or the District of Columbia, unless the applicant was ordered restored to capacity three or more years before the date on which the application is submitted;

(12) has not been dishonorably discharged from military service;

(13) is a citizen of the United States;

(14) is not subject to a restraining order issued under the protection from abuse act, under the protection from stalking act or pursuant to K.S.A. 60-1607, K.S.A. 2008 Supp. 38-2242, 38-2243 or 38-2255, and amendments thereto, or any equivalent order entered in another state or jurisdiction which is entitled to full faith and credit in Kansas; and

(15) is not in contempt of court in a child support proceeding.

(b) (1) The attorney general shall adopt rules and regulations establishing procedures and standards as authorized by this act for an eight-hour weapons safety and training course required by this section. Such standards shall include: (A) A requirement that trainees receive training in the safe storage of weapons, actual firing of weapons and instruction in the laws of this state governing the carrying of a concealed weapon and the use of deadly force; (B) general guidelines for courses which are compatible with the industry standard for basic firearms training for civilians; (C) qualifications of instructors; and (D) a requirement that the course be: (i) A weapons course certified or sponsored by the attorney general; or (ii) a weapons course certified or sponsored by the national rifle association or by a law enforcement agency, college, private or public institution or organization or weapons training school, if the attorney general determines that such course meets or exceeds the standards required by rules and regulations adopted by the attorney general and is taught by instructors certified by the attorney general or by the national rifle association, if the attorney general determines that the requirements for certification of instructors by such association meet or exceed the standards required by rules and regulations adopted by the attorney general. Any person wanting to be certified by the attorney general as an instructor shall submit to the attorney general an application in the form required by the attorney general and a fee not to exceed \$150.

(2) The cost of the weapons safety and training course required by this section shall be paid by the applicant. The following shall constitute satisfactory evidence of satisfactory completion of an approved weapons safety and training course: (A) Evidence of completion of the course, in the form provided by rules and regulations adopted by the attorney general; or (B) an affidavit from the instructor, school, club, organization or group that conducted or taught such course attesting to the completion of the course by the applicant.

(c) In addition to the requirements of subsection (a), a person holding a license pursuant to this act, prior to renewal of the license provided herein, shall submit evidence satisfactory to the attorney general that the licensee has requalified by completion of an approved course given by an instructor of an approved weapons safety and training course under subsection (b).

(d) If an applicant has had a conviction or diversion described in subsection (a)(4)(A) or (a)(6) expunged pursuant to K.S.A. 12-4516 or 21-4619, and amendments thereto, or similar provision from another jurisdiction, and the applicant has been eligible for expungement for five

years or more immediately preceding the date the application for licensure is submitted, the applicant shall not be disqualified from being issued a license if the applicant is otherwise qualified for licensure pursuant to this section.



Kansas Bureau of Investigation

Robert E. Blecha
Director

Stephen N. Six
Attorney General

**TESTIMONY
BEFORE THE FEDERAL AND STATE AFFAIRS COMMITTEE
IN SUPPORT OF SB 116
JEFFERY J. BRANDAU, SPECIAL AGENT IN CHARGE
KANSAS BUREAU OF INVESTIGATION
FEBRUARY 3, 2009**

I am Jeffery Brandau and I am an Administrative Special-Agent-in-Charge of the Kansas Bureau of Investigation (KBI). I am here today representing the KBI and giving our strong support to SB 116.

Beginning on January 1, 2007 KSA 75-7c03 went into effect to allow for individuals to have Concealed Carry Weapons (CCW). The statute provided a list of provision and requirements an individual would have to complete to be able to obtain a license to carry a firearm concealed. The legislature within the statute provided well thought requirements that do a good job of ensuring that individuals licensed to carry, are provided training and tested to ensure the individual is competent to handle the weapon and void of a criminal background that could be of concern to the citizens of the state.

CCW is far more specific as to who may be able to obtain a license specifically regarding types of convictions as found in 75-7c04. It also states that (the attorney general shall issue a license pursuant to this act if the applicant has not been convicted or placed on division, in this or any other jurisdiction for an act that constitutes a felony under the laws of this state and such felony is not subject to expungement pursuant to KSA 21-4619, and amendments thereto, or adjusted, in this or any other jurisdiction of committing as a juvenile an act that would be a felony under the laws of this state if committed by an adult;”

The PI Licensing Act currently reads:

“been convicted of a felony or, within 10 years immediately prior to the date of the application, been convicted of any crime involving moral turpitude, dishonesty, vehicular homicide, assault, batter, assault on a law enforcement officer, misdemeanor battery against a law enforcement officer, criminal restraint, sexual battery, endangering a child, intimidation of a witness or victim or illegally using, carrying or possessing a dangerous weapon.”

Sn Fed & State
Attachment 5

As indicated the requirements for CCW are more stringent than those required for Private Investigators. It has left a void where it is easier for an individual to apply to become a Private Investigator and be allowed to legally carry a concealed firearm than to comply with the requirements found in CCW. SB 116 brings into line those requirements and has Private Investigator requirements mirror those of CCW.

In addition this legislation for the first time defines a "Bounty Hunter" and requires that those 'involved in locating any person who has been released on bail, commonly referred to as "bounty hunting" is required by this bill to have a PI license and conform to those requirements'.

Given the need to ensure the safety of our citizens, requiring individuals that want to pursue the business of a Private Investigator/Detective should be required to fulfill the same requirements of an individual under the CCW law.

The KBI encourages the committee to pass this bill.

KPBBA

1508 SW
Topeka
Boulevard
Topeka,
Kansas 66612

President
Dennis Berndt

Vice-President
David
Stuckman

Treasurer
Tommy
Hendrickson

Board of
Directors
Chris Fisher
Ray Vunovich
Shane Rolf

General
Counsel
Christopher
Joseph,
Joseph &
Hollander P.A.

Kansas Professional Bail Bond Association

TO: Senate Federal-State Committee
FROM: Christopher M. Joseph, General Counsel
DATE: February 2, 2009
RE: Opposition to SB 116

The KPBBA is opposed to Section 3 of the bill.

Section 3 attempts to bring "bounty hunters" under the umbrella of persons required to be licensed private investigators.

Section 3 is flawed and should be rejected for the following reasons.

1. If the intent was to regulate "bounty hunters," Section 3 is flawed because the language would result in regulating all bondsmen, not just "bounty hunters." Presumably the intent of Section 3 was to regulate what the public thinks of when they hear the term "bounty hunter." Such a person is not a bondsman, but an independent contractor brought in to find defendants who fail to appear in court. If the intent of Section 3 was to require only "bounty hunters" to be licensed, the KPBBA is not opposed to the intent of the bill. Unfortunately, as written, the language in Section 3 is much broader and limits all bondsmen in Kansas.
2. If the intent was to regulate all bondsmen, Section 3 is flawed because the Insurance Commissioner and the courts already regulate bondsmen. Additional oversight and regulation of the bail bond industry is supported by the KPBBA. Section 3 is not an effective way to add oversight. The Insurance Commissioner already regulates the vast majority of bondsmen and would be the appropriate authority for additional regulations. Section 3 would create overlapping regulations and jurisdiction.
3. The language of Section 3 would prohibit bondsmen, who are not licensed private investigators, from "obtaining information" about the "movement" and "whereabouts" of persons who post bonds in criminal cases. Surely the intent of the bill was not to prohibit bondsmen from making sure that defendants comply with conditions of bond, which often include residence and travel restrictions. The intent of the bill was surely not to prohibit bondsmen from tracking persons on bond in order to make sure that they appear as directed. Unfortunately, that would be the effect of the language in Section 3.

4. Section 3 runs afoul of federal and Kansas law. United States Supreme Court decisions, going back as far as *Taylor v. Taintor*, 16 Wall. 366, 83 U.S. 366, 21 L.Ed. 287 (1872), explain that when a defendant posts a bond, he remains in the custody of the bondsman who can surrender the defendant to jail at any time:

Whenever they choose to do so, they may seize him and deliver him up in their discharge; and if that cannot be done at once, they may imprison him until it can be done. They may exercise their rights in person or by agent. They may pursue him into another State; may arrest him on the Sabbath; and, if necessary, may break and enter his house for that purpose.

Kansas case law follow the same principle. In *State v. Indemnity Ins. Co. of N. Amer.*, 9 Kan. App. 2d 53, 56 (1984), the court of appeals explained:

By the recognizance the principal is, in the theory of the law, committed to the custody of the sureties as to jailers of his own choosing, not that he is, in point of fact, in this country at least, subjected or can be subjected by them to constant imprisonment; but he is so far placed in their power that they may at any time arrest him upon the recognizance and surrender him to the court and, to the extent necessary to accomplish this, may restrain him of his liberty.

Section 9 of the Kansas Bill of Rights provides: "All persons shall beailable by sufficient sureties except for capital offenses, where proof is evident or the presumption great." The concept of "bail" in Section 9 is based on the principles of law set out in the *Taylor* decision.

What does this mean? The language in Section 3 limits the right of a bondsman to track and surrender a defendant. The effect is to take away from bondsmen their existing legal and contractual rights and expose them to much greater liabilities on existing and future bonds. It also dilutes an individual's right under Section 9 of the Kansas Bill of Rights to "bail" by sufficient solvent sureties. Passage of this bill would surely result in a challenge to the law as a government "taking" from bondsmen and as a violation of individual rights to bail bonds.

5. The language in Section 3, when read in conjunction with K.S.A. § 75-7b03, would result in licensing for only a fraction of all bondsmen. K.S.A. § 75-7b03 exempts from the licensing requirement insurance agents performing duties in connection with insurance transacted by them. Most bondsmen are insurance agents. Most bail bonds are insurance policies.

It follows that Section 3 would limit only bondsmen who are not insurance agents writing bonds backed by insurance. It would limit only bondsmen writing bonds secured by Kansas real estate. There can be no good policy behind such a selective licensing requirement.

B&K BONDING, LLC
158 N 8TH ST
SALINA, KS 67401

Good morning Chairman and members of the committee. My name is Dennis Berndt, President of the Kansas Professional Bail Bonding Association and owner of B&K Bonding in Salina, Kansas. I am here to provide written testimony in opposition of SB116.

This bill would make it impossible for a Bail Bonding Company to do business without a P.I. License. Please turn your attention to page 12, line 31, which amends the language of K.S.A. § 75-7b01(a)(2) to include "the attempt to locate any person who has been released on bail, commonly referred to as bounty hunting."

B&K Bonding is a licensed surety bail bonding company in Salina, Saline Co., Kansas. Saline Co. District court requires each licensed bail bonding company to submit quarterly reports providing updates on defendants still on bond. B&K bonding is required to track and monitor each defendant's court case along with his or her whereabouts. The ability to search the identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, acts, reputation or character of any person is precisely what a bail bonding company does each time it writes a surety bond for a defendant.

When a bond becomes subject to forfeiture, the bonding company and its agent must work at a moments notice with information the information collected to apprehend the defendant pursuant to K.S.A. § 22-2809 (giving the surety or any person authorized by the surety the right to arrest said defendant and deliver to a custodial officer of the court). The language amending in SB116 K.S.A. § 75-7b01(a)(2) directly contradicts K.S.A. § 22-2809, which is what bondsmen rely upon daily to conduct business.

On behalf of B&K Bonding and the Kansas Professional Bail Bonding Association, I do feel licensing requirements for bounty hunters working solely for hire should be reviewed, but a bail bonding company, such as B&K Bonding, should be allowed performs its own "bounty hunting" on a daily basis, which is precisely what the nature of the business requires.

I appreciate the consideration the committee has given this testimony. I also thank you for your public service as elected officials.

Dennis W. Berndt
B&K Bonding

Written Testimony
from Doug Smith on behalf of the
Kansas Professional Sureties
Senate Bill No. 116
Senate Federal and States Affairs Committee
February 3, 2009

Chairman Brungardt and Members of the Federal and State Affairs Committee:

Our association appears today in opposition to Senate Bill No. 116, as drafted, due to some potentially unintended consequences.

Our members are property sureties also known as bail bondsmen. These sureties provide valuable services to the citizens of Kansas and the Court system.

As background, a bail bondsman is a person who provides a bail bond or surety bond with the court guaranteeing the entire bail amount if the accused party fails to maintain the terms of the court's release, and takes responsibility for the court appearances of their clients to whom such bonds are issued. The main benefit of bail is the client does not have to spend all of their time in a jail cell until the trial date. Because a number of people intentionally skip town or fail to make the court ordered appearances after posting bail bonds, there is also a need to track down or locate the defendants. Generally, the bail bondsman will perform this task, since the bail bondsman is held financially responsible and obligated under the terms of the bond to locate clients for the court should they fail to appear.

As we read the bill on Page 12, lines 31-33 the definition of "detective business" in K.S.A. 75-7b01 is being amended to include "attempting to locate any person who has been released on bail."

Our concern is this new definition could now require a bail bondsman to be licensed as private detectives even though they do not hold themselves out as private detectives. Bondsman, as a part of their business, routinely attempts to locate clients out on bail for various reasons such as failing to appear at a court proceeding. Because our members will on occasion meet the criteria of the new definition will they be required to have a private detective's license?

K.S.A. 75-7b02 makes it illegal for "any person to engage in detective business in this state unless such person is licensed as a private detective under this act." If your Committee decides to pursue the expanded definition of detective business, we would request an exemption under K.S.A. 75-7b03 for any qualified surety, approved pursuant to K.S.A. 22-2806, while performing duties in connection with appearance bonds transacted by such surety.

Thank you for your consideration of our comments today.

Chapter 75.--STATE DEPARTMENTS; PUBLIC OFFICERS AND EMPLOYEES
Article 7b.--PRIVATE INVESTIGATIVE OR SECURITY OPERATIONS

K.S.A. 75-7b03. Exemptions from licensure. The following persons shall not be deemed to be engaging in detective business:

- (a) A person employed exclusively and regularly by one employer in connection only with the internal affairs or investigations of such employer and where there exists an employer-employee relationship;
- (b) any officer or employee of the United States, or of this state or a political subdivision thereof while engaged in the performance of the officer's or employee's official duties;
- (c) a person engaged exclusively in the business of obtaining and furnishing information as to the financial rating of persons except that this exemption does not include a person preparing an investigative consumer report as defined by K.S.A. 50-702, and amendments thereto;
- (d) a charitable philanthropic society or association duly incorporated under the laws of this state which is organized and maintained for the public good and not for private profit;
- (e) an attorney performing duties as an attorney or a person employed exclusively and regularly by an attorney or law firm performing duties exclusively on behalf of the attorney or law firm;
- (f) a licensed collection agency or an employee thereof while acting within the scope of employment, while making an investigation incidental to the business of the agency, including an investigation of the location of a debtor or a debtor's property where the contract with an assignor creditor is for the collection of claims owed or due or asserted to be owed or due or the equivalent thereof;
- (g) admitted insurers, agents and insurance brokers licensed by the state, performing duties in connection with insurance transacted by them;
- (h) the legal owner of personal property which has been sold under a conditional sales agreement or a mortgagee under the terms of a chattel mortgage in connection with the recovery of such personal property;
- (i) any bank subject to the jurisdiction of the state bank commissioner of the state of Kansas or the comptroller of currency of the United States;
- (j) a person engaged solely in the business of securing information about persons or property from public records;
- (k) an insurance adjuster which, for the purpose of this act, means any person who, for any consideration whatsoever, adjusts or otherwise participates in the disposal of any claim under or in connection with a policy of insurance or engages in soliciting insurance adjustment business;
- (l) a private patrol operator while actually engaged in providing private patrol services on the property to which private patrol services are being provided; or
- (m) a person engaged in market research.

Chapter 22.--CRIMINAL PROCEDURE
KANSAS CODE OF CRIMINAL PROCEDURE
Article 28.--CONDITIONS OF RELEASE

K.S. A. 22-2806. Justification and approval of sureties. Every surety, except an insurance company authorized to transact business pursuant to subsection (d) of K.S.A. 40-1102, and amendments thereto, shall justify by affidavit and may be required to describe in the affidavit the property by which such surety proposes to justify and the encumbrances thereon, the number and amount of other bonds and undertakings for bail entered into by such surety and remaining undischarged and all such surety's other liabilities. No bond shall be approved unless the surety appears to be qualified. The appearance bond and the sureties may be approved and accepted by a judge of the court where the action is pending or by the sheriff of the county.

2009 Senate Bill 107
Testimony by Charles Estes
Fraternal Order of Eagles #55
Leavenworth, Kansas

Senators,

My name is Charles Estes and I run the bingo program for Leavenworth Eagles. My wife and I took over the program in November 2004. At that time the average attendance on Friday night was about 40-50. Over the last four years we have:

- a.) Added Sunday nights
- b.) Implemented a non-smoking room so we can cater to both smokers and non-smokers.
- c.) Raised attendance to Fridays over 120 and Sundays over 90.
- d.) Raised our prizes to the maximum allowed by Kansas law

On August 17, 2008 the state held a pre-planning session on how to get bingo on the rise. There were 17 licensed bingo organizations at this meeting. It was decided to hold workshops and try to teach positive, proven techniques to get better results. Due to my success in the last four years, I was appointed chairman of a committee to get changes to help us all.

In October 2008, the state held 7 workshops in the cities of Leavenworth, Pittsburg, Salina, Topeka, Wichita, Dodge and Hays. I hosted Leavenworth and was the guest speaker in Topeka, Wichita and Hays. There are 318 licensed bingo organizations in Kansas and every one of them received an invitation to attend one or more of these meetings. There was a total attendance of 351 people at these 7 workshops. They represented various bingo organizations including Senior Center at Emporia, a city baseball team and all of the big Fraternal organizations with over 30 American Legions. Each person was given a form to fill out on "the top three issues with bingo that need improvement or change". Of these 350+ people these were the major comments:

- a.) Raise Payouts
 - Higher game limits
 - Higher nightly limits
 - Higher drawing limit
 - More drawings
 - Raise starting limit for progressives
- b.) Volunteers
 - Need more avenues to get volunteers
 - Would like to compensate volunteers
 - Need more/better callers
- c.) Open up the limits
 - More than 2 nights per week
 - More than 1 hour for pull tabs before regular session
 - More than 1 hour for mini bingo


They were also asked to serve on a committee to make changes to our programs if possible. This was a block to mark on the attendance sheet.

On December 22, 2008, we met again with almost all of the ones that volunteered to be on the committee and a few others joined in. These changes are the results of our efforts and the 350+ people who gave us their input for desired changes.

In conclusion, I would like to quote a gentleman from Osawatomie American Legion who could not be here today, due to family illness.

"It is critical that this bill passes. It makes it easier for everyone, and is a win-win for all".

Thank You,

A handwritten signature in black ink, appearing to read "Charles Estes". The signature is fluid and cursive, with a large initial "C" and "E".

Charles Estes

SENATE BILL #107

TESTIMONY BY SUSAN RILEY

EXECUTIVE DIRECTOR OF EMPORIA SENIOR CENTER

EMPORIA, KANSAS

2009

Good morning, I am Susan Riley for the past seven years I have been the director of Emporia Senior Center. Emporia Senior Center will complete 25 years of service in March of 2009. Our budget is \$110,000 per year and we receive \$28,000 per year in mill levy support from Lyon County. Much of the deficit in our operating expense is made up from the profits we make by hosting Bingo.

For Emporia our Bingo is an asset to the community. We operate a snack bar. One of our local 7th grade teachers brings a group of her students to operate the cash box. This gives the students an opportunity to learn first hand how to make change as well as become more comfortable meeting the seniors of our community. We have many grandparents who have found it great for them and their grandchild to spend some quality time together at bingo. We also welcome the developmentally challenged to our bingo. It is difficult for them find entertainment for an evening for so little cost, and where they are welcomed with open arms.

“Meals on Wheels” are served at our center Monday thru Friday as well as frozen meals for the week-ends. We have a food pantry for seniors, a foot care clinic, blood pressure checks, tax preparation; our building is host to other organizations such as Visually Impaired, OKEP, and AARP. Our meeting rooms are offered to these types of organizations at no charge. We have a vast array of handicapped equipment that we loan out to seniors. We also offer many social programs on a daily basis.

Literally, with out the revenues generated by Tuesday Night Bingo at Emporia Senior Center thousands of meals would not be served. Our seniors would remain in their homes

with few if any social outlets. We are the only senior center in the state of Kansas to operate Bingo for profit and it is what keeps our doors open and our seniors feed.

On a personal note Shiners' operate bingo to support their work with crippled children. I am a Shiners' kid, from long before there were Shiners Hospitals. My life would have been very different if it were not for the generosity of the Shrine. I suffered a great deal of teasing and ridicule from other kids as I went thru the process of straightening my legs, but it allowed me to live a normal life. If the Shrine had not been able to help my family my mother has told me they would have had no choice but to let me grow up crippled. The Shrine has given me a normal life, as they have so many other children. Bingo allows them to continue this great work.

Many American Legions around our state operate Bingo as a means to support the hundreds of American Legion Baseball Teams and to build and maintain American Legion fields. Activities such as Baseball are so important to the healthy development of youth of our state.

Saline County Association for Developmentally Disabled Citizens operates their bingo to aide in sending participants to Special Olympic events.

Bingo (other than casinos) in the State of Kansas is only operated by non-profit organizations. These same organizations pour vast amounts of money back into communities around our state. In these difficult economic times this is more important than ever.

The changes we are purposing in Senate Bill 107 will allow all those who operate bingo to improve their ability to serve their bingo players. Some of the changes we purpose are simply adjusting time limits and payouts to keep in step with inflation.

79-4701 (w) pg.6 requests the payout limit on a regular bingo game be increased from \$50 to \$100 dollars. The limit of \$50 was set in 1979, 30 years ago.

79-4706 (b) would allow a larger pool of potential volunteers to be tapped. This allows those who benefit from the proceeds of bingo to volunteer.

79-4706 (o) (2) pg.9 We are allowed to have prize drawings. The limit set in 1979 was \$25.00 We are asking that the limit be increased to \$500. This may seem like a huge amount but it allows organizations to solicit donations like a Television to be given away. I am sure that the 318 different organizations will not be able to acquire this type of prize very often. This change will afford bingo establishments to generate some excitement with the occasional larger prize.

79-4706 (t) pg.11 extends the time prior to the start of bingo in which the establishment can sell instant bingo tickets. At our center our snack bar opens at 5:30 allowing our customers time to purchase and consume their supper before the start of regular bingo. By extending the time from one hour to two hours it will allow us the opportunity to bring the start times of snack bars and instant ticket sales into alignment, eliminate confusion and better serve our customers.

I respectfully request your support for Senate Bill 107

Susan Riley
Director
Emporia Senior Center
603 East 12th Avenue
Emporia, Kansas 66801

**SENATE BILL 107
TESTIMONY BY LEROY BAILEY
VFW POST 1367
HOLTON, KANSAS
FEB. 2, 2009**

First and foremost I want to thank you for allowing me to address this committee. In section 79-4706 (B) at the end of the paragraph- "or the beneficiary organization" was added.

The VFW, like most organizations, have trouble getting volunteers, due to age and abilities.

This sentence was added in hopes of broadening the base of people we can use to help run games of Bingo. For example, tonight Bingo will giving an amount, or percent, to the American Legion baseball parents of ball players (players maybe). Then American Legion members could help out. This will give the regular people, the ones who are always there, a chance of a break.

Again, I want to thank you for time. I know you are pressed for it. If there are any questions I will be happy to try and answer them.

Thank you,
LeRoy F. Bailey

**SENATE BILL 107
DEBI KREUTZMAN
STAFF, POSITIVE DIRECTIONS
WICHITA, KANSAS**

KANSAS CHARITIES COOPERATIVE

414 S. Commerce, Wichita KS 67202

Board of Directors: Abstinence Education – Betty Moore; Kappa Alpha Psi - Tommy Williams; Knights of Columbus - Norman Zeller; New Soccer Academy - Teri Lakin; North Optimist Club - John Ferguson; Positive Directions - Debi Kreutzman; Renegades Softball - Debbie Beals; Wichita Twins – Jeff Wells; Rockies Youth Athletes - Matt Klusener; Wolverine Baseball – Vera Spencer; Wichita Rockhounds Baseball - Tom Baulmann; Wichita Premier Sports – Brad Huelsmann

February 3, 2009

Testimony in Support of Proposed Changes to Kansas Bingo Statues, Senate Bill 107.

Mr. Chairman, Thank you for allowing me to speak with you about Senate Bill 107 for proposed changes to the Kansas Bingo Statues.

My name is Debi Kreutzman. I am a member of Kansas Charities Cooperative, a group of non-profit organizations in Sedgwick County that hold Charitable Gaming licenses to conduct Bingo in leased facilities. The groups represent a variety of charities including Abstinence Education, Knights of Columbus, Optimists and Youth Sports to name a few. We stand united in support of the proposed changes to the Bingo Statutes.

I work for Positive Directions in Wichita, KS which serves men, women and children who are living with HIV/AIDS. We currently operate Bingo games two nights a week. The proceeds from our Bingo games support our Daily Bread food program which serves over 200 clients who are living with this disease. Bingo has become an integral part of our fundraising activities. Last year alone we were able to raise \$85,000 for our program.

This past fall, I had the honor to travel around the state with the Kansas Department of Revenues Charitable Gaming Administrator. This was to help revitalize Bingo in Kansas. I was amazed at how many of the organizations did not utilize pull tabs in their Bingo operations and how many did not see Bingo as a business opportunity. There is money to be made, not only for the non-profits that run Bingo, but to the State of Kansas as well. We pay taxes on every Bingo face and pull tab that we buy. This is money in your bank. The more we can sell, the more revenue the State can generate.

Sn Fed & State
Attachment 12

2-03-09

I'd like to address some of the important changes we are in support of and how they will affect our organizations:

- **(b) Beneficiary Organization to Volunteer** – This change specifically affects groups such as the American Legion and Veteran's of Foreign Wars. They are so limited in their volunteer pool. They have by-laws that restrict who can volunteer with them. This change allows them the flexibility to add volunteers to assist them with Bingo games. For example, if they support a kid's baseball team, they can allow the parents of the team to assist in them with their Bingo.
- **(e) Feeding Volunteers** – Our volunteers are just that – volunteers. They are not paid to help us. They donate their time and talent to us, many of them coming to Bingo straight from work or school. They don't have time to eat dinner before Bingo. While at Bingo they are all working very hard for our organizations, in turn generating funds for our cause. Buying them a hamburger is not enticing them to volunteer for us, it is simply courtesy and a "thank you" for their dedication and hard work. We all have other events where we have volunteers assist us, and if they are helping through a meal time, we provide that to them. Bingo should not be any different.
- **(f & h) Increased Payouts** – By raising the limit on the amount we can pay out each night and on individual games, we make our Bingo games more attractive, helping to keep players in Wichita, and in Kansas. Many players are drawn away from Kansas to neighboring states where payouts are higher, taking their money away from Kansas charities and our local economy. It is very hard for us to compete with Newkirk, Oklahoma when they pay \$1199.00 a game and we are limited to \$1200.00 for the entire session.
- **(k, r & t) Three Nights of Play Instead of Two with No 44 Hour Restriction** – Increasing the number of nights we are allowed to play from two to three nights a week and allowing games on successive days gives us more flexibility to play when our players want to play, and to make the best use of our facilities which we share with other Bingo licensees.
- **(p2) Increased Amount and Frequency of Drawings** – The current limit of \$25 is far less than the amount of items we are typically able to have donated, severely restricting our ability to use donated items in drawings. An example would be a store that would like to donate a DVD player. The value of the DVD player is well over the \$25 limit so we are unable to use it in a drawing. As non-profit organizations we are all very good at "Making the Ask".
- **(v) Extending Time to Sell Pull Tabs** – Extending the limit to two hours will allow us to sell pull tabs earlier, which better matches the way our players would like to play at bingo. Many of them show up as much as two hours before we start playing and have nothing to do. Pull tabs are what I consider "Gravy". They are an easy way for organizations to boost their sales and profit. Our players are there, let them purchase pull tabs while they are waiting to play Bingo.

- **(z9bb) Increased “Flash” Sales** – Lifting the 3 game limit on “Flash” instant bingo will allow us to offer more value to our players, again making our games in Kansas more attractive and helping to keep players local.
- **(z9cc) Extending Time to Sell Minis** – Extending the time limit to sell minis will allow us to start earlier and not be as rushed which will allow us enough time to play the maximum 20 games currently allowed. Many times groups are rushing to get the minis done in their hour before regular session. We will also be able to offer late minis after regular games, again making our Bingo more attractive to players who might otherwise travel a few miles down the road to an unregulated and untaxed Tribal bingo game.

Kansas Charities Cooperative asks that you cast a vote for Senate Bill 107. The proposed changes to bingo regulations will expand our ability to continue the charitable work we all do within our community. These changes will help us to keep players in Kansas and to keep their money going to Kansas charities.

Mr. Chairman, I will stand for questions at the appropriate time.

Debi Kreutzman
Daily Bread Coordinator
Positive Directions
(316) 263-2214 ext 102

SENATE BILL NO. 107
Senate Federal and State Affairs Committee
Tuesday, February 3, 2009
State Capitol Building
Room 136 (N)

Testimony By
Charles M. Yunker
Department Adjutant
The American Legion Department of Kansas

The American Legion opposes SB 107 and urges you not to promote its passage. Bingo was originally legalized in Kansas to provide a means for religious, veterans, fraternal and other non-profit civic organizations to raise funds to support their local community based programs. Unfortunately, almost as soon as Bingo was legalized, a few profiteers attempted to turn Bingo into big business by luring smaller groups that did not have facilities large enough to conduct Bingo games to their buildings and began holding Bingo games seven days a week. In fact some of those purchased buildings for the sole purpose of establishing a Bingo Parlor.

During the late 1970's the Legislature wisely restricted the activities of the Parlors and crafted rules and regulations that provided a good compromise between those who owned their facilities and those who purchased buildings for the sole purpose of operating a Bingo Parlor. Over the years Bingo has provided a reasonable source of income for the non-profit organizations licensed to conduct games even in the face of increased competition for disposable income. That is; Bingo was adversely affected when the state legalized wagering on horse and dog racing, and established the lottery. Likewise when casinos began appearing along our borders and then within the state Bingo revenue for both the licensees and the state declined. Thankfully the legislature took steps to offset those losses by passing the proposed Constitutional amendment legalizing instant Bingo which was overwhelmingly approved by voters. The Legislature also assisted licensees (and revenue to the state) by authorizing progressive games.

Recently the Kansas Lottery announced that their sales are down by 4% because in today's economy there is less disposable income. Bingo relies on disposable income therefore the question must be asked, "How can the changes proposed in SB 107 increase Bingo revenue?" The answer is they cannot. Another question that might be asked is, "Are the changes proposed in SB 107 fair and equitable to all Bingo licensees. The answer is they are not.

Mr. Bill Long who is the Bingo Chairman for American Legion Post 17 in Manhattan would like to be here today to present his opposition to SB 107 however his wife just had her knee replaced and he cannot leave her alone. However I would like to provide you with a few quotes from an email he sent to American Legion Legislative Chairman Ralph Snyder and me.

"I finally got around to going through SB-107 in pdf format, line-by-line. I agree with what you told me at the planning meeting, this legislation is written for the bingo parlors. Based on our experience, I strongly feel we could not afford to do what this legislation would allow. In my opinion, it will definitely reduce the number of bingo licenses and adversely affect most organizations that depend upon bingo income. There are only so many bingo players (who are becoming fewer every day) and many are on limited income. Without bingo income, many organizations would end up losing their Post homes, etc."

"We've got a good law for the non-profit organizations now and no one can tell what will happen if the legislature opens up the law. With the budget situation the way it is now, someone in DOR or Legislative Post Audit will convince some legislators that the proposed changes will result in more revenue for the state and the veterans' church and fraternal organizations will be sold down the river. However, I doubt there will be any increase in revenue to the State." "This bill should die in committee."

Mr. Long's Bingo experience is probably greater than anyone else in this room today and he is correct in his view of SB-107. Almost without exception, every proposed change contained in SB-107 favors those who conduct their games in a Bingo Parlor at the expense of those who hold their games in their own facilities.

SB-107 seeks to raise prize limits per game and per session---only facilities that accommodate large crowds can afford such increases. Smaller facilities will not be able to afford to match increased prizes and total payout per session without operating in the red. Likewise, eliminating the provision restricting progressive games to a beginning prize of no more than \$250.00 only favors large facilities that will be free to begin with higher amounts.

Raising the number of free drawings from four to six per month, and the value of each of those drawing prizes from \$25.00 to \$500.00 per drawing can only benefit those who hold Bingo in large facilities such as Parlors.

Removal of the \$1.00 per face charge which has been touted as a means of raising what licensees will charge will do one of two things: (1) reduce the number of people playing Bingo because disposable income is down, or (2) start price wars which only larger facilities can win.

Increasing the frequency Bingo can be conducted in a given facility guarantees a profit for the Parlor Owners while eliminating licensees who sometimes struggle to attract enough volunteers for the number of days they offer games.

I have called Bingo for two different licensees and I have worked the floor for one; I did so as a member of those organizations because I believe in the services and benefits they provide for their communities. I did not have to be bribed with food. In my view allowing licensees the ability to provide food or any type of compensation to Bingo workers presents the opportunity for abuse. The manner in which SB-107 would authorize food to "volunteers" has no limits; work Bingo and get a coupon for a steak dinner at Applebee's, or a gift card for \$25.00 in groceries at Dillon's or wherever. Such an arrangement can be easily made through an agreement between the licensee or Parlor operator and the retail establishment actually providing the food in exchange of placing advertising throughout a Bingo hall.

Increasing the time limit Instant Bingo games maybe sold from one hour to two hours also invites abuse. I would be happy to explain an example how such abuse

could easily occur to you in private but would prefer not to do so in public; I prefer not to give anyone any ideas.

More than one proponent of SB-107, including a Parlor owner, has said that no one will have to raise their prizes, number of free drawings, etc. What they do not say is those who do not will be out of business, and many of those who do will see their revenue decline. In either case, the State's revenue will most likely decline at a greater pace than it has in recent years.

In closing I would like to remind you there have been a basic number of people who play Bingo ever since the game has been legalized in Kansas. That number has been slowly shrinking and in this day of instant gratification I doubt there is much anyone can do to increase the number of players. Perhaps the current downturn in the economy and corresponding reduction in disposable income will encourage some to play closer to home rather than absorbing the expense of driving to one of the casinos.

SB-107 only favors a few and will force many to stop offering Bingo. Especially in communities where often licensees offer the games more so as a community service than a means to raise funds.

VFW

VETERANS OF FOREIGN WARS OF THE UNITED STATES



STATE OF KANSAS

To: Senate Federal & State Committee
Re: Senate Bill 107 – in regards to Bingo/games

My name is Ken Stodgell and I represent the State Department of Veterans of Foreign Wars (VFW). Our organization is opposed to the proposed Senate Bill 107. We believe this bill provides an unfair advantage to organizations such as ours. Mainly, our local posts do not have the ability to operate games at a level we could compete with for profit organizations. It is our belief this would close many of our posts that are dependant on the revenue generated by their bingo games.

Thank you for giving us the opportunity to present our testimony.