

Approved: 2-11-10
Date

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 January 26, 2010, in Room 144-S 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
Dennis Hodgins, Kansas Legislative Research Department
Connie Burns, Committee Assistant

Conferees appearing before the Committee:

Representative Charles Roth
Thomas Groneman, Alcoholic Beverage Control
Commissioner J. Russell Jennings, Kansas Juvenile Justice Authority

Others attending:
See attached list.



Introduction of Bills:

Representative Charles Roth introduced a bill regarding local option tax for technical colleges.

Senator Reitz moved that this request be introduced as a committee bills. Senator Owens seconded the motion. The motion carried.

Thomas Groneman, Director, Alcoholic Beverage Control, requested two bill introductions. (Attachment 1) The first bill introduction is an act regarding alcoholic beverages; relating to packaging and warehousing facility permits.

Senator Francisco moved that this request be introduced as a committee bill. Senator Reitz seconded the motion. The motion carried.

The next bill introduction concerns alcoholic beverages; relating to license fees, term of license and eligibility.

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

Commissioner J. Russell Jennings, Kansas Juvenile Justice Authority, requested a bill introduction regarding minors; relating to purchase or consumption of alcoholic beverages by a person less than 18 years of age; detention. (Attachment 2)

Senator Owens moved that the requests be introduced as a committee bill. Senator Reitz seconded the motion. The motion carried.

Commissioner J. Russell Jennings, Kansas Juvenile Justice Authority, provided an update on the Kansas Juvenile Justice Authority. (Attachment 3) during fiscal year 2010 the Kansas Juvenile Justice Authority (JJA) experienced significant budget reductions through both legislative action and allotment by the Governor. This included the closure of two state juvenile correctional facilities; in spite of these reductions the juvenile justice system in Kansas remains relatively stable. Continued reductions will further erode the ability of the juvenile justice system to sustain the progress made in recent years and will create an environment where the ability to provide for public safety will be compromised.

Operations at the Beloit Juvenile Correctional Facility ceased on August 18, 2009. The 22 girls in residence were moved to the west campus of the Kansas Juvenile Correctional Complex in Topeka. One maintenance employee remains at the Beloit facility to operate the high-pressure boiler system. Two bills

CONTINUATION SHEET

Minutes of the Senate Federal and State Affairs Committee at 10:30 a.m. on January 26, 2010, in Room 144-S of the Capitol.

were introduced this session to transfer the Beloit property to the City of Beloit. The property was originally given by the City of Beloit to the State for purpose of building the Girl's Industrial School in the late 1800's. JJA sees no future state agency use for the property and encourages the transfer in order to avoid ongoing expenses for utility and maintenance.

The Governor's allotment order in November required JJA to reduce the per diem rate for Medicaid and non-Medicaid covered services by 10%. The reduction in rate resulted in the YRCII contractor at the former Atchison Juvenile Correctional Facility, G4S, to ask that the contract with JJA be terminated; the youth residents at the facility were placed in other residential placements, and the facility was closed on December 18, 2009. JJA sees no future use for the facility and feels continued utility and maintenance expenses are not prudent, given there is not a foreseeable state use for the property.

Commissioner Jennings updated the committee on the FY11 budget, and the recommendation of the Governor seeks to restore the caseload reductions imposed through allotment in November. JJA is currently working on three initiatives that will strengthen the juvenile justice system and will lead to greater efficiencies and better youth outcomes in the long term.

1. YLS/CMI - JJA is working cooperatively with the Kansas Supreme Court in developing a plan for statewide use of the Youth Level of Service/Case Management Inventory (YLS/CMI) risk/needs assessment for juvenile offenders prior to their disposition hearing.
2. CbS - Community-based Standards (CbS) is a research-based evaluation process developed by the Council of Juvenile Corrections Administrators (CJCA) for assessment and evaluation of residential placements for youth. CbS will provide a higher level of oversight as well as serve as a management tool for YRC operators. JJA contemplates making participation in the CbS evaluation process mandatory for all YRCII contractors.
3. YRCII Practices - JJA is working with YRCII contractors to strengthen YRCII services; separation of various risk level youth can be accomplished through placement implementation. Full implementation may be delayed as the level of programming necessary to effectively intervene with moderate and high-risk youth will have cost implications for providers. Recent rate cuts have impacted the ability to require a higher level of service without adequate funds to deliver such services.

The juvenile justice system is at a critical point; further budget reductions in any particular area of service will not be without significant ramifications that will be felt throughout the system. Further reductions in juvenile correctional facility budgets or increases in the daily census of the facilities without funding to support a greater number of youth will result in the facilities becoming less safe with diminished programs and treatment capacity. Unsafe conditions and diminished program capacity could lead to review of the facilities by the United States Department of Justice.

Committee discussion and concerns: members asked whether either property could be sold and the value of the property; if the state was reimbursed for juveniles staying in the facilities.

The next meeting is scheduled for January 27, 2010. The meeting was adjourned at 11:40 a.m.

SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
GUEST LIST

DATE 1-26-10

NAME	REPRESENTING
Charlie Roth	my own self
Jackson Lindsey	Hem Car
Keith Bradshaw	JJA
Leah Haake	JJA
Russ Jennings	JJA
Halle Pfeiffer	TFI
JEREMY S BARCLAY	
Jeff Bottobeg	Polsinelli Shyket
Levi Henry	Sandstone Group LLC

Kansas Department of Revenue
Legislative Proposal ABC No. 5
2010 Session

1. **Proposal ABC No. 5** – Amend the liquor control act to include a permit allowing the import, storage, packaging, sale, and export of alcoholic liquor and cereal malt beverage and to require a distributor to pay the gallonage tax on any alcoholic liquor or cereal malt beverage imported into this state that is subsequently sold to a licensed distributor for sale at wholesale.

2. **Summary.** (1) Some licensed manufacturers and suppliers of alcoholic liquor use Kansas as a storage area for its alcoholic liquor or cereal malt beverage to be distributed in Kansas or shipped into other states. At present, there is no license or permit that specifically allows this practice. This amendment creates a new “packaging and warehousing facility” permit that will give the liquor manufacturers and suppliers, whether licensed in Kansas or elsewhere, the option of using Kansas as a central warehousing area and give Kansas regulatory authority over that facility. (2) The new statute will clarify the responsibility for paying the gallonage tax on alcoholic liquor and cereal malt beverage imported into this state under a packaging and warehousing facility permit and sold to a distributor for sale at wholesale. With this new statute, no gallonage tax would be collected unless and until a Kansas distributor purchases the imported alcoholic liquor for sale at wholesale in this state.

3. **Proposal Contacts.** Sarah Byrne, AAG

4. **Full text of proposed amendment:**

New Statute 41-3???. Packaging and Warehousing Facility permit; rights of permit holder. (a) Any manufacturer or supplier of alcoholic liquor or cereal malt beverage, whether licensed in this state or any other state, may apply for an annual packaging and warehousing facility permit. The application shall be on a form prescribed by the director and shall include all information the director deems necessary.

(b) A packaging and warehousing facility permit shall allow:

- (1) The transfer of alcoholic liquor or cereal malt beverage to the premises of a packaging and warehousing facility for the purpose of packaging or storage, or both; and
- (2) The sale and transfer from the premise of a packaging and warehousing facility to the licensed premises of a spirits, wine, or beer distributor licensed in Kansas or to a Kansas supplier; or
- (3) The transfer from the licensed premise of a packaging and warehousing facility to another state.

(c) The annual fee for a packaging and warehouse facility permit shall be \$2,500.

(d) Each brand and label of alcoholic liquor or cereal malt beverage that is intended for sale to distributors in Kansas and is transported, packaged or stored at a permitted

packaging and warehousing facility must be registered in accordance with the provisions of K.S.A. 41-331, and amendments thereto.

(e) The tax imposed by K.S.A. 41-501 and amendments thereto shall be paid on alcoholic liquor or cereal malt beverage imported into this state under a packaging and warehousing facility permit only if the alcoholic liquor or cereal malt beverage is sold to a distributor for sale at wholesale in this state and shall be paid by the distributor who purchases the alcoholic liquor or cereal malt beverage for sale at wholesale.

Kansas Department of Revenue
Legislative Proposal ABC No. 12
2010 Session
amended 1/21/2010

1. **Proposal ABC No. 12** – Amend the liquor control act and the club and drinking establishment act to increase license and application fees, amend the refund of unused license fees provision, extend the license term, allow a person who holds a contract to provide alcoholic beverage service in lieu of a lease to receive a club or drinking establishment license, provide the director the option of extending the license term of an expiring license for an additional 30 days past the scheduled expiration, and allow licensees who are facing expiration to pay an additional fee to expedite their renewal applications.

2. **Summary.** This proposal amends the liquor control act and the club and drinking establishment act to: (1) increase license fees; (2) increase application fees for new and renewal licenses; (3) amend the refund provision for unused license fees to require a licensee requesting a refund to meet the guidelines established by regulations; (4) increase the license term from one year to two years; (5) allow a person who does not have a lease for the premises to be licensed but does hold a valid contract to provide alcoholic beverage service at the premises to receive a club or drinking establishment license; (6) allow licensees who fail to file their renewal applications timely and who are facing expiration of their current licenses to voluntarily pay an additional fee for expedited service on their applications; and (7) allow the Director to extend the license term of an expiring license for up to thirty days, based on the Director's discretion and determination of the circumstances.

3. **Proposal Contacts.** Sarah Byrne, AAG

4. **Full text of proposed amendment:**

41-310. Annual license fees; city or township taxes; license year term. (a) At the time application is made to the director for a license of any class, the applicant shall pay the fee provided by this section.

(b) The ~~annual~~ fee for a manufacturer's license to manufacture alcohol and spirits shall be ~~\$2,500~~ **\$6,000**.

(c) The ~~annual~~ fee for a manufacturer's license to manufacture beer and cereal malt beverage shall be:

- (1) For 1 to 100 barrel daily capacity or any part thereof, ~~\$200~~ **\$500**.
- (2) For 100 to 150 barrel daily capacity, ~~\$400~~ **\$1,000**.
- (3) For 150 to 200 barrel daily capacity, ~~\$700~~ **\$2,000**.
- (4) For 200 to 300 barrel daily capacity, ~~\$1,000~~ **\$3,000**.
- (5) For 300 to 400 barrel daily capacity, ~~\$1,300~~ **\$4,000**.

(6) For 400 to 500 barrel daily capacity, ~~\$1,400~~ **\$5,000**.

(7) For 500 or more barrel daily capacity, ~~\$1,600~~ **\$6,000**.

As used in this subsection, "daily capacity" means the average daily barrel production for the previous 12 months of manufacturing operation. If no basis for comparison exists, the licensee shall pay in advance for the first year's *licensing term's* operation a fee of ~~\$1,000~~ **\$3,000**.

(d) The ~~annual~~ fee for a manufacturer's license to manufacture wine shall be \$500 **\$1,500**.

(e) The ~~annual~~ fee for a microbrewery license or a farm winery license shall be \$250 **\$600**.

The ~~annual~~ fee for a winery outlet license shall be \$50 **\$300**.

The ~~annual~~ fee for a microbrewery packaging and warehousing facility license shall be \$300.

(f) The ~~annual~~ fee for a spirits distributor's license for the first and each additional distributing place of business operated in this state by the licensee and wholesaling and jobbing spirits shall be ~~\$1,000~~ **\$3,000**.

(g) The ~~annual~~ fee for a wine distributor's license for the first and each additional distributing place of business operated in this state by the licensee and wholesaling and jobbing wine shall be ~~\$1,000~~ **\$3,000**.

(h) The ~~annual~~ fee for a beer distributor's license, for the first and each additional wholesale distributing place of business operated in this state by the licensee and wholesaling or jobbing beer and cereal malt beverage shall be ~~\$1,000~~ **\$3,000**.

(i) The ~~annual~~ fee for a nonbeverage user's license shall be:

(1) For class 1, ~~\$10~~ **\$50**.

(2) For class 2, ~~\$50~~ **\$150**.

(3) For class 3, ~~\$100~~ **\$300**.

(4) For class 4, ~~\$200~~ **\$500**.

(5) For class 5, ~~\$500~~ **\$1,500**.

(j) In addition to the license fees prescribed by subsections (b), (c), (d), (f), (g), (h) and (i):

(1) Any city in which the licensed premises are located may levy and collect an annual occupation or license tax on the licensee in an amount not exceeding the amount of the annual license fee required to be paid under this act to obtain the license, but no city shall impose an occupation or privilege tax on the licensee in excess of that amount; and

(2) any township in which the licensed premises are located may levy and collect an annual occupation or license tax on the licensee in an amount not exceeding the amount of the annual license fee required to be paid under this act to obtain the license, but no township shall impose an occupation or privilege tax on the licensee in excess of that amount; the township board of the township is authorized to fix and impose the tax and the tax shall be paid by the licensee to the township treasurer, who shall issue a receipt therefor to the licensee and shall cause the tax paid to be placed in the general fund of the township.

(k) The ~~annual~~ fee for a retailer's license shall be \$250 **\$1,000**.

(l) In addition to the license fee prescribed by subsection (k):

(1) Any city in which the licensed premises are located shall levy and collect an annual occupation or license tax on the licensee in an amount not less than \$100 nor more than \$300, but no other occupation or excise tax or license fee shall be levied by any city against or collected from the licensee; and

(2) any township in which the licensed premises are located shall levy and collect an annual occupation or license tax on the licensee in an amount not less than \$100 nor more than \$300; the township board of the township is authorized to fix and impose the tax and the tax shall be paid by the licensee to the township treasurer, who shall issue a receipt therefor to the licensee and shall cause the tax paid to be placed in the general fund of the township.

(m) The license year *term* for a license shall commence on the date the license is issued by the director and shall end ~~one~~ *two* years after that date. *The director may, at the director's discretion and after examination of the circumstances, extend the license term of any license for no more than thirty days beyond the scheduled expiration date of the license.*

41-317. License application; form; fee; bond. (a) Applications for all licenses under this act shall be upon forms prescribed and furnished by the director and shall be filed with the director in duplicate. *completed and submitted to the director using a method prescribed by the director.* Each application *applicant* shall be accompanied by ~~submit~~ a state registration *application* fee of ~~\$50~~ *\$100* for each initial application and ~~\$10~~ *\$50* for each renewal application to defray the cost of preparing and furnishing standard forms incident to the administration of this act and the cost of processing the application. Each application shall also be accompanied by a deposit of a certified or cashier's check of a bank within this state, United States post office money order or cash, in the full amount of the license fee required to be paid for the kind of license applied for, which license fee shall be returned to the applicant if the application is denied. All registration fees shall be remitted by the director to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund. All license fees received by the director, including fees received for licenses to manufacture beer, regardless of its alcoholic content, shall be paid into the state treasury by the director and shall be credited to the state general fund.

(b) An application for renewal shall be submitted to the director no less than thirty days prior to the expiration of the current license. Any applicant that fails to file its renewal application in a timely manner may pay an additional fee for expedited service according to the following schedule:

- (1) 20-29 days prior to expiration; \$100;*
- (2) 10-19 days prior to expiration; \$250;*
- (3) 3-9 days prior to expiration; \$500;*
- (4) 0-2 days prior to expiration; \$1,000;*

(c) Payment of the expedite fee in subsection (b) does not guarantee issuance of the applicant's license prior to the expiration date of the current license.

(d) *Each applicant shall submit to the division of alcoholic beverage control a certified or cashier's check, United States post office money order or cash, or shall authorize electronic payment in the manner prescribed by the director, in the full amount of the application fee, any additional fee provided for by this section, and the license fee required to be paid for the kind of license applied for, which license fee shall be returned to the applicant if the application is denied.*

(e) *All fees received by the director under this section shall be remitted by the director to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.*

(b) (f) Every applicant for a manufacturer's, distributor's, nonbeverage user's, microbrewery, farm winery, retailer's or special order shipping license shall file with the application a joint and several bond on a form prescribed by the director and executed by good and sufficient corporate sureties licensed to do business within the state of Kansas to the director, in the following amounts:

(1) For a manufacturer, \$25,000;

(2) for a spirits distributor, \$15,000 or an amount equal to the highest monthly liability of the distributor for taxes imposed by the Kansas liquor control act for any of the 12 months immediately prior to renewal of the distributor's license, whichever amount is greater;

(3) for a beer or wine distributor, \$5,000 or an amount equal to the highest monthly liability of the distributor for taxes imposed by the Kansas liquor control act for any of the 12 months immediately prior to renewal of the distributor's license, whichever amount is greater;

(4) for a retailer, \$2,000;

(5) for nonbeverage users, \$200 for class 1, \$500 for class 2, \$1,000 for class 3, \$5,000 for class 4 and \$10,000 for class 5;

(6) for a microbrewery or a farm winery, \$2,000; and

(7) for a winery holding a special order shipping license, \$750, unless the winery has already complied with subsection (b)(6).

If a distributor holds or applies for more than one distributor's license, only one bond for all such licenses shall be required, which bond shall be in an amount equal to the highest applicable bond.

(e) (g) All bonds required by this section shall be conditioned on the licensee's compliance with the provisions of this act and payment of all taxes, fines, *fees* and forfeitures which may be assessed against the licensee.

41-326. Licenses; term; assignability; refund of fees, when. A license shall be purely a personal privilege, valid for not to exceed ~~one~~ *two* years after issuance, *except as otherwise allowed by law*, unless sooner suspended or revoked, and shall not constitute property, nor shall it be subject to attachment, garnishment or execution, nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered or hypothecated. A license shall not descend by the laws of testate or intestate devolution but shall cease and expire upon the death of the licensee except

that executors, administrators or representatives of the estate of any deceased licensee and the trustee of any insolvent or bankrupt licensee, when such estate consists in part of alcoholic liquor, may continue the business of the sale, distribution or manufacture of alcoholic liquor under order of the appropriate court and may exercise the privilege of the deceased, insolvent or bankrupt licensee after the death of such decedent, or after such insolvency or bankruptcy, until the expiration of such license but not longer than one year after the death, bankruptcy or insolvency of such licensee.

A refund shall *may* be made of that portion of the license fee paid for any period in which the licensee shall be prevented from operating under such license in accordance with the provisions of this section. The secretary of revenue may adopt rules and regulations pursuant to K.S.A. 41-210 and amendments thereto which provide for the authorization of refunds of that portion of the license fees paid for any period in which the licensee does not use such license as a result of the cancellation of the license upon the request of the licensee for voluntary reasons.

41-350. Special order wine shipping license; license term. (a) For the purposes of this act, the term “winery” means any maker or producer of wine whether in this state or in any other state, who holds a valid federal basic wine manufacturing permit. The terms “director” and “secretary” have the meaning ascribed to these terms in K.S.A. 2008 Supp. 41-102, and amendments thereto.

(b) Any winery may be authorized to make direct shipments of wine to consumers in this state upon obtaining a special order shipping license from the secretary pursuant to this act.

(1) A special order shipping license shall only be issued to a winery upon compliance with all applicable provisions of this act and the regulations promulgated pursuant to this act, and upon payment of a license fee in the amount of \$50: ***\$100. The license term for a special order shipping license shall commence on the date the license is issued by the director and shall end two years after that date.***

(2) A special order shipping license shall entitle the winery to ship wine upon order directly to consumers for personal or household use in this state. The purchaser shall pay the purchase price and all shipping costs directly to the permit holder. Enforcement taxes collected herein shall be paid solely on the purchase price and not on the shipping costs.

(c) No holder of a special order shipping license shall be permitted to ship in excess of 12 standard cases of wine of one brand or a combination of brands into this state to any one consumer or address per calendar year.

(d) (1) Before accepting an order from a consumer in this state, the holder of a special order shipping license shall require that the person placing the order to state affirmatively that he or she is 21 years of age or older and shall verify the age of such person placing the order either by the physical examination of an approved government issued form of identification or by utilizing an internet based age and identification service approved by the director of alcoholic beverage control, or the director’s designee.

(2) Every shipment of wine by the holder of a special order shipping license shall be clearly marked ‘Alcoholic Beverages, Adult Signature Required’ and the carrier delivering such shipment shall be responsible for obtaining the signature of an adult who is at least 21 years of age as a condition of delivery.

(e) A special order shipping license shall not authorize the shipment of any wine to any premises licensed to sell alcoholic beverages pursuant to this act or the club and drinking establishment act.

(f) The failure to comply strictly with the requirements of this act and rules and regulations promulgated pursuant to this act shall be grounds for the revocation of a special order shipping license or other disciplinary action by the director. After notice and an opportunity for hearing in accordance with the provisions of the Kansas administrative procedure act, the director may refuse to issue or renew or may revoke a shipping permit upon a finding that the permit holder has failed to comply with any provision of this section or K.S.A. 2008 Supp. 41-501 et seq., and amendments thereto, or any rules and regulations adopted pursuant to such statutes. Upon revocation of a special order shipping license for shipment of wine to a person not of legal age as required herein such winery shall not be issued any special order shipping license pursuant to this act for a period of one year from the date of revocation.

(g) The holder of a special order shipping license shall collect all gallonage taxes imposed by K.S.A. 2008 Supp. 41-501 et seq., and amendments thereto, shall remit such taxes annually in a manner prescribed by the secretary and shall accompany such remittance with such reports, documentation and other information as may be required by the secretary. In addition, an applicant for and a holder of a special order shipping license, as a condition of receiving and holding a valid license, shall:

(1) Collect and pay the applicable Kansas enforcement tax on each sale shipped to a consumer in Kansas imposed by K.S.A. 79-4101 et seq., and amendments thereto;

(2) accompany each remittance with such sales tax reports, documentation and other information as may be required by the director of taxation; and

(3) if the holder of the license is an out-of-state shipper, the licensee shall be deemed to have appointed the secretary of state as the resident agent and representative of the licensee to accept service of process from the secretary of revenue, the director and the courts of this state concerning enforcement of this section, K.S.A. 2008 Supp. 41-501 et seq., and amendments thereto, and any related laws and rules and regulations and to accept service of any notice or order provided for in the liquor control act.

(h) The secretary of revenue may adopt rules and regulations to implement, administer and enforce the provisions of this section.

(i) This section shall be part of and supplemental to the Kansas liquor control act.

41-311. Persons and entities ineligible for licensure. (a) No license of any kind shall be issued pursuant to the liquor control act to a person:

(1) Who has not been a citizen of the United States for at least 10 years, except that the spouse of a deceased retail licensee may receive and renew a retail license notwithstanding the provisions of this subsection (a)(1) if such spouse is otherwise qualified to hold a retail license and is a United States citizen or becomes a United States citizen within one year after the deceased licensee's death;

(2) who has been convicted of a felony under the laws of this state, any other state or the United States;

(3) who has had a license revoked for cause under the provisions of the liquor control act, the beer and cereal malt beverage keg registration act or who has had any

license issued under the cereal malt beverage laws of any state revoked for cause except that a license may be issued to a person whose license was revoked for the conviction of a misdemeanor at any time after the lapse of 10 years following the date of the revocation;

(4) who has been convicted of being the keeper or is keeping a house of prostitution or has forfeited bond to appear in court to answer charges of being a keeper of a house of prostitution;

(5) who has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality or has forfeited bond to appear in court to answer charges for any of those crimes;

(6) who is not at least 21 years of age;

(7) who, other than as a member of the governing body of a city or county, appoints or supervises any law enforcement officer, who is a law enforcement official or who is an employee of the director;

(8) who intends to carry on the business authorized by the license as agent of another;

(9) who at the time of application for renewal of any license issued under this act would not be eligible for the license upon a first application, except as provided by subsection (a)(12);

(10) who is the holder of a valid and existing license issued under article 27 of chapter 41 of the Kansas Statutes Annotated unless the person agrees to and does surrender the license to the officer issuing the same upon the issuance to the person of a license under this act, except that a retailer licensed pursuant to K.S.A. 41-2702, and amendments thereto, shall be eligible to receive a retailer's license under the Kansas liquor control act;

(11) who does not own the premises for which a license is sought, or does not, *at the time of application*, have a written lease thereon for at least 3/4 of the period for which the license is to be issued;

(12) whose spouse would be ineligible to receive a license under this act for any reason other than citizenship, residence requirements or age, except that this subsection (a)(12) shall not apply in determining eligibility for a renewal license;

(13) whose spouse has been convicted of a felony or other crime which would disqualify a person from licensure under this section and such felony or other crime was committed during the time that the spouse held a license under this act; or

(14) who does not provide any data or information required by K.S.A. 2008 Supp. 41-311b, and amendments thereto.

(b) No retailer's license shall be issued to:

(1) A person who is not a resident of this state;

(2) a person who has not been a resident of this state for at least four years immediately preceding the date of application;

(3) a person who has a beneficial interest in a manufacturer, distributor, farm winery or microbrewery licensed under this act;

(4) a person who has a beneficial interest in any other retail establishment licensed under this act; except that the spouse of a licensee may own and hold a retailer's license for another retail establishment;

(5) a copartnership, unless all of the copartners are qualified to obtain a license;
(6) a corporation; or
(7) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license.

(c) No manufacturer's license shall be issued to:

(1) A corporation, if any officer or director thereof, or any stockholder owning in the aggregate more than 25% of the stock of the corporation would be ineligible to receive a manufacturer's license for any reason other than citizenship and residence requirements;

(2) a copartnership, unless all of the copartners shall have been residents of this state for at least five years immediately preceding the date of application and unless all the members of the copartnership would be eligible to receive a manufacturer's license under this act;

(3) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license;

(4) an individual who is not a resident of this state;

(5) an individual who has not been a resident of this state for at least five years immediately preceding the date of application; or

(6) a person who has a beneficial interest in a distributor, retailer, farm winery or microbrewery licensed under this act.

(d) No distributor's license shall be issued to:

(1) A corporation, if any officer, director or stockholder of the corporation would be ineligible to receive a distributor's license for any reason. It shall be unlawful for any stockholder of a corporation licensed as a distributor to transfer any stock in the corporation to any person who would be ineligible to receive a distributor's license for any reason, and any such transfer shall be null and void, except that: (A) If any stockholder owning stock in the corporation dies and an heir or devisee to whom stock of the corporation descends by descent and distribution or by will is ineligible to receive a distributor's license, the legal representatives of the deceased stockholder's estate and the ineligible heir or devisee shall have 14 months from the date of the death of the stockholder within which to sell the stock to a person eligible to receive a distributor's license, any such sale by a legal representative to be made in accordance with the provisions of the probate code; or (B) if the stock in any such corporation is the subject of any trust and any trustee or beneficiary of the trust who is 21 years of age or older is ineligible to receive a distributor's license, the trustee, within 14 months after the effective date of the trust, shall sell the stock to a person eligible to receive a distributor's license and hold and disburse the proceeds in accordance with the terms of the trust. If any legal representatives, heirs, devisees or trustees fail, refuse or neglect to sell any stock as required by this subsection, the stock shall revert to and become the property of the corporation, and the corporation shall pay to the legal representatives, heirs, devisees or trustees the book value of the stock. During the period of 14 months prescribed by this subsection, the corporation shall not be denied

a distributor's license or have its distributor's license revoked if the corporation meets all of the other requirements necessary to have a distributor's license;

(2) a copartnership, unless all of the copartners are eligible to receive a distributor's license;

(3) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license; or

(4) a person who has a beneficial interest in a manufacturer, retailer, farm winery or microbrewery licensed under this act.

(e) No nonbeverage user's license shall be issued to a corporation, if any officer, manager or director of the corporation or any stockholder owning in the aggregate more than 25% of the stock of the corporation would be ineligible to receive a nonbeverage user's license for any reason other than citizenship and residence requirements.

(f) No microbrewery license or farm winery license shall be issued to a:

(1) Person who is not a resident of this state;

(2) person who has not been a resident of this state for at least four years immediately preceding the date of application;

(3) person who has a beneficial interest in a manufacturer or distributor licensed under this act or a person who currently has a beneficial interest in a farm winery;

(4) person, copartnership or association which has a beneficial interest in any retailer licensed under this act or under K.S.A. 41-2702, and amendments thereto;

(5) copartnership, unless all of the copartners are qualified to obtain a license;

(6) corporation, unless stockholders owning in the aggregate 50% or more of the stock of the corporation would be eligible to receive such license and all other stockholders would be eligible to receive such license except for reason of citizenship or residency; or

(7) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license.

(g) The provisions of subsections (b)(1), (b)(2), (c)(3), (c)(4), (d)(3), (f)(1), (f)(2) and K.S.A. 2008 Supp. 41-311b, and amendments thereto, shall not apply in determining eligibility for the 10th, or a subsequent, consecutive renewal of a license if the applicant has appointed a citizen of the United States who is a resident of Kansas as the applicant's agent and filed with the director a duly authenticated copy of a duly executed power of attorney, authorizing the agent to accept service of process from the director and the courts of this state and to exercise full authority, control and responsibility for the conduct of all business and transactions within the state relative to alcoholic liquor and the business licensed. The agent must be satisfactory to and approved by the director, except that the director shall not approve as an agent any person who:

(1) Has been convicted of a felony under the laws of this state, any other state or the United States;

(2) has had a license issued under the alcoholic liquor or cereal malt beverage laws of this or any other state revoked for cause, except that a person may be

appointed as an agent if the person's license was revoked for the conviction of a misdemeanor and 10 years have lapsed since the date of the revocation;

(3) has been convicted of being the keeper or is keeping a house of prostitution or has forfeited bond to appear in court to answer charges of being a keeper of a house of prostitution;

(4) has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality or has forfeited bond to appear in court to answer charges for any of those crimes; or

(5) is less than 21 years of age.

41-2606. Same; application; fees. (a) Applications for all licenses under this act shall be upon forms prescribed and furnished by the director and shall be filed with the director in duplicate *completed and submitted to the director using a method prescribed by the director*. Each application shall be accompanied by an application fee of \$50 ~~\$100~~, for each initial application, and \$10 ~~\$50~~, for each renewal application, to defray the cost of preparing and furnishing standard forms incident to the administration of this act and the cost of processing such application. Each application shall also be accompanied by a certified or cashier's check of a bank within this state, United States post office money order or cash in the full amount of the license fee prescribed by K.S.A. 41-2622, and amendments thereto, which fee shall be returned to the applicant if the application is denied.

(b) Each application for licensure as a club shall be accompanied by a copy of the current bylaws and rules of the club and a current list of the officers of the club.

(c) *An application for renewal shall be submitted to the Director no less than thirty days prior to the expiration of the current license. Any applicant that fails to file its renewal application in a timely manner may pay an additional fee for expedited service according to the following schedule:*

(1) 20-29 days prior to expiration; \$100;

(2) 10-19 days prior to expiration; \$250;

(3) 3-9 days prior to expiration; \$500;

(4) 0-2 days prior to expiration; \$1,000;

(d) Payment of the expedite fee in subsection (c) does not guarantee issuance of the applicant's license prior to the expiration date of the current license.

(e) Each applicant shall submit to the division of alcoholic beverage control a certified or cashier's check, United States post office money order or cash, or shall authorize electronic payment in the manner prescribed by the director, in the full amount of the application fee, any additional fee provided for by this section, and the license fee required to be paid for the kind of license applied for, which license fee shall be returned to the applicant if the application is denied

(e) (f) All application fees collected by the director *under this section* shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

41-2607. Club licenses; term; refunds. (a) The license provided herein shall be issued for a term of ~~one~~ **two** years, renewable on expiration. The secretary of revenue shall adopt, in accordance with K.S.A. 41-210 and amendments thereto, rules and regulations providing for the authorization of refunds of the license fees paid for any period in which the licensee shall not use such license as the result of the license being canceled at the request of the licensee and for voluntary reasons. *A refund may be made of that portion of the license fee paid for any period in which the licensee shall be prevented from operating under such license in accordance with the provisions of this act, other than that caused by suspension or revocation. The secretary shall adopt, in accordance with K.S.A. 41-210 and amendments thereto, rules and regulations providing for the authorization of refunds of the license fees paid for any period in which the licensee does not use such license being canceled upon the request of the licensee and for voluntary reasons.*

(b) *The director may, at the director's discretion and after examination of the circumstances, extend the license term of any license for no more than thirty days beyond the scheduled expiration date of the license.*

41-2622. Annual license fees; state, county or city; disposition; other state fees fund; use. (a) At the time application is made to the director for a license pursuant to the club and drinking establishment act, the applicant shall pay the following annual license fee in the manner provided by K.S.A. 41-2606, and amendments thereto:

(1) For a class A club which is a bona fide nonprofit fraternal or war veterans' club, as defined by rules and regulations of the secretary, ~~\$250~~ **\$600**;

(2) for a class A club which is a bona fide nonprofit social club, as defined by rules and regulations of the secretary, and which has not more than 500 members, ~~\$500~~ **\$1,500**;

(3) for a class A club which is a bona fide nonprofit social club, as defined by rules and regulations of the secretary, and which has more than 500 members, ~~\$1,000~~ **\$3,000**;

(4) for a class B club, ~~\$1,000~~ **\$3,000**;

(5) for a drinking establishment, ~~\$1,000~~ **\$1,500**;

(6) for a hotel of which the entire premises are licensed as a drinking establishment, ~~\$3,000~~ **\$4,000**;

(7) for a caterer, ~~\$500~~ **\$1,500**;

(8) for a drinking establishment/caterer, ~~\$1,500~~ **\$2,000**; and

(9) for a drinking establishment/caterer, if the drinking establishment is a hotel of which the entire premises are licensed as a drinking establishment, ~~\$3,500~~ **\$5,000**.

~~If a licensee is described by more than one of the above, the highest fee shall apply.~~

(b) *Beginning July 1, 2011, at the time application is made to the director for a drinking establishment license pursuant to the club and drinking establishment act, the applicant shall pay the following license fee in the manner provided by K.S.A. 41-2606, and amendments thereto:*

(1) *for a drinking establishment, \$3,000;*

(2) *for a hotel of which the entire premises are licensed as a drinking establishment, \$8,000;*

(3) for a drinking establishment/caterer, \$4,000; and
(4) for a drinking establishment/caterer, if the drinking establishment is a hotel of which the entire premises are licensed as a drinking establishment, \$10,000.

~~(b)~~ **(c)** In addition to the fee provided by subsections (a) **and (b)**, any city where the licensed premises of a club or drinking establishment are located or, if such licensed premises are not located in a city, the board of county commissioners of the county where the licensed premises are located may levy and collect an annual occupation or license tax from the licensee in an amount equal to not less than \$100 nor more than \$250.

~~(e)~~ **(d)** No occupational or excise tax or license fee other than that authorized by subsection ~~(b)~~ **(c)** shall be levied by any city or county against or collected from a licensed club or drinking establishment.

~~(d)~~ **(e)** The director shall remit all moneys received under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. Of each such deposit, 50% shall be credited to the state general fund, and the remaining 50% shall be credited to the other state fees fund of the department of social and rehabilitation services. In addition to other purposes for which expenditures may be made from the other state fees fund of the department of social and rehabilitation services, expenditures may be made by the secretary of social and rehabilitation services for the purpose of implementing the powers and duties of the secretary under the provisions of K.S.A. 65-4006 and 65-4007, and amendments thereto.

41-2629. Class B club, drinking establishment or caterer's license; nature of; term; transfer limited; refund of fees. **(a)** A class B club license, ~~drinking establishment license or caterer's license~~ shall be purely a personal privilege, good ~~issued~~ **issued** for a term not to exceed ~~one~~ **two** years after issuance **except as otherwise provided by law** unless sooner suspended or revoked as provided in this act.

(b) *Before July 1, 2011, a drinking establishment license shall be issued for a term not to exceed one year after issuance except as otherwise provided by law unless sooner suspended or revoked as provided in this act. Beginning July 1, 2011, a drinking establishment license shall be issued for a term not to exceed two years after issuance except as otherwise provided by law unless sooner suspended or revoked as provided in this act.*

(c) *The director may, at the director's discretion and after examination of the circumstances, extend the license term of any license for no more than thirty days beyond the scheduled expiration date of the license.*

(d) *A class B club license, drinking establishment license or caterer's license shall be purely a personal privilege and shall not constitute property, nor shall it be subject to attachment, garnishment or execution, nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered or hypothecated. A class B club license, drinking establishment license or caterer's license shall not descend by the laws of testate or intestate devolution but shall cease or expire upon the death of the licensee subject to the following provision.*

(e) An executor, administrator or representative of the estate of any deceased holder of a class B club, drinking establishment or caterer's license or the trustee of any insolvent or bankrupt class B club, drinking establishment or caterer's license may continue the licensee's business under order of the appropriate court and may exercise the privilege of the deceased, insolvent or bankrupt licensee after the death of such licensee or after such insolvency or bankruptcy until the expiration of such license, but in no case longer than one year after the death, insolvency or bankruptcy of such licensee. A refund shall *may* be made of that portion of the license fee paid for any period in which the licensee shall be prevented from operating under such license in accordance with the provisions of this act, other than that caused by suspension or revocation. The secretary shall adopt, in accordance with K.S.A. 41-210 and amendments thereto, rules and regulations providing for the authorization of refunds of the license fees paid for any period in which the licensee does not use such license being canceled upon the request of the licensee and for voluntary reasons.

41-2623. Persons and entities ineligible for licensure. (a) No license shall be issued under the provisions of this act to:

(1) Any person described in subsection (a)(1), (2), (4), (5), (6), (7), (8), (9), (12) or (13) of K.S.A. 41-311, and amendments thereto, except that the provisions of subsection (a)(7) of such section shall not apply to nor prohibit the issuance of a license for a class A club to an officer of a post home of a congressionally chartered service or fraternal organization, or a benevolent association or society thereof.

(2) A person who has had the person's license revoked for cause under the provisions of this act.

(3) A person who has not been a resident of this state for a period of at least one year immediately preceding the date of application.

(4) A person who has a beneficial interest in the manufacture, preparation or wholesaling or the retail sale of alcoholic liquors or a beneficial interest in any other club, drinking establishment or caterer licensed hereunder, except that:

(A) A license for premises located in a hotel may be granted to a person who has a beneficial interest in one or more other clubs or drinking establishments licensed hereunder if such other clubs or establishments are located in hotels.

(B) A license for a club or drinking establishment which is a restaurant may be issued to a person who has a beneficial interest in other clubs or drinking establishments which are restaurants.

(C) A caterer's license may be issued to a person who has a beneficial interest in a club or drinking establishment and a license for a club or drinking establishment may be issued to a person who has a beneficial interest in a caterer.

(D) A license for a class A club may be granted to an organization of which an officer, director or board member is a distributor or retailer licensed under the liquor control act if such distributor or retailer sells no alcoholic liquor to such club.

(E) Any person who has a beneficial interest in a microbrewery or farm winery licensed pursuant to the Kansas liquor control act may be issued any or all of the following: (1) Class B club license; (2) drinking establishment license; and (3) caterer's license.

(5) A copartnership, unless all of the copartners are qualified to obtain a license.

(6) A corporation, if any officer, manager or director thereof, or any stockholder owning in the aggregate more than 5% of the common or preferred stock of such corporation would be ineligible to receive a license hereunder for any reason other than citizenship and residence requirements.

(7) A corporation, if any officer, manager or director thereof, or any stockholder owning in the aggregate more than 5% of the common or preferred stock of such corporation, has been an officer, manager or director, or a stockholder owning in the aggregate more than 5% of the common or preferred stock, of a corporation which:

(A) Has had a license revoked under the provisions of the club and drinking establishment act; or

(B) has been convicted of a violation of the club and drinking establishment act or the cereal malt beverage laws of this state.

(8) A corporation organized under the laws of any state other than this state.

(9) A trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) of K.S.A. 41-311, and amendments thereto shall not apply in determining whether a beneficiary would be eligible for a license.

(b) No club or drinking establishment license shall be issued under the provisions of the club and drinking establishment act to:

(1) A person described in subsection (a)(11) of K.S.A. 41-311, and amendments thereto. ***who does not own the premises for which a license is sought, or does not, at the time of application, have a written lease thereon, except that an applicant seeking a license for a premise which is owned by a city or county or is a stadium, arena, convention center, theatre, museum, amphitheatre or other similar premise may submit an executed agreement to provide alcoholic beverage services at the premises listed in the application in lieu of a lease.***

(2) A person who is not a resident of the county in which the premises sought to be licensed are located.

SENATE BILL NO. _____

By

AN ACT concerning minors; relating to purchase or consumption of alcoholic beverages by a person less than 18 years of age; detention; amending K.S.A. 2009 Supp. 41-727 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2009 Supp. 41-727 is hereby amended to read as follows: 41-727. (a) Except with regard to serving of alcoholic liquor or cereal malt beverage as permitted by K.S.A. 41-308a, 41-308b, 41-727a, 41-2610, 41-2652, 41-2704 and 41-2727, and amendments thereto, and subject to any rules and regulations adopted pursuant to such statutes, no person under 21 years of age shall possess, consume, obtain, purchase or attempt to obtain or purchase alcoholic liquor or cereal malt beverage except as authorized by law.

(b) Violation of this section by a person 18 or more years of age but less than 21 years of age is a class C misdemeanor for which the minimum fine is \$200.

(c) Any person less than 18 years of age who violates this section is a juvenile offender under the revised Kansas juvenile justice code. Upon adjudication thereof and as a condition of disposition, the court shall require the offender to pay a fine of not less than \$200 nor more than \$500.

(d) In addition to any other penalty provided for a violation of this section: (1) The court may order the offender to do either or both of the following:

(A) Perform 40 hours of public service; or

(B) attend and satisfactorily complete a suitable educational or training program dealing with the effects of alcohol or other chemical substances when ingested by humans.

(2) Upon a first conviction of a violation of this section, the court shall order the division of vehicles to suspend the driving privilege of such offender for 30 days. Upon receipt of the court order, the division shall notify the violator and suspend the driving privileges of the violator for 30 days whether or not that person has a driver's license.

(3) Upon a second conviction of a violation of this section, the court shall order the division of vehicles to suspend the driving privilege of such offender for 90 days. Upon receipt of the court order, the division shall notify the violator and suspend the driving privileges of the violator for 90 days whether or not that person has a driver's license.

(4) Upon a third or subsequent conviction of a violation of this section, the court shall order the division of vehicles to suspend the driving privilege of such offender for one year. Upon receipt of the court order, the division shall notify the violator and suspend the driving privileges of the violator for one year whether or not that person has a driver's license.

(e) This section shall not apply to the possession and consumption of cereal malt beverage by a person under the legal age for consumption of cereal malt beverage when such possession and consumption is permitted and supervised, and such beverage is furnished, by the person's parent or legal guardian.

(f) Any city ordinance or county resolution prohibiting the acts prohibited by this section shall provide a minimum penalty which is not less than the minimum penalty prescribed by this section.

(g) A law enforcement officer may request a person under 21 years of age to submit to a preliminary screening test of the person's breath to determine if alcohol has been consumed by such person if the officer has reasonable grounds to believe that the person has alcohol in the person's body except that, if the officer has reasonable grounds to believe the person has been operating or attempting to operate a vehicle under the influence of alcohol, the provisions of K.S.A. 8-1012, and amendments thereto, shall apply. No waiting period shall apply to the use of a preliminary breath test under this subsection. If the person submits to the test, the results shall be used for the purpose of assisting law enforcement officers in determining whether an arrest should be made for violation of this section. A law enforcement officer may arrest a person based in whole or in part upon the results of a preliminary screening test. Such results or a refusal to submit to a preliminary breath test shall be admissible in court in any criminal action, but are not per se proof that the person has violated this section. The person may present to the court evidence to establish the positive preliminary screening test was not the result of a violation of this section.

(h) (1) Any person less than 18 years of age who violates

this section shall not be detained or placed in a jail, as defined in K.S.A. 2009 Supp. 38-2302, and amendments thereto.

(2) Any person less than 18 years of age who is arrested only for a violation of this section shall not be detained or placed in a juvenile detention facility, as defined in K.S.A. 2009 Supp. 38-2302, and amendments thereto, for a period exceeding 24 hours, excluding Saturdays, Sundays and legal holidays.

(3) Any person less than 18 years of age at the time of the offense who is adjudicated of a violation of this section shall not be detained in a jail, juvenile detention facility or sanctions house, as defined in K.S.A. 2009 Supp. 38-2302, and amendments thereto.

(i) This section shall be part of and supplemental to the Kansas liquor control act.

Sec. 2. K.S.A. 2009 Supp. 41-727 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

TESTIMONY ON JUVENILE JUSTICE AUTHORITY OVERVIEW
TO THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

BY COMMISSIONER J. RUSSELL JENNINGS

KANSAS JUVENILE JUSTICE AUTHORITY

JANUARY 26, 2010



J. Russell Jennings
Commissioner
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Juvenile Justice Authority
Agency Overview

During fiscal year 2009 and fiscal year 2010 the Kansas Juvenile Justice Authority (JJA) experienced significant budget reductions through both legislative action and allotment by the Governor. A number of extraordinary steps were taken in order to meet the budget reductions including the closure of two state juvenile correctional facilities. In spite of these reductions, the juvenile justice system in Kansas remains relatively stable. Continued reductions will further erode the ability of the juvenile justice system to sustain the progress made in recent years and will create an environment where the ability to provide for public safety will be compromised.

Data reveal a substantial reduction in the number of youth placed in state custody and in juvenile correctional facilities during recent years. These reductions are as a direct result of improved effectiveness of the juvenile justice system through implementation of evidence-based practices and adequate financial support to juvenile community corrections organizations to meet the supervision and program demands of the youth they supervise.

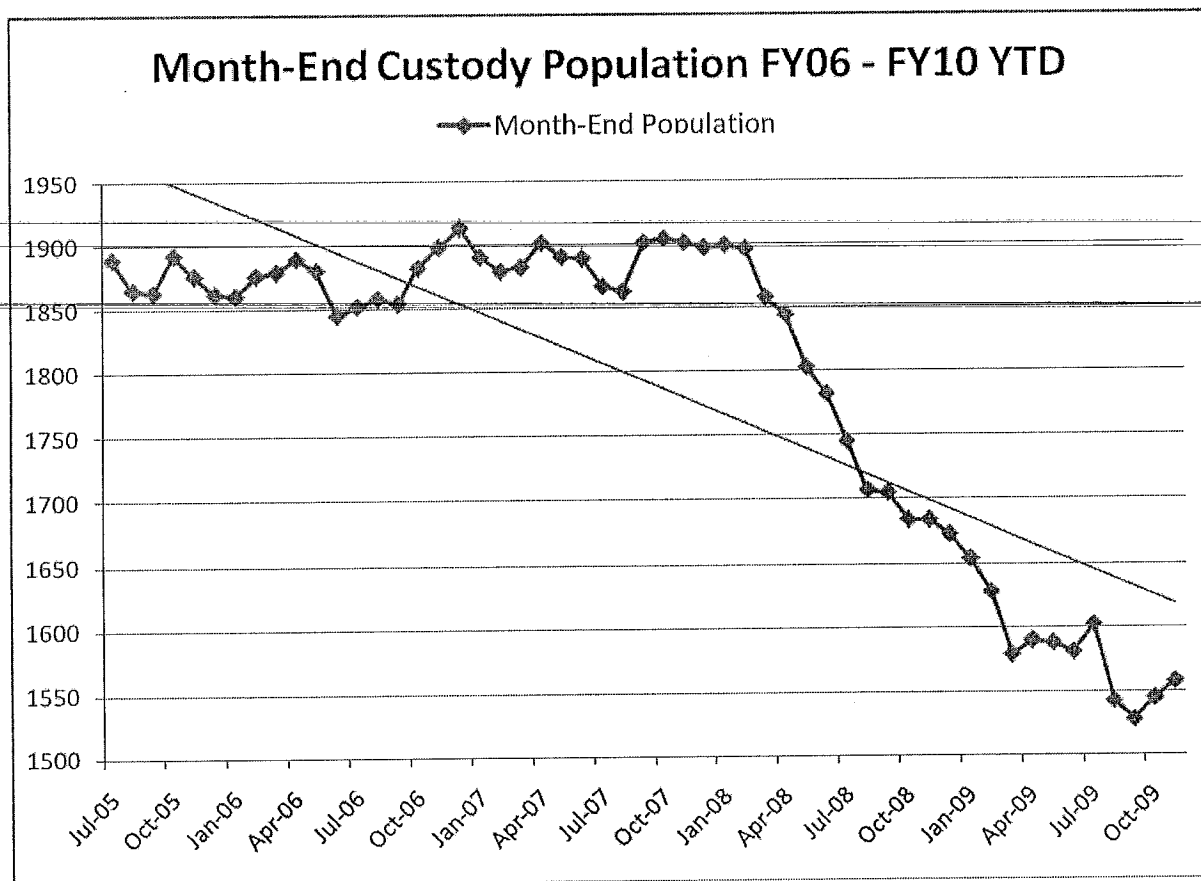


Chart 1

Chart 1 represents the number of youth placed in the custody of the Commissioner of Juvenile Justice from July 2005 – November 2009. The decline in the number of youth in state custody represents an 18% reduction over the period.

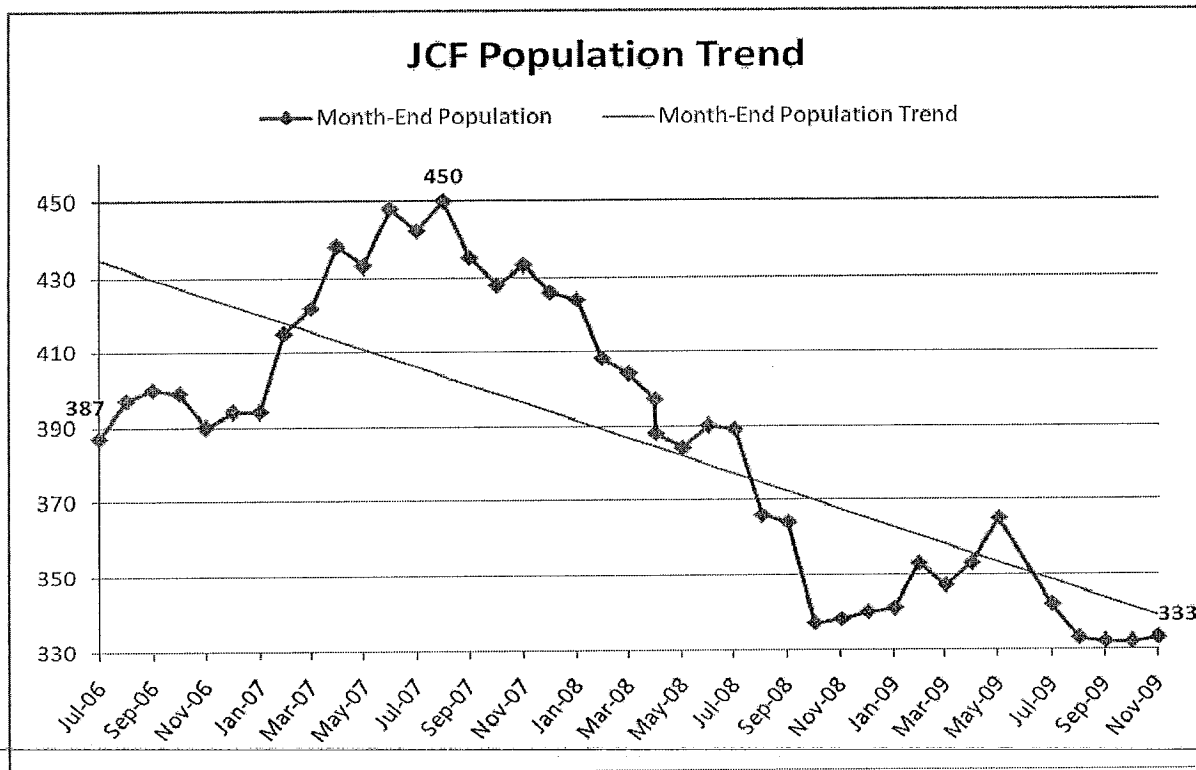


Chart 2

Chart 2 represents the last day of the month census of all juvenile correctional facilities from July 2006 – November 2009. During this period, the peak count was in August 2007 at 450 youth. From August 2007 through November 2009, a 26% decrease in the total number of youth placed in juvenile correctional facilities was experienced.

In July 2006, there were four operating juvenile correctional facilities. Three of the facilities, Atchison, Larned and Topeka were male facilities and Beloit served as the state facility for females. The FY09 approved budget for juvenile correctional facilities was \$33.3 million. In December 2008, operations at the Atchison Juvenile Correctional Facility were suspended in order to meet required reductions in agency budget. In July 2009, the Governor’s allotment resulted in operations at the Beloit Juvenile Correctional Facility being suspended, with the female offenders being moved to the renovated campus of the Topeka Facility. All youth committed to a juvenile correctional facility are now confined on one of two campuses, Larned and Topeka. The FY10 adjusted budget for juvenile correctional facility operations now stands at \$25.8 million, a \$7.5 million reduction or 22.4% below the FY09 approved budget. Additional reductions in the FY11 Governor’s proposed budget will lead to a total reduction of \$7.78 million or 23.3% over the two-year period.

Operations at the Beloit Juvenile Correctional Facility ceased on August 18, 2009. The 22 girls in residence were moved to the west campus of the Kansas Juvenile Correctional Complex in Topeka. One maintenance employee remains at the Beloit facility to operate the high-pressure boiler system. SB 357 and HB 2450 were introduced this session to transfer the Beloit property to the City of Beloit. The City

of Beloit and Mitchell County have worked over the past months to develop a community use for the property. The property was originally given by the City of Beloit to the State for purpose of building the Girl's Industrial School in the late 1800's. JJA sees no future state agency use for the property and encourages the transfer in order to avoid ongoing expenses for utility and maintenance.

The Governor's allotment order in November required JJA to reduce the per diem rate for Medicaid and non-Medicaid covered services by 10%. Approximately 100 different contract service providers have felt the 10% reduction, which was implemented on January 1, 2010. The reduction in rate resulted in the YRCII contractor at the former Atchison Juvenile Correctional Facility, G4S, to ask that the contract with JJA be terminated. Youth residents at the Atchison Youth Residential Center were removed from the facility and were placed in other residential placements. December 18th, 2009 was the final day of YRCII operations at Atchison. JJA sees no future use for the facility and feels continued utility and maintenance expenses are not prudent, given there is not a foreseeable state use for the property.

Table 1

Change from FY 09 to FY 11, SGF Only						
	FY 2009 Approved	FY 2011 Request	FY 11 Gov Adjustments	FY 11 Gov Rec	Inc/(Dec) FY 09 to FY 11	% Change
Operations	3,924,996	3,683,033	-	3,683,033	(241,963)	-6.16%
MIS	1,166,542	1,158,092	(50,000)	1,108,092	(58,450)	-5.01%
Grad. Sanc.	16,721,809	16,202,355	(1,793,716)	14,408,639	(2,313,170)	-13.83%
Incentive*	1,000,000	627,311	(627,311)	-	(1,000,000)	-100.00%
AYRC	-	396,142	(396,142)	-	-	N/A
Total CO	22,813,347	22,066,933	(2,867,169)	19,199,764	(3,613,583)	-15.84%
KJCC	15,257,019	17,037,443	(181,089)	16,856,354	1,599,335	10.48%
AJCF	5,549,957	-	-	-	(5,549,957)	-100.00%
BJCF	4,005,685	-	-	-	(4,005,685)	-100.00%
LJCF	8,546,491	8,990,783	(271,198)	8,719,585	173,094	2.03%
Total JCFs	33,359,152	26,028,226	(452,287)	25,575,939	(7,783,213)	-23.33%
Total	56,172,499		(3,319,456)	44,775,703	(11,396,796)	-20.29%

Table 1 illustrates budget reductions for JJA since the FY09 approved budget through the Governor's FY11 budget recommendation. Table 1 represents all agency budgeted expenses except for consensus caseload and community prevention grant funding. The JJA caseload budget pays for all residential placements other than detention services. Community prevention grants are supported by the Children's Initiative Fund (CIF).

The caseload budget for JJA was reduced by 10% through allotment in November. The remainder of the juvenile justice system budget reductions over the past eighteen months represents a 16.74% reduction from the approved FY09 budget to the present level of the FY10 budget. JJA received

American Recovery Act - Byrne - Justice Assistance Grant (JAG) in the total amount of \$1,757,770. One-half of the grant amount is budgeted for use in FY10 and FY11. \$500,000 is being used to support juvenile community corrections programs. \$378,885 is being used to support juvenile correctional facility operations. In each case, the funds are being used to avoid staff reductions. With the aid of the JAG funds, the net effect of budget reductions amount to 15.14% from FY09 approved to FY10 to date.

The FY11 budget recommendation of the Governor seeks to restore the caseload reductions imposed through allotment in November, eliminates incentive grant funding, provides no funding for Atchison or Beloit in anticipation of disposition of those properties, eliminates one IT position in JJA Central Office through a \$50,000 reduction in the agency IT budget, reduces prevention program funding by \$1.7 million and makes additional reductions to juvenile correctional facility budgets of \$450,000. The \$1.7 million of CIF will be shifted to core programs for juvenile community corrections to replace the state general fund reduction. Community prevention program grants will be reduced by \$1.7 million. Juvenile community corrections funding will then remain stable with no reduction to core programs of intake and assessment, juvenile intensive supervision and community case management.

JJA is currently working on three initiatives that we believe will strengthen the juvenile justice system and will lead to greater efficiencies and better youth outcomes in the long term.

YLS/CMI - JJA is working cooperatively with the Kansas Supreme Court in developing a plan for statewide use of the Youth Level of Service/Case Management Inventory (YLS/CMI) risk/needs assessment for juvenile offenders prior to their disposition hearing. Currently the YLS/CMI is administered to all youth placed on intensive supervision probation or placed in the custody of the Commissioner. ~~The YLS/CMI is an evidence-based assessment tool that provides insight into the relative risk a youth presents with respect to reoffending behavior. The YLS/CMI identifies elevated risks and identifies needs of youth. Assessment results are used to guide case managers in developing~~ an individualized supervision and rehabilitation plan. Administration of the YLS/CMI following adjudication and prior to sentencing will provide judges with additional information regarding youth to consider when imposing a sentence. There are currently four judicial districts involved in a pilot of the YLS/CMI assessment prior to sentencing. Each of the pilot districts developed their own plan for implementation through collaboration with the court, court services and juvenile community corrections organizations. The pilot projects have been successful in achieving the desired outcome of providing relevant risk/needs data to judges before a decision is made regarding sentence.

CbS - Community-based Standards (CbS) is a research-based evaluation process developed by the Council of Juvenile Corrections Administrators (CJCA) for assessment and evaluation of residential placements for youth. Youth Residential Centers II (YRCII's) are in essence group home settings for the non-secure rehabilitative care of juvenile offenders. YRCII's are licensed by the Kansas Department of Health and Environment (KDHE). JJA contracts with 26 different YRCII's for this service. Approximately 400 youth in state custody reside within a YRC on any given day. The YRC population represents approximately one-quarter of all youth in the custody of the Commissioner. CbS will provide a higher level of oversight as well as serve as a management tool for YRC operators. CbS involves surveys of youth residents, their parents and facility staff two times each year. The process also involves extracting particular data from the records of all youth who resided within the facility during the six-month evaluation period. The data from all sources is compiled into a comprehensive report that illustrates conditions within the facility relating to safety in operations and best practices in programming and case management. CJCA assigns a "coach" to work with each facility in reviewing

outcome data. The facility develops a facility improvement plan with the assistance of the coach. The coach monitors improvement plan implementation and progress, provides technical assistance and provides critical feedback to the facility. Data from all participating YRCII's are presented in easy to read tables and charts in a manner whereby the state average outcome can be compared to the individual facility outcome. JJA contemplates making participation in the CbS evaluation process mandatory for all YRCII contractors. CbS will cost \$5,000 annually for each site. JJA has identified funds within current resources to contract for this service. JJA contemplates use of uncommitted Title IV-E administrative reimbursements for the project.

YRCII Practices - JJA is working with YRCII contractors to strengthen YRCII services. Several actions are anticipated in order to improve YRCII services. JJA contemplates requiring YRCII providers to formulate policy and procedure for multiple occupancy room assignment processes to assure thoughtful processes are in place for the assignment of youth to multiple occupancy rooms. A number of factors should routinely be considered when making such assignments. JJA will require such policy development through YRCII standards. JJA is also working with providers to develop a placement matrix process that takes into account the risk and needs of youth who are placed in YRCII's. It is important that youth who are low-risk of reoffending are not mixed in placements with youth who are of high-risk. Separation of various risk level youth can be accomplished through placement alternatives and through facility population management. A model will be developed for implementation. Full implementation may be delayed as the level of programming necessary to effectively intervene with moderate and high-risk youth will have cost implications for providers. Recent rate cuts have impacted the ability to require a higher level of service without adequate funds to deliver such services.

The juvenile justice system is at a critical point. Financially, the juvenile justice system is delicately balanced at this point. Further budget reductions in any particular area of service will not be without significant ramifications that will be felt throughout the system. In the end, reductions to community supervision or residential placements will lead to greater numbers of youth being placed in juvenile correctional facilities. Juvenile correctional facilities are operating at minimum financial levels to meet the needs of the youth and provide for a safe environment at current population levels. Further reductions in funding for juvenile correctional facilities will lead to reduced or eliminated programming, which is required in juvenile facilities. The only means by which juvenile correctional facilities will be able to absorb additional funding reductions will be through a reduced census. Reduced census can only be achieved through statutory change resulting in fewer youth being placed in juvenile correctional facilities or being placed for shorter periods of time. Further reductions in juvenile correctional facility budgets or increases in the daily census of the facilities without funding to support a greater number of youth will result in the facilities becoming less safe with diminished programs and treatment capacity. Unsafe conditions and diminished program capacity could lead to review of the facilities by the United States Department of Justice. The Civil Rights of Institutionalized Persons Act (CRIPA) applies to juvenile correctional facilities. A number of states have been subjected to CRIPA proceedings as a result of a failure to adequately fund operations that leads to lack of adequate staff and programs. States where CRIPA proceedings are commenced experience significant fiscal consequence. CRIPA involvement in Kansas is avoidable as long as adequate funds are available to meet minimum standards. JJA believes we have arrived at the point of minimally adequate funding for juvenile correctional facility operations to sustain a constitutional level of operations.