

MINUTES

SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES

September 2-3, 1993  
Room 519-S -- Statehouse

**Members Present**

Senator Ben Vidricksen, Chairperson  
Senator Lillian Papay, Vice-Chairperson  
Senator Richard Rock, Ranking Minority Member  
Senator Bill Brady  
Senator Paul "Bud" Burke  
Senator Tim Emert  
Senator Mike Harris  
Senator Sherman Jones  
Senator Todd Tiahrt

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**Staff Present**

Hank Avila, Kansas Legislative Research Department  
Ben Barrett, Kansas Legislative Research Department  
Bruce Kinzie, Revisor of Statutes Office  
Martha Ozias, Committee Secretary

**Conferees -- S.B. 162 -- Regulation of Salvage Yard and Vehicle  
Salvage Pools/Total Loss Vehicles**

Patricia M. Wiechman, Executive Director, Kansas Automotive Dismantlers and  
Recyclers Association  
Dale Lehning, A-One Auto Salvage, Wichita  
Art Nordstrom, South Dakota Auto Recyclers Association  
Charles Petrik, Farm Bureau Mutual Insurance Company, Inc., Manhattan  
Leo Grothaus, Missouri Department of Revenue, Criminal Investigation Bureau  
Mel Eshbaugh, Topeka Salvage Pool, Inc., Topeka  
Ed Newson, Kansas City Salvage Pool, Inc.  
Trooper Steve Rodina, Kansas Highway Patrol, Topeka  
Betty McBride, Director of the Division of Vehicles, Department of Revenue, Topeka

## **Conferees -- Airport Development Study**

Eugene Anderson, Director, Division of Aviation, Kansas Department of Transportation  
Timothy Rogers, President, Kansas Association of Airports, Salina  
Bailis Bell, Chairman, Kansas Aviation Advisory Committee, Wichita  
I. D. Creech, City of Ellsworth  
Joyce L. Harrison, Federal Aviation Administration, Kansas City, Missouri  
Jan Monroe, Federal Aviation Administration, Kansas City, Missouri  
Don Moler, League of Kansas Municipalities, Topeka  
Lee Metcalfe, Director of Airports, Johnson County  
Bob Harder, McPherson

**September 2, 1993  
Morning Session**

### **S.B. 162 -- Regulation of Vehicle Salvage Yards and Vehicle Salvage Pools/Total Loss Vehicles**

**Video Presentation.** The Committee viewed a video which consisted of excerpts from the television programs "48 Hours" and "60 Minutes." The video showed various ways cars are stolen, stripped down, auctioned off, bought, reassembled, and sold to unsuspecting consumers. It described some of the actual conditions of these rebuilt vehicles, some of which cause accidents, serious injuries, and even death to their owners. The video pointed out the need to maintain records and identification on cars and parts that are to be resold.

**Staff Briefing.** The staff presented a memorandum which discussed, among other things, the distinction between salvage vehicle dealers and salvage vehicle pools. It was noted that unlike vehicle salvage dealers, salvage vehicle pools are not regulated by the state. Often, the vehicle pools sell salvage vehicles for insurance companies. The memorandum also addressed the concept of a "total loss" vehicle. This concept is used by insurance companies which is a percentage loss of the value of a motor vehicle.

It was noted that at present there is no national consensus on the distinction between a salvage vehicle and a junk vehicle for purposes of defining a total loss vehicle. Staff pointed out that at the national level the federal Anti-Car Theft Act of 1992 directed the Secretary of Transportation to establish a task force to study various problems relating to motor vehicle theft and fraud. These include motor vehicle titling, registration, and salvage controls. (For statement, see Attachment 1.)

With respect to S.B. 162, staff explained that the bill proposes to impose various additional requirements on salvage vehicle dealers and pools. These would include:

1. requirements pertaining to the operation of salvage yards such as building and fence size, area dimensions, and sales transactions;
2. requirements pertaining to the storage of nonowned salvage vehicles;

3. requirements pertaining to the operation of salvage pool yards, including area dimensions, building and fence size, licensing, and sales transactions;
4. various definitions of terms relating to salvage vehicle dealers and salvage vehicle pools; and
5. exemptions from minimum area and office space requirements of existing salvage vehicle dealers, and similar exemptions applicable to salvage vehicle pools.

**Pat Wiechman** explained that S.B. 162 was introduced as a result of a need for changes in the state's dealer licensing law as it applies to the salvage vehicle industry. According to Ms. Wiechman, there is a direct connection between stolen vehicles and the lack of regulation of used car parts and salvage vehicles. Ms. Wiechman said the state does not regulate transactions that occur through the salvage vehicle pools. Ms. Wiechman said that the bill contains a "grandfather clause" to insure that no existing salvage dealer or pool would be adversely affected by the enactment of the bill.

With respect to problems associated with vehicle certificates of title, Ms. Wiechman pointed out that there is no provision for a salvage title to be issued by the Department of Revenue. In addition, the Kansas Department of Revenue is not required to carry forward a salvage designation on future titles of salvage vehicles. Ms. Wiechman favored limiting those who could buy vehicles at salvage pools to licensed dealers. (For statement, see Attachment 2.)

**Dale Lenning** provided various photographs to illustrate the concept of "total loss" vehicles. He said that the notion of total loss is a term used by the insurance industry and is not intended to mean that the vehicles are without value. Mr. Lenning discussed the issues that the Task Force, mandated by the Anti-Car Theft Act of 1992, will consider. The Task Force will consider motor vehicle titling, registration, and salvage controls. He said the Task Force at the first meeting discussed the possibility of establishing a damage threshold criteria for purposes of defining a total loss vehicle. The current proposal would define a vehicle with damage exceeding 60 percent of the actual value or fair market value as a total loss and be designated as such on a certificate of title. (For statement, see Attachment 3.)

**Art Nordstrom** addressed the Committee on procedures used in vehicle transfers in the State of South Dakota and distributed copies of a "Certificate of Title" on which the owner is required to disclose any known damage to the vehicle. In South Dakota, a person who sells, transfers, or trades a vehicle must provide a completed vehicle damage disclosure statement to the person to whom the vehicle is transferred before a certificate of title can be issued. This requirement applies to all vehicles which have sustained damage in excess of \$2,000. South Dakota also issues a junking certificate for dismantled vehicles. If a person wishes to rebuild a vehicle, he or she must then comply with the rebuilt title application process which includes vehicle inspection, vehicle identification number (VIN) assignment, if applicable, and documentation of proof of ownership of all vehicles used to rebuild the vehicle. South Dakota law does not define what constitutes a salvage vehicle. The disclosure requirement is viewed as a form of consumer protection (Attachment 4).

**Charles Petrik** expressed concerns about the impact certain provisions of S.B. 162 would have on the cost of automobile claims if salvage pools are limited to selling a salvage vehicle only to salvage licensed dealers. According to Mr. Petrik, the increased cost of claim payments will

ultimately affect the persons who purchase the insurance. He stated that by the selling of salvage vehicles, a salvage pool provides an efficient service to the insurance industry (Attachment 5).

**Leo Grothaus** noted that the regulation of salvage vehicle pools in Missouri aids in law enforcement efforts. He stated that in Missouri a lending institution retains the certificate of title until payment for the vehicle is completed.

**Melvin Eshbaugh** pointed out that Topeka Salvage Pool, Inc. has revised its computer system so that all sales activity can be reported to the National Insurance Crime Bureau. He explained that of all vehicles that are wrecked, stolen, or damaged, only 5 to 10 percent are handled by the salvage pools. He indicated that if legislation is enacted to protect the consumer from unknowingly purchasing a previously damaged vehicle, a system of branding of titles will need to be adopted. He offered some proposed amendments to S.B. 162 to provide anti-theft measures and improve consumer protection (Attachment 6). The amendments would:

1. redefine brokers to exclude salvage pools;
2. define "salvage vehicle" as any physically damaged vehicle or, if required by law, to have a branded title;
3. delete the requirement that a salvage pool operate at the same location where the salvage yard is operated;
4. require only upon request that salvage pools disclose the true owner of a vehicle prior to sale, rather than on every sale; and
5. delete the prohibition that denies salvage pools full-privilege license plates.

Mr. Eshbaugh noted that his suggested changes are intended to ease the proposed regulations of salvage pools.

**Ed Newson** pointed out that the salvage vehicle pool industry is not opposed to regulation and supports efforts to address problems of auto theft. Mr. Newson opposes provisions in S.B. 162 which prohibit a salvage pool from selling a salvage vehicle to any person except a person licensed as a salvage vehicle dealer unless the sales tax is collected. Instead, Mr. Newson suggested language which would require sales tax to be collected by a salvage pool at the time of sale unless specifically exempted by statute. This proposed change also would clarify that a pool could sell to any individual or licensed dealer (Attachment 7).

Trooper **Steve Rodina** expressed support for certain provisions in S.B. 162 which require that all major component parts of an automobile be accompanied by a certificate of title. He expressed support for certificate of title requirements used in South Dakota.

**Betty McBride** explained that the Division does not regulate salvage pools but assured the Committee that if the Legislature enacts legislation to do so such legislation could be implemented without the need for additional administrative personnel or funding (Attachment 8). Ms. McBride distributed copies of the Kansas Certificate of Title and a sample of a Non-Highway Vehicle Title Affidavit (Attachments 9 and 10). She urged the Committee to wait for federal legislation on matters pertaining to titling to avoid making repeated changes to Kansas law.



A copy of the testimony of **Gerald Cox**, Special Agent for the National Insurance Crime Bureau, was distributed to the Committee. Mr. Cox expressed support for the proposed legislation. He said that adequate control is needed on the flow of vehicle parts by requiring dealers to maintain adequate records of the purchase and sale of these parts (Attachment 11).

### **Afternoon Session**

The afternoon session began with hearings on a study of small airports development. The study was requested by the Kansas Association of Airports (KAA). The study includes funding sources for airport maintenance and development of small general aviation airports, consideration of action that should be taken in the event the Federal Aviation Administration (FAA) decides to allow states to administer federal funds through a block grant program, and consideration of enabling legislation to allow local communities to adopt airport zoning regulations.

Staff presented a memorandum entitled "Interim Study Regarding the State's Relationship with Kansas Airports and Aviation." It was noted that the study was requested by KAA. Staff noted that KAA believes Kansas has fallen behind other states in the development and maintenance of public use airports. KAA believes that without a source of state funds, many communities may be faced with the closure of their local airports. According to KAA, closure of local airports could result in loss of access to emergency medical services and reduced economic growth. Staff added that KAA expressed concern Kansas has not been able to participate in the federal block grant program (a federal program which allows the state to administer federal funds for airport improvements for some airports within the state). KAA urged appropriate action to prepare the Division of Aviation of the Kansas Department of Transportation (KDOT) for participation in the block grant program. Finally, KAA also urged the Legislature to address zoning questions to enable local communities to adopt effective land use and zoning regulations for the protection of airports and airspace (Attachment 12).

**Eugene Anderson** explained the various phases of the Kansas Aviation Systems Planning program. He noted that the program began in December, 1982 when the Aviation Division initiated Phase I of the Kansas Aviation Systems Planning program. He explained that the primary objective of Phase I was to prepare a statement of airport system requirements for the State of Kansas through the year 2000 (Attachment 13).

**Tim Rogers** addressed the question of whether the Division of Aviation is prepared to participate in the Federal Aviation Administration's Airport Improvement program block grant program for general aviation airports. He said that in order to properly develop and maintain the state's system of general aviation airports, the Division of Aviation must maximize federal funding and identify possible sources of state assistance and funding. He noted that a funding shortage exists among Kansas general aviation airports. According to Mr. Rogers, many Kansas airports are in need of improvements and maintenance, and the state has the opportunity to be proactive in assuming greater responsibility and control over the development and maintenance of its general aviation airports. According to Mr. Rogers the state should:

1. prepare a complete inventory of development needs at all Kansas general aviation airports and assign priorities to those needs;

2. prepare a plan to increase federal funding for Kansas general aviation airports including ways to secure state funding for such airports;
3. prepare a comprehensive update of the State Aviation System plan;
4. develop a program which enables KDOT planners and engineers to assist general aviation airports with the preparation of the documents necessary for securing federal airport improvement program grants;
5. develop a program by which KDOT planners and engineers can advise general aviation airports on airport maintenance priorities; and
6. develop a program which enables KDOT personnel and equipment to assist general aviation airports with basic airport maintenance. (For statement, see Attachment 14.)

**Bailis Bell** briefed the Committee on current federal legislation affecting Kansas airports. He noted that the current Airport Improvement program authorization and appropriations expire on September 30 of this year. The proposed federal legislation is a three-year program with over \$2.1 billion for airports authorized each year. Mr. Bell expressed concern about discontinuation of the Essential Air Service program, a program which subsidizes air service to rural areas. He cautioned that if this service is discontinued, almost all air service to western Kansas could cease. Mr. Bell also spoke to the Committee about recommended federal legislation which would limit the liability of general aviation aircraft manufacturers to 15 years from the time of manufacture. He said passage of such legislation could allow manufacturers to again profitably make piston engine aircraft, creating thousands of jobs (Attachment 15).

**I. D. Creech** addressed the airline's key role in the state economy. He said that it was estimated that the overall annual economic impact of Kansas airports to the state is about \$1.7 billion per year. About \$400 million of this amount is attributed to general aviation use. He said that local governments have limited resources to fund airport maintenance and improvements. He noted, among other things, that the state needs a plan to fund the maintenance and expansion of the airport investments already made (Attachment 16).

**Joyce Harrison** presented information on how the Federal Airport Improvement program works, as well as some information on the federal block grant program. She pointed out that the purpose of the Airport Improvement program is to promote a safe and efficient nationwide system of public-use airports. She indicated that the Kansas Aviation System plan is used to identify the aviation needs of the state. With regard to the block grant program, Ms. Harrison indicated that seven states have been selected to participate in the pilot program. FAA expects more states to be added in the future. She noted that in order for it to assume the responsibilities inherent in the program, the Division of Aviation will need additional personnel. These personnel will include individuals with expertise in pavement evaluation, civil engineering design, construction inspection, and planning (Attachment 17).

**Lee Metcalfe** testified on the need for local governments that operate public airports to exercise more control over land use planning and zoning decisions in the proximity of airports. He gave examples of instances in which developers and cities have not shown interest in the potential noise and safety impacts of airports when rezoning for land use. He stated that airports are

community assets and should be protected for the benefit of the community. He favors legislation which would require local jurisdictions to take into account noise and safety impacts on neighboring land uses of aircraft operation at and around airports and which would give airport operating agencies some meaningful leverage in the land use decision process (Attachment 18).

**September 3, 1993**

**Conferees -- S.B. 428**

Captain Bob Giffin, Kansas Highway Patrol  
Colonel Lonnie McCollum, Kansas Highway Patrol

**Conferees -- S.C.R. 1611**

William Watts, Kansas Department of Transportation  
John Smith, Kansas Department of Revenue  
Kyle Smith, Kansas Bureau of Investigation

The Committee opened the second day with hearings on S.B. 428. The purpose of the bill was to study the implications of requiring certain persons whose driver's license has been suspended or revoked to pay, as a condition of reinstatement of a driver's license, a fee of \$125. The bill was requested by the Kansas Highway Patrol during the 1993 Legislative Session to address problems associated with driving under the influence (DUI).

**Captain Giffin** addressed the Committee emphasizing the impact of DUI. Captain Giffin noted that S.B. 428 advocates a program designed to recover a portion of the costs associated with the crime of DUI by using a user fee approach. Revenue generated from this program would be used for efforts to address the problems associated with DUI through expanded enforcement efforts, education and prevention programs as well as those programs that exist solely because of the DUI problem. Captain Giffin said that the Kansas Highway Patrol has experienced a decline in major revenue sources. As a result, the Patrol has determined that it must examine alternatives in order to avoid cutting service levels (Attachment 19).

**Colonel McCollum** expressed support for the proposed program and pointed out he wants additional funds to run an effective training program. He said that a DUI cost recovery program would be another way to recoup these costs.

The next item on the agenda was S.C.R. 1611, which urges opposition to federal legislation requiring revocation or suspension of driver's licenses for any drug-related offense. The resolution is the result of federal legislation which requires withholding of certain federal-aid highway funds from states that do not enact and enforce legislation requiring the revocation or suspension of a person's driver's license upon conviction for any violation of the Controlled Substances Act (P.L. 91-513) or any drug offense. Alternatively, a state can avoid the withholding of funds by submitting to the Secretary of Transportation a written certification stating that the Governor is opposed to the

enactment or enforcement of such a law and that the Legislature has adopted a resolution expressing opposition to such a law.

**William Watts** provided testimony regarding the federal requirement for driver's license sanctions against drug offenders. According to Mr. Watts, the federal Department of Transportation and Related Agencies Appropriations Act of 1991, as amended, required the withholding of certain federal-aid highway funds from states that do not enact and enforce legislation requiring the revocation or suspension of an individual's driver's license upon conviction of any violation of the Controlled Substances Act or any drug offense. He noted that each state must certify annually that it meets the requirements of the Act. Mr. Watts said that Kansas will not comply with the federal requirements by September 30, 1993 (Attachment 20). Total estimated withholding of federal fiscal year 1994 apportionments is \$7.7 million. After September 30, 1994, the withholding of FFY apportionments are estimated to be \$7.9 million. He pointed out that the estimated loss of funds is as follows: after September 30, 1995, \$13.9 million; after September 30, 1996, \$15.9 million; after September 30, 1997, \$21.6 million; after September 30, 1998, \$19.9 million; after September 30, 1999 and thereafter, \$13.9 million. He said that the total estimated loss through calendar year 2000 would be \$99.1 million.

**John Smith** appeared in support of the proposed resolution. He pointed out that legislative adoption of the resolution, with the Governor's concurrence, exempts the state from compliance with the federal requirement for states to suspend for six months the driver's license of anyone convicted of a drug related offense or, in the alternative, to forego certain federal highway funds. He indicated that if a state law is enacted requiring the suspension of driving privileges for six months of anyone convicted of a drug related offense, it would be necessary to add personnel in the Driver Control Bureau of the Division of Vehicles in order to handle the increased workload. Mr. Smith said that if, instead, the resolution is adopted, no further action would be needed (Attachment 21).

**Kyle Smith** briefed the Committee on the constitutionality of enacting a drug offender's driver's license suspension law. He said that in the federal Department of Transportation's final rule, the National Highway Traffic Safety Administration and the Federal Highway Administration discussed the questions of constitutionality raised by the American Civil Liberties Union and various states. He noted that his research had indicated that the courts that have dealt with the question of a drug offender's driver's license suspension law have unanimously held such statutes to be constitutional (Attachment 22).

**Committee Discussion and Action.** The Committee discussed issues associated with S.B. 162 and proposed amendments. These amendments included a requirement that major component parts be accompanied by a sales receipt and a copy of the vehicle title; a definition of a "salvage vehicle"; the prohibition of a sale of a vehicle by a salvage pool unless the sales tax is collected (unless the sale otherwise is exempted from the sales tax law); and a requirement that a salvage pool have available on its premises a certificate of title or a photocopy of the complete title of a salvage vehicle sold by the pool.

The Chairman suggested that S.B. 162, with the proposed amendments, be considered by the Senate Transportation and Utilities Committee during the 1994 Legislative Session. A motion to that effect was offered by Senator Jones. The motion, seconded by Senator Papay, was adopted.

Senator Emert moved that the Committee defer action on issues relating to motor vehicle titling until the federal Task Force completes its work and releases its recommendations. The motion, seconded by Senator Tiahrt, was adopted.

With respect to S.B. 428, it was the consensus of the Committee that the bill be further considered by the Senate Transportation and Utilities Committee during the 1994 Legislative Session.

Senator Brady made a motion that the Committee consider a draft of S.C.R. 1611 and S.B. 294 during the November meeting. The motion was seconded by Senator Tiahrt. The motion carried.

#### **Next Meeting**

The Chairman announced that the Committee will receive additional information from the Kansas Association of Airports at the November meeting scheduled for November 1-2.

Prepared by Hank Avila

Approved by Committee on:

Nov. 1, 1993  
(Date)

SENATE TRANSPORTATION  
September 2, 1993

KDOR GUEST LIST

Betty McBride	KDOR	Topeka KA
Rick Scheibe	1130 S.W. Winding Rd,	Farm Bureau Mutual.
W.D. Woolbright	Topeka	Farm Bureau Mutual
Charles A. Petrik	2627 KFB Plaza, Manhattan	Acme Storage & Sales Inc
Howard G. Cleous	4740 Madison Wichita	G.R. Motors, Inc
G. VAUGHAN GARY	4123 S. BROADWAY WICHITA, KS	A-ONE
Weld Lehnung	7335 So Broadway & Byersville,	K-15 Salvage
Nancy A. Hemmerer	6530 SE Blvd. Derby	State Farm
William W SNEED	TOPEKA	KS. wine/spirits wholesalers.
TUCK DUNCAN	TOPEKA	KDOT
Joseph Krohn	TOPEKA	Topeka Salvage Pool
Melvin L. Eckhaugh	RR 2 BH 192 Garnett SD 57030	S.D. Auto Recyclers
Marie Nordstrom	RR 2 Box 192 Garnett S.D	S.D. Auto Recyclers
Art Nordstrom	4717 GRAND AVE, STE 620 KCMO.	ATTORNEY
Mark W Untersee	800 JACKSON - SUITE 1110, TOPEKA	KANSAS MOTOR CAR DEALERS ASSN.
DON L. McNEELY	122 SW 7th Topeka 66606	K.H.P.
TERRY MAPLE	615 E. 13TH KANSAS CITY MO.	MO. DEPT. OF REVENUE
LEO H. GROTHAUS	122 SW 7th ST TOPEKA KS 66603	CRIMINAL INVEST. BUREAU
STEVE RODINA	122 SW 7th ST TOPEKA	KHP
D.D. CORP	3431 Burton Topeka	K Contactus
BB Totten	PO Box 1280 "	NATII
LM CORNISH	Overland Park, Ks.	Farmers Ins Group
Lee Wright		Farmers Ins.
Bill Lewis		

Lella R. Chilcoat

KS Adv. Consulting

800 SW Jan. on  
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# MEMORANDUM

## Kansas Legislative Research Department

300 S.W. 10th Avenue  
Room 545-N – Statehouse  
Topeka, Kansas 66612-1504  
Telephone (913) 296-3181 FAX (913) 296-3824

September 1, 1993

**To:** Senate Transportation and Utilities Committee  
**From:** Hank Avila, Research Analyst  
**Re:** Regulation of Vehicle Salvage Yards and Vehicle Salvage Pools; Total Loss Vehicles

### Background

Salvage Vehicle Dealers are currently regulated under the Licensure of Vehicle Sales and Manufacture Act (K.S.A. 8-2401 to 8-2432). Among other things, the Act gives the Department of Revenue authority to license persons engaged in the sale of motor vehicles, including salvage vehicles. The Act also gives the Department authority to investigate consumer complaints and enforce the various provisions of the Act.

By contrast, salvage vehicle pools are not currently regulated by statute. A salvage pool is different from a salvage yard in that the pool is engaged in selling whole motor vehicles. The pool provides this service mostly for insurance companies, car rental companies, banks, finance companies, and vehicle dealers. A salvage pool does not sell automobile parts nor does it dismantle vehicles. Unlike a salvage yard, a pool does not own the vehicles which it stores for insurance companies and other business entities. The pool stores vehicles in order to sell them by bid or by auction to salvage yard owners or others. Thus, the pool provides a service rather than a product. Besides the storage and sale of motor vehicles for insurance companies, pools also at the request of the insurance companies, pick up salvage vehicles (e.g., damaged, theft recovered, vandalized vehicles, etc.) from a wrecker, tow such vehicles to the pool area, provide security for vehicles at the pool area, provide cleanup enhancement services, mail license plates to the vehicle owner, provide vehicle title services for the insurance company, and provide management reports to insurance companies. A pool typically operates as follows:

1. The pool is notified by an insurance company or other business entity to pick up a vehicle.
2. The pool notifies a wrecker that it will pick up the vehicle.
3. The wrecker is paid for towing and storage services.
4. The vehicle is stored in a holding lot until the consignor has obtained a certificate of title. In some instances title work is done by the pool for the consignor.
5. The consignor gives instructions to sell the vehicle.

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6. The vehicle is inventoried and moved from the holding lot into a sales lot. Vehicles also are placed in a sales category and potential buyers are notified. These vehicles are placed on display for a certain number of days.
7. All bids are received or a verbal auction is conducted. In the case of a sale by bid, the insurance company is notified of the high bidder and determines if the sale will occur.
8. On a sale by bid, the money is collected from the high bidder from the pool with previous towing charges and salvage pool charges deducted. In the case of the auction, the sale is made by verbal bidding conducted by an auctioneer.
9. The buyer signs the copy of the title for the consignor's records.
10. The pool files a bill of sale copy for each sale and maintains records of the transactions.

### Total Loss Motor Vehicles

The connection between salvage pools and total loss vehicles occurs when a car is considered a total loss by an insurance company.\* As noted, a vehicle that is considered a total loss by an insurance company, is consigned to salvage pools for sale. The automobile salvage pool industry generally obtains the vehicle certificate of title or a non highway title with the appropriate branding on behalf of the insurance industry. Because pools provide title services to the insurance company, they have been a key resource in reporting motor vehicle information to the National Insurance Crime Bureau. Pools routinely cooperate with law enforcement officials with respect to investigating and providing information from vehicle records, such as VIN numbers, past owner, type of vehicle damage, and the buyer of the vehicle. Salvage pools also play a major role in the title history of vehicles by assuming that each total loss vehicle in their possession receives the appropriate title designation. Problems associated with total loss vehicles arise because cars that are considered a total loss by an insurance company have varying degrees of damage.\*\* Sometimes, the vehicle is considered a total loss simply because the traditional cost of repair exceeds the value of the vehicle before the damage. In these cases, an automobile rebuilder may purchase the car for a low price and rebuild it for sale to the public or an automobile dismantler may purchase the vehicle and sell parts to the public or to repair shops. At present there is no national consensus on the distinction between a salvage vehicle and a junk vehicle for purposes of defining a total loss vehicle. The federal government (as noted below) and some states are, however, making efforts in this regard.

At the national level, the Anti-Car Theft Act of 1992 directed the Secretary of Transportation to establish a task force to study problems relating to motor vehicle titling, registration, and salvage controls, which may facilitate motor vehicle theft and fraud. The task force is directed to study the extent to which the absence of uniformity and integration in state laws

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\* Total loss vehicles include theft recovery vehicles which may have sustained little or no damage.

\*\*The insurance industry prefers the term "constructive total loss" which is the partial loss of such significance that the cost of restoring damaged property would exceed its value after restoration. For example, an automobile is so badly damaged by fire that fixing it would cost more than the restored vehicle would be worth.

regulating vehicle titling and registration and salvage of used vehicles allows criminals to find the weakest link to "wash" the stolen character of the vehicles. In addition, the task force will consider the adoption of a title brand on all certificates of title indicating that the applicable vehicle was previously issued a title brand or a title signifying "rebuilt," "reconstructed," or "flood." The task force held its first meeting in July. A final report is mandated by April, 1994.

At the state level a few states have enacted legislation to address the problem of vehicle theft and fraud. In Iowa, for instance, a salvage vehicle is defined as one which is damaged in an accident such that fixing it costs greater than 50 percent of its market value before it was damaged. Iowa also requires vehicle title designations for salvage vehicles and for rebuilt or prior salvage vehicles. Iowa law also requires identification of the name of the state on the title when the vehicle previously was titled in another state. The owner of a junked vehicle must surrender the title for such vehicle and is issued an Iowa junking certificate.

In the State of South Dakota, a person who sells, transfers, or trades a vehicle must provide a completed vehicle damage disclosure statement to the person to whom the vehicle is transferred before a certificate of the title can be issued. This requirement applies to all vehicles which have sustained damage in excess of \$2,000. South Dakota also issues a junking certificate for vehicles which are being dismantled. This certificate is mandatory in the event the vehicle is being parted out. If a person wishes to rebuild a vehicle, he or she must then comply with the rebuilt title application process which includes vehicle inspection, VIN assignment if applicable, and documentation of proof of ownership of all vehicles used to rebuild the vehicle. South Dakota law does not define what constitutes a salvage vehicle. The disclosure requirement is viewed as a form of consumer protection.

The State of Minnesota recently enacted legislation which provides that if a vehicle has sustained damage by collision or other occurrence which exceeds 70 percent of its actual value, the seller must disclose that fact to the buyer if the seller has actual knowledge of the damage. The amount of damage is determined by the retail cost of repairing the vehicle based on a complete written retail estimate or invoice. These vehicles will be permanently branded "Rebuilt." The new branding law applies to vehicles that are newer than six years old. Minnesota law also established a "junking certificate" for vehicles declared unrepairable under Minnesota law. Such certificate authorizes the holder only to possess and transport the vehicle. Salvage pools and insurance companies or their agents are exempted and may sell such a vehicle with the junking certificate.

Arkansas enacted legislation in 1993 which requires an owner of a motor vehicle which has incurred physical or water damage that equals or exceeds 70 percent of the average retail value, using the most current NADA pricing guide, to surrender the certificate of title for the purpose of placing a brand on the face of the title denoting such damage and denoting the previous damage if the vehicle is subsequently repaired and retitled. The certificate of title must be accompanied by a damage disclosure form or a copy of the insuring company's total loss report.



## SENATE COMMITTEE ON TRANSPORTATION & UTILITIES

September 2, 1993

### Senate Bill No. 162

Chairman Vidricksen, Members of the Committee:

I am Pat Wiechman, executive director for the Kansas Automotive Dismantlers and Recyclers Association. The Automotive Recycler has been around since before *recycling* became the "thing to do." While other industries boast of their accomplishments in making this a more ecologically better world, our recyclers have been *at it* for more than half a century.

The automotive recycling industry is the 16th largest industry in the United States with over \$5 billion in sales annually. The industry recycles over 11 million automobiles, busses, trucks, and motorcycles each year, saving an estimated 85 million barrels of oil that would otherwise be used in the manufacture of new replacement parts. Additional energy and resource

#### Executive Office

1101 W. 10 Topeka, Kansas 66604

913-233-1666 - Fax - 233

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conservation is realized by recycling rebuildable "core" parts to automotive parts rebuilders and scrap metal processors. Nationally, the automotive recycling industry supplies 37% of all ferrous scrap (iron and steel) to our nation's scrap processing industry.

As you look around the room, there are pictures of various salvage yards from across the state. This is a multi-million dollar industry in Kansas that is an integral part of the automotive industry. The Automotive Recycler can proudly say - we are the ORIGINAL RECYCLERS.

Senate Bill 162 was introduced as a result of a recognized need for changes to the Kansas Dealer Licensing Law as it applies to the salvage vehicle industry. What is the problem that needs to be addressed? There is a direct connection between stolen vehicles and the control of used parts and salvage vehicles. The solution is better CONTROL of the industry. The need for better control of the salvage vehicle industry has been identified by Kansas law enforcement agencies. Nationally, there has been great concern for better control of used parts and salvage vehicles. HR 4542, the Anti-Car Theft Act of 1992, mandated the establishment of a task force to study problems which relate to vehicle titling, vehicle registration, and controls over vehicle salvage.

Working toward better control, SB 162 addresses two primary areas that represent many-faceted and complex issues. The first is to define a salvage vehicle and to whom it can be sold. The second area is to establish definite parameters for those that handle the salvage vehicles; that is, the salvage vehicle dealers and their yards, and the salvage vehicle pools. In order to responsibly address control of this industry, we must keep in mind three criterion by which

to gauge expected results. Whatever changes occur must be in the best interest of consumer protection, public safety and law enforcement.

In Kansas, the only way to legally transfer ownership of a used vehicle is by assignment of a certificate of title. That is true in any circumstance, even if the vehicle has been abandoned, damaged, or considered a "total loss." The term "total loss vehicle" has evolved in an attempt to categorize damaged vehicles. Under the present system, Kansas uses a document called a *Non-Highway Title*. Kansas, by the way, is the ONLY state that has a vehicle titling document called a "non-highway title." A fact that causes a great deal of confusion in other states as they attempt to deal with it. This document was originally developed for use in connection with the Kansas vehicle safety inspection program. Since the safety inspection program no longer exists, the non-highway title has come to be viewed as the document that other states call a *salvage title*.

One use of the non-highway title occurs when a total loss is paid on a vehicle by an insurance company. If the insurance company takes ownership and title to the vehicle, they must then apply for a non-highway title in order to pass ownership of the vehicle. If the vehicle is subsequently restored to highway use, the Kansas title will be branded "Formerly Non-Highway." However, if the vehicle is damaged and the insurance company does not take possession of the vehicle, then there is no requirement that the non-highway title be used. Thus, it is possible for a vehicle to have a non-branded title even though it has suffered severe damage.

At the time SB 162 was written, it was not anticipated that any action would be taken toward the development of a salvage title for Kansas. However, KADRA would support changes to Kansas law that would put in place a salvage

title. We believe such changes would be in the best interest of Kansans. Although these changes may sound simple, the issue is quite complex. Definitions and limitations will have to be established. As an example, it would have to be determined whether a Kansas salvage title would be a *kill* title or would the vehicle be able to be resurrected and a regular title issued. If a regular certificate of title is issued for a vehicle formerly titled on a salvage title, would the regular title carry branding; and, if so, what brand would be required. Provisions for carrying the branding forward on the title should also be addressed.

The HR 4542 Task Force, the American Association of Motor Vehicle Administrators (AAMVA), and other jurisdictions are attempting to address the problem of defining a salvage vehicle. The definition offered in SB 162 states: "Salvage vehicle' means any vehicle which is abandoned, dismantled or damaged by collision, fire, flood, accident, trespass or other occurrence to the extent that the owner, an insurer or other person acting on behalf of the owner, determines that the cost of parts and labor makes it uneconomical to repair." The Task Force mandated by HR 4542 is considering a definition that will involve a percentage of actual cost value or a dollar threshold for determining total loss. Attached is a letter received from Gary Dickinson, Director of Security with Anglo American Auto Auctions, Inc. A conflict in scheduling prevented Mr. Dickinson from appearing before you today as he had originally planned. Mr. Dickinson is a member of the HR 4542 Task Force.

Media coverage, such as the *48 Hours* and *60 Minutes* programs during this past year have caused national attention to focus on a problem with which the salvage vehicle industry has struggled for years. You may remember that the *48 Hours* show documented how **you** could end up owning a stolen vehicle with the

story commencing in a backyard "strip shop" where vehicle parts were stored. The scene then moved to the auctioning of vehicles at a vehicle salvage pool; then to a shop where vehicles were rebuilt and finally to a sales lot. By checking the vehicle identification numbers, it became apparent that vehicles were being stolen and stripped of parts. After a length of time had expired for payment to be made to the insured on the stolen vehicles, the stripped vehicles were placed so they could be recovered, then purchased through the salvage pool and rebuilt with the parts that had been removed. Where is the loophole in this scene? It is in letting just *anyone* purchase vehicles through the salvage pool.

There is no regulatory authority in Kansas Statutes that controls activities that occur through the salvage vehicle pools. Consumer protection issues arise from transactions involving purchases by individuals. Since the salvage vehicle pool claims no ownership in the vehicle, to whom does the individual look if he has problems? Many of the vehicles sold at the salvage vehicle pools are able to be driven, even though they may have suffered damage. Here the issue of public safety is certainly a concern. The vehicle that was the subject of the *60 Minutes* program had been rebuilt and supposedly repaired; and was alleged to have caused the death of that young man. How much more dangerous might a vehicle be that has been wrecked and driven directly from the salvage pool without being repaired and rebuilt? Again, the considerations must be what is in the best interest of consumer protection, public safety and law enforcement.

Some of the salvage vehicle pools in Kansas profess to sell only to vehicle dealers. Controlling who is allowed to buy at a salvage vehicle pool, is a major step in controlling what is sold. Right now in Kansas, without control, anyone -

dealer or general public - can buy any of the hundreds of vehicles that are sold through the salvage vehicle pools each month.

In Kansas, only a licensed salvage vehicle dealer can legally sell used vehicle parts. Because of the condition existing in Kansas laws, law enforcement is not able to control the flow of titles, used parts and salvage vehicles in our state. In essentially every community in Kansas there are operations that are not licensed salvage vehicle dealers who are buying cars, with or without titles, parting out the cars and selling the parts. There are crushers that move into a community, set up the crusher and proceed to take vehicles from anyone bringing in a vehicle to crush. These kinds of operations can be disposal points for theft vehicles.

Another consideration - when the general public buys, there is a potential loss of sales tax revenue. When vehicles are purchased from a salvage vehicle pool, (for legitimate reasons) the vehicle is either rebuilt or parted out. If the vehicle is rebuilt, either by a rebuilder or an individual, and subsequently put back on the streets, then taxes would be paid through the county treasurer at the time of registration. If the vehicle is purchased by a salvage vehicle dealer, parted out and the used parts sold, taxes would be collected at the time the parts are sold. However, if the vehicle is purchased by an individual and parted out, no taxes may ever be collected.

With this background in mind, let's look at the Senate Bill 162. We will talk about the items that are the major changes:

**Page 1, Lines 14 through 16:** a) (1) The minimum area of 40,000 square feet was used because this is approximately a "city acre." That is, an acre less the road and alley right-of-ways. This minimum amount of space is required



in order to operate a legitimate dismantling and recycling operation. Such small space would allow only a bare minimum number of vehicles to be stored at any given time. With only this amount of space the dismantler would be required to utilize a separate facility for vehicle storage. According to the Division of Vehicles, there are 529 entities licensed as either "Used Vehicle and Salvage Dealer" or "Vehicle Salvage Dealer Only" in Kansas. Of these, it is estimated that approximately 175 facilities are actually in the business of automotive dismantling and recycling. Of the remaining, some are body shops; there are a couple of camper and trailer sales; some are yards where scrap metal is processed; some are used cars dealers; many are "junk yards," that is, a field where scrap metal and vehicle bodies are stored. Since 1985, there has been a 25% increase in the overall number of salvage vehicle dealer licenses in Kansas. The "Vehicle Salvage Dealer Only" licenses have increased 60%, since 1985. In an industry that is badgered by increasing demands from the EPA, Federal laws, and state regulation, it seems that there is something that is quite attractive. Under the present system, the Division relates that if the minimal requirements are met they must issue the license. With the lack of standards, they have no choice but to issue the license, if the minimum requirements in present law are met. Discretion is not available. Such indiscriminate licensing produces an unmanageable situation that cannot be supervised or regulated.

In evaluating those yards now in existence, no salvage vehicle dealer who is legitimately in the business of dismantling and recycling would suffer from having to comply with the minimum 40,000 square feet requirement. To further insure that no existing Kansas business will be adversely effected by this size requirement, a "grandfather clause" has been included.

**Line 17 thru 36** Fencing requirements are set out that are sufficient to comply with the existing state and federal Highway Beautification Acts and, as stated in the bill, these "provision(s) shall not be construed to permit violation of the United States highway beautification act of 1965."

**Line 37 (b)** Provides that non-owned vehicles and the records for those vehicles in storage for the general public must be separated from the inventory of the salvage vehicle dealer. This insures that vehicles that do not belong to the salvage vehicle dealer will not be inadvertently dismantled or sold.

**Line 42 (c)** The requirement that a vehicle dealer have an established place of business is found in K.S.A. 8-2404; the bill provides that, for salvage vehicle dealers, this office area must be a minimum of 200 square feet; contain an area devoted to sales transactions and must be the place where records are maintained; and that regular business hours must be posted in plain view. This is to insure that those persons licensed as salvage vehicle dealers are, in fact, in the business of being a salvage vehicle dealer. Posting the regular business hours provides information to customers and regulatory agencies as to when the business is open. The 200 square feet was arrived at by taking into consideration that some persons may be utilizing a mobile home as an office. The 200 sq. ft. requirement would not be any hinderance to that operation. To further insure that no existing Kansas business is adversely effected, a "grandfather clause" has been included for the office space requirement.

**Page 2, Section (b) at Line 34:** This provision was included in the bill, since this is the procedure that is currently being used by the Division of Vehicles. Additional language has been proposed and is shown here:

(b) When any major component part, as defined in K.S.A. 8-2401 and amendments thereto, is sold *by a licensed salvage vehicle dealer to a licensed salvage vehicle dealer, a sales receipt and a notarized bill of sale and* a photocopy of the vehicle title must ~~be given to the buyer and~~ accompany such major component part as proof of legal possession ~~of such major component part~~. *Any major component part, as defined in K.S.A. 8-2401, and amendments thereto, sold to any other person shall be accompanied by a notarized bill of sale and a photocopy of the vehicle title as proof of legal possession of such major component part.*

The reasoning behind this change was pointed out by the Kansas Highway Patrol in that the Patrol and the Division of Vehicles require a notarized bill of sale for inspection and registration of an assembled vehicle; however, when a sale is made between dealers it is necessary to only have proof of sale in order to show legal ownership of the major component part.

**Page 5, section (x) at Line 30:** This is current law and involves only a paragraph number change.

**Page 6, Lines 4 through 7:** Standard Industrial Classification Code 5015 is a classification set up by the federal Census Bureau and has become an established reference for the Kansas Department of Revenue, trade associations, industry, and United States governmental agencies, including EPA, where permitting requirements are specifically directed at the salvage vehicle industry under SIC Code 5015. By using the Standard Industrial Classification code in the definition of salvage vehicle dealer, Kansas conforms to the existing structure of American business. Quoting from the *Standard Industrial Classification Manual*, "The Standard Industrial Classification (SIC) was developed for use in the classification of establishments by type of activity in which they are engaged; for the purposes of facilitating the collection, tabulation, presentation, and analysis of data relating to establishments; and for promoting uniformity and comparability in the presentation of statistical data collected by various agencies of the United

States Government, State agencies, trade associations, and private research organizations."

**Page 7, section (hh), Lines 11 through 15:** This definition for salvage vehicle was taken from sample definitions as set out by the AAMVA, Ohio Law, and the Automotive Recyclers Association. The task force that resulted from the passage of HR 4542 is currently working on a definition that would involve a percentage of loss on actual cash value for determining whether a vehicle is a total loss vehicle. Dale Lehning, a member of the K.A.D.R.A. Board of Directors, has information directly from the task force. He will be presenting information on "total loss vehicles" in a few minutes.

**Page 7, section (ll), Lines 34 through 37:** Kansas Highway Patrol suggested language change to the definition of major component part. The need for this information was dramatically brought to national attention through investigation of the bombing of the International Trade Center in New York. The identification of the vehicle carrying the bomb was made possible by the use of the derivative vehicle identification number that was found on a piece of metal at the scene of the blast. Changes are as follows:

*"Major component part" means any ~~sheet-metal~~ vehicle part to include front clip, rear clip, doors, frame, chassis, engine, transmission, transaxle, cab, bed, and box bearing the public vehicle identification number or, if manufactured prior to 1981, engine number; or any vehicle part bearing a derivative of such number bearing the public the public vehicle identification number, or engine number if manufactured prior to 1981, to include front clips, rear clips and doors.*

**Page 13:** (v) Requirements of this section are to insure that any person applying for licensure as a salvage vehicle dealer is a reputable business person. At the present, there is no means by which the director can determine whether an applicant has been a dealer in any other state; or whether the applicant may

have had a license revoked or a criminal conviction in another state. If the applicant is not truthful on the application, then the director would have the ability to revoke the license based on that fraudulent representation. This places the burden on the applicant to be truthful.

(w) Under current law there are no provisions for the control, licensing, collection of sales tax, or regulation of the salvage vehicle pools or "insurance pools" where vehicles that have been wrecked, stolen, abandoned, flood damaged, etc. are sold. The salvage vehicle pools operate similar to an auction house. At some of the pools, bidding is done by sealed bid; some of the pools conduct a live auction where bidders walk around the vehicles and bid by voice, wave or the like; some pools use both means of bidding.

(A) Since vehicles that are sold through the salvage pools can be brought into the pool by an individual or business, as well as an insurance company, it is important that the pool determine that the vehicle being sold is, in fact, being offered by the legal owner of the vehicle.

(B) Since vehicles can be purchased through the salvage pool by individuals or businesses that are not vehicle dealers, it is important that the sales tax be collected on such vehicles. This is different than vehicles purchased through a used vehicle auction. The vehicles sold through a salvage vehicle pool may be parted out and may never be registered; therefore, the sales tax might not ever be collected.

(C) Often with salvage vehicles the odometer cannot be read due to the damage on the vehicle. In compliance with federal law, the only other means of verifying mileage on a vehicle is through the title where the mileage of the

vehicle, at the time of the last vehicle transaction, is required to be shown unless specifically exempted.

(D) Separation of entitles is required because mixing of the inventory of a salvage yard and the vehicles which are held by the salvage pool for sale through the pool could result in deceptive or fraudulent transactions and could result in greater exposure for the public safety and welfare.

(E) Salvage vehicle pools have long been one of the major disposal points for insurance vehicle salvage. The pools have commonly been known as *insurance storage pools* or *insurance salvage pools* and often signs are posted on the premises stating "insurance storage" or "insurance salvage." To the casual observer, such as a member of the general public, this type of sign would indicate that the vehicles being sold are insurance loss vehicles. However, many times that is not the case. Vehicle dealers also sell through the pools. Sometimes the vehicles brought in by dealers have damage that would not be expected in a vehicle that had only been wrecked, such as the replacement of a good engine with a bad engine. Additionally, there are occasions when the pools themselves have a financial interest in a vehicle.

As mentioned before, some of the pools in Kansas operate on a "sealed bid" basis which means that the vehicle is viewed by the buyer, a bid is submitted on a form provided by the pool, then the bids are tabulated by the pools and the sale awarded to the buyer on a specific day. Some pools operate as "live auctions," that is, the bidding process involves actual auctioneers that call out the bids to a crowd. Some of the pools operate as a combination of "sealed bid" and "live auction," where a portion of the vehicles are sold at live auction and a portion with sealed bids. In the instance where a live auction is held, the pool acts as

the auctioneer. If the auctioneer has a financial interest in what is being sold, there is an opportunity to manipulate the price of the vehicle rather than reaching the market price through a true arms length sale. The pool has a financial interest if the pool guarantees a percentage of return on a vehicle; or if the pool itself owns the vehicle or has an interest in the business that actually owns the vehicle.

If a salvage vehicle pool or any other entity has a financial interest in a vehicle, they are an owner. Under Kansas law, that entity should then be entering into the title chain. When ownership interest in a vehicle is not shown on the title, it is known as a "jumped title." In other words, an owner is "jumped" or skipped in the title chain. This provides a loop-hole in tracing vehicle ownership through the titling process and could be a cover-up for vehicle theft, fraud or avoidance of warranty obligations.

**Line 11 thru P. 15 Line 11:** Basically, the same requirements on space and fencing as for a salvage yard, with the exception of no specific size on the office space. The same "grandfather clauses" are included.

**Line 12:** (6) should be changed to (7): Salvage vehicle pools should have no need for dealer licence plates since they act as an auction through which the vehicles are sold and do not act as a dealership.

**Line 28 thru 38:** This is the procedure that the Division of Vehicles is currently using.

The following editorial changes should be made: **Page 14, Line 29:** ~~(E)~~ (C)

**Page 14, Lines 31 through 33:** ~~(F)~~ (D) if the business of the salvage vehicle pool is conducted within the confines of a building, the provisions of (B) and (C) ~~(D) and (E)~~ shall not apply.

**Page 14, Line 34:** ~~(3)~~ (4)

**Page 15, Line 2:** (4) (5)

**Page 15 Line 4:** ~~(5)~~ (6)

**Page 15, Line 12:** ~~(6)~~ (7)

From information obtained in visiting with members of law enforcement, Kansas can be thankful for the reputable salvage vehicle pools in our state. The Kansas City Salvage Pool is recognized as exemplary in its record keeping and cooperation with law enforcement. Considering the high ethical standards of the pools in Kansas, it would seem that regulation could only ensure the same high standards for any future salvage vehicle pools that might be established in Kansas.

During the session, the operator of the Kansas City Salvage Pool and the owners of the pool located in Topeka voiced concern with not having had ample time to prepare or seek legal clarification to SB 162. They were also concerned with anticipated compliance with the provisions of the bill. Of course, no one wants more control. However, the salvage vehicle pool is a part of the salvage vehicle industry. It is in the best interest of consumer protection, public safety and law enforcement to gain better control of the salvage vehicle industry. This is a step in the battle to control stolen vehicles, used parts and salvage vehicles. Often, through the pools, the non-dismantler buys luxury type salvage vehicles that are so extensively damaged that it is obvious that the vehicle could not be rebuilt. These salvage vehicles are purchased at high prices for one purpose; and that is to obtain the title document and the VIN plate.

With this testimony are copies of letters from two of the pools in the Wichita area. Each of these express that no problems are anticipated in



complying with the requirements that are set out in SB 162. To assure that no existing Kansas salvage vehicle pool is adversely effected, a "grandfather clause" has been included in the bill.

Why would any industry advocate more regulation? Is this simply a *self-serving* bill, designed to put competition out of business? According to the Federal Bureau of Investigation's statistics on motor vehicle thefts by state, vehicle theft in Kansas increased 11.2% in 1989 through 1990, while the national average increased 4.5% in the same period. No one wants to be under more control. However, the fact is, a legitimate business cannot compete with crooks and under the present conditions, Kansas law enforcement is not able to keep the crooks from competing. Law enforcement must have improved means for enforcement and control.

SB 162 gives improved definitions and parameters that reflect changes in the salvage vehicle industry. The "junk yard" of 25 years ago has been replaced by computerized vehicle salvage yards where the numbered inventory is racked for storage. Kansas salvage vehicle dealers must meet the requirements of state and local zoning and licensing; they must comply with the federal and state Highway Beautification Acts; they are required to purchase expensive equipment to avoid polluting the atmosphere; and they must meet permitting and testing requirements for storm water runoff. Those parting out cars illegally have no reason to do anything to protect our environment or comply with our laws. Illegal operations have none of the compliance expenses imposed on Kansas salvage vehicle dealers; and sometimes, they don't even pay for the vehicles that are parted out and crushed.

*The* illegal operator who has little or no overhead. *Survival* is the motivation for seeking control.

Many of the changes to the Kansas Dealer Licensing Law in SB 162 are modeled after the Ohio act which is recognized across the country as being an outstanding salvage vehicle control law. The definition changes are designed to better address the salvage vehicle industry as it exists today in interaction with the international community.

K.A.D.R.A. appreciates the opportunity to present this information to you. I will be happy to attempt to answer any questions you may have.

Respectfully submitted,

Patricia M. Wiechman  
Executive Director

Statistical Information

The following statistics are supplied by rural yards with up to 2,500 vehicles stored for dismantling and recycling:

	<u>Amount Invested</u>
Land investment (average 120 acres)	\$ 65,000
Buildings	83,000
Land improvements (fencing, dozer work graveling of roads)	15,000
Security System	4,000
Equipment (carhauler, trucks, forklift)	57,800
EPA Required Equipment	3,500
Inventory (2,500 vehicles)	<u>375,000</u>
	\$603,300*

\* (Does not include shop equipment,  
such as presses, compressors, torches, welders, etc.)

The following statistics have been supplied by urban yards with approximately 1,000 vehicles stored for dismantling and recycling:

	<u>Amount Invested</u>
Land investment (ave. 7 acres)	\$140,000
Buildings	200,000
Land improvements (fencing, screening, etc.)	24,000
Security system	5,000
Equipment (carhauler, trucks, forklift)	80,000
EPA Required Equipment	3,500
Inventory	<u>300,000</u>
	<u>\$752,500</u>



## **PRESIDENT SIGNS H.R. 4542**

The latest legislation effecting those of us involved in the enforcement of motor vehicle theft related activity has passed in an amended version and the bill was recently signed by President Bush. H.R. 4542, better known as the ANTI CAR THEFT ACT OF 1992.

The original bill was gutted through the efforts of Congressman Dingle (Dem-Michigan) who raised objections from the manufacturers that the cost would add \$5.00 to \$7.00 to the cost of each vehicle. As a personal thought, who would object to paying an additional \$7.00 on the cost of a car when they are already in the neighborhood of \$20,000.00, and when the possible costs of your annual theft insurance might drop by a mere \$5.00 per year, leaving you with a net savings depending on how long you keep your car.

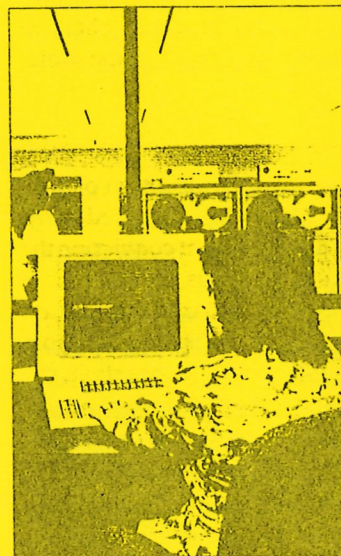
The bill was on the verge of collapse until an unfortunate incident in Washington D.C. resulted in a young mother being dragged to her death as the thieves sped off in her car, with the mother's two year old child abandoned at the scene. Society sided with the bill creating the catalyst which caused the bill's passage.

Originally, the bill provided for all motor vehicles manufactured in the United States and all motor vehicles manufactured for export to the United States, must have the appropriate parts marked with a V.I.N or derivative. The biggest compromise of the bill was to reduce those numbers of vehicles to include private passenger vehicles (two and four door sedans, etc.) and also to include specialty vehicles (four runners, etc. and light duty trucks rated at 6,000 pounds gross vehicle weight or less. Within two years of the effective date of the act, the Secretary of the D.O.T. is to promulgate a rule which will expand parts marking to up to one-half of the vehicles not currently marked. Three years after that (now five years after the effective date), the secretary may expand the parts marking to the remainder of the vehicles as described in the bill's original form.

There is a caveat: Before decision on the final rule, the Attorney General will do a study to determine if marking of additional parts has been an effective theft deterrent.

The remaining portions of the bill contain the following elements: Criminal penalties for carjacking. Increased penalties for car theft and operating a chop shop. Making auto theft subject to federal RICO, including imposition of civil and criminal sanctions. Grants to states who have developed Anti-Car Theft Committees. A National Motor Vehicle Title Information System. The sale of salvage or junk and repairs to motor vehicles require a check by the seller/repairer to be certain the parts are not reported as stolen. Additional requirements for customs to conduct random

inspections for exportation of stolen vehicles.



## **THE ANTI-CAR THEFT ACT OF 1992** *in capsule form*

The following information is provided for information only. No attempt should be made to use this information as being complete or accurate as the information was culled from the original bill. To effectively use these tools, a complete unexpurgated copy of the bill should be obtained.

**ENHANCED PENALTIES FOR AUTO THEFT:** Penalties for car jackers armed with a firearm increased to fine or prison term of not more than 15 years or both.



If serious bodily injury, fine and prison of not more than 25 years or both.

If death results, up to life in prison.

#### *TRAFFICKING IN STOLEN VEHICLES:*

Sentences increased from 5 years to 10 years.

#### *CIVIL AND CRIMINAL FORFEITURE:*

Property, real or personal which represents or is traceable to gross proceeds obtained from: Altering or removing V.I.N.'s. Importing or exporting stolen vehicles. Armed robbery of automobiles. Transporting stolen motor vehicles in interstate commerce. Possessing or selling stolen motor vehicle that has moved in interstate commerce.

Criminal forfeiture mandates the convicted offender to forfeit property which represents or is traceable to gross proceeds obtained directly or indirectly as a result of the violation.

#### *CHOP SHOPS:*

Persons who own, operate, maintain or control a chop shop. Penalties increased to 15 years. A second or subsequent conviction the penalty increased to 30 years.

Defines: CHOP SHOPS, as any building, lot, facility or other structure where one or more persons engage in receiving, concealing, destroying, disassembling, dismantling or storing passenger motor vehicles or passenger motor vehicle part which has been unlawfully obtained in order to alter, counterfeit, deface, destroy, disguise, falsify, forge, obliterate or remove the identity, including the VIN derivative thereof, of such vehicle or vehicle part and to distribute, sell or dispose of such vehicle or vehicle part in interstate or foreign commerce.

#### *GRANTS TO LOCAL ANTI CAR THEFT COMMITTEES:*

Models Anti-Car Theft Committees after the Michigan Anti-Car Theft Committee.

Provides funding to be used exclusively for motor vehicle theft enforcement for law enforcement and prosecutors.

#### *SECRETARY OF TRANSPORTATION TO ESTABLISH A TASK FORCE:*

This task force to study the extent of the absence of uniformity to consider title branding rebuilt, reconstructed or flood vehicles. The task force is to make their report within 12 months.

#### *ESTABLISHES A NATIONAL MOTOR VEHICLE TITLE INFORMATION SYSTEM BY 1996:*

Would identify junk or salvage vehicles from another state and give odometer readings. States to check NMVTIS files prior to issuing title. January 1, 1997 report to Congress listing which states have met the requirements and why those who haven't have not been able to do so.

#### *REQUIRES SALVAGE YARDS TO FILE MONTHLY REPORTS:*

Within three months of the establishment of the NMVTIS, junk or salvage yards are to file a monthly report of inventory of all junk or salvage vehicles by VIN, date of purchase, persons from whom obtained and statement of whether the vehicle was crushed or otherwise disposed of for sale.

The above requirements are not applicable to persons required to already report to state or local authorities to make information available to operators, or to: Any person who is issued a verification under Section 607 of the Motor Vehicle Information and cost savings act, stating that the vehicle or parts are not reported as stolen.

#### *INSURANCE CARRIERS:*

Must report all motor vehicles, the current year plus the preceding 4 years, containing a list of all vehicles obtained and determined to be salvage or junk with the VIN, the date obtained, the name of the entity or person from whom obtained and the owner of the vehicle at the time of the filing.

#### *AMENDS SECTION 610 OF THE MOTOR VEHICLE INFORMATION AND COST SAVINGS ACT:*

Operators of chop shops are liable for civil action, granting injunctive relief and assessing a fine of \$100,000 per day for each violation.

#### *AMENDS SECTION 608 OF THE MOTOR VEHICLE INFORMATION AND COST SAVINGS ACT:*

No person engaged in the business of selling, dismantling, recycling or repairing passenger vehicles shall sell or distribute a major part marked with an identification number without:

- 1- Determining that the part has not been stolen, and
  - 2- Providing the purchaser with verification that the part has not been reported stolen.
- There are exclusions to this provision.

#### *NATIONAL STOLEN PART INFORMATION SYSTEM:*

The Attorney General shall within 9 months, maintain in the NCIC a listing of VINs of stolen autos and stolen passenger vehicle parts.

#### *EXPORTS OF STOLEN AUTOMOBILES:*

Part VI of Title IV of the Tariff Act of 1930 is amended directing random Customs inspection of all vehicles exported and all containers which might be used to ship vehicles for export. Requires all persons or entities exporting used automobiles to provide Customs at least 72 hours prior to export, the VIN of each auto and proof of ownership. The FBI is to have access to these lists.

Again, please use this information for what it is meant to be, a capsule summary of the bill which was passed. It should be noted that this report would not have been possible without the able assistance of NCRC Director Glenn Wheeler of the State Farm Insurance Company.

Ken MacKenzie has been asked to be a member of Federal Advisory Committee representing local law enforcement. He has provided us with a brief overview of the goals of the task force as well as the content of Subtitle C - Anti Car Theft Act of 1992. Ken is requesting that the membership review this information and provide him with any feedback relevant to this committee.

Kenneth MacKenzie  
Richardson Police Department  
P.O. Box 831078  
Richardson, TX 75083

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ATTORNEY GENERAL TO REPORT  
BY 1996 AS TO WHETHER THE  
RULES ARE EFFECTIVE.

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# The Car Theft Act of 1992 (Pub. L. 92-519)

– directs the Secretary of Transportation to establish a task force to study problems relating to motor vehicle titling, registration, and salvage controls, which may facilitate motor vehicle theft and fraud. The task force shall also consider the adoption of the title branding on certificates of title indicating when vehicles have previously been titled as "rebuilt," "reconstructed," or "flood." This task force is to provide a report to the President, Congress and the chief executive officer of each State by April 1994.

The lack of uniformity in State laws in these areas will also be explained. The task force will prepare the report, containing the results of the study. The report must identify key aspects of motor vehicle antitheft measures needed to prevent the use and disposition of stolen motor vehicles and major components, and to prevent insurance and other fraud, based on false reports of stolen vehicles. The report shall recommend viable ways of obtaining nation uniformity, including recommendations for legislative or administrative action at the State and/or Federal level, and recommendations for industry and public actions.

## Subtitle C

### Report Regarding State Motor Vehicle Titling Programs to Combat Motor Vehicle Thefts and Fraud.

#### Sec. 140. Establishment of Task Force

##### (A) ESTABLISHMENT

(1) In General: The Secretary of Transportation and the Attorney General of the United States, working together, shall, as soon as practicable after the date of the enactment of this Act but not later than 180 days after such date, establish a task force to study problems which relate to motor vehicle titling, vehicle registration, and controls over motor vehicle salvage which may affect the motor vehicle theft problem. The study shall include an examination of the extent to which the absence of uniformity and integration in State

laws regulating vehicle titling and registration and salvage of used vehicles allows enterprising criminals to find the weakest link to "wash" the stolen character of the vehicles. It shall also consider the adoption of a title brand on all certificates of titling indicating that the applicable vehicle was previously issued a title brand or a title signifying "rebuilt", "reconstructed", or "flood".

(2) Report: The task force shall prepare a report containing the results of such study and shall submit such report to the President and the Congress and to the chief executive officer of each State not later than 12 months after the task force is established, together with appropriate recommendations to solve these problems.

##### (B) MEMBERSHIP

(1) the Secretary of Transportation, or the Secretary's delegate;

(2) the Attorney General of the United States, or the Attorney General's delegate;

(3) the Secretary of Commerce, or the Secretary's delegate;

(4) the Secretary of the Treasury, or the Secretary's delegate;

(5) at least 3 representatives, to be designated by the Attorney General of the United State;

(6) at least 5 representatives of State motor vehicle departments, to be designated by the Secretary of Transportation; and

(7) at least 1 representative, to be designated by the Secretary of Transportation, from each of the following groups:

(a) Motor vehicle manufacturers.

(b) Motor vehicle dealers and distributors.

(c) Motor vehicle dismantlers, recyclers, and salvage dealers.

(d) Motor vehicle repair and body shop operators.

(e) Motor vehicle scrap processors.

(f) Insurers of Motor vehicles.

(g) State law enforcement officials.

(h) Local law enforcement officials.

(i) The American Association of Motor Vehicle Administrators.

(j) The National Automobile Theft Bureau.

(k) The National Committee on Traffic Laws and Ordinances.

##### (C) REIMBURSEMENT

(1) Salary: The members of the task force shall serve without pay.

(2) Travel Expenses: While away from their residences or regular places of business in performance of services for the Federal Government, members of the task force shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Federal Government services are allowed expenses under section 5703 of title 5, United States Code.

(3) Chair: The Secretary of Transportation, or the Secretary's delegate, shall serve as chairman of the task force. The task force may also invite representatives of the Governors and State legislators to participate.

##### (D) REPORT

(1) Basis: The report required by subsection (a)(2) shall be made after a meaningful consultative process and review of existing laws, practices, studies, and recommendations regarding the problems specified in subsection (a)(1).

(2) Content: The report shall specify the key aspects of motor vehicle antitheft measures necessary to prevent the disposition or use of stolen motor vehicles, or the major components of motor vehicles, and to prevent insurance and other fraud based upon false reports of stolen motor vehicles. The report shall indicate any of the antitheft measures for which national uniformity would be crucial in order for the measure to be adequately effective. The report shall recommend viable ways of obtaining any national uniformity which is necessary.

(3) Recommendations: The report also shall include other recommendations for legislative or administrative action at the State level or at the Federal level, and recommendations for industry and public actions.





Anglo American  
Auto Auctions Inc.

435 Metroplex Drive • Nashville, Tennessee 37211 • Phone: (615) 333-1400 • Fax: (615) 832-9152

17 August 1993

Ms. Pat Wiechman  
KADRA  
1101 W. 10th  
Topeka, Kansas 66604

RE: Kansas S.B. 162

Pat:

I appreciate you sending me a copy of the above-captioned bill.

In looking at the proposed legislation, my immediate reaction is that two items are lacking:

- 1) There is no provision for a salvage title to be issued.
- 2) There is no carry-over provision requiring the Kansas Department of Revenue to carry forward all brands from out-of-state titles.

As we discussed, I believe that the terms "uneconomical to repair" and "total loss" are too vague, but anything would be an improvement over the existing conditions in Kansas.

Kansas titles, as related to salvage or prior salvage, cause more problems than any other state. Arkansas and Minnesota titles were the problem, but their legislatures fixed that situation earlier in 1993.

Arkansas and Minnesota legislatures set a salvage standard of 70% damage, established a special secure salvage title and mandated the carry-over of all other state's brands.

Letter to Pat Wiechman  
17 August 1993  
Page Two

Without such provisions, S.B. 162 will regulate an industry but not solve a problem.

Again, I wish I could join you in Topeka next month, but my schedule simply will not allow it.

I wish you the best on your effort.

Sincerely,

A handwritten signature in cursive script, appearing to read "Gary".

Gary A. Dickinson  
Director of Security

GAD/cg



ACME STORAGE & SALES, INC.  
4740 S. MADISON  
P O BOX 16190  
WICHITA, KS 67216  
(316) 554-0123

March 5, 1993

Patricia M. Wiechman  
Executive Director  
KADRA  
Executive Office  
110 W. 10  
Topeka, KS 66604

Re: Senate Bill 162

Dear Ms. Wiechman:

Thank you for inviting me on behalf of Acme Storage & Sales, Inc. to the meeting Tuesday, March 2, 1993 to discuss Senate Bill 162.

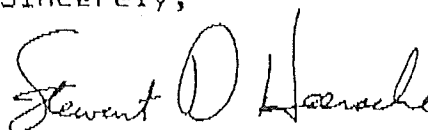
In light of the fact that it is and has always been our policy to tend marketable title at the time of sale, we have no problem with Page 14, Section (C), Lines 2 through 6 of the bill as written with agreed changes.

In response to Page 13, Section (B), Line 43 and Page 14, Line 1, again it is and has always been our policy to offer vehicles for sale to licensed salvage dealers only. Therefore, we have no problem with the bill as written.

In response to Page 14, Section (E), Lines 9 & 10, we have no problem incorporating into our policies disclosing a vehicle's ownership as a matter of public record.

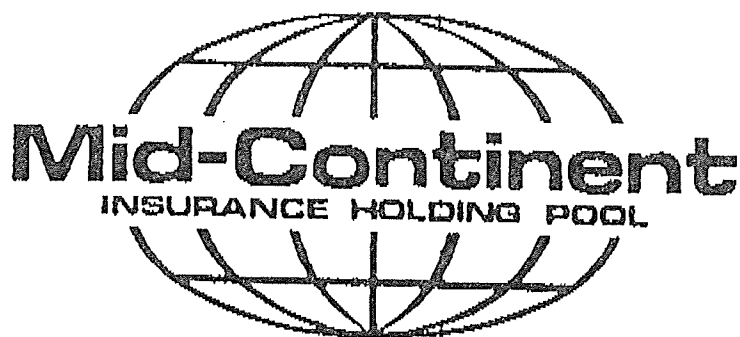
Please keep us apprised of any changes in the future and feel free to call on us if we can help in any way. Again, thank you for your consideration in allowing us to participate and voice our views.

Sincerely,



Stewart D. Heersche

ACME STORAGE & SALES, INC.



417 E. MacArthur  
Wichita, KS. 67216  
(316) 522-7699

to KADRA + whoever else it may  
concern:

After Reviewing S.B. 162, I have no  
major objections. We are already operating in a manner  
similar to the provisions in this bill. The problem appears  
to be that many people registered as salvage dealers are not  
actually in the salvage business.

I do not anticipate any problems being in  
compliance with S.B. 162.

Sincerely,

Gene Richardson

Mid-Continent

My name is Dale Lehning. I own and operate A-One Auto Salvage in Wichita, Kansas. The purpose for my testimony is to supply background information regarding possible changes in Federal and State legislation as a result of the 60 Minutes show. My testimony is based on 20 plus years in the salvage industry, six years as an insurance adjuster, six years working in a new car dealership in conjunction with running an auto body repair business. The past 20 years I have been associated with International, National and State organizations specializing in efforts to resolve problems in the automotive recycling industry.

You will find enclosed, both pictures and written descriptions of three basic types of total losses: Constructive Total Loss; Economic Total Loss and Discretionary Total Loss. Total loss is an industry term and is not intended to mean "without value".

Photographs 1, 2 and 3 are of a 1993 S-10 Blazer which is a constructive total loss. This vehicle is one that should not be repaired or rebuilt. However, this unit sold for \$7,000, leaving little doubt that the purchaser will attempt to rebuild and resell the vehicle. The damage was so extensive that it literally moved the frame, the cowl, the top and the body from right to left. NOTE: One way to repair this unit is with a clip body, including the cowl. This is where things get out of hand. Some builders (and some thieves) will cut out an 8-inch area around the vehicle Identification Number (VIN) plate and weld it back on to a cowl section from another (possibly stolen) vehicle. This way a used or stolen cowl has the legitimate VIN on it. This is a direct violation of the Federal law regarding VIN tampering. For more information, please read the attached article from the "Los Angeles Times."

Photograph #4 is of a 1985 Pontiac Fiero. This exemplifies a constructive total loss leaving no doubt as to the possibility of it being restored to its' previous condition. This is an obvious physical impossibility.

Examples of economic total loss are photographs 5, 6 and 7. These photographs are of a 1991 Escort. This vehicle is repairable with a rear clip and right door. But, since it is a 1991, when the repair costs are figured with new parts, the estimate for repair far exceeds the actual cash value or fair market value of the unit. Photographs 9 and 10 are of a 1991 Maxima. Every panel on this unit has sustained some damage. Some of the panels need to be replaced and others can be straightened. If the labor is based at or exceeds \$30.00 per hour, this unit is a total loss. However, with no consideration given to the cost of labor, repair might be feasible.

An example of discretionary total loss is photograph 8. This photograph is of a 1992 Olds Delta, hit on the right side. The actual value (ACV) of this unit is \$17,500. The estimate for repair with new parts was approximately \$8,000.00. The salvage value was \$6,000.00. A deficit of \$3,500.00. The new parts were on back order for three to four weeks before delivery. The owner (claimant) was an over the road salesman. Loss of use and the cost of a rental car would have used up the \$3,500.00. The best judgement was to total the unit and settle the loss. This is an example of a vehicle that can be repaired without compromising safety considerations.

This crash course on total loss was to establish a basis for legislation occurring on a Federal level and in some surrounding states. I am sure that you are aware that a number of Federal task forces have been established.

One task force addresses the State Motor Vehicle Title Programs to combat motor vehicle thefts and fraud. Its purpose is to achieve uniformity of titles across jurisdictional boundaries. Ultimately, this would mean every title, whether from Kansas or Florida, would contain the same information. Another task force is the Parts Verification Advisory Committee. This task force has the responsibility for determining a method of tracking the sale of auto parts, by using the public VIN. Thus each major auto part sold as "used" would be marked with or accompanied by a document bearing the VIN.

One method that will aid in the resolution of these problems is to establish damage threshold criteria. This criteria has been discussed by the Federal task force and has already be implemented by some neighboring states. A vehicle with damage exceeding 60% of the actual cash value (ACV) or fair market value becomes a total loss to be sold on a branded title. This unit can be repaired and resold with the salvage marking remaining on the title, regardless of which state it goes to. Should the damage to the vehicle reach 75% of the ACV, the unit becomes a total loss, never to be resurrected or registered for road use. Vehicles receiving 75% of ACV damage should be sold only to licensed salvage dealers for dismantling. A licensed salvage dealer who is actively engaged in recycling will meet the Federal, State and EPA requirements regarding proper and safe handling of salvage vehicles while maintaining appropriate documentation available for inspection at the dealer's place of business.

Evidence of the need for proper licensing can be found on the final page of my testimony.

From the standpoint of consumer protection, the general public's position is protected and expanded using the damage threshold. Titles are branded and carried through so the future purchasers are alerted to prior damage. In cases of vehicles with extensive damage, there needs to be a "kill" title, not allowing the vehicle to be resurrected or re-registered for road use in any state. Vehicles with extensive damage will not again be placed on the highways. The elimination of the sale of non-repairable vehicles does not, in fact, eliminate some potential for auto theft. Effects of illicit auto parts sales, whether they come from the theft of vehicles via chop shops or car jackings, has increased dramatically, resulting in intimidation, bodily harm and deaths. Proper licensing of persons engaged in the recycling and sale of used auto parts enhances the ability to enforce laws regarding the theft and resale of cars and auto parts.





#1



#2



#3



#4





#5



#6



#7





#8



#9



#10

# REPRINTED FROM THE LOS ANGELES TIMES

The detectives who saw the front half of a Honda in a Sun Valley wrecking yard wrote down its identification number, a precaution in case it rose from the dead.

Which it did.

Two years after detectives found the half-demolished wreck in the auto graveyard, the same Honda at least, according to Department of Motor Vehicles records was rolling again. But only two things remained from the original car: the title document and the three-inch tin strip riveted to the dash board with the 17-character vehicle identification number, or VIN, that establishes an official identity.

The rest of the car was made up of a similar Honda that had been stolen. Fitted with the salvaged VIN strip from the original car to match to the title document, it had assumed the identity of the long-vanished wreck and was sold on consignment through a used car dealer to an unsuspecting Altadena resident for more than \$8,000. And when police impounded the car to return it to its true owner, he was out his money.

The growing practice of using "ghost" identities of scrapped vehicles as a cover to sell stolen cars on the legitimate market a "salvage switch," police call it has insurance companies and police at odds. It is almost always an insurance company, taking title to a customer's "totaled" vehicle, that decides to write off the wreckage and sell it for salvage.

What police are demanding is that the companies work harder to make sure that wrecks remain as scrap so that their official identities cannot be used in stolen car scams.

The insurance companies would rather continue as they have been doing auctioning off the wrecks of cars that they classify as being too expensive to repair. That helps keep their customers' premium costs down.

Auto theft detectives, on the other hand, argue that it should be a tip off that something odd is afoot if what is supposed to be a pile of scrap brings in an unusually high price at auction. The wreckage of the Honda in the Sun Valley junkyard, for example, sold for \$4,000.

"We're talking about burned-up car and crushed vehicles with no salvageable part's," said Detective Bob Graybill of the Los Angeles Police Department, who heads the San Fernando Valley's auto, theft task force. "They're paying any-where from a couple of hundred dollars up to \$4,000 for something that's worth \$125 for scrap metal."

The solution is not so simple for insurance companies. "The sale of damaged vehicles through salvage pools is a means to provide significantly lower premiums for automobile insurance to customers," said Rick Dinon, a spokesman for 20th Century Insurance Co. of Woodland Hills, the sixth-largest writer of private car insurance in California. Although no statistics are kept on the number of salvaged cars purchased for illegal purposes, police cite rising case loads as proof that they are proliferating. "There are so many cars being stolen for use in such schemes that there are not enough police in the state of California to deal with them," LAPD Detective Gory Sims said.

Last year in Los Angeles about 73,000 cars were stolen, 15% of which were never recovered because they were broken down for parts at so called "chop shops," they were exported abroad or they had their vehicle ID numbers switched, Sims said. In the Valley, the percentage of stolen cars that vanish is more than twice the city wide average. Police statistics show that 34% of the 22,376 cars stolen last year in the Valley never were recovered. To make a car vanish, thieves use the salvage pools and junkyards that are the legitimate end of the line for badly damaged or simply worn out vehicles. Salvage pools are operated by private firms, some of which buy wrecked cars directly from insurance companies and place them on view in huge lots, where prospective buyers can inspect them and make bids at regular auctions. Others auction vehicles for a flat fee and the insurance company keeps the remainder.

About 2.5 million vehicles a year nationwide damaged in accidents or stolen and recovered are sold at auctions for an average of \$1,200, creating a \$3-billion market, said Bradley Scott, president and chief executive officer of Insurance Auto Auctions, a Woodland Hills based company that operates salvage pools in four states. Some of the cars are purchased by legitimate buyers, such as collectors refurbishing autos or mechanics in search of spare parts. But others are bought by thieves to get a new identity for the vehicles they steal. Sometimes the scam works in reverse, detectives said. A badly damaged car will be bought at auction and a similar car will be stolen to provide parts to rehabilitate it, putting it back on the road under its original identity and sometimes insurance companies will wind up paying claims on the same car repeatedly. Some cars are wrecked, paid off by insurers, auctioned, refurbished with stolen part's and then resold, said Lt. Rich Henderson of the California Highway Patrol. "We want to break the cycle," Sims said. He estimated that if insurance companies would stop selling "total loss" and "total strip cars,"

CONTINUED ON PAGE 8

thefts would drop 10% to 15% in Los Angeles County, where 137,000 cars were stolen in 1992.

Authorities argue that in the long run, insurance companies would have the best of both worlds if they surrendered the title to the DMV and broke the vehicle down to its usable parts for resale by licensed dismantlers. Insurance companies disagree. "The suggestion that insurance companies could save premiums by not selling the damaged remains of vehicles is to ignore the economics of the issue," Dinon said. Last year, he said, his company made \$10 million by selling salvaged cars, which helped offset the \$200 million in claims it paid. He also said that if insurance companies were unable to sell salvaged cars they would instead repair them subjecting policy-holders to long delays. Just a week ago, the LAPD received a tip that a salvaged Honda had been re-registered to a Thousand Oaks couple. Detectives determined that the car had been stolen and its VIN switched, Detective Bill Fulton said.

Working with police, the buyers contacted the man who had sold them the car and arranged to get their \$10,000 back. When he arrived in Thousand Oaks, Akop Terstepanyan, 33, of Hollywood was greeted by police and arrested. DMV documents discovered on Terstepanyan led investigators to a Burbank house where they found three stolen cars, all with switched VIN's, police said. Parts of at least five other stolen cars and several detached VIN's were found in the back yard, Fulton said. Police later arrested Oganess Terstepanyan, 38, the owner of the house. The Terstepanyans, who are cousins were arrested on suspicion of grand theft auto and receiving stolen property.

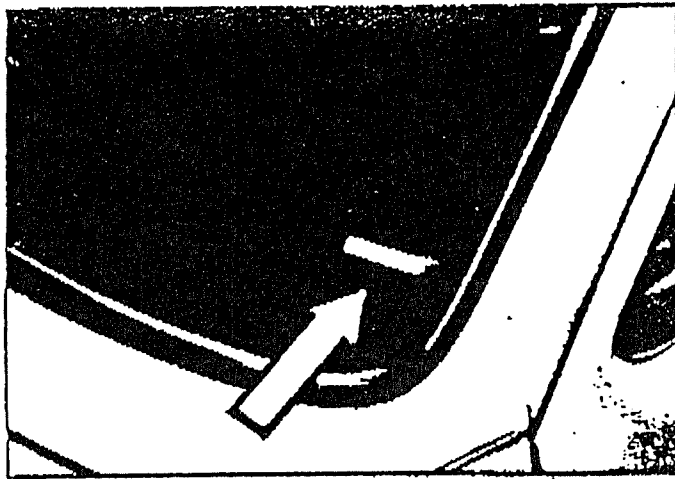
Exporting stolen cars, whose identities have been altered also is a common problem Graybill said.

Last month when police searched Oleg Kotiyarevsky's auto body shop in Van Nays, they found wrecked cars purchased at salvage pools that had been stripped of their vehicle ID numbers. During a warehouse search at Los Angeles Harbor in San Pedro, police found the missing numbers attached to four stolen Jeeps awaiting shipment to Russia, officials said. Police suspect that Kotiyarevsky switched the VINs from the wrecks to the stolen cars and used forged DMV documents and planned to export them from the United States. Kotiyarevsky is awaiting trial on possession of a counterfeit title of ownership, five counts of grand theft auto and one count of cocaine possession. Police said they found the drug during the search of his shop. Sims said he hopes insurance companies will eventually agree to demolish any examples they acquire of the 20 models that are the most popular with car thieves. On a recent morning, the detective made his way through acres of wrecked cars at a North Hollywood salvage pool.

"This one should be crushed and that, one should be crushed," Sims said pointing at a completely striped 1990 BMW and a totaled 1993 Mazda 323 both still fitted with their original VINs that were destined for the auctioneer's block the following day. "I go nuts when I come out here," Sims said. "It's just a vicious cycle."

JUNE 1993 A.D.A.S.C.. NEWSLETTER

# VIN INFORMATION



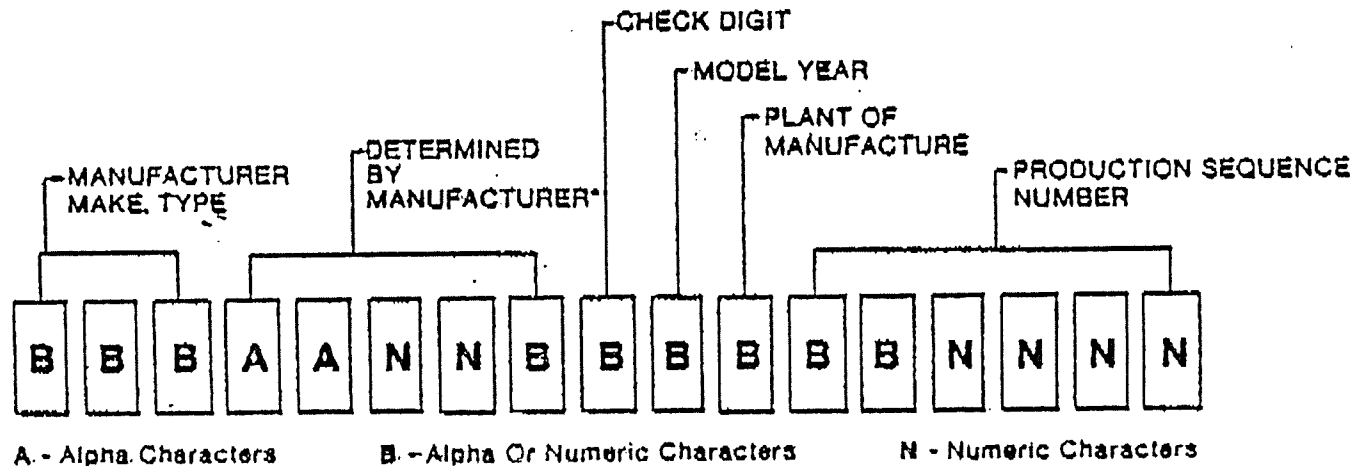
Typical Location of a VIN for Vehicles of 10,000 pounds GVWR or less.

## SAFETY STANDARD FMVSS 115

Beginning with the 1981 model year all motor vehicles must comply to the vehicle identification number system (VIN) system of the National Highway Traffic Safety Administration's Federal Motor Vehicle Safety Standard (FMVSS) 115.

The VIN is a series of 17 alpha/numeric characters. For vehicles with a Gross Vehicle Weight Rating (GVWR) of 10,000 pounds or less, the VIN must be located inside the passenger compartment adjacent to the left windshield pillar (driver side of vehicle) and readable from outside the vehicle. For vehicles with GVWR's of greater than 10,000 pounds, location or visibility requirements are not specified. All VIN's shall appear clearly and indelibly upon either a part of the vehicle, other than the glazing, that is not designed to be removed except for repair or upon a separate label or plate which is permanently affixed to such a part.

## VIN NUMBERING SYSTEM (VEHICLES WITH GVWR'S OF 10,000 POUNDS OR LESS)



\*The characters utilized and their placement within this section of the VIN are determined by the manufacturer, but the specified attributes by vehicle type (passenger cars, trucks, multipurpose vehicles, buses and incomplete vehicles) must be decipherable with information supplied by manufacturers to the National Highway Traffic Safety Administration. VIN's of vehicle with GVR's greater than 10,000 pounds may have either alpha or numeric characters in positions 4-8, but position 13 must be numeric.

The VIN of any two vehicles manufactured within a 30 year period will not be identical.

# **PUBLIC NOTICE**

## **DUMPING RULES AT THE TREGO COUNTY LANDFILL**

1. Upon arrival at the Trego County Landfill, you must STOP at the gate and an attendant will inspect and direct where the waste is to be unloaded.
2. Waste MUST be separated in the following manner:
  - A. CLEAN LUMBER: This includes scrap lumber, trees and brush.  
Trees must be in 8 foot lengths or less. Clean lumber does not include painted or treated lumber.
  - B. CLEAN METALS: This includes all household appliances such as stoves, refrigerators, ovens, air conditioners, water heaters, water pressure tanks, stock tanks, sheet metal off cars or trucks and almost any kind of light metal. The landfill will also accept complete cars & trucks, along with any kind of driveline parts such as motors, transmissions and rear ends. The Landfill cannot accept Fuel tanks of any kind or any containers having petroleum derivatives or hazardous chemicals.
  - C. WASTE TO BE BURIED: This is all waste that is not within the definition of Clean Lumber and Clean Metals as listed above. This waste will be buried.
3. All Waste materials brought to the Trego County landfill shall be separated prior to dumping, as provided above, or there will be a \$50.00 fee assessed to dump to cover the County's cost of properly disposing of waste material.

Please Note: Any chemicals or household hazardous materials should be used for it intended purpose to avoid possible contamination at the Trego County Landfill. This will help the County keep your landfill open for the least possible cost and for the longest possible time.

**BOARD OF COUNTY COMMISSIONERS  
TREGO COUNTY**

22-2tc



## CERTIFICATE OF TITLE

## VEHICLE

TITLE NO.	TITLE ISSUE DATE	TYPE	PREVIOUS STATE	TAX *CODE/\$AMT.	TITLE COUNTY
10750170	07/27/93	F	NE SALVAGE	*17	01

## MAIL TO:

NORDSTROMS D619  
RR 2 BOX 192  
GARRETSON

SD 57030-9340

YEAR	MAKE	MODEL	BODY	VEHICLE IDENTIFICATION NUMBER
89	FORD	F250	PU4	1FTEF26N0KKA25734

WEIGHT/CC	ODOMETER	
4,338	50,361	ACTUAL

DIVISION OF MOTOR VEHICLE RECORDS INDICATE THIS MOTOR VEHICLE HAS  
BEEN DAMAGED AT ONE TIME IN EXCESS OF TWO THOUSAND DOLLARS

OWNER(S): NORDSTROMS D619

OWNER ADDRESS: RR 2 BOX 192  
GARRETSON SD 57030-9340

FIRST LIENHOLDER:

NOTED BY	REGISTER OF DEEDS	(CO.#)	(DATE)	RELEASED BY	REGISTER OF DEEDS	(CO.#)	(DATE)

SECOND LIENHOLDER:

NOTED BY	REGISTER OF DEEDS	(CO.#)	(DATE)	RELEASED BY	REGISTER OF DEEDS	(CO.#)	(DATE)

THE DEPARTMENT OF REVENUE, UNDER SOUTH DAKOTA LAW, CERTIFIES THAT THE PERSON(S) NAMED HEREON IS DULY REGISTERED IN THIS OFFICE AS OWNER(S) OF THE DESCRIBED PROPERTY SUBJECT TO ANY LIENS AND ENCUMBRANCES HEREIN SET FORTH. SOUTH DAKOTA LAW REQUIRES DISCLOSURE OF DAMAGE ON MOTOR VEHICLES. DAMAGE INFORMATION IS AVAILABLE UPON WRITTEN REQUEST SENT TO THE DEPARTMENT OF REVENUE, DIVISION OF MOTOR VEHICLES, 118 WEST CAPITOL AVE., PIERRE, SD 57501-2080.

SECRETARY  
DEPARTMENT OF REVENUE

DOR-MV-100(4/92) MVMAMOP

930727 082810

CONTROL NO.

3830423

SENATE TRANSPORTATION

September 2, 1993

Attachment 4



PURCHASER MUST APPLY FOR NEW CERTIFICATE OF TITLE FROM COUNTY TREASURER WITHIN 30 DAYS OF PURCHASE OR BE SUBJECT TO PENALTY!

FEDERAL AND STATE LAWS REQUIRE THAT YOU DISCLOSE A MOTOR VEHICLE'S MILEAGE ON EACH TRANSFER OF OWNERSHIP. YOUR FAILURE TO COMPLETE THIS DISCLOSURE, OR MAKING A FALSE DISCLOSURE MAY RESULT IN FINES AND/OR IMPRISONMENT. COMPLETE THE CORRESPONDING DISCLOSURE STATEMENT IF A VEHICLE BEING TRANSFERRED IS LESS THAN TEN (10) YEARS OLD AND WEIGHS LESS THAN 16,000 POUNDS.

#####

ASSIGNMENT OF TITLE BY REGISTERED OWNER

#####

DISCLOSURE  
(FOR MOTOR VEHICLES ONLY)

ODOMETER READING IS: 50361

WHICH IS ACTUAL VEHICLE MILEAGE UNLESS ONE OF THE FOLLOWING STATEMENTS IS CHECKED.

STATED MILEAGE: \_\_\_\_\_

(NO TENTHS)

EXCEEDS ODOMETER'S MECHANICAL LIMITS OR

\$2,500.00

MILEAGE - WARNING - ODOMETER DISCREPANCY

ANSWER  
BOTH  
QUESTIONS  
AT RIGHT

1. THE VEHICLE SUSTAINED DAMAGE IN EXCESS OF \$1,000.00 IN ANY SINGLE OCCURRENCE WHILE I HAVE OWNED THE DESCRIBED VEHICLE. YES ☒ NO
2. AT THE TIME I ACQUIRED THIS VEHICLE, THE VEHICLE HAD UNREPAIRED DAMAGE IN EXCESS OF \$2,000.00 YES ☒ NO



(CIRCLE DAMAGE ON DIAGRAM ABOVE)

IF YOU CHECKED "YES" TO EITHER QUESTION, THEN CHECK THE GENERAL CAUSE(S) OF VEHICLE DAMAGE ON THE FOLLOWING LINES: CHECK ALL CAUSES OF VEHICLE DAMAGE WHICH APPLY: COLLISION ☒ FIRE ☐ VANDALISM ☐ SUBMERSION IN WATER ☐ WEATHER ☐ OTHER

DAMAGES (LIST) ROLLED

AS SELLER(S), I/WE CERTIFY UNDER THE PENALTY OF THE SOUTH DAKOTA LAW, THAT THE SIGNATURE(S) BELOW RELEASES INTEREST IN THIS PROPERTY AND CERTIFIES TO THE TRUTH AND ACCURACY OF ANY VEHICLE MILEAGE AND DAMAGE DISCLOSURE INFORMATION ENTERED ABOVE.

PRINTED NAME OF SELLER(S)/COMPANY NAME \_\_\_\_\_ (DATE OF SALE) \_\_\_\_\_

PRINTED NAME OF PURCHASER(S)/COMPANY NAME \_\_\_\_\_

SIGNATURE OF SELLER(S) OR AUTHORIZED AGENT \_\_\_\_\_

SIGNATURE OF PURCHASER(S) OR AUTHORIZED AGENT \_\_\_\_\_

SELLER'S ADDRESS \_\_\_\_\_

PURCHASER'S ADDRESS \_\_\_\_\_

(CITY) \_\_\_\_\_ (STATE) \_\_\_\_\_ (ZIP CODE) \_\_\_\_\_

(CITY) \_\_\_\_\_ (STATE) \_\_\_\_\_ (ZIP CODE) \_\_\_\_\_

LIENHOLDER NAME \_\_\_\_\_ LIENHOLDER CODE: \_\_\_\_\_  
ADDRESS \_\_\_\_\_

### FIRST RE-ASSIGNMENT BY LICENSED DEALER

DISCLOSURE  
(FOR MOTOR VEHICLES ONLY)

ODOMETER READING IS: \_\_\_\_\_

WHICH IS ACTUAL VEHICLE MILEAGE UNLESS ONE OF THE FOLLOWING STATEMENTS IS CHECKED.

STATED MILEAGE: \_\_\_\_\_

(NO TENTHS)

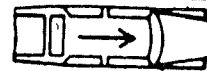
EXCEEDS ODOMETER'S MECHANICAL LIMITS OR

\$2,500.00

MILEAGE - WARNING - ODOMETER DISCREPANCY

ANSWER  
BOTH  
QUESTIONS  
AT RIGHT

1. THE VEHICLE SUSTAINED DAMAGE IN EXCESS OF \$1,000.00 IN ANY SINGLE OCCURRENCE WHILE I HAVE OWNED THE DESCRIBED VEHICLE. YES ☒ NO
2. AT THE TIME I ACQUIRED THIS VEHICLE, THE VEHICLE HAD UNREPAIRED DAMAGE IN EXCESS OF \$2,000.00 YES ☒ NO



(CIRCLE DAMAGE ON DIAGRAM ABOVE)

IF YOU CHECKED "YES" TO EITHER QUESTION, THEN CHECK THE GENERAL CAUSE(S) OF VEHICLE DAMAGE ON THE FOLLOWING LINES: CHECK ALL CAUSES OF VEHICLE DAMAGE WHICH APPLY: COLLISION ☒ FIRE ☐ VANDALISM ☐ SUBMERSION IN WATER ☐ WEATHER ☐ OTHER

DAMAGES (LIST) \_\_\_\_\_

AS SELLER(S), I/WE CERTIFY UNDER THE PENALTY OF THE SOUTH DAKOTA LAW, THAT THE SIGNATURE(S) BELOW RELEASES INTEREST IN THIS PROPERTY AND CERTIFIES TO THE TRUTH AND ACCURACY OF ANY VEHICLE MILEAGE AND DAMAGE DISCLOSURE INFORMATION ENTERED ABOVE.

PRINTED NAME OF DEALERSHIP (SELLER) \_\_\_\_\_ (DATE OF SALE) \_\_\_\_\_

PRINTED NAME OF PURCHASER(S)/COMPANY NAME \_\_\_\_\_

SIGNATURE OF DEALER/AGENT \_\_\_\_\_ (DEALER #) \_\_\_\_\_

SIGNATURE OF PURCHASER(S) OR AUTHORIZED AGENT \_\_\_\_\_

DEALER'S ADDRESS \_\_\_\_\_

PURCHASER'S ADDRESS \_\_\_\_\_

(CITY) \_\_\_\_\_ (STATE) \_\_\_\_\_ (ZIP CODE) \_\_\_\_\_

(CITY) \_\_\_\_\_ (STATE) \_\_\_\_\_ (ZIP CODE) \_\_\_\_\_

LIENHOLDER NAME \_\_\_\_\_ LIENHOLDER CODE: \_\_\_\_\_  
ADDRESS \_\_\_\_\_

### SECOND RE-ASSIGNMENT BY LICENSED DEALER

DISCLOSURE  
(FOR MOTOR VEHICLES ONLY)

ODOMETER READING IS: \_\_\_\_\_

WHICH IS ACTUAL VEHICLE MILEAGE UNLESS ONE OF THE FOLLOWING STATEMENTS IS CHECKED.

STATED MILEAGE: \_\_\_\_\_

(NO TENTHS)

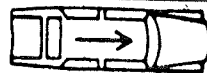
EXCEEDS ODOMETER'S MECHANICAL LIMITS OR

\$2,500.00

MILEAGE - WARNING - ODOMETER DISCREPANCY

ANSWER  
BOTH  
QUESTIONS  
AT RIGHT

1. THE VEHICLE SUSTAINED DAMAGE IN EXCESS OF \$1,000.00 IN ANY SINGLE OCCURRENCE WHILE I HAVE OWNED THE DESCRIBED VEHICLE. YES ☒ NO
2. AT THE TIME I ACQUIRED THIS VEHICLE, THE VEHICLE HAD UNREPAIRED DAMAGE IN EXCESS OF \$2,000.00 YES ☒ NO



(CIRCLE DAMAGE ON DIAGRAM ABOVE)

IF YOU CHECKED "YES" TO EITHER QUESTION, THEN CHECK THE GENERAL CAUSE(S) OF VEHICLE DAMAGE ON THE FOLLOWING LINES: CHECK ALL CAUSES OF VEHICLE DAMAGE WHICH APPLY: COLLISION ☒ FIRE ☐ VANDALISM ☐ SUBMERSION IN WATER ☐ WEATHER ☐ OTHER

DAMAGES (LIST) \_\_\_\_\_

AS SELLER(S), I/WE CERTIFY UNDER THE PENALTY OF THE SOUTH DAKOTA LAW, THAT THE SIGNATURE(S) BELOW RELEASES INTEREST IN THIS PROPERTY AND CERTIFIES TO THE TRUTH AND ACCURACY OF ANY VEHICLE MILEAGE AND DAMAGE DISCLOSURE INFORMATION ENTERED ABOVE.

PRINTED NAME OF DEALERSHIP (SELLER) \_\_\_\_\_ (DATE OF SALE) \_\_\_\_\_

PRINTED NAME OF PURCHASER(S)/COMPANY NAME \_\_\_\_\_

SIGNATURE OF DEALER/AGENT \_\_\_\_\_ (DEALER #) \_\_\_\_\_

SIGNATURE OF PURCHASER(S) OR AUTHORIZED AGENT \_\_\_\_\_

DEALER'S ADDRESS \_\_\_\_\_

PURCHASER'S ADDRESS \_\_\_\_\_

(CITY) \_\_\_\_\_ (STATE) \_\_\_\_\_ (ZIP CODE) \_\_\_\_\_

(CITY) \_\_\_\_\_ (STATE) \_\_\_\_\_ (ZIP CODE) \_\_\_\_\_

LIENHOLDER NAME \_\_\_\_\_ LIENHOLDER CODE: \_\_\_\_\_  
ADDRESS CCP0888



Mr. Chairman:

My name is Charles Petrik and I am testifying on behalf of Farm Bureau Mutual Insurance Company, Inc. Manhattan, Kansas. I am a claims supervisor with this company and part of my duties include the supervising of the salvage operation.

In regards to Senate Bill 162, we as an insurance company are concerned about the impact portions of this bill will have on the cost of automobile claims if salvage pools are limited to selling a salvage vehicle to only a salvage licensed dealer. This increased cost of claim payments will ultimately affect the insurance consumer.

When discussing auto salvage, a distinction must be made between vehicles that are damage beyond repair, sometimes termed "obvious total loss" and vehicles that are physically rebuildable but not economically feasible to rebuild by the insurance company, generally termed a "constructive total loss", due to excessive/inflated labor and parts costs, replacement car/rental costs, lengthy repair time, etc. It is more economically efficient to exercise our option of "totaling" the vehicle and recovering the maximum salvage value for them from auto rebuilders. My experience is an auto rebuilder will pay significantly more for a "rebuilder" than will a salvage dealer.

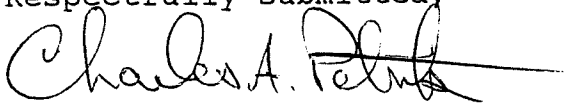
A salvage pool provides an efficient service to the insurance industry in the selling of salvage vehicles. Insurance companies can control storage costs by transferring salvage vehicles to a salvage pool which

generally charges a flat fee for the storage, handling, and selling of the salvage. This fee generally costs on an average of \$40 - \$45 instead of a storage costs that are as high as \$10 - \$15 a day. Controlling claims costs and maximizing salvage recovery is very important to controlling insurance costs to the consumer. Any reduction in salvage recovery will affect the handling of the auto claim. If lower recoveries occur, the insurance adjuster will increase the threshold on what must be incurred in repairing the vehicle. This vehicle will be repaired; the difference being that the title will not be "branded" if it is not deemed a "total" during the claims transaction.

We as an insurance company make every effort to comply with titling procedures. Kansas titling procedures require that we obtain a "non-highway" title which brands the title, even to the extent that we must certify the reason for qualifying for "non-highway" status (see attached form TR-13).

I appreciate the opportunity to testify before this committee and express my thoughts on how this will impact the consumers in Kansas.

Respectfully submitted,

A handwritten signature in cursive script, reading "Charles A. Petrik". The signature is written in dark ink and is positioned above the printed name.

Charles A. Petrik, CPCU  
Supervisor of Claims

**KANSAS DEPARTMENT OF REVENUE  
DIVISION OF VEHICLES  
TOPEKA, KANSAS 66626-0001**

**NON-HIGHWAY VEHICLE TITLE AFFIDAVIT**

(I) (We), the undersigned, certify that the following vehicle:

YEAR \_\_\_\_\_ MAKE \_\_\_\_\_ STYLE \_\_\_\_\_ ID # \_\_\_\_\_

is qualified for a Non-Highway title for the following reason: (Check appropriate reason:)

- \_\_\_\_\_ ( A ) Due to vehicle not manufactured for street use.
- \_\_\_\_\_ ( B ) Due to no liability insurance coverage.
- \_\_\_\_\_ ( C ) Due to non-compliance of required statutory safety equipment.
- \_\_\_\_\_ ( D ) Due to vehicle being wrecked or damaged. (NOT salvaged or total loss.)
- \_\_\_\_\_ ( E ) Due to vehicle exempt from registration requirements.
- \_\_\_\_\_ ( G ) Due to theft recovery, no damage.
- \_\_\_\_\_ ( H ) Due to flood or hail damage.
- \_\_\_\_\_ ( I ) Due to fire damage.
- \_\_\_\_\_ ( J ) Due to vehicle being salvaged or totaled.

**\*\* IMPORTANT \*\***

If Non-Highway title is issued for reasons D, H, or I, a new Non-Highway title cannot be issued with another reason, except for reason J. Once the vehicle is declared Non-Highway for reasons D, H, I, or J no other reasons will be branded on the Non-Highway Certificate of Title.

All assigned titles (newly purchased or acquired vehicles) require the signature of both the buyer/owner and the seller\*.

\* Exceptions that will require only the purchaser signature are:

- Titles assigned to insurance companies;
- Assignment/re-assignments on any out-of-state titles;
- Applicant's name is shown on the face of the title as the current owner.

I, purchaser, certify that I will not use or permit the use of this vehicle on the streets or highways of this state until financial security (liability insurance) is obtained and a regular (Formerly Non-Highway) Certificate of Title and license plate has been purchased for the above listed vehicle. I/We further certify that to the best of my knowledge that reason for the non-highway status is true and correct.

\_\_\_\_\_  
Signature of Purchaser/Owner

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Seller/Owner\*

\_\_\_\_\_  
Date

**NOTICE**

The Non-Highway Vehicle Affidavit must be attached to the owner's Certificate of Title, or the properly assigned or reassigned Certificate of Title, prior to making application for a non-highway title. KSA 8-198(b)(2)

This affidavit is required when applying for a non-highway title using a Regular, Non-Highway or Formerly Non-Highway Certificate of Title, or an MSO branded by manufacturer as "Not for Highway Use".

Seller or owner transferring a non-highway vehicle on a regular properly assigned and/or reassigned Kansas Certificate of Title should retain a copy of this affidavit in their files.

Topeka Salvage Pool, Inc.

726 N.E. Kincaid Road  
Topeka, Kansas 66616-9510

MELVIN L. ESHBAUGH  
President

September 1, 1993

(913) 235-3046  
Fax (913) 235-0639

Senate Subcommittee  
State Capitol  
Topeka, Ks

Subject: House Bill 2195, Senate Bill 162

Dear Committee Members,

I would like to take this opportunity to state for the record that I and the Topeka Salvage Pool have always been 100% supportive of law enforcement and there efforts to catch thieves. We have revised our computer data so all sale activity can be reported to the National Insurance Crime Bureau And will continue to support local law enforcement in any way possible in the future regardless of the out come of this legislation.

I would also like to point out that out of all vehicles that are wrecked, stolen or damaged by other acts only 5% to 10% are handled by the Salvage Vehicle Pool's. This leaves 90% to 95% that do no have their titles branded as salvage. If this legislation is to protect the consumer from unknowingly purchasing a previously damaged vehicle a system of branding titles when the loss is reported will need to be initiated.

My opinion of this legislation is that it was initiated and written by KADRA with the intent of improving it's members business advantage by reducing competition.

As a Salvage Vehicle Pool owner I will Note some areas that would need changed before I could support it. Keep in mind that a Salvage Vehicle Pool is a provider of services and providing the greatest number of prospective buyers is one of our most important services.

Page 5, Line 36: but such terms shall not include Salvage Vehicle Pool's or any person engaged in a business

Page 7, Line 11: "Salvage Vehicle" means any vehicle that is physically damaged or is required by law to have a branded title.

Page 13, Line 43: sell a salvage vehicle without collecting sales tax if required by Kansas law.

Page 14, "D" Line 7: Delete in its entirety

SENATE TRANSPORTATION

September 2, 1993

Attachment 6

Page 14, "E" Line 9 through 10: sell any vehicle without making available true owner identity at request prior to the sale.

Page 15 Line 12 through 14: Delete in it's entirety. If I decide to operated as a automobile dealer and am licensed as such I should have full privileges.

These changes would keep the Anti theft measures and improve consumer protection.

I appreciate the opportunity to submit this testimony for consideration. I would also be glad to answer questions at any time.

Sincerely,

*Melvin L. Eshbaugh*

Melvin L. Eshbaugh

President Topeka Salvage Pool





**The Honorable Ben Vidricksen  
Chairman, Senate Transportation & Utilities Committee  
State Senate  
State Capital  
Topeka, Kansas**

**September 2, 1993**

**Chairman Vidricksen and Members of the Committee:**

I am Ed Newsom, President of the Kansas City Salvage Pool. I have provided testimony on two previous occasions to this committee and have also given testimony in the House Committee. My position and testimony regarding this bill remains essentially the same, therefore I think it would be redundant to repeat my previous testimony. It is my sincerest hope that anyone genuinely interested and concerned about this bill has taken the time to read that testimony.

First, I would like to dispel any notion that the Salvage Pool industry is opposed to regulation and is unconcerned regarding the reduction of auto theft. In my opinion, any testimony to the contrary is merely subterfuge and is erroneous and misleading.

In light of the spirit in which this bill was introduced, I would like to take this opportunity to plead with all parties involved, particularly the special interest groups such as salvage pools and salvage dealers, to dispense with the creation of innuendo and half-truths in the furtherance of their own interests. It would be in the best interests of all parties concerned, especially the persons that are present today and ultimately the constituents of the state of Kansas, if the major conflicts of this bill were openly and honestly discussed.

With regard to the aforementioned, I will get directly to my major objection to this bill. It is my opinion that page 13, section (B) at line 43 of Senate Bill 162 should read as follows:

**"sell a vehicle to any person unless sales tax is collected,  
unless otherwise exempt from sales tax by law."**

This is in contrast to the language proposed by K.A.D.R.A. The unnecessary inclusion of salvage vehicle dealers in this terminology and the exclusion of other dealers, non-residents, non-profit organizations, or other parties who may be exempt from sales tax only serves to obscure the intention of this portion of the bill. It is also my opinion that the language that I have proposed is more appropriate and in concurrence with existing sales tax laws. If in fact, the intention of this portion of the bill is not made explicitly clear, the effect of reduced competition for damaged automobiles will result in an adverse monetary return for insurance companies. This monetary loss will ultimately be passed on to the constituency of the state of Kansas in the form of insurance premiums.

It has been suggested that there is a direct correlation between the problem of auto theft and sales of vehicles at Salvage Pools. There is no statistical evidence to substantiate this allegation, nor is there evidence to support the suggestion that legislation which favors one group licensed by a state over another group licensed by that state would reduce auto theft. The inference is that licensed dealers and rebuilders are a greater part of the auto theft problem than are licensed dismantlers, ignoring the fact that many dismantlers are also rebuilders. Any further discussion regarding this specific issue should include law enforcement officials.

In regard to proposed requirements for salvage pools regarding fencing, building size, licensing and ownership disclosure (which should not be confused with damage disclosure as has been suggested in previous testimony), I am confident that these issues can be resolved, if in fact they are necessary and the cause of their origination is legitimate.

However, it should again be noted that prior to the introduction of this bill, and even since the introduction of this bill, with the exception of K.A.D.R.A. representatives, I have not been contacted by any individual or entity regarding specific problems with Salvage Pool sales. Therefore, one can only conclude that state officials, law enforcement officials, Congressmen, insurance company representatives, automobile dealers, etc. are not especially concerned with sales at Salvage Pools or the regulation thereof. It has become evident to me that regulation of Salvage Pools is primarily a concern to the members of K.A.D.R.A. and not the aforementioned. In the past fiscal year less than 15% of the vehicles sold at my pool were sold to K.A.D.R.A. members. To allow less than 15% of my customers to attempt to dictate the policy of my business, not only insults my integrity as a business owner, but is an obvious disregard for the concerns of the other 85% of my clientele.

As we all know, there is impending legislation on the federal level that may impact salvage disposition on the state level. Inasmuch as such legislation may supersede any state legislation, it is my opinion that any decisions made on the state level regarding salvage disposition should be delayed until the conclusion of federal implementation.

I have been informed by the legislative research committee that there will be a discussion today on what constitutes a "total loss". Fortunately, there will be insurance company representatives here today that will be able to expound on this subject. However, my definition of a "total loss" is very simple. In today's terminology, when an insurance company makes an economic decision, based on a variety of factors, to pay an individual or entity for the replacement of a vehicle or other property in lieu of paying for the repairs of said property, said property is considered a "total loss". It is agreed that in many cases the estimate for repairs is a factor in this decision, however it should be clearly understood that, by definition, this is only an estimate of the repairs and has no bearing on the actual cost in repairing that property to a safe and satisfactory condition and is definitely not indicative of the actual degree of damage. Other factors in the decision to total a vehicle include availability of parts, the associated delay in repairing the vehicle, rental car expense, injury claims, and the relationship between the insurance company and its client.

Finally, it is my belief that the goal of all individuals represented here should be ultimate consumer protection. If the true intentions and concerns of this legislative body and all parties associated with this bill is to offer total consumer protection, I wholeheartedly suggest that you listen closely to the testimony of Mr. Art Nordstrom, a salvage dealer and rebuilder, from Garretson, South Dakota. Mr. Nordstrom is on the executive board of the South Dakota Auto Recyclers Association, a companion group to K.A.D.R.A., and is also a lobbyist to the state of South Dakota for that association. In addition, Mr. Nordstrom was the originator of the South Dakota Damage Disclosure Law that became effective in that state in 1988. The South Dakota Damage Disclosure Law has become a model for all states and was introduced by Senator Pressler at the federal level under the name of the "Automobile Damage Consumer Protection Act of 1993". This bill, known as Senate Bill 485, is gaining rapid momentum and acceptance in conjunction with other bills introduced on the federal level. In the words of Senator Pressler, "the South Dakota Damage Disclosure Law is the most comprehensive damage disclosure law in the United States and a greater deterrent to theft than anything we have today". In addition, Mr. Nordstrom gave testimony before the United States Senate Commerce Committee approximately 3 weeks ago, at their request, as an expert in this field.



With respect to Mr. Nordstrom's testimony, I was informed by Mr. Jim Schaller, Kansas Department of Transportation, that in 1992, there were 80,216 passenger cars and vans, and 21,831 small trucks involved in accidents in the state of Kansas. This represents a total of 102,047 vehicles involved in accidents in Kansas in 1992, excluding recreational vehicles, boats, trailers and over the road tractors, etc. Of these 102,047 vehicles, approximately 10%, based upon the national average, or 10,000 vehicles were purchased by insurance companies as a result of "total loss". This means that approximately 90,000 vehicles, annually, wrecked in the state of Kansas, may be repaired and have parts replaced, and then be resold without any requirement that said damage be disclosed to the subsequent purchaser of that vehicle. And equally important, there is no provision that the parts used to repair that vehicle will be subject to scrutiny by law enforcement. Therefore, once again, it is my opinion that Senate Bill 162 only addresses a small percentage of damaged vehicles and prejudicially singles out insurance companies that are already branding their titles in an effort to prevent subsequent consumer fraud. Consequently, this bill offers very little consumer protection.

I would like to take this opportunity to thank Mr. and Mrs. Nordstrom for driving all night from South Dakota to Topeka, at their own expense, solely for the purpose of testifying about a subject that they sincerely believe should be important to this committee, and is certainly a subject that they hold in high regard. It is my opinion that Mr. Nordstrom should be regarded as an expert on salvage disposition, damage disclosure and certainly the definition of a total loss. His credentials speak for themselves.

In conclusion, I stand for any questions the committee may have and am certainly willing to be involved in any future discussion and research regarding these issues, considering that my family and I have been involved in salvage disposition for over 30 years.

Thank you for this opportunity .

Ed Newsom  
President, Kansas City Salvage Pool, Inc..

STATE OF KANSAS

Betty McBride, Director  
Robert B. Docking State Office Building  
915 S.W. Harrison St.  
Topeka, Kansas 66626-0001



(913) 296-3601  
FAX (913) 296-3852

Department of Revenue  
*Division of Vehicles*

TO: The Senate Committee on Utilities and Transportation  
Honorable Ben Vidricksen, Chairman

From: Betty McBride, Director of the Division of Vehicles  
Kansas Department of Revenue

Date: September 2, 1993

Mr. Chairman, members of the committee. Thank you for allowing me the opportunity to appear today on behalf of the Kansas Department of Revenue regarding Senate Bill 162.

Presently, the Division of Vehicles does not regulate salvage pools. Passage of Senate Bill 162 would mandate the regulation of the salvage pools. We have carefully studied this bill, and while the department has no position regarding its passage, if it is passed by the legislature as introduced, this bill could be implemented without the need for additional administrative personnel or funding since the number of pools is minimal at this time.

Thank you for the opportunity to appear before this committee. I would stand for questions at this time.

# CERTIFICATE OF TITLE

B0437399

TITLE NO.

B0437399

## SALVAGE STATE OF KANSAS

VEHICLE IDENTIFICATION NO.

YEAR

MAKE

MODEL

1234

C

70

FORD

STYLE

EMPTY WEIGHT

APPLICATION DATE

CLASS

ISSUE DATE

MILEAGE

2D

03240

02/23/93

01

02/23/93

38383

EXEMPT FROM  
MILEAGE REQMTS

VEHICLE TITLED NON-HIGHWAY AND SHALL NOT BE OPERATED ON THE STREETS OR HIGHWAYS DUE TO SALVAGE OR TOTAL LOSS. TO RETURN VEHICLE TO HIGHWAY STATUS, OWNER MUST COMPLY WITH REQUIREMENTS OF TITLING STATE.

### MAILING INFORMATION ONLY

JANE SAMPLE

PO BOX 4029

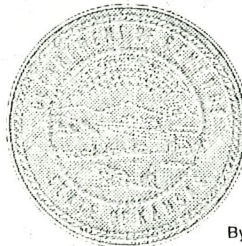
TOPEKA KS 66607

### NAME(S) AND ADDRESS OF OWNER(S)

JANE SAMPLE

PO BOX 4029

TOPEKA KS 66607



### FIRST LIEN RELEASE

By \_\_\_\_\_ Name \_\_\_\_\_ Title \_\_\_\_\_

Subscribed and Sworn before me this

\_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_ County \_\_\_\_\_ State \_\_\_\_\_

SEAL

Notary Public \_\_\_\_\_

My Commission expires the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

### SECOND LIEN RELEASE

By \_\_\_\_\_ Name \_\_\_\_\_ Title \_\_\_\_\_

Subscribed and Sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

County \_\_\_\_\_ State \_\_\_\_\_

SEAL

Notary Public \_\_\_\_\_

My Commission expires the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

I, the undersigned hereby certify that I have approved an application for certificate of title for the vehicle described hereon, pursuant to the provisions of the Motor Vehicle Laws of this State, and the applicant named on the face hereof has been duly recorded as the lawful owner of said vehicle.

I further certify that the vehicle is subject to the security interests shown hereon, if any. But, however the vehicle may be subject to other security interests.

*Thomas W. Skinner*  
Thomas W. Skinner  
Director of Vehicles

*Ed C. Roach*  
Ed C. Roach  
Secretary of Revenue

TR-19T Rev. 6-89

VOID IF ALTERED

SENATE TRANSPORTATION

September 2, 1993

Attachment 9



KANSAS DEPARTMENT OF REVENUE  
DIVISION OF VEHICLES  
TOPEKA, KANSAS 66626-0001

**NON-HIGHWAY VEHICLE TITLE AFFIDAVIT**

(I) (We), the undersigned, certify that the following vehicle:

YEAR \_\_\_\_\_ MAKE \_\_\_\_\_ STYLE \_\_\_\_\_ ID # \_\_\_\_\_

is qualified for a Non-Highway title for the following reason: (Check appropriate reason:)

- \_\_\_\_ ( A ) Due to vehicle not manufactured for street use.
- \_\_\_\_ ( B ) Due to no liability insurance coverage.
- \_\_\_\_ ( C ) Due to non-compliance of required statutory safety equipment.
- \_\_\_\_ ( D ) Due to vehicle being wrecked or damaged. (NOT salvaged or total loss.)
- \_\_\_\_ ( E ) Due to vehicle exempt from registration requirements.
- \_\_\_\_ ( G ) Due to theft recovery, no damage.
- \_\_\_\_ ( H ) Due to flood or hail damage.
- \_\_\_\_ ( I ) Due to fire damage.
- \_\_\_\_ ( J ) Due to vehicle being salvaged or totaled.

**\*\* IMPORTANT \*\***

If Non-Highway title is issued for reasons D, H, or I, a new Non-Highway title cannot be issued with another reason, except for reason J. Once the vehicle is declared Non-Highway for reasons D, H, I, or J no other reasons will be branded on the Non-Highway Certificate of Title.

All assigned titles (newly purchased or acquired vehicles) require the signature of both the buyer/owner and the seller\*.

\* Exceptions that will require only the purchaser signature are:

- Titles assigned to insurance companies;
- Assignment/re-assignments on any out-of-state titles;
- Applicant's name is shown on the face of the title as the current owner.

I, purchaser, certify that I will not use or permit the use of this vehicle on the streets or highways of this state until financial security (liability insurance) is obtained and a regular (Formerly Non-Highway) Certificate of Title and license plate has been purchased for the above listed vehicle. I/We further certify that to the best of my knowledge that reason for the non-highway status is true and correct.

\_\_\_\_\_  
Signature of Purchaser/Owner

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Seller/Owner\*

\_\_\_\_\_  
Date

**NOTICE**

The Non-Highway Vehicle Affidavit must be attached to the owner's Certificate of Title, or the properly assigned or reassigned Certificate of Title, prior to making application for a non-highway title. KSA 8-198(b)(2)

This affidavit is required when applying for a non-highway title using a Regular, Non-Highway or Formerly Non-Highway Certificate of Title, or an MSO branded by manufacturer as "Not for Highway Use".

Seller or owner transferring a non-highway vehicle on a regular properly assigned and/or reassigned Kansas Certificate of Title should retain a copy of this affidavit in their files.

Senate Bill #162  
Transcript of test jny before the Kansas Stat Senate Committee  
On Transportation And Utilities

March 12,1993

I am Gerald Cox,Senior Special Agent for the National Insurance Crime Bureau.

I have been involved in vehicle theft investigation in this area since 1961,first with the Kansas City,Missouri Police Department for 17 years,and the past 11 years for the National Auto Theft Bureau,which is now known as the National Insurance Crime Bureau.

I have observed over those years many illegal activities involving the sale of motor vehicle parts and the rebuilding of salvage vehicles with stolen parts.

Much of the activity we are currently seeing in the investigation of vehicle thefts involves the re-building of salvage vehicles with stolen parts. The tracing of these parts can be extremely difficult. The automobile manufacturers have added identifying numbers to most of the major component parts,as required by federal legislation,thus enabling investigators to be able to trace stolen parts more easily.

One of the most valuable tools we can have at our disposal,as investigators,is an adequate control of the flow of vehicle parts, by requiring salvage dealers to maintain adequate records of the purchase,and sale of these parts. This, coupled with a good vehicle inspection program,enables better quality control of vehicles that are being re-built for sale on the retail market,and better control of stolen parts.

I have dealt with many people in the vehicle salvage business over the years,and have found that most of them understand that there is a need for this type of legislation. They do not want any more controls on their lives and businesses than the average citizen. They do realize that this is one of the ways of competing with people who traffic in stolen vehicle parts,and who,as a general rule do not meet local and state requirements for licensing, zoning,etc.

I believe that this legislation will go a long way in assisting law enforcement in combating vehicle theft,and will be a boon to the legitimate Automotive Dismantlers and Recyclers,who commit a good deal of their resources to meeting the everyday expenses of operating their businesses.

Thank you for allowing me this time before your committee.

Gerald Cox  
Senior Special Agent  
National Insurance Crime Bureau  
P.O.Box 18162  
Raytown,Mo, 64133



# MEMORANDUM

## Kansas Legislative Research Department

300 S.W. 10th Avenue  
Room 545-N – Statehouse  
Topeka, Kansas 66612-1504  
Telephone (913) 296-3181 FAX (913) 296-3824

August 31, 1993

**To:** Senate Transportation and Utilities Committee  
**From:** Hank Avila, Research Analyst  
**Re:** Interim Study Regarding the State's Relationship with Kansas Airports and Aviation

### Background

The Aviation Division, Kansas Department of Transportation (KDOT), was created pursuant to K.S.A. 75-5010 and 75-5011. The Division, which is responsible for agency matters pertaining to aviation, was transferred in 1975 from the Kansas Department of Economic Development (now the Department of Commerce) to KDOT. This legislation was designed to structure the state government along lines of the federal Department of Transportation.

In Kansas, there are no state funds earmarked for aviation. The Aviation Division is funded from the State Highway Fund, as is KDOT administration generally. State monies that are appropriated to the Division are for salaries, consultant services to update the State Airport Systems Plan, and equipment and services (communication, travel expenses). The Division is responsible for preparation of the State Airport Systems Plan (90 percent of this cost is granted from the Federal Aviation Administration (FAA), and the State and Regional Disaster Airlift Plan; for inspection of selected airports under contract with FAA, and for publication of the State Aviation Directory and the State Aeronautical Chart. In addition, the Division promotes economic development of aviation and aerospace educational development in Kansas. The Division also provides administrative support to the Aviation Advisory Committee.

The Aviation Advisory Committee is composed of members representing the public at large, the government, the military, and industry. The Committee is created by the Secretary of Transportation with the approval of the Governor. In 1992, the Committee was reduced in size from 30 members to the current 21 members. The objective of the Committee is to provide recommendations to the Secretary concerning aviation matters in the state.

The Division of Aviation works with most of the governmental agencies in the state with respect to aviation matters. The Division maintains contact with managers of all the public-use airports. It assists communities with applications for federal airport improvement funding, and also works with the Kansas Commission on Aerospace Education, the Kansas Space Grant Consortium, the Kansas Association of Airports, the Adjutant General, the active and reserve military organizations, the Civil Air Patrol, and the Kansas education system.

KDOT is a member of the American Association of State Highway and Transportation Officials. The Division of Aviation holds membership or affiliate membership with the National Association of State Aviation Officials, the Kansas Space Grant Consortium, the Kansas Pilots



Association, the Kansas Aviation Museum, the Travel Industry Association of Kansas, the Kansas Cavalry, and the Airport Minority Advisory. These organizations provide guidance and research material to assist the Division with matters of concern in the aviation community.

Additional activities of the Division include advising FAA of specific unsafe practices which will jeopardize the flying public in Kansas; assisting with mediation of problems arising out of public and private conflict regarding aviation matters; holding public hearings pertaining to changes in facilities, navigation aids; participating in aviation conference, and expositions; promoting Kansas aviation, tourism, and industry; organizing and conducting the annual aviation art contest; and participating in the FAA flight safety program.

The Division does not engage in law enforcement activities, conduct inspections without permission of the airport authority, or perform FAA functions such as certifying aircraft and air crews or conducting accident investigations.

As noted, there are no state funds earmarked for airport improvements. As a result, local airport authorities must rely on their own resources or on federal sources to provide funding for airport improvements. Some smaller airport authorities derive revenue principally from aviation fuel sales. Other sources include fees from leased portions of the airport, such as restaurants, hangars, and land for business and agriculture. Very few small airports are self-sufficient from such fees. Many airports are thus forced to make up the deficit from their cities' general funds, or allow the facility to deteriorate where it becomes unsafe for the user, or close the airport altogether.

For most smaller airports with ten or more aircraft based at their facility, the principal source of funding for capital improvements is FAA. The Airport Improvement Program (AIP), as amended in 1992, is the main source of such funding. The stated objective of AIP is to assist sponsors, owners, or operators of public-use airports in the development of a nationwide system of airports adequate to meet the needs of civil aeronautics. The types of assistance which are made by AIP include grants for planning, construction, or rehabilitation at a public-use airport. Grants are not made for the construction of hangars, automobile-parking facilities, or routine maintenance and repair. There are 13 airports eligible for federal funding as commercial service or reliever airports in Kansas. There are 64 existing general aviation airports in the state. Of those general aviation airports that filed applications for AIP assistance for FFY 1993, \$43 million of needs were identified. However, only \$5.3 million of AIP funds have been allocated for general aviation airports in Kansas.

Other states have been more active than Kansas in providing funds for local airports. Most states have established a state aviation fund to assist locals in matching federal funds. The surrounding states of Nebraska, Iowa, Missouri, Arkansas, Oklahoma, and Colorado all provide financial assistance for airport improvements through an aviation fund and a state grant system.

There are 149 public-use airports in Kansas, of which ten receive commercial service. Seven of these communities receive Essential Air Service subsidies out of the FAA's aviation trust fund. Each airport, whether commercial service or strictly general aviation, provides essential transportation services and benefits to the community it serves. In terms of the economic importance of airports in Kansas, Peat Warwick, a consulting firm, estimated in 1990, the overall economic activity attributed to airport operations approximated \$1.7 billion. There are also related nonmeasurable benefits in terms of public health, public safety, general welfare, and commerce.

## Issues

This interim study was requested by the Kansas Association of Airports (KAA). In the opinion of KAA, an interim study of Kansas airports and aviation is needed to address the following issues:

1. Kansas has fallen behind other states in its investment in the development and maintenance of public use airports. Only 76 of the 149 public use airports in Kansas qualify for federal airport improvement program assistance. Kansas airports that do not qualify for federal assistance are relying on the KDOT, Division of Aviation, for advice on the availability of other funding for necessary airport development and safety upgrades. Without a source of state funds for assistance with basic maintenance, more and more Kansas communities may be faced with the closure of their local airport. The loss of the local airport means the loss of access to emergency medical services by air and access to the national air transportation system. Quality of life may be reduced and economic development possibilities are lessened. KAA recommends that an interim committee study possible State of Kansas funding sources for airport maintenance and development at small general aviation airports.
2. Kansas is not able to participate in the federal block grant program for federal airport improvement program (AIP) assistance. Currently, the federal government apportions approximately \$3.4 million to Kansas for airport improvement grants made to general aviation airports. Currently, these funds are administered by the Federal Aviation Administration (FAA). Should the federal government decide that all 50 states should administer these funds, KDOT's Division of Aviation would not be able to perform the task due to lack of personnel and an insufficient data base about the physical conditions and needs as well as the day-to-day operation of general aviation airports. Four more states were added to the FAA's block grant program in 1992. It appears that the trend will continue. If the KDOT Division of Aviation is not able to administer the block grant program, then Kansas airports will stand to lose \$3.4 million in annual AIP assistance. KAA recommends that an interim committee consider what action should be taken to prepare the KDOT Division of Aviation for participation in the FAA's block grant program for the state's general aviation apportionment.
3. The state must do a better job in enabling local communities to adopt effective land use and zoning regulations for the protection of airports and the airspace surrounding airports. Airports in Kansas face significant challenges from encroachment by incompatible land use surrounding existing airports. Airports in the state are also adversely affected by inadequate limitations on the height of tall structures in the vicinity of airports. The presence of an incompatible land use or the reduction of useable airspace surrounding an airport can significantly reduce the usefulness of the airport. KAA recommends that an interim committee review possible changes in current statutes enabling local communities to adopt airport zoning regulations with the goal of developing a more up-to-date enabling legislation.



Michael L. Johnston  
Secretary of Transportation

KANSAS DEPARTMENT OF TRANSPORTATION  
Docking State Office Building  
Topeka 66612-1568  
(913) 296-3566  
FAX - (913) 296-1095

Joan Finney  
Governor of Kansas

**Testimony of Eugene Anderson, Director  
Division of Aviation  
Kansas Department of Transportation**

**Presented To  
Senate Committee on Transportation and Utilities  
September 2, 1993**

Mr. Chairman, Members of the committee:

Background

In December 1982, the Aviation Division of the Kansas Department of Transportation (KDOT) initiated Phase I of the Kansas Aviation Systems Planning Program. The primary objective of Phase I was to prepare a statement of airport system requirements for the State of Kansas through the year 2000. The requirements data that were prepared served as an input to the 1984 National Plan of Integrated Airport Systems (NPIAS).

Phase I of the Kansas Aviation Systems Planning Program resulted in:

1. General goals and objectives for aviation system planning in Kansas
2. A statement of criteria for airport classification and entry of airports into the statewide system
3. Forecasts of aviation demand through the year 2000 for the State of Kansas, its Economic Development Regions, counties and individual airports
4. Determination of the airfield capacities of all public-use airports in the State (both publicly and privately owned)
5. Recommendations for airports to be included in:
  - a. The Kansas Airport System
  - b. The National Plan of Integrated Airport Systems (NPIAS)

Phase II accomplished:

1. An ongoing program and procedures for monitoring and updating the Kansas Aviation Systems Plan
2. An update of information on planned and required airport improvements, for input to the 1986 NPIAS

Phase III accomplished:

1. An update of aviation demand forecasts for the State and its eleven Economic Development Regions
2. A review and update of the Kansas Airport System
3. An evaluation and statement of the importance of the Kansas Airport System to the economy of the State and the many communities within the state

Phase IV accomplished:

1. Implementation of a continuing planning process
2. An update of the NPIAS data base for input to the 1991-1992 NPIAS
3. Preparation of a five-year Capital Improvement Program (CIP) adjusted for available federal funds
4. An evaluation and recommendations for surface access to airports in Kansas

Phase V is in progress and is accomplishing:

1. Completion of 1992 program year activities under the continuing planning process
2. Preparation of the NPIAS data base for input to the 1992-1993 NPIAS
3. Updating of the states' five-year CIP, adjusted for available federal funds
4. Preparation of special study of current and potential trends and issues concerning air taxi service and the air taxi industry in Kansas

In the next program year of the Kansas Aviation Systems Planning Program, the Division of Aviation plans to continue:

- a. Maintaining the continuing planning process
- b. Updating the aviation data base, including new inputs for the NPIAS



c. Updating the five-year CIP

In addition, a special study and forecast of aviation demand in the state and its subregions will be prepared. The study will cover historical data and forecast economic trends, general aviation and air carrier activity, and will update data presented in the KASPP Phase I and Phase III reports.

The following goals, as recommended in Phase I, have become the operating goals of the Division of Aviation of the Kansas Department of Transportation:

1. A balanced and fully adequate system of airports in Kansas serving the people and the economies of communities throughout the state, as well as the overall economy of the state.
2. A system of airports designed to foster the safe, efficient, and rapid intercity transportation of people and goods by air.
3. A program of planning for airports in Kansas which is coordinated with and compliments the goals, objectives and programs in the National plan of Integrated Airport Systems (NPIAS) at the National level and other transportation system planning programs at the state and substate regional levels.

In light of the above, and in order to continue to meet the immediate and future aviation transportation needs of the state and to ensure efficient public service, the Kansas Department of Transportation, Division of Aviation is continuing the Airport Systems Planning Program. The work program will include the following tasks:

1. Implement the continuing planning process (annual)
2. Update the airport inventory (annual)
3. Maintain and update the Kansas Aviation Systems Planning Program (annual)
4. Update the National Plan of Integrated Airport Systems data base (annual)
5. Perform special studies (as required) that will provide guidance for planning and policy decisions at both state and local levels. (Examples include studies on commercial air transportation, ground access, and economic impact of the Kansas airport system)

**PREPARING THE KANSAS DEPARTMENT OF TRANSPORTATION,  
DIVISION OF AVIATION,  
FOR PARTICIPATION IN THE  
FEDERAL AVIATION ADMINISTRATION'S  
BLOCK GRANT PROGRAM FOR THE  
STATE'S GENERAL AVIATION APPORTIONMENT**

**Prepared for the Kansas Senate  
Transportation and Utilities Committee  
September 2, 1993 - 1:30 P.M.**

**Presented by:  
Timothy F. Rogers, A.A.E.  
President, Kansas Association of Airports  
Executive Director, Salina Airport Authority**

Chairman Vidricksen and members of the Committee

I am Tim Rogers, Executive Director for the Salina Airport Authority and the current President of the Kansas Association of Airports. Today, I would like to inform you about an issue which affects the future development of general aviation (GA) airports in the State of Kansas. At issue is whether the Kansas Department of Transportation is prepared to participate in the Federal Aviation Administration's (FAA) Airport Improvement Program (AIP) block grant program for general aviation airports.

If KDOT does not move ahead to prepare the Division of Aviation for participation in the FAA block grant program, opportunities to maximize Federal funding for Kansas GA airports will be missed. At the present time the State receives 3.4 million dollars in GA airport apportionment funds. Additional grant funds are available at the discretion of the FAA. In order to properly develop and maintain the State's system of general aviation airports, KDOT must maximize federal funding and identify possible sources of State assistance and funding.

The State's AIP GA apportionment does not fund airport improvement projects for the State's primary, reliever, or commercial service airports. (These categories include

airports at Manhattan, Topeka, Wichita, Augusta, Newton, Olathe, Johnson County, Dodge City, Garden City, Hays, Liberal, and Salina.) The GA apportionment is intended to fund airport improvements at 79 eligible GA public use airports such as the Ellsworth Municipal Airport. Attached to my testimony is a listing of the GA airports currently eligible for Federal assistance. There are an additional 73 public use general aviation airports in the State that are also in need of either Federal or State financial assistance for airport improvements and maintenance.

A funding shortage faces Kansas GA airports. According to the FAA, the 79 Kansas GA airports which are eligible for Airport Improvement Program assistance have submitted preapplications requesting 43 million dollars in grants. The Kansas GA apportionment is only 3.4 million dollars per year. FAA discretionary funds may provide an additional one to two million dollars. During the next five years, only four to five of the 79 eligible GA airports will actually receive funding from the FAA. At this time, no other GA airports will receive funds.

The remaining 73 public-use GA airports are also in need of airport improvements and maintenance. Presently, the cost of these needs is largely undetermined by the Division of Aviation. At this time, there is neither Federal or State funding available for these GA



airports.

As KDOT works to complete its Long Range Transportation Plan as required by the International Surface Transportation Efficiency Act, it seems that this is the appropriate time for the State Legislature and KDOT to determine the support necessary to develop a GA airport system that can keep Kansas cities and counties viable. A well-developed and maintained GA airport system provides all Kansas cities and counties access to national and state air transportation systems. Examples of general aviation activity that is supported by GA airports include agricultural spraying, pipeline patrol, air charter service, flight training, business aviation, and emergency medical services. In addition to general aviation uses, well developed and maintained GA airports are essential for efficient State and local response to natural disasters such as flooding and tornados.

At the present time, the development of Kansas GA airports is, in large part, determined by the FAA. The FAA has done an excellent job over the years, but recently has experienced numerous reductions in personnel and operating budgets. The Kansas City Airports Division of the FAA has been forced to reduce the staff time allocated to Kansas GA airport issues. Nationally, the FAA is expecting all States, including Kansas, to assume a greater role in developing and maintaining their respective GA airports.

The State of Kansas has the opportunity to be proactive in assuming greater responsibility and control over the development and maintenance of its GA airports. The Kansas Legislature and KDOT have the opportunity to actively address this issue and have a greater input into how the transition from Federal Administration of GA apportionment funds to State administration of GA apportionment funds is accomplished. The alternative is to wait until the Federal government mandates that the GA apportionment funds be administered by block grant.

At the present time, the Division of Aviation is not staffed or equipped for the job. But, KDOT has existing planners and engineers that are very capable and can support the Division of Aviation. The Legislature and KDOT should work together to develop a plan that when implemented over a period of time, enables the State to assume greater responsibility for GA airport development. This action would better prepare KDOT and the Division of Aviation for block grant administration.

As initial steps, the Legislature may consider working with the Secretary of Transportation and the Secretary's Director of Aviation in order to develop initiatives such as:

1. A complete inventory of development needs at all Kansas GA airports and assign priorities to those needs. Such an inventory would also determine the costs of development needs at Kansas GA airports.
2. A plan to increase Federal funding for Kansas GA airports and to secure State funding for Kansas GA airports.
3. A comprehensive update of the State Aviation Systems Plan.
4. A program which enables current KDOT planners and engineers to assist GA airports with the preparation of the documents necessary for securing Federal AIP grants.
5. Develop a program by which KDOT planners and engineers can advise GA airports on airport maintenance priorities.
6. Develop a program which enables KDOT personnel and equipment to assist GA airports with basic airport maintenance.

For the State to have a true intermodal transportation system, our GA airports must be as well developed and maintained as possible. In order to achieve this goal, KDOT must take steps to enable the Division of Aviation to maximize federal funding for GA airports and to request and receive State funds for GA airport development and maintenance. The Kansas Association of Airports is confident that with the leadership of the Kansas Legislature and KDOT that the needs of Kansas GA airports can be addressed.

Since 1903, the issue of airport development has been an important legislative topic. In testimony before the United States Congress, a man once stated:

*The most significant obstacle to the development of a national system for the transport of people and goods, and the development of commerce is the development of adequate airports.*

The man was Orville Wright, who included the statement in his testimony to a Congressional committee in 1910.



Thank you for your consideration of this important issue.

**PRIMARY AIRPORTS**

Manhattan	MHK	Municipal	3 20 0052
Topeka	FOE	Forbes Field	3 20 0113
Wichita	ICT	Mid-Continent	3 20 0088

**RELIEVER AIRPORTS**

Augusta	3AU	Municipal Airport	3 20 0006
Newton	EWK	Newton-City-County	3 20 0058
Olathe	IXD	Johnson County Industri	3 20 0109
Olathe	OJC	Johnson County Executi	3 20 0062
Wichita	3KM	Colonel James Jabara Ai	3 20 0089

**COMMERCIAL SERVICE AIRPORTS**

Dodge City	DDC	Regional	2 20 0017
Garden City	GCK	Municipal	3 20 0024
Hays	HYS	Municipal	3 20 0028
Liberal	LBL	Municipal	3 20 0050
Salina	SLN	Municipal	3 20 0072

**GENERAL AVIATION AIRPORTS**

Abilene	K78	Municipal	3 20 0001
Anthony	ANY	Municipal	3 20 0002
Atchison	K59	Amelia Earhart	3 20 0004
Atwood	ADT	Atwood-Rawlins City	3 20 0005
Belleville	RPB	Municipal	3 20 0007
Beloit	K61	Moritz Memorial	3 20 0008
Burlington	8K3	Municipal	3 20 0510
Chanute	CNU	Chanute Martin JOH	3 20 0009
Cimarron	8K8	Municipal	3 20 0116
Clay Center	CYW	Municipal	3 20 0010
Coffeyville	CFV	Municipal	3 20 0011
Colby	CBK	Shaltz Field	3 20 0012
Coldwater	3K8	Comanche County Airpo	3 20 0114
Concordia	CNK	Blosser Municipal	3 20 0013
El Dorado	EQA	Captain Jack Thomas	3 20 0018
Elkhart	EHA	Elkhart-Morton County	3 20 0019
Ellsworth	9K7	Municipal	3 20 0117
Emporia	EMP	Municipal	3 20 0020
Eureka	13K	Municipal Airport	3 20 0021
Leavenworth	FLV	Sherman AAF	3 20 0048
Fort Scott	FSK	Municipal	3 20 0022
Gardner	K34	Municipal	3 20 0119
Garnett	K68	Municipal	3 20 0025
Goodland	GLD	Goodland Municipal	3 20 0026
Great Bend	GBD	Municipal	3 20 0027
Greensburg	8K7	Paul Windle Municipal	3 20 0094
Herrington	HRU	Municipal	3 20 0029
Hiawatha	K87	Municipal	3 20 0095
Hill City	HLC	Municipal	3 20 0031
Hillsboro	M66	Municipal	3 20 0111

**GENERAL AVIATION AIRPORTS**

Hugoton	HQG	Municipal	3 20 0034
Hutchinson	HUT	Municipal	3 20 0035
Independence	IDP	Municipal	3 20 0036
Iola	K88	Allen County	3 20 0037
Johnson	2K3	Stanton County Municipal Ai	3 20 0110
Junction City	3JC	Freeman Field	3 20 0039
Kingman	9K8	Municipal	3 20 0042
Kinsley	33K	Municipal Airport	3 20 0097
La Crosse	K94	Rush County	3 20 0045
Larkin	36K	Larkin Municipal Airport	3 20 0106
Larned	LQR	Larned-Pawnee County	3 20 0046
Lawrence	LWC	Municipal	3 20 0047
Leoti	3K7	Mark Hoard Memorial Airpor	3 20 0049
Lincoln	K71	Municipal	3 20 0118
Lyons	LYO	Lyons-Rice Municipal	3 20 0051
Marysville	MYZ	Municipal	3 20 0053
McPherson	MPR	McPherson	3 20 0054
Meade	MEJ	Municipal	3 20 0055
Medicine Lodge	K51	Medicine Lodge	3 20 0098
Ness City	48K	Municipal	3 20 0057
Norton	NRN	Municipal	3 20 0091
Oakley	OEL	Municipal	3 20 0060
Oberlin	OIN	Municipal	3 20 0061
Osage City	53K	Municipal	3 20 0120
Osawatomie/Paola	K81	Miami County	3 20 0063
Osborne	K75	Municipal	3 20 0064
Ottawa	OWI	Municipal	3 20 0066
Parson	PPF	Tri-City	3 20 0067
Phillipsburg	PHG	Municipal	3 20 0068
Pittsburg	PTS	Atkinson Municipal	3 20 0069
Pleasanton	57K	Gilmore	3 20 0112
Pratt	PTT	Industrial	3 20 0070
Russell	RSL	Municipal	3 20 0071
Satanta	1K9	Municipal Airport	3 20 0101
Scott City	2K9	Municipal Airport	3 20 0073
Smith Center	K82	Municipal	3 20 0076
St Francis	7V3	Cheyenne County Municipal	3 20 0077
Stafford	3TA	Municipal Airport	3 20 0078
Syracuse	3K3	Syracuse-Hamilton County A	3 20 0081
Topeka	TOP	Philip Billard Municipal	3 20 0082
Tribune	5K2	Municipal	3 20 0083
Ulysses	ULS	Ulysses	3 20 0084
Washington	K38	Washington County Memoria	3 20 0086
Wellington	EGT	Municipal	3 20 0087
Winfield/Ark. Cit	WLD	Strother Field	3 20 0090
Washington	K38	Washington County Memoria	3 20 0086
Wellington	EGT	Municipal	3 20 0087
Winfield/Ark. Cit	WLD	Strother Field	3 20 0090

Source: Federal Aviation Administration  
Airport's Division, Kansas City, MO

Chairman Vidricksen and members of the Committee.

I am Bailis Bell, Director of Airports for The Wichita Airport Authority and the current Chairman of the Kansas Aviation Advisory Committee. I am tasked today with providing you a concise briefing on current Federal issues affecting Kansas airports. As with most Federal issues, almost all aviation issues involve money or the lack thereof.

Aviation Trust Fund Authorization and Appropriations

The current Airport Improvement Program authorization and appropriations will expire on September 30 of this year. The program, administered by the Federal Aviation Administration, has been proposed reauthorized through HR 2739, the Aviation Intrastructure Improvement Act, which will be considered by the full house this month.

Highlights of the House Bill are:

1. A three year program with over \$2.1 Billion for airports authorized each year.
2. The minimum allocation for commercial service airports will be \$500,000 per year, up from \$400,000.

3. Airports must report all payments made to other units of government to assure that airports receiving Federal Assistance are not giving money away.

The proposed House Bill does not attempt to reinvent the approach to airport funding.

The difficulty really comes with Appropriations. The House Appropriations Committee is recommending only \$1.5 Billion for FY 94, far below the authorizing Committee's proposal of \$2.1 Billion.

This week may see a resolution to the issue. Many airports may elect to use Passenger Facility Charge financing if considerably less Federal funds become available. Other airports who do not have a large passenger base to subject to the Passenger Facility Charge will have to seek alternate sources of revenue in order to sustain their capital programs.

#### Essential Air Service

The House Appropriations Committee has again neglected to fund subsidized air service to rural America. This affects subsidies for service to Topeka, Dodge City, Garden City, Liberal, Goodland, Hays and Great Bend. KDOT and your Governor have corresponded with the Kansas Congressional Delegation seeking a continuation of the

program. It appears at this point that the program will again have to be rescued by the Senate. However, the program is probably in greater jeopardy of being discontinued right now than at any other time.

If the Essential Air Service program is discontinued, it can be speculated that almost all air service to western Kansas will cease. The airports being served by the subsidized carriers would also receive considerably less Federal Assistance toward capital improvements.

#### General Aviation Manufacturing

Recently the National Commission to Ensure A Strong Competitive Airline Industry recommended to Congress that a statute of repose be enacted limiting the liability of general aviation aircraft manufacturers to 15 years from the time of manufacture. Such a statute would allow manufacturers to again profitably make piston engine aircraft, creating thousands of jobs. Your Kansas Congressional Delegation is continuing to push for the liability relief.

As part of President Clinton's recent tax package, the luxury tax on personal aircraft was eliminated. This change was particularly welcomed by Beechcraft, which makes many of the aircraft affected.



#### GPS (GNSS)

Global Positioning System, or Global Navigation Satellite System, is perhaps the newest and most welcomed technology being made available in a long time. The system, supported by a 24 satellite global net, offers precision navigation, including landings worldwide. The system is in place and can be made available to the world if the world can trust its owner, the U. S. Department of Defense.

#### Dallas/Love Field Restrictions

Many Kansans would like to have the benefits of Southwest Airlines direct to Dallas/Love Field. This is precluded by Federal Law, which is being challenged legally by the Kansas Attorney General in U. S. District Court in Washington, D. C. Legislative efforts to repeal the restrictive law, known as the Wright Amendment, have not been successful.

Thank you.

# SENATE TRANSPORTATION AND UTILITIES

September 2, 1993

## THE NEED FOR STATE ASSISTANCE FOR AIRPORT MAINTENANCE AND DEVELOPMENT

The Federal Aviation Administration currently defines three broad categories of aviation activity: general aviation, certificated air carrier, and military. General aviation includes every type of civil flying other than the certificated air carriers, and as such, the system is characterized by a relatively low profile. Most of the general public enjoy the benefits of the system, while many remain unaware of its existence. The system supports businessmen flying to meetings, plant visits or new site inspections; travelers using commuter airlines to make connections with major airlines; emergencies such as a doctor rushing a badly burned child to a distant hospital; a contractor shipping a needed part for some equipment repair; a farmer spraying or seeding his crops, a rancher receiving cattle serum; and, others transporting from place to place.

In today's economy, transportation plays a key role -- and, the area of air transportation is becoming more and more important. Whether large or small, an airport serves as a base for employment, is a purchaser of goods and services, is an inducement to industrial development, and is an important link in connecting the community with the nation transportation system.

The direct and indirect impact of airports creates a flow of dollars from and through fixed base operators, aerial spray operators, corporate aviation operators and private flyers. As a part of the recently completed Kansas Aviation Systems Plan, it was estimated that the overall annual economic impact of Kansas airports in the State is about \$1.7 billion per year. Of this, about 24 percent or about \$400 million per year is attributable to general aviation usage. (1) Local airports are important in our state for all areas of the economy including agriculture with nearly 75 percent of the State's airports being used for the aerial application of pesticides, fertilizers and seeds. The attached table estimates the economic benefit of the individual general aviation airports in the State system.

Local airports also play an important role in an area's public health network. Air ambulances can transport patients quickly and safely, especially when long distances are involved and time is critical. Local airports provide facilities for both routine and emergency public safety service by public officials, law enforcement agencies, and emergency preparedness organizations.

The above information and much more can be gleaned from the Kansas Aviation System Plan. The plan also indicates that the total system needs maintenance and expansion capabilities. In other words, a funding mechanism.

There are three primary sources of funding for airport maintenance and improvements -- the Federal Aviation Administration, the State and local governments. In most instances, an airport needs about 20 airplanes to receive serious FAA funding consideration.

(1) Kansas Aviation System Plan, December, 1989

Local governments -- both city and county -- have restricted abilities to fund airport maintenance and improvement. Mandates from higher governmental entities, higher profile citizen's demands and revenue restrictions have greatly hindered local government efforts to adequately fund airports. Therefore, many airports have existed on a "get by" level of funding for several years. The funding gap between the FAA and local support must be filled by State assistance.

This year, an extremely hard winter followed by a very wet spring and summer have eroded many of the facilities previously provided by general aviation airports. The prevalent restrictive maintenance funding has placed many general aviation airports in peril. All of you have noted the damage to the roadway system throughout the State due to the harsh weather; the same thing has happened to many airports in the State. And there is no funding mechanism to make the needed repairs.

As an example: The Ellsworth Municipal Airport badly needs a four inch overlay of asphalt to repair damage and seal out further damaging moisture this winter. The overlay estimate for our main runway is \$230,000. That amount is approximately 1/10th of the total City budget for 1994. Based on our assessed valuation, this costs would equate to approximately 33 mills of local ad valorem tax. We don't have that type of funding flexibility and will therefore, attempt a stop gap procedure of sand sealing the surface. We hope that this will slow the deterioration of the surface and preserve the base. Should the surface and base continue to deteriorate, we could lose the entire runway and, thus, the airport. If we lose the airport, we lose a very large investment in our community.

In discussions with other general aviation airports in western Kansas, Ellsworth's problem is not isolated -- others have the same problem. As a State system, we all have a lot invested in general aviation airports across the State. Not only in the physical parts of the airports -- the land, concrete and asphalt and buildings -- but, through the airports an investment in business with a large portion of that in agribusiness; general economic growth; health care both emergency and regular; and the ability to rapidly respond to needs and desires in all areas of the State.

We need a plan to fund the maintenance and expansion of the investment already made. Other states such as Iowa, Texas and Missouri have already installed some mechanism for funding assistance to general aviation airports. Whether through grant or loan program, we believe that its time to establish an assistance program for general aviation airports in Kansas. We need every advantage we can gain -- and, certainly, we need to hold onto all the infrastructure currently in place.

I.D. Creech, City of Ellsworth

ESTIMATES OF ECONOMIC IMPACT BY AIRPORT  
Kansas Aviation Systems Planning Program  
1987

City, airport name	Economic Development Region	Service level <sup>a</sup>	Number of based aircraft <sup>b</sup>	Number of on-airport businesses <sup>c</sup>	Total economic impact (in thousands) <sup>d</sup>
Abilene Municipal <sup>e</sup>	3	GA	19	1	5 3,060
Anthony, Wilcox Field	4	GA	2	2	400
Anthony Municipal	4	GA	11	1	810
Argonia Municipal	4	GA	4	0	240
Ashland, Krier Field	6	GA	12	7	1,850
Atchison, Amelia Earhart	11	GA	19	1	1,160
Atwood, Rawlins City-County	8	GA	25	2	1,140
Augusta Municipal	4	RL	--	6	1,390
Baldwin City Aerodome <sup>e</sup>	1	GA	25	0	520
Belleville Municipal	10	GA	19	3	1,220
Beloit Municipal	10	GA	24	3	1,970
Benton	4	GA	40	1	1,330
Bird City Community	8	GA	1	0	100
Bucklin <sup>e</sup>	6	GA	3	0	90
Burlington Municipal	1	GA	0	0	70
Caldwell Municipal	4	GA	4	1	250
Cawker City	10	GA	0	0	100
Chanute, Martin Johnson <sup>e</sup>	2	GA	18	1	2,080
Cimarron Municipal	6	GA	20	2	730
Clay Center Municipal	3	GA	29	1	2,230
Coffeyville Municipal <sup>e</sup>	2	GA	40	5	3,540
Colby, Shalz Field <sup>e</sup>	8	GA	25	4	1,160
Coldwater, Comanche County <sup>e</sup>	5	GA	4	0	120
Concordia, Blosser Municipal	10	GA	24	3	1,800
Cottonwood Falls, Chase County <sup>e</sup>	3	GA	2	1	120
Council Grove Municipal	3	GA	0	0	110
Derby, Cook Airfield	4	GA	76	1	1,240
Derby, Hamilton Field <sup>e</sup>	4	GA	18	0	440
Dighton	7	GA	7	1	320
Dodge City, Wilroads Gardens	6	GA	4	1	220
Dodge City Regional	6	CM	98	8	2,540
Dorrance, Thielen	9	GA	0	1	70
El Dorado, Patty Field	4	GA	2	1	250
El Dorado Municipal	4	GA	26	4	2,620
Elkhart, Elkhart-Morton County	7	GA	15	3	640
Ellinwood Municipal	5	GA	6	1	340
Ellsworth Municipal	10	GA	8	1	510
Emporia Municipal <sup>e</sup>	3	GA	38	2	3,360
Enterprise, Prichard Airstrip	3	GA	4	1	230
Eureka Municipal	4	GA	14	1	710
Fort Leavenworth, Sherman Army Airfield	1	GA	4	--	2,600
Fort Scott Municipal	2	GA	15	1	2,800
Fowler	6	GA	1	0	150
Fredonia	2	GA	9	0	270
Garden City Municipal	7	CM	66	9	10,330
Gardner Municipal	1	GA	69	4	5,900
Garnett Municipal <sup>e</sup>	1	GA	18	1	1,090
Gas. National	2	GA	0	0	60
Goodland Municipal <sup>e</sup>	8	GA	23	5	2,360
Great Bend Municipal	5	GA	69	15	10,640
Greensburg, Windle Municipal	5	GA	10	1	540
Harper Municipal	4	GA	26	2	820
Haviland, Ballard Municipal	5	GA	8	1	320
Hays Municipal	9	CM	43	1	10,330
Herington Municipal	3	GA	9	4	1,780
Hlawatha Municipal	11	GA	3	0	230
Hill City Municipal	9	GA	21	0	1,170
Hillsboro Municipal	3	GA	6	0	470
Horton Municipal	11	GA	0	0	122
Hoxie, Hoxie-Sheridan County	8	GA	8	3	660

ESTIMATES OF ECONOMIC IMPACT BY AIRPORT (page 2 of 3)  
 Kansas Aviation Systems Planning Program  
 1987

City, airport name	Economic Development Region	Service level <sup>a</sup>	Number of based aircraft <sup>b</sup>	Number of on-airport businesses <sup>c</sup>	Total economic impact (in thousands) <sup>d</sup>
Hugoton Municipal	7	GA	44	2	2,400
Hutchinson Municipal	4	GA	57	4	2,400
Independence Municipal	2	GA	19	2	1,700
Ingalls Municipal	6	GA	2	1	190
Iola, Allen County <sup>e</sup>	2	GA	22	1	790
Iola, Womack	2	GA	2	0	90
Jermore Municipal	6	GA	0	0	70
Johnson, Stanton County Municipal	7	GA	35	3	2,980
Junction City, Marshall AAF	3	GA	--	--	7,480
Junction City Municipal	3	GA	38	3	3,940
Kingman Municipal	4	GA	20	3	1,370
Kinsley Municipal	5	GA	6	2	600
La Crosse, Rush County	5	GA	6	0	230
Lakin	7	GA	11	0	240
Larned, Larned-Pawnee County	5	GA	23	0	1,160
Lawrence Municipal	1	GA	62	4	9,100
Lenora Municipal	9	GA	1	0	80
Leoti, Mark Hoard Memorial <sup>c</sup>	7	GA	11	2	870
Liberal Municipal	7	CM	95	10	11,350
Lincoln Municipal	10	GA	5	1	290
Lucas	9	GA	3	3	1,380
Lyndon, Pomona Lake	1	GA	9	0	200
Lyons, Lyons-Rice County Municipal <sup>e</sup>	4	GA	28	1	1,470
Manhattan Municipal <sup>e</sup>	3	CM	74	7	46,510
Mankato	10	GA	8	1	360
Marion Municipal	3	GA	7	0	310
Marquette, Kanopolis State Park	10	GA	0	0	90
Marysville Municipal	11	GA	9	0	440
McPherson	4	GA	41	3	2,690
Meade Municipal	6	GA	21	1	580
Medicine Lodge	5	GA	14	0	910
Minneapolis City County	10	GA	6	0	250
Moline, Elk County	4	GA	2	0	90
Moundridge Municipal <sup>e</sup>	4	GA	6	0	380
Neodesha Municipal	2	GA	9	1	410
Ness City Municipal	6	GA	16	0	420
Newton City-County	4	RL	--	10	2,250
Norton Municipal	9	GA	12	1	560
Norwich	4	GA	6	0	470
Oakley Municipal <sup>e</sup>	8	GA	27	4	1,750
Oberlin Municipal	8	GA	11	2	930
Olathe, Cedar Air Park <sup>e</sup>	1	GA	5	1	300
Olathe, Johnson County Executive <sup>e</sup>	1	RL	230	16	53,910
Olathe, Johnson County Industrial <sup>e</sup>	1	RL	122	46	154,220
Onaga, Grutzmacher Municipal	3	GA	2	0	250
Osage City Municipal	1	GA	24	1	620
Osawatomie-Paola, The Miami County	1	GA	19	1	1,010
Osborne Municipal	9	GA	8	1	530
Oswego Municipal <sup>e</sup>	2	GA	4	0	130
Ottawa Municipal <sup>e</sup>	1	GA	30	2	1,820
Oxford Municipal	4	GA	7	0	310
Parsons Tri-City	2	GA	14	2	2,040
Phillipsburg Municipal	9	GA	20	3	1,320
Pittsburg, Atkinson Municipal	2	GA	29	3	2,720
Plainville Airpark	9	GA	12	0	610
Pleasanton, Gilmore	1	GA	10	0	260
Prairie View, Van Park	9	CA	0	0	110
Pratt Municipal	5	GA	34	20	5,110
Protection Municipal	5	GA	2	0	120
Russell Municipal	9	GA	14	2	1,520



ESTIMATES OF ECONOMIC IMPACT BY AIRPORT (page 3 of 3)  
 Kansas Aviation Systems Planning Program  
 1987

City, airport name	Economic Development Region	Service level <sup>a</sup>	Number of based aircraft <sup>b</sup>	Number of on-airport businesses <sup>c</sup>	Total economic impact (in thousands) <sup>d</sup>
Sabetha Municipal	11	GA	10	1	490
Salina Municipal	10	CM	85	19	14,460
Satanta Municipal	7	GA	19	0	420
Scott City Municipal	7	GA	23	1	990
Sedan City <sup>e</sup>	4	GA	5	0	100
Seneca Municipal	11	GA	0	0	70
Smith Center Municipal	9	GA	8	2	540
Stafford Municipal	5	GA	10	0	250
Stilwell, Hillside <sup>e</sup>	1	GA	22	2	680
Stockton Municipal	9	GA	2	0	110
St. Francis, Cheyenne County Municipal <sup>e</sup>	8	GA	10	1	380
Syracuse, Hamilton County Municipal	7	GA	10	2	680
Topeka, Forbes Field	1	CM	26	37	51,710
Topeka, Philip Billard Municipal <sup>e</sup>	1	GA	112	37	10,800
Tribune Municipal	7	GA	16	1	370
Ulysses	7	GA	41	3	2,350
WaKeeney, Trego-WaKeeney	9	GA	3	0	240
Wamego Municipal	3	GA	13	0	470
Washington County Memorial	11	GA	3	0	230
Weellington Municipal	4	GA	38	6	3,140
Wichita, Beech Factory	4	GA	74	1	1,330
Wichita, Beech North	4	GA	13	1	370
Wichita, Cassana Aircraft Field	4	GA	18	--	310
Wichita, Col. James Jabara	4	RL	93	3	2,340
Wichita, McConnell Air Force Base	4	GA	88	--	421,440
Wichita, Mid-Continent <sup>e</sup>	4	PR	200	78	700,000
Wichita, Riverside	4	GA	78	2	3,320
Wichita, Westport	4	GA	26	3	1,110
Wichita, Westport Auxiliary	4	GA	4	0	110
Wichita-Maize, Maize	4	GA	9	0	390
Winfield-Arkansas City, Strother Field	4	GA	41	22	7,460
Yates Center	2	GA	4	0	110
Total					\$1,657,780

a. GA: General aviation

RL: General aviation reliever

PR: Commercial service-primary (0.01% or more of all U.S. passengers enplaned in commercial service)

CM: Commercial service-secondary (less than 0.01% of all U.S. passengers enplaned in commercial service)

b. Federal Aviation Administration, Form 5010-1, 1986.

c. Kansas Department of Transportation, "Kansas Airport Directory," June 1987.

d. On-airport enterprise survey, January 1988. The employment and expenditures of nonresponding enterprises were estimated by Peat Marwick.

e. Provided survey data.

Source: Peat Marwick, August 1988.

Prepared Comments  
Federal Aviation Administration  
Central Region  
by  
Joyce L. Harrison

The following is a brief statement of how the present Federal Airport Improvement Program works and some information on the Block Grant Program.

The purpose of the Airport Improvement Program is to promote a safe and efficient nationwide system of public-use airports. The Federal Government has made grants for state and local governments since 1946, and during the last several years the Federal investment in airport infrastructure has been increased substantially to enhance airport safety, capacity, and security.

We view the Kansas Aviation System Plan as the tool to be used in identifying the aviation needs for the state of Kansas. This system plan is continually being updated and can be used as a way to gauge the needs of aviation in Kansas.

In Kansas, there are 350 private and public use airports. Of these, 97 airports are identified in the National Plan of Integrated Airport Systems, which makes them eligible to receive Federal funding for development projects through the Airport Improvement Program. Three of these are large commercial service, five are smaller commercial service, and eight are identified as reliever airports for either Wichita Mid Continent Airport or Kansas City International Airport. This would leave 81 smaller general aviation airports that are eligible for Federal funding of development projects through the Airport Improvement Program. Only 30 of these 81 airports have 20 or more based aircraft, a significant criteria number for funding priorities.

Projects are identified for funding through a Preapplication for Federal Assistance (Preapps) submitted by the sponsor. Currently, 37 of the 81 general aviation airports have Preapps on file in our office. For FY93, these Preapps total approximately \$38 million. Kansas received \$3.4 million in state apportionment funds and an additional \$1.9 million in discretionary funds for FY93. State apportionment funds are allocated according to population and area and will most likely decrease if the national Airport Improvement Program budget is decreased from \$1.8 billion received for FY93 to the proposed budget for FY94 of \$1.5 billion. Also, budget cuts will most likely reduce availability of discretionary funds.

We are not optimistic about Federal funding for development at small general aviation airports (less than 20 based aircraft). There is simply not enough money to reach them.

The purpose of the State Block Grant Pilot Program is to identify administrative functions which might successfully be shifted to or shared with states in carrying out the Airport Improvement Program. The pilot program potentially allows greater state discretion in selecting and managing projects within several categories of Airport Improvement Program funding. The legislation directs the Federal Aviation Administration to conduct a review and report to Congress recommendations for further action relating to state administration of the Airport Improvement Program.

The Block Grant Program currently has seven states participating and we expect more states to be identified in the future. No additional funds are expected to be available under the block grant program. Block grant funds are authorized for administration costs up to one percent of a state's apportionment funds, or \$75,000, whichever is greater.

Development projects are assigned a federal priority code and projects are funded according to the higher priority. Under this priority system, projects are favored which improve safety, assure the integrity of the system, and improve capacity.

The priority code is determined by the airport type, the development category, and add-on factors. The highest priority goes to any development project that is safety related, i.e. aircraft rescue fire fighting equipment, mandatory signs, etc. Preservation of the existing facilities, or reconstruction, carries a higher priority than construction of new facilities and the primary landing surface and associated taxiway have a higher priority than the secondary landing surface, associated taxiway, and apron area. Projects with the lowest priority are service roads, secondary access roads, and fencing.

This priority system for development projects provides a fair and equitable way to designate funds for development projects at airports with higher aviation needs.

Airport maintenance is not eligible under the current legislation. Our office is taking a more active role in assuring that the sponsors abide by the grant assurances in maintaining the airports in a safe and serviceable condition. We have invested millions of dollars for the construction of airport facilities and need to preserve the pavements for the maximum time possible. A regular maintenance program will extend the pavement life and allow the limited funds available to reach more airport development projects.

In order to assume the responsibilities inherent in the block grant program or in an expanded state program, additional personnel resources will be required. Individuals with expertise in pavement evaluation, civil engineering design, construction inspection, and planning need to be identified.

A long term plan identifying needs and resources should to be developed. To some extent this is currently being done with the Kansas Aviation System Plan. However, the work being done through the system plan is currently being contracted with a consultant. For continuity, the system plan work would better be accomplished in house by state personnel with directly assigned aviation duties. This will make them more familiar with aviation in general, the aviation needs for identifying future projects, and eventually being able to drive the program.

Our office reviews the priorities and the projects being presented, determines eligibility, examines the justification, and concurs with proposed projects. There are four people in our office who are essential to this process. They include the state airport engineer, the paving engineer, the programmer, and myself, the planning engineer. It would take at least seven people in our opinion to effectively and efficiently operate the block grant program including the director, clerical, and secretarial staff requirements.



BEFORE THE  
KANSAS SENATE  
COMMITTEE ON TRANSPORTATION AND UTILITIES  
September 2, 1993 - 1:30 p.m.

Comments of R. Lee Metcalfe, Executive Director, Johnson County Airport Commission:

Ladies and Gentlemen of the Committee:

We appear before you today to urge you to consider legislation which would enable local governments who operate public airports to have more direct and affirmative control over land use planning and zoning decisions in the proximity of those airports. We have too many times seen the results of the current lack of coordination among airport operating agencies and their neighboring or overlying land use regulating jurisdictions. Inevitably the interests of the airport, which are in fact the interests of the community it serves, are relegated to secondary concern or are not considered at all by these jurisdictions as they make land use decisions.

Johnson County serves as a prime example of the problem. Johnson County's two airports, which are the second and fourth busiest airports in the state, are islands of county-owned land surrounded by incorporated cities. In the past these cities routinely made land use decisions on property in very close proximity to the airports without even *notifying* the Airport Commission, let alone consulting it! Unless the airport property boundary is within 1,000 feet of the parcel to be rezoned, no notification is required by local regulations.

Even when the Airport Commission has become aware of rezonings and offered input on potential noise and safety impacts, the cities have normally not shown any great concern for the "county" airports. A good example is the recent rezoning of a 400-acre parcel one-half mile north of the Industrial Airport. The property was an inactive farm being offered for sale with "agriculture" zoning. A residential real estate developer took an option on the property subject to getting it rezoned to "residential." The property was at that point not within a city's corporate limits. The developer first attempted to get his zoning through the county planning commission. The county planning commission rejected the rezoning, partly because of the proximity of the airport and the approach/departure corridor of the runway, but *primarily* because of the lack of water and sewer in the area. The developer then went to a city whose corporate limits touched the subject parcel only at a common half-section corner, and requested annexation and rezoning. He was even able to get the city to agree to make the annexation *contingent* upon the rezoning. In spite of presentations made by the Airport Commission emphasizing the close proximity of a busy transport-category airport with an average of thirty-two jet operations per day and a military helicopter unit which routinely flies over the subject parcel at low altitudes, and in spite of recommendations by its own staff against the rezoning (due to the lack of water and sewer), the city approved the rezoning. If the several hundred homes allowed by this rezoning are built, the utility and long-term viability of the Industrial Airport will be severely limited, and the millions of taxpayers' dollars spent on improvements at the airport in the last few years will have been wasted.



In Johnson County's case, and I suspect in the cases of many other Kansas airports, there is no sense of ownership of the airports by the surrounding communities. There has been an attitude among the city officials that the airports are the *county's* problem. There is a perception that the airports serve an elite few who have airplanes as expensive toys. There is no appreciation of the value of the airports as transportation centers and critical components of the local economic engine. The airports are seen by many as nuisances, and there may even be an unspoken desire by those who have other agendas to drive the airports out of business.

I must point out that Johnson County does in fact have specific authority under the statutes to establish the Airport Commission as the zoning authority for all land within one mile of the airport boundaries. This authority has existed since 1967, however the County has been reluctant to use the authority as it would put the Airport Commission in the role of a planning and zoning commission for land within city limits. The County did not think this was an appropriate role for the Airport Commission, and assumed the cities would think likewise. Instead of unilaterally invoking this authority, the County and the Airport Commission have initiated a joint effort with the cities to develop consensus on a set of regulations covering land use within a defined area around the airports which would be mutually adopted by all the jurisdictions. This effort has been underway for over three years with the adoption of regulations having yet to be achieved. We have however been successful in achieving among the city and county planning organizations a much greater understanding of and sensitivity to the noise and safety impacts of airport operations on development around the airports.

Airports are community assets, owned and paid for by the taxpayers. We believe we have a duty to protect those assets for the taxpayers and to see that they are of maximum utility to the community. Unfortunately, we in the airport business have frequently found ourselves having to protect the airports from neighboring communities. We believe an appropriate remedy is to require through state statute that land use regulating jurisdictions take into consideration the noise and safety impacts on neighboring land uses of aircraft operations at and around airports, and that airport operating agencies be given some meaningful leverage in the land use decision process. We know from our experience in Johnson County that simply pitting one local jurisdiction against another with no provision for dispute resolution does not work. In our case, the developer lobby has prevailed in every instance.

I will end with one more short but illustrative anecdote. At a recent public hearing on an update of the master plan for Executive Airport, a woman came up to me and asked why were spending more money on the airport when it was going to be closed. I explained that there was no plan to close the airport and asked where she got the idea. She said she had just bought a \$300,000 home on the east side of the airport and the "real estate lady" told her during the initial showing that the airport was scheduled to be closed soon.

We appreciate this opportunity to share our concerns with you and are prepared to provide any support we can.

SUMMARY OF TESTIMONY

REGARDING SENATE BILL #428

BEFORE THE  
INTERIM SENATE TRANSPORTATION AND  
UTILITIES COMMITTEE

PRESENTED BY THE  
KANSAS HIGHWAY PATROL  
(CAPTAIN BOB GIFFIN)



SEPTEMBER 2, 1993

On behalf of the Superintendent, Colonel Lonnie McCollum, I appear before you today regarding Senate Bill 428 (Appendix A). Although late in the session, the Kansas Highway Patrol requested this bill be introduced. Because of the bill's potential impact on the crime of DUI in Kansas, we asked that it be referred to an interim committee where public, legislative and law enforcement issues could be studied. Senator Vidricksen, thank you for affording us this opportunity.

The offense of Driving Under the Influence (DUI) has cost Kansas millions of dollars and thousands of lives. It remains law enforcement's greatest threat to highway safety. As such, combating this threat has drained our budgets and stretched our manpower resources to the limit. Kansas can no longer afford to foot the bill for DUI offenders and carry the economic burden they create.

Through Senate Bill 428, the Patrol is advocating a program designed to recover a portion of the costs associated with the crime of DUI using a "user fee" approach. Monies generated from this program could then be channelled back into statewide proactive efforts to combat the DUI problem through expanded enforcement efforts, education and prevention programs, and to support those programs, such as chemical analysis, that exist solely because of the DUI problem.

This concept is not a new one. Several states have similar programs (Appendix B). New York, for instance, allocates hundreds of dollars from each DUI conviction to a dedicated fund which is used to support a statewide comprehensive program called "STOP DUI". California bills the DUI offender direct through civil process for agency expenses - on a per hour per officer basis - for costs attributable to a DUI incident. Closer to home, the Missouri legislature enacted a program this year similar to the California model.

Kansas also has a form of cost recovery in effect by virtue of K.S.A. 8-241 (Appendix C), wherein a person **convicted** of DUI must pay a \$25 reinstatement fee, of which 75% goes to fund community based alcohol programs. The money is collected by the court, sent to the state treasurer and credited to a special fund designated for this purpose.

Programs of this nature are constructed in many different forms, however; virtually all are "user" supported. In an April 1992 "Cost of Service/Revenue Analysis" (Report Introduction, Appendix D) report compiled for the Kansas Highway Patrol, the consulting firm of David M. Griffith and Associates stated:

The results of our study indicate that in providing services, there are **significant** (emphasis added) costs incurred which are not being recovered through the agency's current user fee structure...

19-

The Kansas Highway Patrol is a full service state agency which provides high quality services to the citizens of Kansas. Over the past several years, the State of Kansas, and therefore the KHP, have experienced a decline in the growth of major revenue sources, while the citizens have benefited from enhancements to KHP programs.

As a result of these fiscal pressures, the KHP must examine all opportunities for enhanced revenue sources to avoid cutting valuable KHP service levels.

One such opportunity for enhanced revenue sources exists in the form of a DUI cost recovery program. In that regard, the Patrol endorses the concept of Senate Bill 428 but offers a substitute (Appendix E) which we feel represents a more workable piece of legislation.

Features of this "substitute" proposal are as follows:

- \* Creates a \$125.00 administrative fee as a condition of reinstatement for any person whose drivers license is suspended pursuant to K.S.A. 8-1014 (Appendix C) for failing or refusing a blood/breath/urine test.
- \* Fees to be collected by the Department of Revenue and remitted to the State Treasurer. An "Impact DUI" fee fund is created with monies from the fund to be expended for DUI enforcement, education and prevention programs, and chemical analysis programs.
- \* Establishes a five member state board, with members appointed by the Governor, representing the public and law enforcement community for the purpose of allocating "Impact DUI" monies.
- \* Through monetary incentive awards granted by the board, public, private, and criminal justice agencies involved in the prevention, detection, apprehension, prosecution, or other significant DUI related function are encouraged to become aggressively involved in combating the DUI problem. 70% of the funds generated under this proposal would be available for this purpose.
- \* Provides a funding source for on-going DUI related programs sponsored by the Patrol, KBI, KDHE, Attorney General, and Kansas Law Enforcement Training Center.

Based on 1992 data (Appendix F), this proposal has the potential to generate over 2.5 million dollars for use in positively "impacting" the DUI problem in Kansas.

Page Three

In closing, the Kansas legislature has demonstrated time and again its commitment to the prevention of DUI in Kansas. With the passage of .08 B.A.C., tough implied consent provisions, mandatory drivers license suspensions, and no plea bargaining statutes Kansas has some of the most effective laws in the nation with which to combat the DUI problem. This proposal advocates providing the necessary resources needed to carry out those laws fittingly funded by those who contribute most to the problem - the DUI offender.



## Appendices

A .... Senate Bill 428

B .... Synopsis of Other States DUI Cost Recovery Program(s)

C .... K.S.A. 8-241, 8-1013, 8-1014, 8-2,142

D .... Introduction to "Cost of Service/Revenue Analysis"

E .... Substitute Bill Proposal for SB 428

F ..... Statistical Information

G .... DUI Agency Associated Costs for the KHP, KBI and KDHE

## SENATE BILL No. 428

By Committee on Ways and Means

3-24

8 AN ACT relating to drivers' licenses; concerning drivers' licenses  
9 suspended for alcohol or drug-related offenses involving vehicles;  
10 providing for a reinstatement fee and the disposition thereof.  
11

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

13 Section 1. (a) When a person's drivers license has been sus-  
14 pended or revoked pursuant to either K.S.A. 8-1014 or 8-2,142, and  
15 amendments thereto, the person, as a condition of reinstatement,  
16 shall pay a fee of \$125.

17 (b) All moneys received under this section shall be remitted by  
18 the secretary of revenue to the state treasurer, at least monthly,  
19 who shall:

20 (1) Credit 91% of all moneys so received to the highway patrol  
21 DUI fee fund created pursuant to section 2;

22 (2) credit 5% of all moneys so received to the department of  
23 health and environment DUI fee fund, created pursuant to section  
24 3; and

25 (3) credit 4% of all moneys so received to the Kansas bureau of  
26 investigation DUI fee fund, created pursuant to section 4.

27 Sec. 2. There is hereby created in the state treasury the highway  
28 patrol DUI fee fund. All moneys credited to such fund under the  
29 provisions of section 1 or any other law shall be expended for the  
30 enforcement of laws relating to driving under the influence of alcohol  
31 or drugs, drug and alcohol education programs or chemical analysis  
32 programs. The highway patrol is also authorized to reimburse the  
33 expenses of local law enforcement agencies for the enforcement of  
34 laws relating to driving under the influence of alcohol or drugs, in  
35 accordance with guidelines established by the highway patrol. All  
36 expenditures from the highway patrol DUI fee fund shall be made  
37 in accordance with appropriations acts upon warrants of the director  
38 of accounts and reports issued pursuant to vouchers approved by  
39 the superintendent of the Kansas highway patrol or by a person  
40 designated by the superintendent.

41 Sec. 3. There is hereby created in the state treasury the de-  
42 partment of health and environment DUI fee fund. All moneys  
43 credited to such fund under the provisions of section 1 or any other

1 law shall be expended for drug and alcohol education programs or  
2 chemical analysis programs. All expenditures from the department  
3 of health and environment DUI fee fund shall be made in accordance  
4 with appropriation acts upon warrants of the director of accounts and  
5 reports issued pursuant to vouchers approved by the secretary of  
6 health and environment or by a person designated by the secretary.

7 Sec. 4. There is hereby created in the state treasury the Kansas  
8 bureau of investigation DUI fee fund. All moneys credited to such  
9 fund under the provisions of section 1 or any other law shall be  
10 expended for drug and alcohol education programs or chemical anal-  
11 ysis programs. All expenditures from the Kansas bureau of investi-  
12 gation DUI fee fund shall be made in accordance with appropriation  
13 acts upon warrants of the director of accounts and reports issued  
14 pursuant to vouchers approved by the attorney general or by a person  
15 designated by the attorney general.

16 Sec. 5. This act shall take effect and be in force from and after  
17 its publication in the statute book.

## **SAMPLING OF STATES THAT ASSES A FEE TO OFFSET DWI COSTS**

Source: International Association for Chemical Testing, 1991

**ALABAMA:** Upon conviction, a \$25.00 fee is assessed in addition to any other costs and fines and remitted to the Department of Public Safety for the maintenance of the breath alcohol testing program.

**ARIZONA:** A \$25.00 fee is assessed to support the crime lab.

**ARKANSAS:** The Office of Driver Services charges a \$25.00 fee for reinstating a suspended license suspended because of a DWI offense. 40% of the fee goes to the Department of Health Blood Alcohol Program.

**CALIFORNIA:** Drivers convicted of DWI have a maximum liability of \$1,000 for the reimbursement of a public agency's response costs related to "incidents" caused by DWI. This is a civil debt that the government is entitled to recover as compensation.

The CHP's policy is to attempt only to recover expenses when the following criteria are met:

1. The DWI arrest was the result of a traffic crash.
2. DWI was the proximate cause of the accident.
3. The offender was convicted of DWI.

The CHP charges a per hour rate of \$30.00 (based on the bottom-step salary for a traffic officer - \$2521) for each officer that responded.

The offender is billed direct by the agency. Delinquencies are referred to a collection agency.

**COLORADO:** A \$100 fee is collected, in addition to other penalties, upon conviction/diversion for DWI. \$75.00 goes to the "Law Enforcement Assistance Fund" and \$15.00 to the county treasurer. Of the \$75.00 fee, first priority goes to the Department of Health to pay for the costs of lab services and implied consent specialists. Remaining funds are allocated the Office of Transportation Safety and Division of Alcohol and Drug Abuse.

**KENTUCKY:** A \$150 "Service Fee" is assessed for DWI convictions and used for the maintenance of jails in the counties where the offenses occurred (25%), for enforcement activities (26%), for treatment programs (45%), and for furnishing copies of driver history records (4%).

**LOUISIANA:** Upon conviction for DWI, in addition to other costs, a fee of \$75 is assessed. \$50 goes to the agency who performed the blood alcohol chemical analysis and \$25 goes to the agency owning the instrument.

**MINNESOTA:** Upon conviction/diversion of a DWI offense, the court assesses a \$75 chemical dependency fee. The fee is collected by the court and remitted to the state general fund.

**NEW YORK:** The New York program uses 410 grant funds to establish a statewide comprehensive program, "STOP DWI". Hundreds of dollars from each conviction goes into a state dedicated fund, totalling millions of dollars each year. The funds are apportioned annually to each County on a proportional basis. Each county has a STOP DWI Board which submits a comprehensive DWI plan for approval to the State annually allocating the funding to agencies in the County for DWI projects.

**NEVADA:** A \$60 fee is assessed for persons convicted of DWI. The fee is collected through the court and remitted to the county treasurer in counties with a chemical analysis lab. In counties without a chemical analysis lab, the monies are sent to the state chemical testing. The judge may waive or reduce the fee.

**NEBRASKA:** Imposes a \$25 fee, remitted to the agency who owns the chemical analysis equipment used to support the DWI conviction.

**OHIO:** Ohio law has established a "DWI Conviction Fund" with fees collected by the court and remitted to the arresting agency. First offense - \$25, increasing in increments up to \$200 on a fourth conviction. Monies are to be used to fund DWI enforcement programs.

**NORTH CAROLINA:** Assesses a \$25 fee if the defendant has a BAC of .10 or higher or refuses the test. Monies are used to support the state chemical testing program.

**NEW MEXICO:** Upon conviction, assesses a \$35 fee to defray the cost of chemical testing and a \$75 fee to fund community DWI prevention programs and for other "traffic safety purposes".

**RHODE ISLAND:** A \$500 "Highway Assessment Fine" is collected for any DWI conviction. 56% goes to the Department of Mental Health, 54% to the Department of Transportation. Funds are to be used for screening, drug treatment, and enforcement.

**UTAH:** A \$50 fee is assessed on all DWI convictions. Fees are remitted to the state general fund to finance DWI programs.



8-241. LICENSEE MUST SUBMIT TO EXAMINATION, WHEN; EXAMINATION AND REIN-  
STATEMENT FEES; DISPOSITION OF MONEYS; NOTICE; RESTRICTION, SUSPENSION OR  
REVOCATION OF LICENSE, WHEN. (a) Except as provided in K.S.A. 1990 Supp.  
8-2,125 through 8-2,142, and amendments thereto, any person licensed to operate  
a motor vehicle in this state shall submit to an examination whenever: (1) The  
division of vehicles has good cause to believe that such person is incompetent  
or otherwise not qualified to be licensed; or (2) such person has been  
convicted of a violation of K.S.A. 8-1567 and amendments thereto.

(b) When a person is required to submit to an examination pursuant to  
subsection (a)(1), the fee for such examination shall be in the amount provided

by K.S.A. 8-240, and amendments thereto. When a person is required to submit  
to an examination pursuant to subsection (a)(2), the fee for such examination  
shall be \$5. In addition, any person required to submit to an examination  
pursuant to subsection (a)(2) shall be required, at the time of examination, to  
pay a reinstatement fee of \$25. All examination fees collected pursuant to  
this section shall be disposed of as provided in K.S.A. 8-267, and amendments  
thereto. All reinstatement fees collected pursuant to this section shall be  
remitted to the state treasurer, who shall deposit the entire amount in the  
state treasury and credit 75% to the community alcoholism and intoxication  
programs fund created pursuant to K.S.A. 41-1126, and amendments thereto and  
25% to the juvenile detention facilities capital improvements fund created by  
K.S.A. 1990 Supp. 38-556, and amendments thereto.

(c) When an examination is required pursuant to subsection (a), at least  
five days' written notice of the examination shall be given to the licensee.  
The examination administered hereunder shall be at least equivalent to the  
examination required by subsection (e) of K.S.A. 8-247, and amendments thereto,  
with such additional tests as the division deems necessary. Upon the  
conclusion of such examination, the division shall take action as may be  
appropriate and may suspend or revoke the license of such person or permit the  
licensee to retain such license, or may issue a license subject to restrictions  
as permitted under K.S.A. 8-245, and amendments thereto.

(d) Refusal or neglect of the licensee to submit to an examination as  
required by this section shall be grounds for suspension or revocation of the  
license. (effective 5-30-91)

8-2,142. SAME; DISQUALIFICATION FROM DRIVING COMMERCIAL VEHICLE; SUSPENSION, REVOCATION OR CANCELLATION OF LICENSE. (a) A person is disqualified from driving a commercial motor vehicle for a period of not less than one year upon a first occurrence of any one of the following:

- (1) The person's conviction of a violation of section 1 of this act;
  - (2) leaving the scene of an accident involving a commercial motor vehicle driven by the person;
  - (3) the person's conviction of using a commercial motor vehicle in the commission of any felony as defined in this act; or
  - (4) the person's test refusal or test failure, as defined by subsection (i).
- (b) If any offenses, test refusal or test failure specified in subsection (a) occurred while transporting a hazardous material required to be placarded, the person is disqualified for a period of not less than three years.
- (c) A person shall be disqualified for life upon the second or a subsequent occurrence of any offense, test refusal or test failure specified in subsection (a), or any combination thereof, arising from two or more separate incidents.
- (d) The secretary of revenue may adopt rules and regulations establishing guidelines, including conditions, under which a disqualification for life under subsection (c) may be reduced to a period of not less than 10 years.
- (e) A person is disqualified from driving a commercial motor vehicle for life who uses a commercial motor vehicle in the commission of any felony involving the manufacture, distribution or dispensing of a controlled substance, or possession with intent to manufacture, distribute or dispense a controlled substance.
- (f) A person is disqualified from driving a commercial motor vehicle for a period of not less than 60 days if convicted of two serious traffic violations, or 120 days if convicted of three serious traffic violations, committed in a commercial motor vehicle arising from separate incidents occurring within a three-year period.
- (g) After suspending, revoking or canceling a commercial driver's license, the division shall update its records to reflect that action within 10 days. After suspending, revoking or canceling a nonresident commercial driver's privileges, the division shall notify the licensing authority of the state which issued the commercial driver's license or nonresident commercial driver's license within 10 days.

(h) Upon suspension, revocation, cancellation or disqualification of a commercial driver's license under this act, the license shall be immediately surrendered to the division if still in the licensee's possession. If otherwise eligible, and upon payment of the required fees, the licensee may be issued a noncommercial driver's license for the period of suspension, revocation, cancellation or disqualification of the commercial driver's license under the same identifier number.

(i) As used in this section, "test refusal" means a person's refusal to submit to and complete a test requested pursuant to section 2 of this act; "test failure" means a person's submission to and completion of a test which determines that the person's alcohol concentration is .04 or greater, pursuant to section 2 of this act. (effective 5-30-91)

8-1013. DEFINITIONS. As used in K.S.A. 8-1001 through 8-1010, 8-1011, 8-1012, section 2 of 1988 House Bill No. 2760 and sections 7, 12, 18 and 19, and amendments thereto, and this section:

(a) "Alcohol concentration" means the number of grams of alcohol per 100 milliliters of blood or per 210 liters of breath.

(b) (1) "Alcohol or drug-related conviction" means any of the following: (A) Conviction of vehicular battery or aggravated vehicular homicide, if the crime is committed while committing a violation of K.S.A. 8-1567 and amendments thereto or the ordinance of a city or resolution of a county in this state which prohibits any acts prohibited by that statute, or conviction of a violation of K.S.A. 8-1567 and amendments thereto; (B) conviction of a violation of a law of another state which would constitute a crime described in subsection (b)(1)(A) if committed in this state; or (C) conviction of a violation of an ordinance of a city in this state or a resolution of a county in this state which would constitute a crime described in subsection (b)(1)(A), whether or not such conviction is in a court of record.

(2) For the purpose of determining whether an occurrence is a first, second or subsequent occurrence: (A) "Alcohol or drug-related conviction" also includes entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging commission of a crime described in subsection (b)(1) which agreement was entered into during the immediately preceding five years, including prior to the effective date of this act; and (B) it is irrelevant whether an offense occurred before or after conviction or diversion for a previous offense.

(c) "Division" means the division of motor vehicles of the department of revenue.

(d) "Ignition interlock device" means a device which uses a breath analysis mechanism to prevent a person from operating a motor vehicle if such person has consumed an alcoholic beverage.

(e) "Occurrence" means a test refusal, test failure or alcohol or drug-related conviction, or any combination thereof arising from one arrest, occurring in the immediately preceding five years, including prior to the effective date of this act.

(f) "Other competent evidence" includes: (1) Alcohol concentration tests obtained from samples taken two hours or more after the operation or attempted operation of a vehicle; and (2) readings obtained from a partial alcohol concentration test on a breath testing machine.

(g) "Samples" include breath supplied directly for testing, which breath is not preserved.

(h) "Test failure" or "fails a test" refers to a person's having results of a test administered pursuant to this act, other than a preliminary screening test, which show an alcohol concentration of .10 or greater in the person's blood or breath.

8-1014. SUSPENSION AND RESTRICTION OF DRIVING PRIVILEGES FOR TEST REFUSAL, TEST FAILURE OR ALCOHOL OR DRUG-RELATED CONVICTION. (a) Except as provided by subsection (d) and K.S.A. 1989 Supp. 8-2,142, and amendments thereto, if a person refuses a test, the division, pursuant to K.S.A. 8-1002, and amendments thereto, shall suspend the person's driving privileges for one year:

(b) Except as provided by subsection (d) and K.S.A. 1989 Supp. 8-2,142, and amendments thereto, if a person fails a test, the division, pursuant to K.S.A. 8-1002, and amendments thereto, shall:

(1) On the person's first occurrence, suspend the person's driving privileges for 30 days, then restrict the person's driving privileges as provided by K.S.A. 1989 Supp. 8-1015, and amendments thereto, for an additional 60 days; and

(2) on the person's second or a subsequent occurrence, suspend the person's driving privileges for one year.

(c) Except as provided by subsection (d) and K.S.A. 1989 Supp. 8-2,142, and amendments thereto, if a person has an alcohol or drug-related conviction in this state, the division shall:

(1) On the person's first occurrence, suspend the person's driving privileges for 30 days or until the person has completed educational and treatment programs required by the court, whichever is longer, then restrict the person's driving privileges as provided by K.S.A. 1989 Supp. 8-1015, and amendments thereto, for an additional 330 days; and

(2) on the person's second or a subsequent occurrence, suspend the person's driving privileges for one year or until the person has completed the treatment program required by the court, whichever is longer.

(d) Except as provided in K.S.A. 1989 Supp. 8-2,142, and amendments thereto, if a person's driving privileges are subject to suspension pursuant to this section for a test refusal, test failure or alcohol or drug-related conviction arising from the same arrest, the period of such suspension shall not exceed the longest applicable period authorized by subsection (a), (b) or (c), and such suspension periods shall not be added together or otherwise imposed consecutively. In addition, in determining the period of such suspension as authorized by subsection (a), (b) or (c), such person shall receive credit for any period of time for which such person's driving privileges were suspended while awaiting any hearing or final order authorized by this act.

If a person's driving privileges are subject to restriction pursuant to this section for a test failure or alcohol or drug-related conviction arising from the same arrest, the restriction periods shall not be added together or otherwise imposed consecutively. In addition, in determining the period of restriction, the person shall receive credit for 150 days of any period of suspension imposed for a test refusal arising from the same arrest.

(e) If the division has taken action under subsection (a) or (b) and such action is stayed pursuant to K.S.A. 8-259, and amendments thereto, or if temporary driving privileges are issued pursuant to subsection (k) of K.S.A. 8-1002, and amendments thereto, the stay or temporary driving privileges shall not prevent the division from taking the action required by subsection (c).

(f) Upon restricting a person's driving privileges pursuant to this section, the division shall issue without charge a driver's license which shall indicate on the face of the license that restrictions have been imposed on the person's driving privileges and that a copy of the order imposing the restrictions is required to be carried by the person for whom the license was issued any time the person is operating a motor vehicle on the highways of this state. If the person is a nonresident, the division shall forward a copy of the order to the motor vehicle administrator of the person's state of residence. (effective 1-1-91)

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## I. INTRODUCTION

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The Kansas Highway Patrol is a full service state agency which provides high quality services to the citizens of Kansas. Over the past several years, the State of Kansas, and therefore the KHP, have experienced a decline in the growth of major revenue sources, while the citizens have benefited from enhancements to KHP programs.

As a result of these fiscal pressures, the KHP must examine all opportunities for enhanced revenues or new revenue sources to avoid cutting valuable KHP service levels. This study represents one of the agency's strategies to alleviate this revenue pressure.

At the present time, the KHP, like many State Agencies, charges fees for some services provided. Many of those fees, however, are prescribed by statute or regulation and have not been updated for a number of years. The KHP also provides some services to users without charge.

Fee revenue received is generally not a significant part of the KHP's total revenues. As a result, it is extremely difficult to match revenues and expenditures at the fee for service level without special cost analysis.

To help offset subsidies of services by not only the KHP but all State Agencies as well, the State of Kansas is interested in increasing revenue by means of a Statewide User Fee Study. This study details the current costs of services provided to outside users where fees, rates, or charges are in place or could potentially be implemented. This study will not only provide the tool for understanding the level of the services that are currently being provided, but will also detail the cost and demand for those services in order to determine what user fees can and should be charged.

Revenues from user fees can be an appropriate means of achieving revenue enhancement for state agencies. Many times one or more of the following conditions exist before a full cost user fee study is undertaken in an agency:

- Current user fees are set far below the actual cost of providing the services.
- No fees are being charged for services which could generate revenue.
- Current fee structure and policy have not been set with full knowledge of the relationship between the value of a service and the amount of the fee.



Providing certain public services at cost can have numerous benefits to the agency and the citizens served:

- User fees are paid by all service users, including those exempt from property taxes.
- User fees are paid by non-residents, reducing the burden on state residents.
- User fees create a "rationing" of services and allow for the measurement of demand.

It is for these reasons that state and local governments all over the United States are shifting from a near-total dependence on property, sales and income taxes for financing services to a more broad-based revenue stream. Although there may be political reaction to increasing fees for services that were previously free or heavily subsidized, state and local governments are becoming aware that user charges can be a more acceptable method of raising revenue than an increase in taxes.

BILL NO. \_\_\_\_\_

AN ACT relating to drivers' licenses; concerning drivers' licenses suspended for alcohol or drug related offenses involving vehicles; providing for a reinstatement fee and the disposition thereof; creating the state impact DUI program board; establishing the impact DUI program fund; providing for impact DUI incentive grants.

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

Section 1. (a) When a person's driver's license has been suspended or revoked pursuant to either K.S.A. 8-1014 or 8-2,142, and amendments thereto, the person, as a condition of reinstatement, shall pay a fee of \$125.

(b) All moneys received under this section shall be remitted by the secretary of revenue to the state treasurer, at least monthly, who shall credit the entire amount to the impact DUI program fund created pursuant to section 2.

Sec. 2. (a) There is hereby established in the state treasury the impact DUI program fund to be administered by the state impact DUI board created pursuant to section 3. All moneys credited to such fund under the provisions of section 1 or any other law shall be expended for the enforcement of laws relating to driving under the influence of alcohol or drugs, drug and alcohol education and prevention programs or chemical analysis programs.

(b) All expenditures from the impact DUI program fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson of the state impact DUI board or a person designated by the chairperson.

(c) On the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the impact

DUI program fund, the amount of money certified by the pooled money investment board in accordance with this subsection. Prior to the 10th of each month, the pooled money investment board shall certify to the director of accounts and reports the amount of money equal to the proportionate amount of all the interest credited to the state general fund for the preceding period of time specified under this subsection, pursuant to K.S.A. 75-4210a, and amendments thereto, that is attributable to money in the impact DUI program fund. Such amount of money shall be determined by the pooled money investment board based on:

(1) The average daily balance of moneys in the impact DUI program fund during the period of time specified under this subsection as certified to the board by the director of accounts and reports; and

(2) the average interest rate on repurchase agreements of less than 30 days' duration entered into by the pooled money investment board for that period of time. On or before the fifth day of the month for the preceding month, the director of accounts and reports shall certify to the pooled money investment board the average daily balance of moneys in the impact DUI program fund for the period of time specified under this subsection.

Sec. 3. (a) There is hereby created the state impact DUI program board which shall consist of five members which shall include:

(1) The superintendent of the Kansas highway patrol or the superintendent's designee;

(2) a chief of police, to be selected by the governor, from a list of three nominees submitted by the Kansas association of chiefs of police;

(3) a sheriff, to be selected by the governor, from a list of three nominees submitted by the Kansas sheriffs' association;

(4) a county or district attorney, to be selected by the governor, from a list of three nominees submitted by the county and district attorneys' association; and

(5) a member representing the public-at-large, selected by the governor.

(b) Each person initially appointed to a position described in subsection (a)(2) or (a)(3) shall serve for a one-year term and thereafter the term of members appointed to such positions shall be two years. Each person appointed to a position described in subsection (a)(4) or (a)(5) shall serve for a two-year term. A person appointed to a position on the board shall resign such position upon vacating the office or position which qualified such person to be appointed as a member of the board in that position. Vacancies in any position shall be filled in the same manner as original appointments.

(c) The chairperson of the board shall be elected by the board from among its members. The board shall meet at such times designated upon the call of the chairperson.

(d) Members of the board attending meetings of the board, or attending a subcommittee meeting thereof authorized by the board, shall be paid amounts provided in subsection (e) of K.S.A. 75-3223, and amendments thereto.

(e) The superintendent of the highway patrol shall provide office and meeting space and such clerical and other staff assistance as may be necessary to assist the board in carrying out its powers, duties and functions under this act.

Sec. 4. (a) The state impact DUI board shall annually allocate moneys credited to the impact DUI program fund as follows:

(1) At least 11% of all such moneys, but not to exceed \$280,000, to the Kansas department of health and environment to support operating costs of the breath alcohol program;

(2) at least 6.5% of all such moneys, but not to exceed \$170,000, to the Kansas highway patrol to support operating costs of the statewide breath analysis and training program;

(3) at least 7.5% of all such moneys, but not to exceed \$193,000, to the Kansas bureau of investigation to support operating costs of the forensic laboratory's chemical analysis

program;

(4) at least 2% of all such moneys, but not to exceed \$50,000, to the Kansas law enforcement training center to support the education and training of Kansas law enforcement officers in the detection and apprehension of persons driving under the influence of alcohol or drugs; and

(5) at least 3% of all such moneys, but not to exceed \$65,000, to the attorney general to support the crime victims reparations program and victims of traffic accidents related to persons driving under the influence of alcohol or drugs.

(b) The remainder of moneys credited to the impact DUI program fund, but not allocated as prescribed in subsection (a), shall be utilized for impact DUI incentive grants. Such incentive grants may be requested by any public, private or criminal justice agency involved in the prevention, detection, apprehension, prosecution or other significant function whose purpose it is to impact driving under the influence of alcohol or drugs in Kansas.

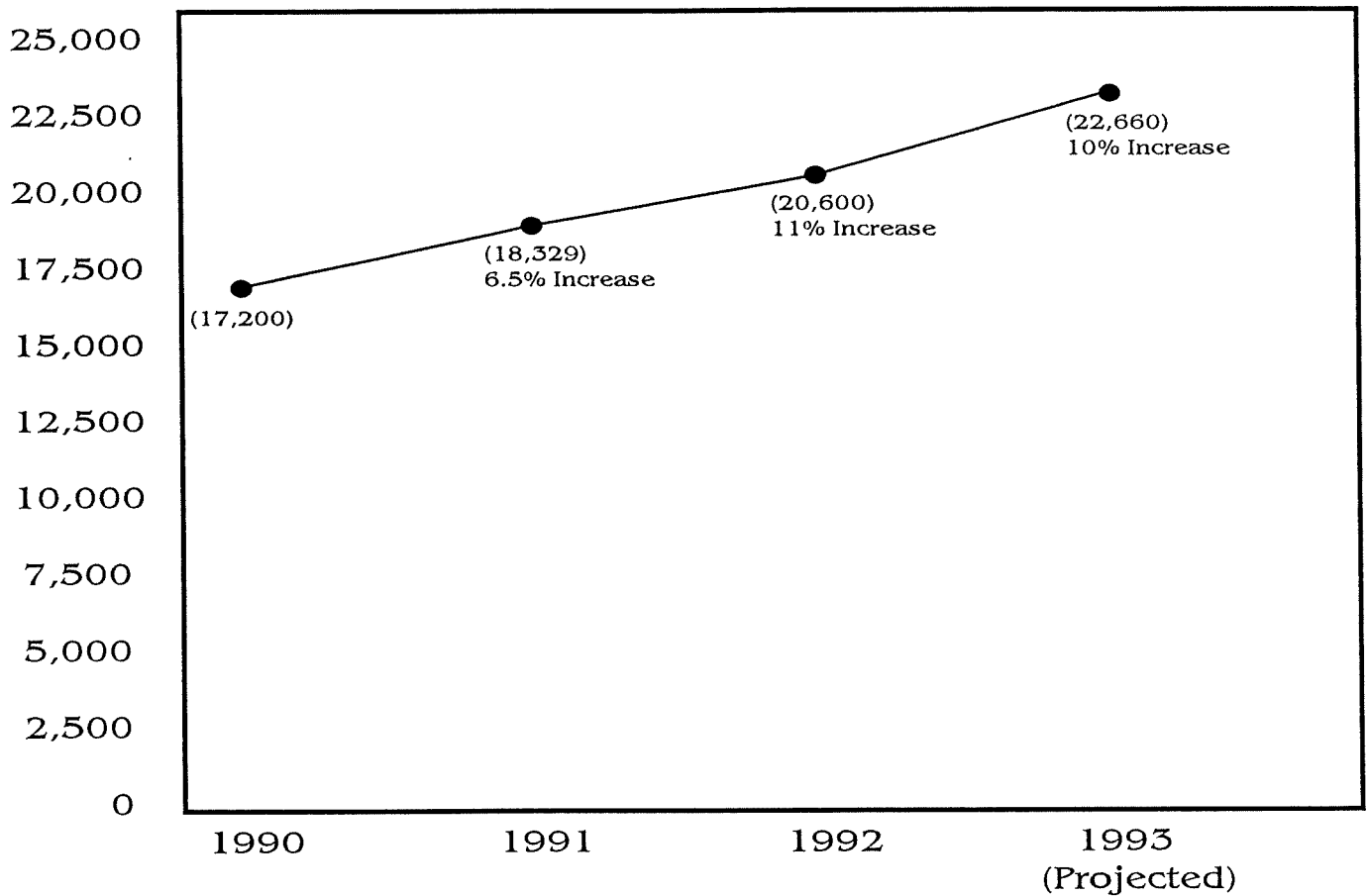
(c) The board shall develop guidelines and criteria for the awarding of impact DUI incentive grants.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.



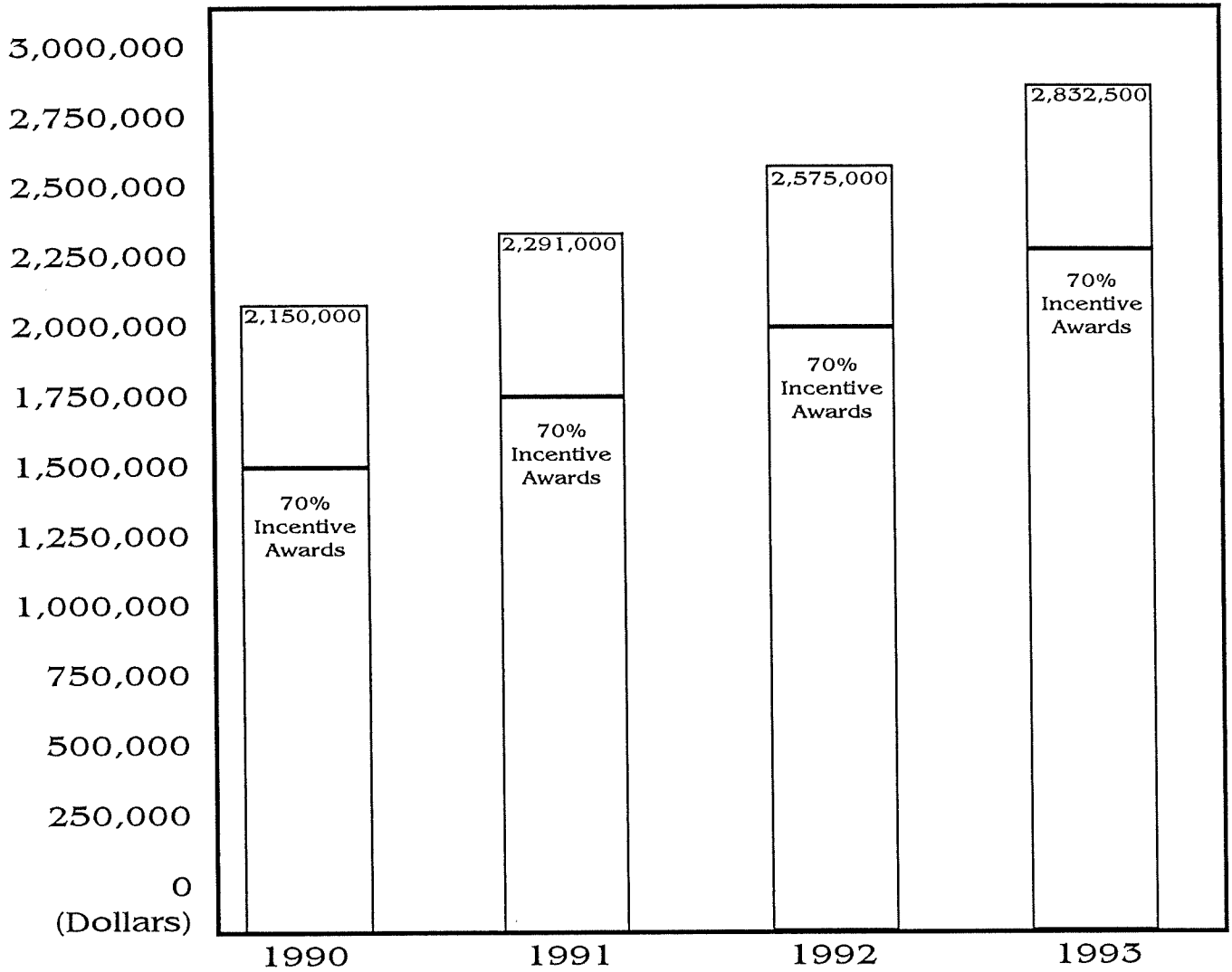
ADMINISTRATIVE SUSPENSIONS  
FOR  
CHEMICAL TEST FAILURES/REFUSALS

(Pursuant to K.S.A. 8-1014 and 8-2,142)



SOURCE: Kansas Department of Revenue

# "IMPACT DUI" ANNUAL FUNDING POTENTIAL

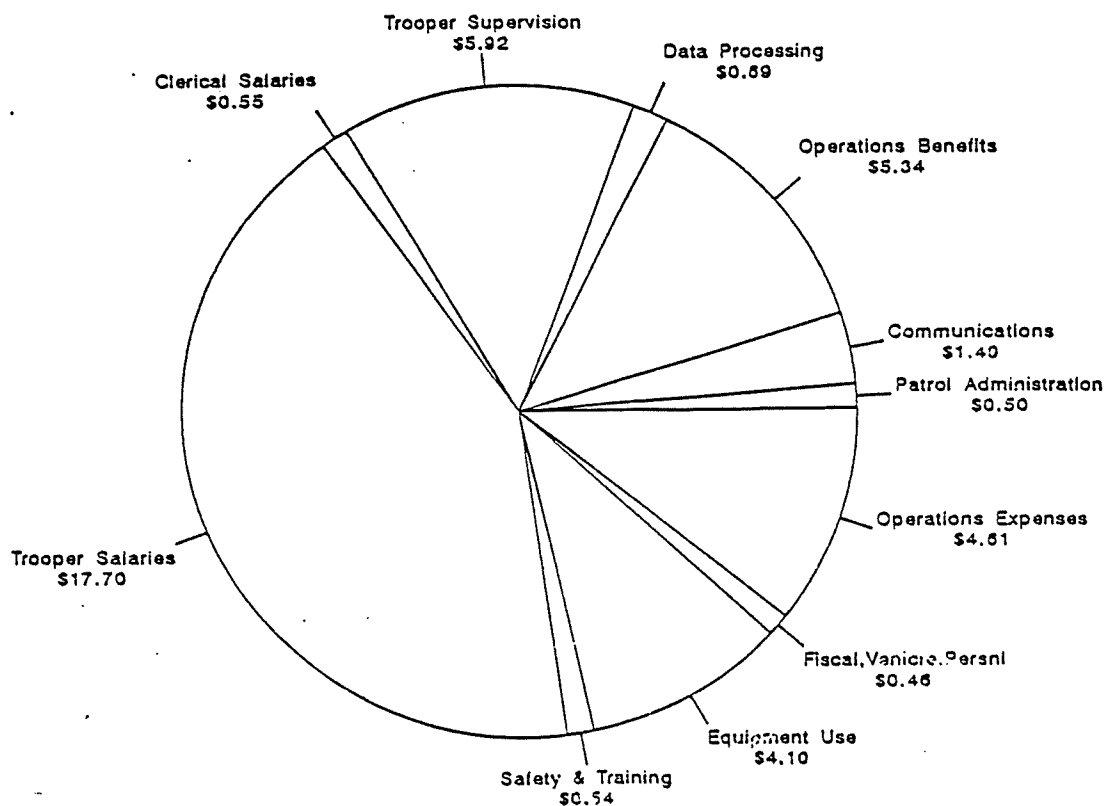


**Note:** Figures are based on the number of chemical test failures/refusals  
x \$125.00

KHP Cost Analysis: DMG has calculated the full cost KHP Trooper hourly rate to be \$42. The components of the hourly rate are broken down and displayed below:

## TROOPER HOURLY RATE

### \$42 HOUR





ROBERT B. DAVENPORT  
DIRECTOR

# KANSAS BUREAU OF INVESTIGATION

DIVISION OF THE OFFICE OF ATTORNEY GENERAL  
STATE OF KANSAS  
1620 TYLER  
TOPEKA, KANSAS 66612-1837  
(913) 232-6000



ROBERT T. STEPHAN  
ATTORNEY GENERAL

The Kansas Bureau of Investigation, Forensic Laboratory's Toxicology Section Operating Cost Estimations for Driving Under the Influence Cases.

Toxicology Section's Operating costs are based upon case type. The classification is based upon the type of offense committed in the case. Each different classification requires a specific exam or set of exams with each exam consisting of various tests.

Driving Under the Influence cases are classified a 4 different case types:

DUI Blood Alcohol cases (XA)  
DUI Urine Drug cases (XU)  
DUI Blood Drug cases (XD)  
Vehicular Fatalities (XF)

<u>Case Type</u>	<u>Cost per Case*</u>	<u>Total # Analyzed in FY'92</u>	<u>Total</u>
XA	\$35.00	2682	\$93,870.00
XU	\$60.00	736	\$44,160.00
XD	\$210.00	65	\$13,650.00
XF	\$265.00	153	\$40,545.00

Total DUI related expenditures: \$192,225.00

The costs incurred by DUI testing accounts for 67% of Toxicology's total operating budget and 71% of the section's personnel resources.

\* Cost per Case is an estimation based in part upon data determined by Legislative Post-Audit.

KANSAS HEALTH AND ENVIRONMENTAL LABORATORY  
STATE GENERAL REVENUE COST OF BREATH ALCOHOL PROGRAM  
EXPENDITURES FY93

STATE \$ ONLY	8401*	8440	TOTAL
	Administration	Br Alcohol	
100 Salaries	\$10,543	\$108,150	\$118,693
200 Communications	\$490	\$18,696	\$19,186
210 Freight & Express	\$0		\$0
220 Printing & Adv	\$4	\$1,200	\$1,204
230 Rents	\$40	\$120	\$160
240 Repairing & Servicing	\$73	\$1,200	\$1,273
250 Travel	\$8	\$5,640	\$5,648
260 Fees	\$44		\$44
290 Other Contractual	\$4		\$4
300 Clothing			\$0
310 Feed & Forage			\$0
340 Maintenance Materials			\$0
360 Professional Supplies	\$12	\$1,560	\$1,572
370 Office Supplies	\$232	\$1,200	\$1,432
390 Other Supplies			\$0
400 Capital Outlay	\$100	\$121,680	\$121,780
950 Out-of-State Travel	\$65	\$5,400	\$5,465
LABORATORY TOTALS	\$11,616	\$264,846	\$276,462

FTE

0.2

3.3

3.5

\* 10% of Unit Activity Costs



# KANSAS HIGHWAY PATROL

*Service—Courtesy—Protection*

AUG 10 1993

KANSAS HIGHWAY PATROL

Joan Finney  
Governor

August 6, 1993



Col. Lonnie R. McCollum  
Superintendent

SUBJECT: Operating Cost of Maintaining the Breath Alcohol Unit

TO: Captain Robert Giffin  
Headquarters - Topeka

As per our meeting on July 6, 1993, the estimated cost to maintain the Breath Alcohol Unit at its current level of performance, with the addition of one secretary and additional equipment to enhance the program, is as follows:

Salaries for two secretaries	\$43,800.00	
Two vans @ \$14,250	\$28,500.00	(This would go down to one van per year after the first year.)
Ten (10) Simulators @ \$400.00	\$4,000.00	(This would go down to 5 per year after the first year.)
One (1) Intoxilyzer 5000/year	\$5,395.00	
Miscellaneous Supplies	\$10,000.00	(Paper, Pencils, Binding Material, etc. We prepare approximately 2,500 training manuals/year @ approximately \$3.00/manual.)
Repair Parts & Tools	\$6,000.00	(We repair both the Intoxilyzer & the P.B.T.)
Per Diem (i.e.: Schools that we teach & training we need to keep current)	\$8,000.00	(This figure would go down if most training is conducted at Marymount. We would still be required to do some training in the field.)

122 SW SEVENTH STREET  
TOPEKA, KANSAS 66603-3847  
(913) 296-6800 FAX (913) 296-5956

19-25

August 6, 1993  
B.A.U. Funding  
Page Two

D.U.I. Enforcement Lanes	\$20,000.00	(Overtime & equipment money to conduct the 60 check lanes that were performed in 1993.)
Commodities	\$11,000.00	(Fuel, maintenance, oil, etc.)
Preliminary Breath Instruments (25 @ \$400.00)	\$10,000.00	(This would go down to 10/year at a cost of \$4,000.00.)
Postage	\$750.00	
Copy Machine	\$12,000.00	(This cost would be eliminated after the first year.)
Maintenance Agreement on Copier	\$3,000.00	
Computer w/Laser Printer	\$6,500.00	(This cost would be eliminated after the first year and may not be needed at all if the new Patrol computer will handle work load.)

The total cost to maintain the Breath Alcohol Unit and the few enhancements mentioned above would be \$168,945.00. Each year after that the cost would be \$126,200.00. This does not take into account inflation and/or growth that the Patrol has in mind.

The uniformed Patrol members would continue to be budgeted out of the Patrol's budget.

I hope this information is helpful, and I would welcome any questions that you might have.



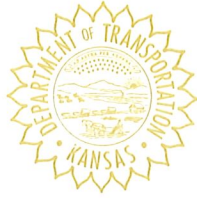
DAVID D. CORP, Master Trooper  
Troop J, Wichita

DDC/slr

cc: Lt. Woods  
File

SECRETARY I - RANGE 13  
 SEN COST PER YEAR  
 AS OF 8-10-93 PAGES

	CLASSIFICATION	RANGE 13			TOTAL FY 94	TOTAL FY 95
		STEP A	STEP B	STEP C		
		6 mo.	6 mo.	12 mo		
1	SECRETARY I	1316			7896	
2			1349		8094	
3				1354		16248
4						
5	TOTAL - GROSS SALARY				15990	16248
6						
7	ADD: MATCHING BENEFITS:					
8	KPERS		3.1%	3.2%	496	520
9	FICA		7.65%	7.65%	1223	1243
10	NCI		1.70%	1.70%	272	276
11	UCI		.30%	.30%	48	49
12	RETIREMENT SICK LV.		.35%	.17%	56	28
13	RETIREMENT ANNUAL LV. (N.A.)			.14%		23
14	EMP. GHI		\$2492.24/YR	\$2492.04/YR	2492	2498
15	FAMILY GHI		682.56/YR	977.64/YR	683	978
16						
17	TOTAL - SEN				21260	21863
18						
19	MONTHLY AVERAGE, IF YOU NEED TO CALCULATE					
20	LESS THAN 1 YEAR				177167	182192
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Michael L. Johnston  
Secretary of Transportation

KANSAS DEPARTMENT OF TRANSPORTATION

Docking State Office Building  
Topeka 66612-1568  
(913) 296-3566  
FAX - (913) 296-1095

Joan Finney  
Governor of Kansas

TESTIMONY BEFORE  
SENATE TRANSPORTATION AND UTILITIES COMMITTEE  
  
REGARDING  
DRUG OFFENDER'S DRIVER'S LICENSE SUSPENSION

September 3, 1993

Mr. Chairman and Committee Members:

Mr. Chairman and members of the committee, I am William Watts, Chief of Management and Budget. On behalf of the Department of Transportation, I am here today to provide testimony regarding the federal requirement for driver's license sanctions against drug offenders.

OVERVIEW.

Section 159 of the Department of Transportation and Related Agencies Appropriations Act for 1991, as amended, requires the withholding of certain federal-aid highway funds from states that do not enact and enforce legislation requiring the revocation or suspension of an individual's driver's license upon conviction of any violation of the Controlled Substances Act (P.L. 91-513, as amended) or any drug offense. Each state shall certify annually to the U.S. Secretary of Transportation that it meets the requirements of 23 U.S.C. 159.

The states that do not meet the requirements of Section 159 by October 1, 1993, will have 5 percent of certain federal-aid highway funds withheld from its funds apportioned on October 1, 1993 (FFY 1994).

If a state remains out of compliance as of October 1, 1994, 5 percent is to be withheld from its funds apportioned on October 1, 1994 (FFY 1995).

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If a state remains out of compliance as of October 1, 1995, 10 percent of the designated funds will be permanently withheld (lost) from its funds apportioned on October 1, 1995 (FFY 1996), and each year thereafter.

As soon as a state is found in compliance, funds withheld prior to October 1, 1995 -- which have not lapsed -- will be released to the state. I have attached a chart indicating the financial impact of Kansas' noncompliance. (Attachment A) Also attached is the estimated apportionments and funds to be withheld for FFY 1994 through FFY 1997 as well as a chart showing funds estimated to be lost through FFY 1999. (Attachment B and C)

#### BACKGROUND.

The 1993 Kansas legislature considered proposals for both a resolution (waiver) and legislation.

Senate Concurrent Resolution, SCR 1611, was passed by the Senate on March 1, 1993. The House Transportation Committee amended and passed the Resolution out of the Committee. However, it did not receive sufficient votes on the floor of the House to pass. The resolution has been approved by U.S. Department of Transportation, National Highway Traffic Safety Administration (NHTSA), for compliance with the Act. A copy of both versions of SCR 1611 is attached for your reference. (Attachment D and E)

Senate Bill 294 was referred to the Senate Transportation and Utilities Committee with no action taken by the committee. NHTSA has approved a proposed bill submitted by this agency which has been slightly modified to meet compliance with the Act. A copy of the proposed bill is attached for your reference. (Attachment F)

#### CURRENT STATUS.

State compliance:

Kansas will not comply with the requirements of Section 159 by September 30, 1993.

Total estimated withholding of FFY 1994 Apportionments: \$7.7 million.

If Kansas remains out of compliance after September 30, 1994:  
Total estimated additional withholding of FFY 1995 Apportionments: \$7.9 million.

If Kansas remains out of compliance after September 30, 1995:  
Total estimated loss of FFY 1996 Apportionments: \$13.9 million.



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If Kansas remains out of compliance after September 30, 1996:  
Total estimated additional loss of Apportionments: \$15.9 Million  
(\$2.0 Million FFY 1994 Apportionments and \$13.9 Million FFY 1997 Apportionments)

If Kansas remains out of compliance after September 30, 1997:  
Total estimated additional loss of Apportionments: \$21.6 Million  
(\$7.7 Million FFY 1994 Apportionments, \$2.0 Million FFY 1995 Apportionments and \$13.9 Million FFY 1998 Apportionments.)

If Kansas remains out of compliance after September 30, 1998:  
Total estimated additional loss of Apportionments: \$19.9 Million  
(\$5.9 Million FFY 1995 Apportionments and \$13.9 Million FFY 1999 Apportionments.)

If Kansas remains out of compliance after September 30, 1999:  
Total estimated additional loss of Apportionments : \$13.9 Million  
(And \$13.9 Million each year thereafter.)

Total estimated loss through calendar year 2000: \$99.1 Million.

National compliance:

As of August 18, 1993, 33 states/territories have official compliance with Section 159.

Seven (7) states and the territory of Puerto Rico have complied through legislation, 25 states through resolution. A list is attached for your reference. (Attachment G)

#### COMPONENTS OF THE LAW.

The state must enact and enforce a law that requires:

- The revocation or suspension for at least six months, of the driver's license of any individual who is convicted after the enactment of such law, of
  - any violation of the Controlled Substances Act, or
  - any drug offense, and
- A delay in the issuance or reinstatement of a driver's license to such an individual for at least six months after the individual applies for the issuance or reinstatement of a driver's license if the individual does not have a driver's license, or the driver's license of the individual is suspended at the time the individual is so convicted.

#### COMPONENTS OF THE RESOLUTION (WAIVER).

The Governor of the state must:

- Submit to the U.S. Secretary of Transportation a written certification stating that she is opposed to the enactment or enforcement in the state of a law described above, and

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- Submit to the U.S. Secretary of Transportation a written certification that the legislature has adopted a resolution expressing its opposition to a law described above.

The Act provides for the flexibility in the wording of the resolution and the certification statement by the governor. If the state legislature opposes enactment or enforcement of a law that meets the Section 159 criteria, they may express their opposition in their own words. I have attached a copy of the resolution submitted by the State of Idaho which has been approved for compliance. (Attachment H) It is an example of that flexibility.

CERTIFICATION AS A RESULT OF ENACTING THE LAW.

Compliance with the Act via legislation includes an enforcement criterion. The initial certification shall include:

- An enforcement plan describing the steps the state is taking, or plans to take, to enforce the law with regard to out-of-state convictions, within state convictions, federal convictions, and juvenile adjudications.

In subsequent years' certification:

- A state would be required to amend or supplement its original submission if it had qualified under the enforcement criterion of this regulation by submitting a plan and had failed to make progress under its plan in subsequent years, or the plan had changed significantly.

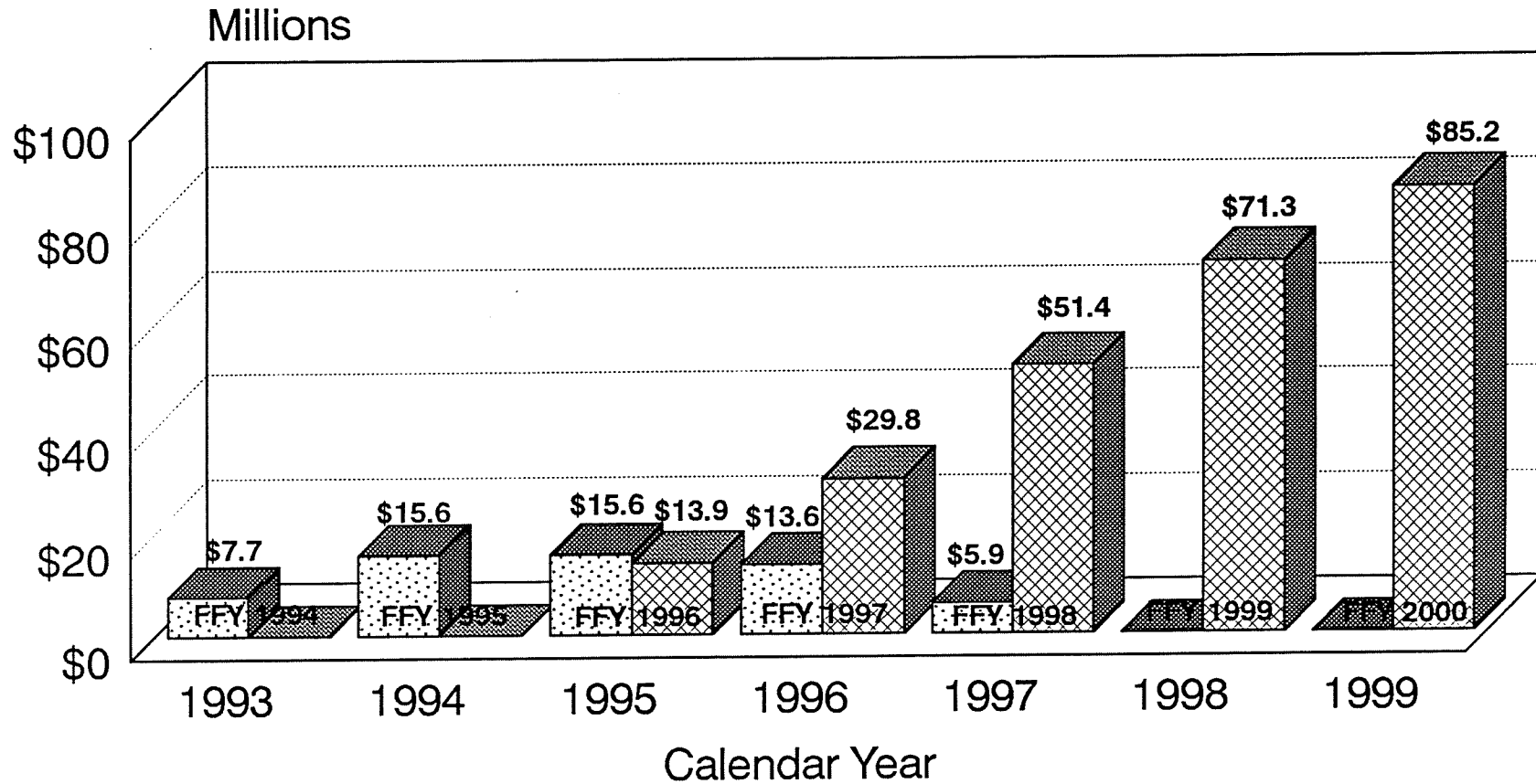
IMPLEMENTATION COSTS.

This federal mandate is imposed upon the states without federal funding to implement the provisions of the legislation. We do recognize that some additional costs will be borne by the state to implement the legislation under the Act.

# Drug Sanction

## Cumulative Impact of Noncompliance

Certification required prior to the beginning of the Federal Fiscal Year



**Federal Apportionments**

Withheld But Restorable
  Lost\*

FFY 1994 and 1995 withheld funds remain available for release for a limited period of time if the State comes into compliance with the federal mandate. Noncompliance results in the permanent loss of withheld funds.

\*Amounts lost represent permanent loss of funds withheld in the current or prior Federal Fiscal Years.

## DRUG OFFENDER'S DRIVER'S LICENSE SUSPENSION PROGRAM

Following is the Division of Planning and Development's estimate of the total funds (in millions of dollars) which will be withheld if the statutory requirements of the Drug Offender's Driver's License Suspension Program are not met. Funds withheld in FFY 1994 and 1995 will remain available for apportionment for a period of time if the State eventually meets requirements for compliance. Funds withheld from apportionments after September 30, 1995 (FFY 1996, FFY 1997 and beyond), will not be restored and will be lost as of the first day of the respective Federal fiscal year.

	FFY 1994	FFY 1995	FFY 1996	FFY 1997
<b>I Maintenance</b>	\$39.5	\$39.5	\$39.5	\$39.5
<b>NHS</b>	48.1	48.1	48.2	48.2
<b>STP</b>	51.5	51.5	51.5	51.5
<b>Hold Harmless</b>	14.5	19.1	0.0	0.0
<b>Total</b>	153.6	158.2	139.2	139.2
<b>% Transferred</b>	5.0%	5.0%	10.0%	10.0%
<b>TRANSFER AMT</b>	\$7.7	\$7.9	\$13.9	\$13.9

**Note:** Although FHWA's Advanced Notice of Apportionments for FFY 1994 has recently been released, the amounts for IM, NHS, and STP do not vary greatly from the estimates shown above. The Advanced Notice does not include an amount for HH funds as these funds cannot be determined until the actual close of FFY 1993. For these reasons, the Division of Planning and Development recommends using the above estimates for FFY 1994, until the actual data becomes available.

### LATEST DATE TO QUALIFY FOR RELEASE OF FUNDS BEFORE FUNDS LAPSE

PENALTY/FED. FISCAL YR.	INTERSTATE MAINTENANCE	NHS & STP
FFY 1994 Apportionment 5% Penalty	September 30, 1996	September 30, 1997
FFY 1995 Apportionment 5% Penalty	September 30, 1997	September 30, 1998
FFY 1996 & Thereafter Apportionment 10% Penalty	Apportionment Lost	Apportionment Lost

**ESTIMATED AMOUNTS OF FUNDS LOST BY YEAR  
DUE TO DRUG SANCTION NONCOMPLIANCE**  
(\$s in millions)

Program/ Year of Apport.	Year Funds Are Lost					
	FFY 1994	FFY 1995	FFY 1996	FFY 1997	FFY 1998	FFY 1999
<b>I Maint.</b>						
FFY '94				2.0		
FFY '95					2.0	
FFY '96			4.0			
FFY '97				4.0		
FFY '98					4.0	
FFY '99						4.0
<b>NHS</b>						
FFY '94					2.4	
FFY '95						2.4
FFY '96			4.8			
FFY '97				4.8		
FFY '98					4.8	
FFY '99						4.8
<b>STP*</b>						
FFY '94					3.3	
FFY '95						3.5
FFY '96			5.2			
FFY '97				5.2		
FFY '98					5.2	
FFY '99						5.2
<b>TOTAL LOST</b>	<b>0.0</b>	<b>0.0</b>	<b>13.9</b>	<b>15.9</b>	<b>21.6</b>	<b>19.9</b>

\* Includes amounts estimated for Hold Harmless.

Note: Totals may not add due to rounding



As Passed by Senate 3-1-93

Session of 1993

## Senate Concurrent Resolution No. 1611

By Committee on Transportation and Utilities

2-11

8 A CONCURRENT RESOLUTION expressing the Kansas Legisla-  
 9 ture's opposition to Federal legislation requiring revocation or  
 10 suspension of drivers' licenses for any drug-related offense.  
 11

12 WHEREAS, The United States Congress has enacted legislation  
 13 mandating the withholding of certain federal-aid highway funds from  
 14 any state that fails to favorably act upon state legislation related to  
 15 the revocation or suspension of the driver's license of any person  
 16 convicted of a drug-related offense; and

17 WHEREAS, The imposition of federal-aid highway fund sanctions  
 18 inappropriately attempts to override state prerogatives by coercing  
 19 states into enacting specific legislation addressing drug abuse; and

20 WHEREAS, The Kansas Legislature is opposed to the federal law  
 21 requiring the revocation or suspension of the driver's license for any  
 22 person convicted of a drug offense unrelated to the operation of a  
 23 motor vehicle; and

24 WHEREAS, The federal law further provides that a state may  
 25 avoid loss of federal-aid highway funds if the state legislature enacts  
 26 a resolution expressing opposition to such legislation and the Gov-  
 27 ernor conveys the Governor's opposition and the legislature's reso-  
 28 lution to the United States Secretary of Transportation; and

29 WHEREAS, The state of Kansas has elected to comply with this  
 30 Congressional legislation by expressing opposition to the enactment  
 31 of state legislation related to the revocation or suspension of the  
 32 driver's license of any person convicted of a drug-related offense:  
 33 Now, therefore,

34 *Be it resolved by the Senate of the State of Kansas, the House of*  
 35 *Representatives concurring therein:* That the Kansas Legislature op-  
 36 poses enactment or enforcement in the State of Kansas of a federally  
 37 mandated law relating to revocation, suspension, issuance or rein-  
 38 statement of drivers' licenses of convicted drug offenders as described  
 39 in 23 U.S.C. 104(c)(3)(A); and

40 *Be it further resolved:* That this resolution be prepared and de-  
 41 livered to the Governor of the State of Kansas and that the Governor  
 42 submit to the United States Secretary of Transportation:

43 (1) A written certification that the Governor of the State of Kansas  
 1 is opposed to the enactment or enforcement of a law related to the  
 2 revocation or suspension of a person's driver's license for any drug-  
 3 related offense; and

4 (2) a duly authenticated copy of this resolution as passed by the  
 5 Kansas Legislature.

6 *Be it further resolved:* That copies of the documents provided  
 7 to the United States Secretary of Transportation also be transmitted  
 8 to the President of the United States, the President of the Senate  
 9 and the Speaker of the House of Representatives of the United States  
 10 Congress and to the Kansas Congressional delegation.

## As Amended by House Committee

Session of 1993

## Senate Concurrent Resolution No. 1611

By Committee on Transportation and Utilities

2-11

9 A CONCURRENT RESOLUTION expressing the Kansas Legisla-  
10 ture's opposition to Federal legislation requiring revocation or  
11 suspension of drivers' licenses for any drug-related offense.

12  
13 WHEREAS, The United States Congress has enacted legislation  
14 mandating the withholding of certain federal-aid highway funds from  
15 any state that fails to favorably act upon state legislation related to  
16 the revocation or suspension of the driver's license of any person  
17 convicted of a drug-related offense; and

18 WHEREAS, ~~The~~ The Kansas Legislature believes that strong  
19 measures should be enacted and enforced against persons convicted  
20 of drug-related offenses, but the imposition of federal-aid highway  
21 fund sanctions inappropriately attempts to override state prerogatives  
22 by coercing states into enacting specific legislation addressing drug  
23 abuse; and

24 WHEREAS, The Kansas Legislature is opposed to the fed-  
25 eral law requiring the revocation or suspension of the driver's  
26 license for any person convicted of a drug offense unrelated  
27 to the operation of a motor vehicle; and

28 WHEREAS, The Kansas Legislature believes that the adoption  
29 of this resolution is only an interim measure until stronger legis-  
30 lation can be developed and enacted; and

31 WHEREAS, The federal law further provides that a state may  
32 avoid loss of federal-aid highway funds if the state legislature enacts  
33 a resolution expressing opposition to such legislation and the Gov-  
34 ernor conveys the Governor's opposition and the legislature's reso-  
35 lution to the United States Secretary of Transportation; and

36 WHEREAS, The state of Kansas has elected to comply with this  
37 Congressional legislation by expressing opposition to the enactment  
38 of state legislation related to the revocation or suspension of the  
39 driver's license of any person convicted of a drug-related offense:  
40 Now, therefore,

41 *Be it resolved by the Senate of the State of Kansas, the House of*  
42 *Representatives concurring therein:* That the Kansas Legislature op-  
43 poses enactment or enforcement in the State of Kansas of a federally  
1 mandated law relating to revocation, suspension, issuance or rein-  
2 statement of drivers' licenses of convicted drug offenders as described  
3 in 23 U.S.C. 104(c)(3)(A); and

4 *Be it further resolved:* That this resolution be prepared and de-  
5 livered to the Governor of the State of Kansas and that the Governor  
6 submit to the United States Secretary of Transportation:

7 (1) A written certification that the Governor of the State of Kansas  
8 is opposed to the enactment or enforcement of a law related to the  
9 revocation or suspension of a person's driver's license for any drug-  
10 related offense; and

11 (2) a duly authenticated copy of this resolution as passed by the  
12 Kansas Legislature.

13 *Be it further resolved:* That copies of the documents provided  
14 to the United States Secretary of Transportation also be transmitted  
15 to the President of the United States, the President of the Senate  
16 and the Speaker of the House of Representatives of the United States  
17 Congress and to the Kansas Congressional delegation.

From	Donnie Zie
Co.	
Phone #	
Fax #	

PROPOSED BILL NO. \_\_\_\_\_

AN ACT concerning crimes and punishments; providing for the suspension of a person's driver's license for conviction of drug offense; amending K.S.A. 8-256 and repealing the existing section.

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

New Sec. 1. (a) As used in this section:

(1) "Division" means the division of vehicles of the department of revenue;

(2) "driver's license" means any license to operate a motor vehicle issued under the laws of this state;

(3) "drug offense" means any criminal offense which proscribes: (A) The possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance the possession of which is prohibited under the uniform controlled substances act K.S.A. 65-4101 through 65-4141, and amendments thereto, or under K.S.A. 65-4159, and amendments thereto; or (B) the operation of a motor vehicle under the influence of any substance the possession of which is prohibited under the uniform controlled substances act K.S.A. 65-4101 through 65-4141, and amendments thereto.

(b)(1) If a person is convicted of any drug offense the division shall:

(A) Suspend the person's driver's license for a period of at least six months; or

(B) delay the issuance or reinstatement of such person's driver's license for a period of at least six months after the person applies for the issuance or reinstatement of such person's driver's license if the person does not have a driver's license,

or the driver's license of the person is canceled, suspended, or revoked at the time the person is convicted.

(b)(2) For the purpose of this subsection a conviction shall include an adjudication entered in a court having jurisdiction of juvenile offenses and offenders.

(c) The provisions of this section are mandatory and shall not be altered by any term or provision of sentencing or probation.

(d) The director, upon notification of a conviction of a person holding a Kansas driver's license in any federal court, shall suspend the driver's license of such person as required by this section unless it appears that the federal court, in such court's sentence, imposed a suspension for conviction of a drug offense as required by this section.

(e) The suspension required by this section shall be in addition to any other suspension imposed under K.S.A. 8-252, and amendments thereto, unless it appears that the reporting state has, in such state's sentence, imposed a suspension for conviction of a drug offense as required by this section. The maximum allowable term of suspension provided for by K.S.A. 8-252, and amendments thereto, shall be extended in any case where required to effect the suspension required by this section.

(f) If a person is convicted under K.S.A. 8-1567, and amendments thereto, of a drug offense, as defined under paragraph (B) of paragraph (3) of subsection (a), the provisions of this section shall apply and shall be in addition to any other penalty permitted for conviction under K.S.A. 8-1567, and amendments thereto.

(g) Nothing in this section shall preclude the suspension of a person's driver's license for a period longer than six months.

Section 2. K.S.A. 8-256 is hereby amended to read as follows: 8-256. (a) The division shall not suspend a person's license to operate a motor vehicle on the public highways for a period of more than one year, except as permitted under K.S.A.

~~40-3104-and-40-3118,-and-amendments-thereto,--and~~ K.S.A. 8-262,  
8-1219, 8-2107 or, 8-2110, ~~and--amendments--thereto-or-K.S.A.~~  
8-2,125 through 8-2,142, 40-3104 and 40-3118, and amendments  
thereto, and section 1 of this act.

(b) Any person whose license to operate a motor vehicle on the public highways has been revoked shall not be entitled to have such license renewed or restored unless the revocation was for a cause which has been removed, except that after the expiration of one year from the date on which the revoked license was surrendered to and received by the division such person may make application for a new license as provided by law, except as otherwise provided by K.S.A. 8-2,142, and amendments thereto, but the division shall not then issue a new license unless and until it is satisfied after investigation of the habits and driving ability of such person that it will be safe to grant the privilege of driving a motor vehicle on the public highways.

Sec. 3. K.S.A. 8-256 is hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

**NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION  
REGIONAL OPERATIONS  
DRUG OFFENDER'S DRIVER'S LICENSE SUSPENSION RULE  
SECTION 159**

**STATES/TERRITORIES APPROVED FOR SATISFYING THE RULE**

DATE: August 18, 1993

RESOLUTION	LEGISLATION
Arizona	Arkansas
Alaska	Florida
Colorado	Iowa
Connecticut	Mississippi
Hawaii	Texas
Idaho	Virginia
Louisiana	Wisconsin
Maine	Puerto Rico (Territory)
Minnesota	
Missouri	
Montana	
Nebraska	
Nevada	
New Hampshire	
New Mexico	
North Dakota	
Oregon	
Rhode Island	
South Dakota	
Tennessee	
Utah	
Vermont	
Washington	
West Virginia	
Wyoming	



## IN THE HOUSE OF REPRESENTATIVES

## HOUSE CONCURRENT RESOLUTION NO. 33

## BY WAYS AND MEANS COMMITTEE

## A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS, CERTIFYING LEGISLATIVE OPPOSITION TO THE FEDERAL MANDATE PERTAINING TO THE REVOCATION OR SUSPENSION OF DRIVING PRIVILEGES OF CONVICTED DRUG OFFENDERS, AND REQUESTING THAT THE GOVERNOR OF THE STATE OF IDAHO JOIN IN CERTIFYING HIS OPPOSITION TO THE FEDERAL MANDATE.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, in recent years the number of federal "riders" or conditions attached to federal funds earmarked for the states has increased dramatically; and

WHEREAS, these riders threaten the states with subsequent loss of the federal funds if they do not adopt certain policies or laws; and

WHEREAS, according to the National Governors' Association, states currently face thirteen different financial penalties under which they can lose from five to one hundred percent of their highway funds for failure to comply with federal requirements; and

WHEREAS, the government of the United States has a difficult time conceiving of the proposition that each state is a sovereign general purpose government and the proposition that the government of the United States is a limited purpose government; and

WHEREAS, it is imperative that the State of Idaho assist in the education of the government of the United States with regard to the concept of sovereignty of the states; and

WHEREAS, under the provisions of Section 333 of the Department of Transportation and Related Agencies Appropriations Act of 1991, the Congress of the United States has mandated that the Secretary of Transportation is required to withhold five percent of a state's portion of the federal aid to highways funds where the state has not enacted a law which complies in every respect with the federal concept of revoking or suspending the driving privileges of convicted drug offenders; and

WHEREAS, under the provisions of Section 333 of the Department of Transportation and Related Agencies Appropriations Act of 1991, the Congress of the United States has provided that so as not to lose its federal aid to highways funds a state's legislature may adopt a resolution expressing its opposition to being coerced by the federal government into enacting a law to revoke or suspend the driving privileges of convicted drug offenders; and

WHEREAS, in order not to lose federal aid to highways funds, the governor of the state must also certify to the Secretary of Transportation that his state is opposed to being forced by the federal government into the enactment and enforcement of a law revoking or suspending the driving privileges of convicted drug offenders solely for the purpose of avoiding federal sanctions.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Idaho Legislature certifies to the Secretary of Transportation, under the provisions of Section 333 of the Department

1 of Transportation and Related Agencies Appropriations Act of 1991, that it is  
2 opposed to the enactment and enforcement of a law relating to the revocation,  
3 suspension, issuance and reinstatement of the driving privileges of persons  
4 convicted of violations of the Idaho Uniform Controlled Substances Act simply  
5 for the purpose of complying with another federal mandate; and

6 BE IT FURTHER RESOLVED that the Idaho Legislature, so as not to lose fed-  
7 eral aid to highways funds, and in order to help the government of the United  
8 States understand its limited mission, urges the Governor of the State of  
9 Idaho also to certify to the Secretary of Transportation that this state is

10 opposed to being forced by the federal government to enact and enforce a law  
11 revoking or suspending the driving privileges of convicted drug offenders; and

12 BE IT FURTHER RESOLVED that certified copies of this Concurrent Resolution  
13 be transmitted to the Secretary of Transportation, the President of the Senate  
14 and the Speaker of the House of Representatives of Congress, the congressional  
15 delegation representing the State of Idaho in the Congress of the United  
16 States and the Governor of the State of Idaho.

20-15

STATE OF KANSAS

Betty McBride, Director  
Robert B. Docking State Office Building  
915 S.W. Harrison St.  
Topeka, Kansas 66626-0001



(913) 296-3601  
FAX (913) 296-3852

Department of Revenue  
*Division of Vehicles*

**TO:** Honorable Rex Crowell, Chairman  
Members of the House Transportation Committee

**FROM:** Betty McBride, Director, Division of Vehicles  
Kansas Department of Revenue

**DATE:** September 3, 1993

My name is Betty McBride. I am the Director of Vehicles, and I appear before you on behalf of the Kansas Department of Revenue in support of Senate Concurrent Resolution No. 1611.

Senate Concurrent Resolution No. 1611 is a resolution which allows the Legislature, with the Governor's concurrence, to adopt a resolution that exempts the state from compliance with the federal mandate requiring states to suspend for six months the driver license of anyone convicted of a drug related offense, without the loss of federal highway funds.

Failure to adopt this resolution will require the enactment of a state law which requires the suspension of driving privileges for six months of anyone convicted of drug related offense. The Federal Government has mandated that this measure be implemented no later than October 1, 1993, or states will lose 5 to 10% of their federal highway funds. If such a law is adopted, it will increase suspensions in the Driver Control Bureau by approximately 10,000 a year. In order to process an increase in the workload of this magnitude, I am asking that additional personnel be allocated to the Driver Control Bureau.

However, if Senate Concurrent Resolution 1611 is adopted, no further action is needed. So far 24 states have passed a resolution and 11 states have passed enactment statutes. The remaining states have not taken any action to date.

Thank you for allowing me to appear before this committee.

I would stand for your questions.

SENATE TRANSPORTATION

September 3, 1993

Attachment 2



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN  
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215  
CONSUMER PROTECTION: 296-3751  
TELECOPIER: 296-6296

**TESTIMONY**  
**KYLE G. SMITH, ASSISTANT ATTORNEY GENERAL**  
**KANSAS BUREAU OF INVESTIGATION**  
**BEFORE THE SENATE TRANSPORTATION COMMITTEE**  
**SEPTEMBER 3, 1993**

Mr. Chairman and Members of the Committee:

Through Legislative Research this Committee has requested that the Attorney General's Office brief this committee regarding the constitutionality of drug offenders drivers license suspension laws. I'm happy to be here to provide information, but I need to make it clear this is not a formal Attorney General's opinion. If such is desired after this hearing, one can be requested in writing and the Attorney General would be happy to respond.

As the committee is aware, Section 333 of Public Law 102-143 and 23 C.F.R. Part 1212 requires states, at the risk of loss of a percentage of federal highway funds, to either enact a state statute mandating the suspension of a person's drivers license on conviction for offenses under the Uniform Controlled Substances Act or adopt a resolution stating the legislature and governor are opposed to enactment or enforcement of such a law.

In the Department of Transportation's final rule, the National Highway Traffic Safety Administration (NHTSA) and Federal Highway

Administration (FHWA) discuss the question of constitutionality in the context of questions raised by the American Civil Liberties Union and various states during the public hearing process. Briefly put, the ACLU claimed that such criminal statutes would violate the due process clause of the United States Constitution. The ACLU position was rejected by the NHTSA and FHWA in adopting the final rule.

My research has indicated that the courts that have dealt with the question of a drug offender's driver's license suspension law have unanimously held such statutes to be constitutional.

The Kansas Supreme Court recently reviewed the rules to be applied now analyzing the constitutionality of such a statute.

The constitutionality of a statute is presumed, all doubts must be resolved in favor of it's validity, and before this statute may be stricken down, it must clearly appear the statute violates the constitution.

A statute is not to be invalidated by the judicial arm of government if the challenged statute does not contravene significant constitutional or inherrent rights of individuals, the classification on which it is based is reasonable, it is within the scope of the police powers of the state, and it is appropriately related to proper purpose of such police power.

In challenging the constitutionality of a statute, the test for whether due process has been afforded is whether the legislation has a real and substantial relation to the objective sought, whether it is reasonable in relation to the subject, and whether it was adopted in the interest of the community. In re Marriage of Soden, 251 Kan. 255, syllabus 1, 2 & 5, (1992).

In Kansas, as in most states, the ability to operate a motor vehicle upon the public roads is considered a privilege, not a significant and inherrent constitutional right.

A legislature has broad discretion to enact measures for the protection of the public health, safety and welfare, and the courts may

not substitute their judgement for that of the legislature as to the nature and extent of the measures necessary to accomplish the purpose. State ex rel v. Fairmont Foods Company, 196 Kan. 73, 76 (1966).

Avowed purposes of the states which have adopted drug offender drivers license suspension laws include: deterring or preventing the commission of drug offenses, deterring drug usage, making travel more difficult for those involved in drug trafficking, and promoting highway safety. In my opinion and in the opinion of the appellate courts that have reviewed these types of statutes in other states, the sanction of suspending drivers licenses is reasonably related to these governmental objectives. State of New Jersey v. Smith, 276 A2d 369 (1971); State v. Day, 84 Or.App. 291, 733 P2d 937, 939 (1987); State v. Light, 592 So. 2d 1202, 1204 (Fla. Dist. Ct. Ap. 1992); Rushworth v. Registrar of Motor Vehicles, 413 Mass. 265, 596 N.E. 2d 340, 344 (1992); and People v. Zinn, 843 P.2d 1351, 1354 (Colo. 1993). In all these cases such statutes were found to be constitutional when challenged under the due process clause of the Fifth and Fourteenth Amendments of the United States Constitution.

Assuming that such legislation is adopted in the interest of Kansas for the purposes of deterring or preventing the possession, use or sale of controlled substances, combating substance abuse, reducing the demand for controlled substances, or promoting highway safety, it would seem clear that such a statute would be constitutional as having a real and substantial relation to those objectives and being reasonably related to accomplishing such objectives.

I would be happy to answer any of your questions.