

Approved

Date

Fred Kerr 2/29/84

MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS

The meeting was called to order by Senator Fred Kerr at _____
Chairperson

10:00 a.m. ~~pm~~ on Tuesday, February 28, 1984, 19__ in room 423-S of the Capitol.

All members were present ~~except~~

Committee staff present: Raney Gilliland, Research Department
Jim Wilson, Revisor's Office

Conferees appearing before the committee:

Senator Ed Roitz
Rep. Lawrence Wilbert
Jim Yonally, NFIB, Overland Park
Bud Grant, KCCI
Bill Curtis, Kansas Association of School Boards
James Cobler, Dpt. of Adm., Div. of Accounts & Reports
Arthur Griggs, Attorney, Department of Administration

Senator Norvell moved the February 23, 1984 minutes be approved, seconded by Senator Karr. Motion carried.

SENATE BILL 295 - Senator Kerr stated this bill had been heard last year but there were a number of requests to reconsider the bill this year. Senator Roitz called attention to Attachments 1 and 2 setting out that states must improve their payment practices, just as the Federal government is now doing which makes more competition for state business, better prices, improved image, savings for the taxpayer and reduced paperwork and bureaucracy. Attachment 2 is a reprint from the Nation's Business, August 1983. He suggested the bill be amended to include all governmental entities including counties, cities and school boards. Fourteen states already have similar laws on the books, following the action by the federal government. He pointed out the House of Representatives had considered a similar bill last year.

Representative Wilbert stated he supported statements made by Senator Roitz. He stated that particularly small businesses need a cash flow; sometimes they don't receive payment for 60-90 days and then without interest.

Jim Yonally called attention to page 2, subsection (c) which sets out if a bill is paid within 45 days no interest would be charged; after 45 days, interest would be at the rate of 1.5% per month. He also called attention to changing the year 1984 to 1985 on lines 88 and 97. He informed the committee in instances where the vendor had contacted the Department of Revenue relative to late payments they received good cooperation. He would urge all governmental agencies to be as prompt as they can be in making payments. There was some discussion relative to the date to be used in determining interest, on line 50. Senator Warren suggested deleting lines 97 through 106 on page 3.

Bud Grant stated KCCI is supportive of Senate Bill 295. He feels in some cases there may be a reason why the state is late in paying. He feels some revision in procedures should be considered.

Bill Curtis stated the KASB needed the 45 day provision in the bill and they do not want that to be changed, but thought it would be all right to amend the bill to include school boards.

Senator Kerr called attention to Attachment 3 setting out support of Senate Bill 295 by James M. Apodaca, Kansas Advisory Committee on Mexican American Affairs (KACMAA), and Attachment 4, the 1983 fiscal note on SB 295.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS,
room 423-S, Statehouse, at 10:00 a.m./~~p.m.~~ on Tuesday, February 28, 1984, 19

Jim Cobler stated he agrees with the prompt payment concept. He stated his division pays most claims overnight or possibly within 24 to 36 hours. In checking complaints received last year, there were perhaps three complaints each month and many of them were from subcontractors even though the contractor had been paid. He feels checking the 1,200,000 warrants received, taking one minute only for each, would entail some 20,000 hours or 10 full-time people and would cost some \$143,000 for his division. He stated perhaps the voucher could be changed and interest added, giving him the authority to increase the voucher rather than sending it back after it is received, which takes considerable time. He agrees with Senator Warren's suggestion to delete subsection (b) under Section 6; thus, the bill would be applicable only to complaints received. He would like to see this new concept.

Senator Karr stated since Mr. Cobler pointed out they received only three complaints per month, he suggested perhaps the bill could be amended to cover auditing only those bills involved in a complaint.

Art Griggs stated he would like to see the bill amended to make it more workable.

Senator Kerr asked that those interested in clarifying Senate Bill 295, including Jim Yonally, Art Griggs, and others, meet and come up with recommendations to the committee.

SENATE BILL 808 - Senator Kerr called on Marvin Webb to explain the contents of Senate Bill 808 and the need therefor. Mr. Webb read his testimony as contained in Attachment 5 which states the bill cleans up needed changes to correlate with their fee schedule regulations and it sets out the specific changes included in the bill.

Senator Arasmith questioned the need of requesting a postage stamp for a reply, as contained in lines 257 and 258. Revisor Jim Wilson stated he needs to clarify the language on page 10, under subsection (b).

After further discussion, Senator Montgomery moved the cleanup language be drafted by Revisor Wilson, seconded by Senator Allen. Motion carried.

Senator Arasmith moved the words ", shall be accompanied with a postage stamp for the reply" be deleted on lines 257 and 258, seconded by Senator Allen. Motion carried.

Senator Karr moved Senate Bill 808 be reported favorably as amended, seconded by Senator Arasmith. Motion carried.

The meeting was adjourned.

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SENATE

AGRICULTURE AND SMALL BUSINESS COMMITTEE

10:00 a.m., Room 423-S

Tues., Feb. 28, 1984

Date

NAME	ADDRESS	ORGANIZATION
Mr. & Mrs. Kenneth Borton	RI Humboldt, Ks.	Farm Bureau
Linger Roberts	RI Sawbuck, Ks.	Farm Bureau
D. J. Reda	235 S. Topoka, Topoka, KS	State Grain Inspection
Marvin R. Webb	"	"
Carol Abney	"	"
Mr. & Mrs. Frank McBride	104 W. Lake - Salina, Ks.	Evans Grain Co.
Tom TUNNELL	Hutchinson	KS BROWN & RED ASSN
Lourence Wilber	Pittsburg	REP. - House of REP.
BOB GRANT	TOPEKA	CCCI
Harold Sibbald	Topoka	Dept. of Alm. Div. of Health & Ret.
James R. Coble	"	" "
William Craig	"	" "
Beal Eckert	Emporia	K. F. B.
Marion + Lora	Harvardville	Farm Bur.
Jim Yonally	Overland Park	NFIB/Kansas
Bill Curtis	Topoka	Ks. Assoc. of School Boards

STATES MUST IMPROVE

The National Audio-Visual Association concludes that the states must improve their payment practices, just as the Federal government is now doing.

* More Competition for State Business. Firms which now shun state business of delinquent payments will be willing to bid when payments become dependably prompt. More competition will give states more responsible firms to choose from.

* Better Prices. When the Federal agencies began to pay more promptly, some firms immediately reduced prices. When the cost of carrying government accounts is reduced, these cost savings can be passed on to government.

* Improved Image. Most businesspeople dislike doing business with governments because of the red tape, bureaucracy, and erratic payments. A state prompt payments statute will improve the integrity of the state's business practices, making the state a more desirable business partner. The statute will earn the state some respect.

* Savings for the Taxpayer. More competition, better prices, better image, more desirability as a business partner, and improved integrity add up to savings for the taxpayer.

* Reduced Paperwork and Bureaucracy. To make payments on time, state agencies must reduce the paperwork associated with paying bills. Many states have inherited age-old bill processing systems which rely on excessive use of paper, documents, vouchers, and multiple copies. Further, these states process invoices, receiving reports, and vouchers by hand, making bill payment a highly labor-intensive job. Modern technology-computers, wire transfers, telephone approvals, micrographics and facsimile transmitters-can reduce the labor intensiveness of the job and, in doing so, improve efficiency. For example, reducing to half the number of people who review each invoice will result in substantial savings in some states.

Attch. 1

Prompt Pay: Small Business Now Wants State Action

UNCLE SAM is earning a better reputation with small business by paying more of his bills on time. There is good reason for this improved performance: Under a new law, interest is due on the government's overdue bills.

During the first six months that the law was in force, government agencies paid interest totaling \$518,000, according to the Office of Management and Budget.

"That's way below what anyone predicted," says Kenton Pattie, director of the Coalition for State Prompt Pay. "We thought it would be in the millions."

A coalition of 21 business associations led the campaign for passage by Congress of the Prompt Pay Act of 1982. Now that coalition has regrouped, with 23 members, as the Coalition for State Prompt Pay, to encourage passage of similar legislation by states.

Under the federal act, the government is supposed to pay contractors within 30 days of receiving an invoice. After 45 days, the government must pay interest on the amount of the bill, from the 31st day on. The interest rate is the current rate on five-year Treasury notes.

John J. Lordan, deputy associate director of finance and accounting for OMB, says that "there is a strong effort throughout government" to avoid interest penalties.

(OMB considers interest charges on late payments a waste of taxpayers' dollars—but it also frowns on early payment. OMB would like agencies to pay promptly at 30 days, no earlier and no later.)

Although the payment process has been vastly improved, some agencies still are not meeting the requirements of the act, which took effect last October 1.

One business told Pattie that payment of a bill for \$97 was 212 days overdue from the Department of Health and Human Services. Other examples of bills not paid on time: Treasury Department, 242 days late on a bill for \$38; Postal Service, 113 days, on a bill for \$781; and the Central Intelligence Agency, 78 days, on one for \$79.

"From the reports I've received," Pattie says, "the De-

Thanks to a new law, Washington is paying its bills faster, and a drive is on to get states to do likewise.

fense Department is the worst offender." The Pentagon had to pay more than \$300,000 in interest on overdue bills—more than half the government-wide total—during the first six months under the act.

Pattie says the Navy in particular has generated complaints, with small businesses citing a number of bills more than 500 days overdue and several more than 800 days overdue. OMB has written to the Defense Department about the Navy problems.

One agency created problems for itself by not starting the 30-day count until an invoice had traveled through a number of offices and arrived at the finance center. OMB has corrected that misunderstanding.

Pattie says, however, that some federal agencies' performances have been better than expected, and some have been outstanding—even some within the Defense Department.

For example, when Navy Captain Gerald Langer arrived in 1981 to take over the Defense Contract Agency's Philadelphia regional office, which spends \$4 billion a year, he found that 40 percent of the bills were being paid late. Langer has that overdue total down to 5 percent; since the Prompt Pay Act went into effect, his office has

had to pay only several hundred dollars in interest on overdue bills.

The Prompt Pay Act, Pattie says, has proven that without interest penalties the federal customer has no incentive to respond to complaints about overdue bills, although the Reagan administration and previous administrations have pushed for prompt payment.

At the time the federal law was passed, 14 states—Alaska, Arizona, Arkansas, California, Florida, Hawaii, Illinois, Louisiana, Massachusetts, Michigan, North Carolina, Oregon, South Carolina and Washington—had some form of prompt pay act.

Since then, such legislation has been enacted by 12 more states—Colorado, Delaware, Indiana, Iowa, Maryland, Montana, Nevada, Oklahoma, Pennsylvania, Rhode Island, Utah and Wyoming.

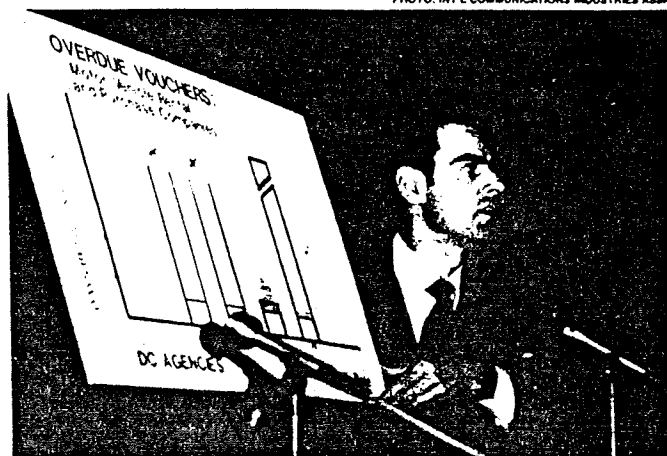
A MAJOR TARGET of the State Prompt Pay Coalition is the District of Columbia, which Pattie calls one of the country's most sluggish bill payers. Among examples he cites: a \$5,277 bill for rental of a truck by the University of the District of Columbia was 947 days overdue on May 20. (The bill has since been paid.)

The coalition sees passage of a prompt pay act by the District as setting the stage for a third thrust, at city and county governments and school districts. "Small businesses report that they have been forced to put hundreds of cities and school districts on 'credit hold,' with cash on delivery required for every purchase," the coalition says.

But for the time being, the coalition is urging small business to keep the spotlight on state governments, to encourage them to pass laws establishing payment standards for all state institutions, including hospitals and universities, and to apply those laws whenever state funds are expended by local governments.

Supporters of prompt payment bills see the issue as fairness. Says Alabama state Senator Bill Cabannis, sponsor of one bill: "I don't think that requiring payment in 45 days is a harsh requirement." □

—Grover Heiman



Kenton Pattie heads the campaign to extend prompt-payment rules to governments below the federal level.

TESTIMONY PREPARED FOR THE SENATE COMMITTEE ON AGRICULTURE
AND SMALL BUSINESS CONCERNING S.B. 295

by James M. Apodaca
Executive Director
Kansas Advisory Committee on Mexican American Affairs (KACMAA)

Mr. Chairman and Committee Members:

The KACMAA in its role as liaison between Kansas State Government and the Kansas Hispanic Community has had the occasion to visit with individuals who are small businessmen. When queried about whether they have made efforts to obtain contracts with the state, a common reply is that they would go broke waiting on the state for reimbursement for services.

A serious obstacle to Hispanic businesses' participation in the state's small business set-aside program, as authorized by K.S.A. 1979 Supp. 75-6002 et seq, is the lack of prompt payment by the state. The effect of this obstacle was highlighted in a report prepared by the Department of Administration ("The Kansas Small Business Procurement Act: A progress report to the Governor, Legislature and the Secretary of Economic Development"). This report shows that only three-tenths of one percent (0.3%) of the nearly four hundred and ninety-eight million dollars (\$498 million) was awarded to minority businesses. This amounts to only slightly more than \$1,688,000 awarded to minority businesses.

If minority businesses are to participate with the state, one of the necessary remedies is to insure that prompt payment will take place, thereby eliminating or reducing the problems associated with cash flow. Minority and other relatively small, new businesses then will not be at the mercy of the attitudes or insensitivity of purchasing agents, other bureaucrats and bankers who can either withhold payment or refuse to extend loans, causing their businesses to fail.

We ask for your support of S.B. 295.

Attch. 3

1,9	295
Fiscal Note	Bill No.
1983 Session	
February 23, 1983	

The Honorable Fred Kerr, Chairperson
 Committee on Agriculture and Small Business
 Senate Chamber
 Third Floor, Statehouse

Dear Senator Kerr:

SUBJECT: Fiscal Note for Senate Bill No. 295 by the
 Committee on Agriculture and Small Business

In accordance with K.S.A. 75-3715a, the following fiscal note concerning Senate Bill No. 295 is respectfully submitted to your committee.

Senate Bill No. 295 establishes the Kansas Prompt Payment Act. The act provides that each state agency, department, division, authority or instrumentality thereof which has received goods or services from a vendor must make payment of the full amount due for such goods or services on or before the 30th calendar day after the date of receipt of the goods and services or the date of receipt of the invoice therefor, whichever is later, unless provisions for payment are agreed to in writing by the vendor and government agency. Goods and services would not be deemed to be received by a government agency until all such goods and services are completely delivered and finally accepted.

Each agency which would not make payment of the full amount due by the payment date must pay an interest penalty at the rate of 1.5 percent per month to the vendor on the amount of payment which is due. Interest penalties on amounts due to a vendor shall be paid to the vendor beginning on the day after the required payment date and ending on the date on which payment of the amount due is made, except that no interest penalty shall be paid if full payment of the amount due for such goods or services is made on or before the 15th calendar day after the required payment date.

Any amount of an interest penalty which remains unpaid at the end of any 30-day period after the required payment date shall be added to the principal amount of the debt and thereafter interest penalties shall accrue on such added amount. For purposes of the Kansas Prompt Payment Act, a payment shall be considered to be made on the date on which the warrant or check for such payment is dated.

If a vendor offers an agency a discount from the amount otherwise due under a contract in exchange for payment within a specified period of time, the government agency may make payment in an amount equal to the discounted price only if payment is made within such specified period of time. An agency violating this provision shall pay an interest penalty of 1.5 percent per

Atch. 4

month on such unpaid amount, except that the required payment date with respect to such unpaid amount shall be the last day of the specified period in the agreement.

Prior to October 1, 1984, and each October 1 thereafter, each state agency must make a detailed report to the Director of Accounts and Reports on any interest penalties paid or incurred during the preceding fiscal year. Such report must include the number, amounts and frequency of interest penalty payments and accruals, the reason such payments and accruals were not avoided by prompt payment, and other information as may be required by the Director of Accounts and Reports. Prior to December 1, 1984 and each December 1 thereafter, the Director of Accounts and Reports must make a detailed report to the Legislative Coordinating Council and to the Committees on Ways and Means of the Senate and House of Representatives on state agency compliance with the Kansas Prompt Payment Act during the preceding fiscal year. Such report must include a summary and analysis of each report received by the Director from the agencies and an analysis of the progress made by such agency in reducing the amount of interest penalties paid or incurred from prior fiscal years.

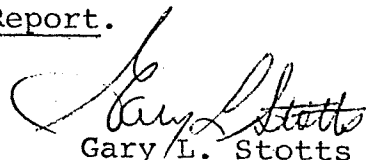
The Secretary of Administration may adopt rules and regulations for implementation of the provisions of the Kansas Prompt Payment Act applicable to state agencies.

The Kansas Prompt Payment Act shall apply to acquisition of or contracting for goods or services on and after July 1, 1983.


Information is not available at this time concerning the number or amount of state payments made after 30 days. Accordingly, reliable estimates of possible state agency interest penalties cannot be made.

The Division of Accounts and Reports, Department of Administration, estimates that \$123,400 and two additional positions would be required beginning in FY 1984 to provide for administrative audit and to implement the reporting process. Of this amount, \$85,900 represents costs for development of forms and for systems design and programming; most of which would not be a recurring expense.

Any additional liabilities to the state as a result of passage of Senate Bill No. 295 would be in addition to provisions of the 1984 Governor's Budget Report.



Gary L. Stotts
Senior Budget Analyst
For the Director of the Budget

THE STATE  OF KANSAS

JOHN CARLIN
GOVERNOR
MARVIN R. WEBB
DIRECTOR

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FEBRUARY 28, 1984

"TESTIMONY BY MARVIN R. WEBB, DIRECTOR, ON SENATE BILL 808"

COMMITTEE ON AGRICULTURE AND SMALL BUSINESS

FIRST, I'D LIKE TO GIVE YOU SOME BACKGROUND ON WHAT PROMPTED OUR REQUEST TO UPDATE SOME OF OUR STATUTES. LAST FALL WHILE WORKING WITH THE ATTORNEY GENERAL'S OFFICE TRYING TO AMEND OUR FEE SCHEDULE REGULATION, WE DISCOVERED THAT THERE WERE SEVERAL ITEMS THAT WERE NOT COVERED BY THE STATUTES. WE WERE ABLE TO AMEND THE AUTHORIZING AND IMPLEMENTING PROVISIONS AT THE END OF THE REGULATION SO WE COULD TEMPORILY GET BY ON A COUPLE OF THE ITEMS. THE ASSISTANT ATTORNEY GENERAL SUGGESTED THAT WE GET OUR STATUTES CHANGED THIS SESSION SO WE CAN REVISE OUR REGULATION NEXT YEAR. ANOTHER REASON FOR OUR NEEDING TO REWORD OUR FEE SCHEDULE IS THAT WE ARE AN OFFICIALLY DESIGNATED AGENCY BY THE U. S. DEPT. OF AGRICULTURE, FEDERAL GRAIN INSPECTION SERVICE, AND THEY ARE TRYING TO GET MORE UNIFORMITY WITH OTHER OFFICIALLY DESIGNATED AGENCIES ACROSS THE COUNTRY.

SINCE SOME OF THESE STATUTES WERE WRITTEN IN THE 60's, WE DID AN OVERALL CLEAN UP OF THE LANGUAGE, WITH THE HELP OF JIM WILSON FROM THE REVISOR'S OFFICE. WE ARE NOT CHANGING THE UPPER LIMIT ON ANY OF THE FEES LISTED IN 34-103a. WE ARE ADDING EDIBLE BEAN INSPECTIONS ON PAGE 2 AND 3, LINES 146 THRU 155. WE ARE MAKING TWO INSERTIONS ON PAGES 9 AND 10 TO 34-228. WE ARE ADDING (F) (3) ON PAGE 9 REGARDING CHARGING AND COLLECTING A FEE FOR AMENDING A WAREHOUSE LICENSE AND STATING THAT \$75 IS THE UPPER LIMIT TO BE CHARGED FOR THIS. IN (4) (g) WE INSERTED A SENTENCE REGARDING THE CHARGE FOR A SPECIAL EXAMINATION. WE INSERTED \$20 AS THE UPPER LIMIT ON THE HOURLY CHARGE AND ALSO SET 8 HOURS AS THE MINIMUM PER EXAMINATION.

WE AMENDED 34-242 (PAGE 12) BECAUSE IT CONTAINED OBSOLETE LANGUAGE AND THE STATUTE NEEDED TO BE CHANGED TO CONFORM WITH CURRENT PRACTICES.

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Page 2

Testimony by Marvin R. Webb, Director, on Senate Bill 808
Committee on Agriculture and Small Business

WE REWORDED SEC. 15 (b) of 34-2, 108 (PAGE 16) REGARDING THE SUPERVISION FEE
MAINLY FOR CLARIFICATION.