

Approved _____

Date

2-21-89

MINUTES OF THE SENATE COMMITTEE ON ECONOMIC DEVELOPMENT

The meeting was called to order by Senator Dave Kerr at
Chairperson

8:00 a.m./p.m. on February 16, 1989 in room 123-S of the Capitol.

All members were present except:

Committee staff present:

Bill Edds, Revisor of Statutes' Office
Lynne Holt, Kans Leg Research Dept
Carol de la Torre, Secretary to the Committee

Conferees appearing before the committee:

Lynne Holt, Kansas Legislative Research Dept.

Senator Ben Vidricksen

Chris Wilson, Director of Governmental Relations, Kansas
Grain and Feed Association

Steve Biehler, Manager of the cooperative at Pawnee Rock

Charles Warren, President, Kansas Inc.

John Peterson, Kansas Association of Professional
Psychologists

Rollen Smith, Executive Director Wichita Independent
Business Association

Jim Yonally, National Federation of Independent Business

Gabriel Faimon, Commissioner of Rehabilitation
Services, SRS

Kenneth F. Kern, Executive Director State Conservation
Commission

Wayne Zimmerman, Deputy Secretary, Dept of Commerce

John T. Torbert, Executive Director, Kansas Association
of Counties

Jim Kaup, League General Counsel, League of Kansas
Municipalities

Gerry Ray, Intergovernmental Coordinator, Johnson County
Board of Commissioners

Richard G. Jones, Executive Director of the Kansas
Association of Conservation Districts

Richard J. Edlund, National Federation of the Blind

Ed Desoignie, Kansas Contractors Association

The meeting was called to order by the Chairman, Senator
Dave Kerr.

Lynne Holt briefed the Committee on Senate Bill 164.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ECONOMIC DEVELOPMENT

room 123-S Statehouse, at 8:00 a.m./p.m. on February 16, 1989

Her remarks are found in Attachment 1.

Senate Bill 164 - an act relating to governmental activities that are in competition with private enterprise.

Senator Vidricksen, sponsor of the bill, explained his reason for sponsoring the bill and how privatization is being implemented elsewhere. He informed the Committee that studies show that governments can save up to 40% on a lot of the activities.

The first conferee in favor of Senate Bill 164 was Chris Wilson, Director of Governmental Relations of the Kansas Grain and Feed Association. Her testimony is found in Attachment 2. She felt it was improper for government to be in direct competition with private business, where government is not providing a basic public service. She introduced Steve Biehler, Manager of the cooperative at Pawnee Rock, a member of her association, who described a personal experience that members are facing, where government is in competition with them. (Attachment 3)

The next proponent was Charles Warren, President, Kansas Inc. His testimony is found in (Attachment 4). He felt the goal of this bill was positive and would contribute to the private sector economy of our State. He urged the Committee to give it favorable consideration.

The next conferee was John Peterson, Kansas Association of Professional Psychologists. His prepared remarks are found in Attachment 5. He stated that as government has expanded, it has increasingly become involved in activities which are directly in competition with those already being provided by the private sector. He requested the Committee to review this proposal in detail and give it favorable consideration.

Senator Vidricksen advised the Committee that no one organization asked him to introduce this legislation. It is model legislation from the American Legislative Exchange Council. He stated it was introduced on his own initiative, as it is a subject he has been interested in for quite some time.

Rollen Smith, Executive Director of the Wichita Independent Business Association, did not have written testimony, but stated that his organization supported this bill wholeheartedly.

The next conferee was Jim Yonally, National Federation of Independent Business. He stated that his members want the opportunity to demonstrate that the private enterprise system does work. That competition in the marketplace does force businesses to develop a service and the delivery of that service is as cost efficient as possible. (Attachment 6)

Gabriel Faimon, Commissioner of Rehabilitation Services, SRS, was the next conferee. His statement and recommended amendment to the bill are found in (Attachment 7).

Kenneth Kern, Executive Director of the State Conservation

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ECONOMIC DEVELOPMENT

room 123-S, Statehouse, at 8:00 a.m. ~~p.m.~~ on February 16, 199

Commission was the next conferee. He stated that their interest in SB164 was based upon the effect the bill would have on the 105 conservation districts who provide a source of various services and/or products. (Attachment 8)

Wayne Zimmerman, Deputy Secretary of the Department of Commerce presented to the Committee his testimony on SB164. (Attachment 9). He advised that the Department believes that they are not the proper agency for this responsibility and recognize a potential major fiscal impact to the cost of government by allowing a 15% margin over existing costs.

The next conferee, John T. Torbert, Executive Director, Kansas Association of Counties, opposed (Senate Bill 164). His testimony is found in (Attachment 10). He felt the legislation potentially delegates every single governmental decision to a non-elected state official, that it would be a administrative nightmare and would have the potential of increasing county costs.

Jim Kaup, General Counsel, League of Kansas Municipalities, also opposed the bill. (Attachment 11) He asked the Committee not to take favorable action on the bill or, in the alternative amend the bill to exclude local governments from its scope.

The next conferee, Gerry Ray, Intergovernmental Coordinator Johnson County Board of Commissioners, stated that Johnson County is supportive of utilizing private contractors when it is advantageous to do so, however, it is a decision that must be made at the local level, not relegated to a determination by a state office. The Committee was urged not to recommend passage of SB164 because it will be costly in both time and money and creates a situation that is not in the best interest of the citizens of Kansas. (Attachment 12)

Richard G. Jones, Executive Director of the Kansas Association of Conservation Districts, was the next conferee. The Kansas Association of Conservation Districts believes that Senate Bill 164 could adversely affect the operations of our State's Conservation Districts and should not be passed. (Attachment 13)

The testimony of Richard J. Edlund, National Federation of the Blind was presented to the Committee by Rob Tabor, (Attachment 14). He stated that their analysis of SB164 indicates that many programs which benefit the blind could be seriously hampered.

The last conferee was Ed Desoignie, Kansas Contractors Association, who spoke in favor of SB164. His testimony will be forwarded to the Committee. *HAI*

Written testimony was received from Hyde S. Jacobs, Assistant to the Dean of Agriculture, Kansas State University. (Attachment 15) It states that should Senate Bill 164 be adopted, it is recommended that the teaching, research and extension programs conducted by Kansas State University be exempted from the provisions of the act.

There being no further business, the meeting was adjourned.

GUEST LIST

COMMITTEE: SENATE ECONOMIC DEVELOPMENT

DATE: 2-16-89

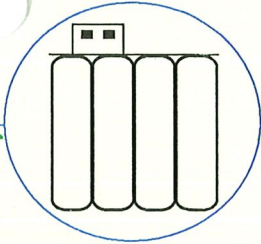
NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Kenneth F. Kern	Topeka	Conservation Commission
Charles R Warren	Topeka	Kansas Inc.
D.W. ZIMMERMAN	TOPEKA	KDOC
Ann Patterson	Topeka	KDOC
Julius Smith	Wichita	WIBA
Chris Wilson	Topeka	KGFA
Henry A. Billew	Panama Rock, Kas	Panama Area
John B. Ginn	Topeka	SRS/Rehab. Svcs
John Petersen	Tyng	Ks Divn of Psychology
TED D. AYRES	TOPEKA	KS. BOARD OF REGENTS
Lyle Jacobs	Manhattan	KSU
Bill Jelen	Manhattan	Kansas Farm Bureau
Richard Jones	Salina	Ks Assoc of C/D
Louie Stroup	McPherson	Kansas Min. Utilities
Jakobson	Tyng	Ks Hearing Imp
Mr. Dave Knudsen	TOPEKA	Ks Hearing Imp Assoc
Roger Nelson	Lawrence	IPPBR
Terry S. Wainwright		
Ralph Lake		
Jim Yonally	Overland Park	NFIB/Kan.
Marlin Rein	Law	KU
Sherry Brown	Topeka	Dept. of Admin.
ROD LAKE	" "	KASB
Darrell Monte	Pratt	DEPT. WLD & PHS
Janette Hemphill	Topeka	Kansas Psychological Assoc

SB164 articulates that the policy of the State is that no state agency, institution or political subdivision supported entirely or in-part by any state revenue shall engage in any activity which competes with private enterprise unless it can be demonstrated that an overriding or compelling public interest is served by the state's provision of the service. This policy statement is set forth in Section 2 of the bill. The Secretary of Commerce is to make such a determination and is directed, subject to a hearing, to direct the state-supported entity to terminate the activity which presumably competes with private enterprise unless one of three conditions is met: 1) termination of the activity would result in an emergency; 2) the private sector cost of service would be 15% greater than the cost of the state supported service, or termination of the activity would cause irreparable harm or loss of substantial invested funds to the state.

The Secretary is to issue an order with his determination which is subject to appeal in district court.

Provisions in the bill also address the contracted obligations of agencies (Section 4); articulate policies in Sections 5-7 that presumably keep state supported activities whether they concern cost, bidding, or contracts, from having an unfair advantage over comparable private sector activities and require the Secretary of Commerce to submit a report on odd-numbered years to the Legislature and Governor.

Sen Eco - Dev
2-16-89
Attachment 1



KANSAS GRAIN AND FEED ASSOCIATION

STATEMENT OF THE KANSAS GRAIN AND FEED ASSOCIATION
TO THE SENATE ECONOMIC DEVELOPMENT COMMITTEE

SENATOR DAVE KERR, CHAIRMAN

REGARDING S.B. 164

FEBRUARY 16, 1989

Mr. Chairman and Members of the Committee, I am Chris Wilson, Director of Governmental Relations of the Kansas Grain and Feed Association (KGFA). Our over 1300 member firms constitute the state's grain handling, storage, merchandising and processing industry. We appreciate the opportunity to comment in support of S.B. 164, regarding government competition with the private sector.

We believe the concept of S.B. 164 is a very sound and important one. It is improper for government to be in direct competition with private business, where government is not providing a basic public service. Private sector firms provide jobs and generate local and state taxes. When government uses such taxes to put government entities in competition with business, it makes it difficult or impossible for the businesses involved to remain competitive. KGFA members include the state's country grain elevators, which store and market grain and provide farm supplies. In many rural Kansas communities, our members are the only local businesses. They provide jobs and are a major source of local property taxes. Government competition is an increasing problem for our members, to the point where government

competition can make the difference as to whether a firm will be able to continue to sell farm inputs or to even be in business at all. Due to increased government sales of grain and reduced crops, and therefore reduced storage income, local elevators which would depend on sales of inputs such as seed to maintain their business, find themselves in competition with government entities.

While we realize that government agencies which are competing with private business are concerned about this legislation, we urge you to keep in mind that this bill doesn't automatically require that any government agency get out of its business activities. It would simply give an industry which is being adversely affected by government competition the opportunity to present its case. Also, there is a difference between government business activities which are incidental to performing a basic service, such as Kansas State University selling meat products which result from research activities. KSU's research programs are supporting the meat processing industry, not adversely affecting it through minimal sales, and we are aware that KSU has taken precautions to avoid competition with the private sector in this regard.

We submit to you that the private sector can provide many goods and services more efficiently and at a lower cost than can government. One example of this would be grain inspection. In many states, private sector grain grading agencies are certified by and contract with the Federal Grain Inspection Service to inspect grain. In Kansas, the state grain grading entity has a monopoly. Because of the state's bureaucracy, the grain

inspection department cannot even replace their 50 year old desks with ones which meet the Federal Grain Inspection Service's requirements in order to be able to accurately grade the grain. The budget agency did not approve this request, even though the grain inspection department has a \$4 million reserve in its fee fund. There are many more examples which point to the need to allow private enterprise to do the job.

Steve Biehler, manager of the cooperative at Pawnee Rock, a member of our Association, will describe to you his personal experience with a situation which our members are facing, where government is in competition with them.

We appreciate the opportunity to comment on S.B. 164 and urge your support for this important bill.

Sen Eco - Alvo
2-16-89
Attachment 2

The Farmers Grain, Fuel & Livestock Co.

Phone 316 982-4313

Pawnee Rock, Kansas 67567

TO: Members of the Senate Economic Development Committee

FROM: Steven G. Biehler, General Manager
Farmers Grain, Fuel and Livestock Company

DATE: February 16, 1989

REF: Senate Bill No. 164

Farm supply firms make an important contribution to the state of Kansas. We provide jobs, tax revenues and services to the state and to the counties in which we reside. The present situation with the County Soil Conservation Service's unfair trade practices in the sale of Conservation Reserve Program grass seed is preventing me from competing in the free enterprise system. I came here today to appeal to you to support Senate Bill No. 164 which will help protect my right as a citizen of the county, the state of Kansas and the nation, to be able to compete in the farm supply business.

We take pride in our ability to supply our customers with a quality product that is competitively priced and we are committed to the profitability of their farming operations. As of February 14, 1989, the county S.C.S. office was asking \$50.65 per acre for their sandyland seed mix and \$52.90 for their hardland seed mix. In comparison, our sandyland mix sells for \$43.75 per acre and our hardland mix sells for \$47.25. Our seed mix has also been approved by the S.C.S. in the county as to comply with current provisions governing C.R.P. grass seed, yet the S.C.S. personnel put undue pressure on farmers to purchase seed from them by giving the farmers the understanding that we have an inferior seed to that sold by the S.C.S. Since the S.C.S. has the sole right to approve or reject C.R.P. acres, the farmer feels forced to purchase his seed from them. Such actions put the county into a situation in which they are competing with the taxpayers and that is why I feel compelled to appeal to you and to ask for your support of Senate Bill No. 164.

In conclusion, it is not fair for farm supply firms to have to compete with this type of influence on our customers, especially when we offer a more competitive product and when our tax dollars help to provide the S.C.S. programs.

Sen Co - Alvo
2-16-89
Attachment 3



Governor Mike Hayden, Co-Chairman
Eric Thor Jager, Co-Chairman

Charles R. Warren, President

CAPITOL TOWER, SUITE 113 • 400 S.W. 8TH • TOPEKA, KANSAS 66603-3957 • TELEPHONE (913) 296-1460

Testimony of Charles R. Warren, President, Kansas Inc.

Senate Bill 164, "Public Sector Competition with Private Enterprise."

Senate Committee on Economic Development, February 16, 1989

Mr. Chairman, Members of the Committee, I am here to testify in support of Senate Bill 164. As public policy, I believe it is important for the State of Kansas to make explicit its philosophy of not encouraging the public sector to compete with private enterprise. The primary goal of state government in economic development is to create and retain private sector jobs. The concept behind this Bill supports that objective.

At the same time, the public sector must recognize that its first responsibility is to serve the public. That goal must override questions of efficiency; equally important, are the criteria of accountability and responsiveness. These objectives must also be considered along with the cost-benefit analysis of whether a service or function is best provided by public servants directly or by the private sector.

I am sure that there are numerous instances where privatization can both benefit the public and produce greater efficiencies in government. Those instances ought to be identified and turned over to private enterprise through

*Sen Pro - Alvo
2-16-89
Attachment 4*

contracts or vouchers where appropriate.

Last month, I was invited to make a luncheon speech in Arkansas City and had the opportunity to visit with several businessmen in the community. I met with the vice-president of a speciality printing company there who described their successful business of printing course catalogs for colleges and universities. This Kansas printing firm has contracts on which it has bid competitively for catalogs of eastern universities, including schools in Connecticut and St. Mary's of Notre Dame. Kansas has a thriving printing and publishing industry and many of those companies fit within our definition of basic industries in that they export their services and products out-of-state.

The vice-president told me that his firm currently has a contract to print the course catalog for Washburn University. He went on to say that if Washburn becomes part of the Regents system, their firm would lose that business to the State Printer. This Kansas firm can successfully compete nationwide for contracts with Eastern colleges, but is not allowed to compete with the State Printer to print the catalogs of Kansas University, Kansas State University or any of the other Regents Institutions. This case clearly represents a situation that would be addressed by Senate Bill 164. Surely, other cases like this exist and need to be opened up for competition and provision by the private sector.

Senate Bill 164 vests the responsibility for the Act within the Secretary of Commerce. The Secretary of Commerce does not have the legal or procurement staff that would be required to

implement this policy, nor does he have the responsibility for state procurement or general administration. Authority is more properly vested in the Secretary of Administration who does have the legal, procurement and state-wide administrative responsibility to carry out the purposes of the Bill. In regard to the Arkansas City case I cited, the State Printer reports to the Secretary of Administration.

I do not have enough specific knowledge to judge the applicability of this Bill to local government jurisdictions. I understand that the local government legislative committees have considered related bills dealing with privatization. I would urge the Committee to ensure that this Bill is coordinated and compatible with the deliberations of those committees.

In conclusion, the goal of this Bill is positive and would contribute to the private sector economy of our State. I urge the Committee to give it favorable consideration.

John Peterson

TESTIMONY BEFORE THE SENATE COMMITTEE
ON ECONOMIC DEVELOPMENT

Senate Bill 164

Mr. Chairman, members of the Committee. Last week in his first budget address to Congress, President George Bush stated: "Government should not be the provider of first resort for things that the private sector can produce better." That is precisely the purpose behind Senate Bill 164.

As government has expanded, it has increasingly become involved in activities which are directly in competition with those already being provided by the private sector. Obviously it does so at a competitive advantage with salaries being paid by the State, office overhead, and other expenses being provided.

Senate Bill 164 is designed to establish a mechanism for determination of whether a function being provided by state government can more readily and easily be provided by private enterprise. It is private enterprise which is paying taxes and providing economic growth for our state. Senate Bill 164 is based on model national legislation. Whether or not the Secretary of Commerce is the most appropriate individual to be in charge of this program, it certainly would be up to the sound

*Sen Eco-Devo
2-16-89
Attachment 5*

discretion of this legislature; however, the concept of establishing a procedure for evaluation and determination of whether free enterprise can or already is better providing a service than government, is one which I would commend to you. If the state agency is engaging in an activity on its own without specific legislative or appropriation authority, then the Secretary under this Act following a hearing and determination that it is engaged in an activity in competition with private enterprise, could order the cessation of that activity.

If, however, the Secretary makes such a finding but the discontinuance of that activity would necessitate a change in state law or would be contrary to specific legislative appropriation. Section 3(c) provides that the Secretary cannot stop the activity but shall issue a report to the legislature as to the Secretary's findings, conclusions, and recommendations. It is only those activities which agencies of a government have engaged in which are in direct competition with private enterprise, which are not engaged in pursuant to state statute and which there is not an overriding state need as defined by the bill, which the Secretary could order discontinued.

Finally, Section 7 of the bill deals with a different matter. This section would not be administered by the Department

of Commerce but would become part of our regular bidding procedures. That section provides that if a state agency or political subdivision is obtaining competitive bids and some of those bids come from private enterprise and some competing bids come from a government entity, that in order to compare apples to apples, that the agency look at the total subsidy that the government agency is receiving prior to deciding which of the parties has in fact the lowest bid.

I hope that after you have had an opportunity to review this proposal in detail that you will give favorable consideration to Senate Bill 164.

HHP021490K17/18

NFIB Kansas

National Federation of
Independent Business

Testimony before the Senate Committee on Economic Development
February 16, 1989

Mr. Chairman and members of the committee, my name is Jim Yonally, Kansas Director of the National Federation of Independent Business. I am pleased to appear today in support of Senate Bill 164, on behalf of the more than 8,000 small and independent businesses who are members of our organization.

Each year we submit a ballot to our members seeking their opinions of matters before the legislature. A part of that ballot includes a space for comments. Often I receive comments from members citing some activity by state or local governments which, in the mind of that member, could be provided more effectively, or more efficiently, and less costly by private enterprise. Therefore, to me, the heart of this bill is Section 3, paragraph (a) which allows a person to petition the Secretary for a hearing. Our members want the opportunity to demonstrate that the private enterprise system does work. That competition in the marketplace does force businesses to develop a service and the delivery of that service that is as cost efficient as possible.

The past few years the legislature has spent many hours, and has approved legislation that would spend a considerable amount of money, to encourage economic development. We believe it makes sense to invest a few dollars in hearing procedures which might lead to providing some public services at a lower cost, and increase economic development by allowing the private sector to participate.

Lastly, we would like to remind you that the bill doesn't require that private businesses charge the state agency, institution, or political subdivision 15% more than it would cost government to provide the services. We believe, in fact, that once certain services are open to bid, the free enterprise system will drive prices down, and government will actually be paying a reduced cost.

We thank you for the opportunity to be heard on this issue.

State Office
10039 Mastin Dr.
Shawnee Mission, KS 66212
(913) 888-2235



The Guardian of
Small Business

Jim Yonally
2-16-89
Attachment 6

Department of Social and Rehabilitation Services

Winston Barton - Secretary

Statement Regarding: Senate Bill 164

Title: An act relating to governmental activities that are in competition with private enterprise.

Purpose: This bill would establish State policy that no State agency, institution or political subdivision supported by any State revenues would engage in any activity which is in competition with private enterprise, unless there is a declaration that an overriding or compelling public interest would be served by the State's engagement in in that activity.

Background: Pursuant to State and Federal statute, Rehabilitation Services conducts activities to evaluate the occupational skills of persons with disabilities and to train them in a realistic employment setting. To defray part of the costs of these activities and to make the activities relevant to labor market settings, contracts are entered into with public and private organizations to produce products and services which address the specific occupational evaluation and training needs of agency clients. In addition, Rehabilitation Services conducts sheltered employment activities to provide employment opportunities to persons who are blind or severely visually impaired. For these persons, the severity of their impairment precludes their employment in the competitive labor market.

Effect of Passage: In its present form, a statute would exist which would conflict with one State and two Federal statutes, including:

1. The Javits-Wagner-O'Day Act of 1938, as amended (P.L. 92-28, as amended by P.L. 93-76 and P.L. 93-358), 41 U.S.C. 46.48c, which specifies that Federal agencies purchase goods and services sold by workshops employing persons who are blind and other persons with severe handicaps;
2. The Randolph-Sheppard Act of 1938 (P.L. 38-565 and P.L. 93-516), 20 U.S.C. 107, which gives blind persons priority for operation of vending facilities on Federal property;
3. K.S.A. 75-3317 et. seq., which requires state agencies and school districts to purchase goods and services sold by facilities which employ persons who are blind and other persons with severe handicaps.

Passage would necessitate closure of the Topeka Kansas Industries for the Blind Workshop, terminating an opportunity for employment for approximately 14 Kansans who are severely handicapped. It would curtail efforts to establish new employment opportunities as vending stand operators for individuals who are blind or visually impaired. It would also curtail some of the occupational evaluation and training activities in the Vocational Rehabilitation Unit and the Kansas Vocational Rehabilitation Center, requiring the expenditure of funds to establish and sustain alternate approaches to these activities.

Sen Eco - Alvo
2-16-89
Attachment 7

To attempt to avoid these consequences, the provisions of Section 2. would produce an extraordinary administrative burden on Rehabilitation Services activities.

Recommendation: To avoid conflict with State and Federal statute and some of the adverse programmatic impact for Rehabilitation Services, the Department of Social and Rehabilitation Services recommends that Senate Bill No. 164 be amended by inserting in line 23 after the word "revenues" and preceding the semicolon before the word "and," the following:

WHICH IS NOT PRODUCED PURSUANT TO 41 U.S.C. 46.48c, 20 U.S.C. 107
AND/OR K.S.A. 75-3317 et. seq.

For more information contact:
Commissioner Gabriel R. Faimon
Rehabilitation Services
296-3911

Presented to:
Senate Committee on Economic
Development
February 16, 1989



State Conservation Commission

109 S.W. 9TH STREET, ROOM 300

TELEPHONE (913) 296-3600

TOPEKA, KANSAS 66612-1299

SENATE COMMITTEE ON ECONOMIC DEVELOPMENT
SENATE BILL NO. 164
FEBRUARY 16, 1989

TESTIMONY BY:
KENNETH F. KERN
EXECUTIVE DIRECTOR

The State Conservation Commission's interest in Senate Bill No. 164 is based upon the effect it would have on the 105 Conservation Districts who provide a source of various services and/or products.

Conservation Districts were organized in Kansas between 1938 and 1954 according to the provisions of the Conservation District Law 2-1901, et seq. Each County Conservation District is an organized governmental subdivision of the State.

The districts have a number of powers granted by K.S.A. 2-1908. These powers give the districts the responsibility for agricultural soil and water conservation at the local level.

From 1938 until 1953, the districts were not provided with any source of funds other than through their own resources under the provisions of K.S.A. 2-1908. In 1953, the county commissions were authorized to provide clerical assistance to the Conservation Districts.

Gradually, as the responsibilities of the districts increased, the county commissioners were authorized to increase funding for the districts. The State authorized matching state funds starting in 1963.

At the present time, the conservation districts can request up to \$10,000 from the County General fund. (Except Johnson and Sedgwick Counties which are not limited.) In addition, the county commissioner can authorize up to a 2 mill levy, not to exceed \$55,000 for district operational expenses. The State matches up to \$7,500 that the districts receive from the county commissioners.

During all these years from 1938 to 1989, conservation districts have followed the provisions of K.S.A. 2-1908(6) which reads:

To make available, on such terms as it shall prescribe, to land occupiers within the district, agricultural and engineering machinery and equipment, fertilizer, seeds, and seedlings, and such other material or equipment, as will assist such land occupier to carry on operations upon their lands for the conservation of soil resources and for the prevention and control of soil erosion.

Conservation work frequently requires unique equipment such as a whirlwind moldboard plow; special grass seed mix for waterways; a special drill for planting grass seed; trees planted for field and farmstead windbreaks require water for several years that could best be furnished through a drip irrigation system.

*Sen Eco - 1160
2-16-89
continued.... Attachment 8*

These are just a few examples of unique equipment or products needed in conservation work but quite often not available locally. As a result, the conservation districts would purchase the equipment and rent it to land occupiers, or they would purchase the product and sell to land occupiers.

Conservation work in Kansas has moved ahead because conservation districts have been willing to assist land occupiers with their specific problems.

A major change in district activities occurred when the 1985 Food Security Act (FSA) was signed into law. The FSA provides a major national emphasis on acreage reduction and soil conservation. One provision of the FSA is the Conservation Reserve Program (CRP), whereby landowners can, when the land meets certain criteria, take highly erodible land out of production and seed it to grass or plant trees. The United States Department of Agriculture (USDA), through the Agricultural Stabilization and Conservation Service (ASCS), will cost-share up to fifty percent on the establishment of permanent cover. The USDA will also pay ten annual rental payments for the CRP acreage based on the rental payment submitted by the applicant. The landowner cannot harvest the cover crop during the ten-year period.

As a result, there has been a tremendous demand for grass seed for the 2,391,130 acres of highly erodible land that has been accepted in the CRP. The demand for grass seed increased rapidly from 1986 through 1988. This placed a burden on seed companies as well as those distributing the grass seed.

The conservation districts involved in providing grass seed to land occupiers have continued this practice.

In addition, the district provides each land occupier, who signs up for CRP, a list of known grass seed dealers and grass drill operators in the area.

The Conservation Reserve Program is not a long range program. The goal for Kansas is approximately 4,000,000 acres. During the seventh sign-up in July and August 1988, approximately 400,000 acres was enrolled. The eighth enrollment is underway at present and the number of acres enrolled is not anticipated to increase.

In a few years, the demand for grass seed is anticipated to be similar to the demand before the 1985 Food Security Act.

Thank you for the opportunity to explain the Conservation Districts involvement in providing services and products to land occupiers.

Testimony

Presented to:

The Senate Economic Development Committee

on Senate Bill 164

by

D. Wayne Zimmerman
Deputy Secretary of Commerce

February 16, 1989

*Sen Eco - Devo
2-16-89
Attachment 9*

Mr. Chairman and members of the Committee: Thank you for the opportunity to present testimony on Senate Bill 164 regarding privatization of activities currently undertaken by Government.

SB 164 relates to activities that are in competition with private enterprise. These activities are defined as activities which:

1. Are undertaken by a state agency, institution or political subdivision of the state which is supported in whole or in part from any state revenues; and
2. Can be performed by an existing private enterprise located in Kansas.

These defined activities would be prohibited upon determination by the Secretary of Commerce that there is not an overriding or compelling public interest served by continued government provision of the service.

After receiving a petition from a person directly affected by government competition, the secretary must hold hearings and determine if the government services shall be continued or ordered discontinued.

* The functions of purchasing, contracting, and providing of legal services now reside in the Department of Administration. To comply with the provisions of SB 164 would require the Department of Commerce to duplicate many of those existing functions at an estimated cost for staff and operating expense of \$2 million.

The provision that the cost of the service by private business can be up to 15% greater than the cost to government to provide the same service will not only not provide an incentive for the contractor to operate efficiently but can cost the taxpayers many dollars. Potential cost increases for all units of government cannot be estimated, but 15% added to the proposed 1990 state budget is an additional cost of \$354,560,268.

The Interim Committee on Local Government reviewed the concept of privatization in Proposal No. 34. The committee concluded that a number of privatization activities are currently being accomplished at the local and state government levels.

* In conclusion, we believe the Department of Commerce is not the proper agency for this responsibility and we recognize a potential major fiscal impact to the cost of government by allowing a 15% margin over existing costs.



"Service to County Government"

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DIRECTORS

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Berneice "Bonnie" Gilmore
Wichita County Clerk
(316) 375-2731

Harry "Skip" Jones III
Smith County Treasurer
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Butler County Register of Deeds
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NACo Representative
Joe McClure
Wabaunsee County Commissioner
(913) 499-5284

Executive Director
John T. Torbert

Testimony

To; Senate Economic Development Committee
February 16, 1989

From; John T. Torbert
Executive Director

Subject- Senate Bill 164- Privatization

The Kansas Association of Counties is opposed to SB 164. The reasons for this opposition are as follows.

First of all, the legislation potentially delegates every single governmental decision to a non-elected state official- the secretary of the Department of Commerce. This is an unwarranted and unnecessary intrusion into the power and authority of local government. I don't think that the citizens of this state would be very pleased to know that the local officials that they put in office could have every single decision second guessed by the head of a state agency sitting in Topeka.

The legislation would be an administrative nightmare. The wheels of government often turn slowly. Many times, the fact that they turn slowly is by design because of the type of work that we do. This would take an already slow system and bring it to a virtual standstill. Is one person, even with a drastically increased staff going to be able to respond to petitions involving hundreds of local governments not to mention the state agency requests?

The proposal also has the potential of increasing our costs. It provides that a privately provided service or function could be as much as 15% higher before it could be invalidated by the Secretary. What common good accrues to state and local government and the taxpayers with legislation that by implication authorizes higher costs?

Privatization of public service is a valid concept and in certain situations it works very well. However, it also raises a host of questions all of which must be dealt with before an informed decision is made based on the merits of each situation. This legislation seems to imply that private sector is inherently good and the public sector is inherently bad. All of us know that such sweeping broad based generalizations are ill conceived and usually incorrect.

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Please allow us to run our local affairs at the local level. I can assure you that if the private sector has an answer to our problems and concerns that will allow us to provide a function or service appropriately at a reduced cost than the private sector will be given every consideration.

Legislation, by its very nature, should be considered or offered in response to a specific problem or concern or to address matters in need of specific legislative remedy. Senate Bill 164, which is no doubt well intentioned, does not seem to meet this standard. It takes a "meat ax" approach to the provision of government service when a scalpel would be much more appropriate. Thank you for your time and attention and I'd be happy to respond to questions.

tsjsecdv



League of Kansas Municipalities

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL/112 WEST SEVENTH ST., TOPEKA, KANSAS 66603/AREA 913-354-9565

TO: Chairman Kerr and Members,
Senate Committee on Economic Development

FROM: Jim Kaup, League General Counsel

RE: SB 164 -- Competition with Private Enterprise

DATE: February 16, 1989

On behalf of the member cities of the League of Kansas Municipalities, we respectfully express our strong opposition to SB 164.

The League has many questions relating to exactly how the process set out in SB 164 could, or would, function. We note, for example, the extraordinarily broad discretion that would be given the Secretary of the Department of Commerce to determine what governmental functions and services could be provided by locally-elected, locally-accountable public officials. However, we offer only some general criticisms of SB 164 at this time, confident that threshold public policy considerations will lead this Committee to reject this bill.

Home Rule. The League opposes bills like SB 164 because they encroach upon the Home Rule principle of local self-government established in the Kansas Constitution.

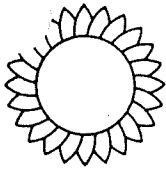
The League's basic opposition to SB 164 is based upon our steadfast belief that the governing of public affairs should be as close to the people as possible. The legislature should respect the need for locally-elected officials to retain the means to solve local problems in ways most appropriate to local needs and conditions. Rather than remove local authority to act, as SB 164 does, the legislature should encourage and promote the exercise of authority and the assumption of responsibility by locally-elected, locally-responsible governing bodies. We believe it vital that both the law and spirit of Home Rule be preserved and strengthened and attempts to diminish this prerogative of local self-determination be resisted.

Finally, the League draws the Committee's attention to the fact that while SB 164 is being considered, so also is SB 14 -- a bill carefully drawn to place limitations upon the extent to which government can undertake the privatization of its functions and services.

Action on SB 164. If it is the belief of the Legislature that SB 164 is sound public policy for the functioning of state government, then SB 164 should be so amended and passed. However we object to the premises of this bill -- that the people, through their local elected city councils and commissions, are not able to decide for themselves what services or functions they want their local tax dollars spent on.

We would ask that this Committee not take favorable action on SB 164 or, in the alternative, amend the bill to exclude local governments from its scope.

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February 16, 1989

SENATE ECONOMIC DEVELOPMENT COMMITTEE

HEARING ON SENATE BILL 164

TESTIMONY OF GERRY RAY, INTERGOVERNMENTAL COORDINATOR
JOHNSON COUNTY BOARD OF COMMISSIONERS

Mr. Chairman, members of the committee my name is Gerry Ray, representing the Johnson County Board of Commissioners and appearing today in opposition to Senate Bill 164.

The bill is objectionable to local governments because it is in conflict with the philosophy of home rule. Local officials are elected to make decisions based on their knowledge of that particular community and its needs. What is appropriate in one place may not work in another. For the state to determine the municipal functions that are to be handled by the public sector and those that are to be turned over to private contractors is not a logical approach. Another bill pertaining to privatization (SB14), has been limited by the Local Government Committee to three services areas as a safeguard against misuse or overuse. That situation is diametrically opposed to SB164 that proposes to force the use of the privatization concept onto municipalities.

Johnson County is supportive of utilizing private contractors when it is advantageous to do so, however it is a decision that must be made at the local level, not relegated to a determination by a state office. The committee is urged to recommend against passage SB164 because it will be costly in both time and money and creates a situation that is not in the best interest of the citizens of Kansas.

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SENATE ECONOMIC DEVELOPMENT COMMITTEE

FEBRUARY 16, 1989

Testimony on Senate Bill No. 164 - AN ACT relating to governmental activities that are in competition with private enterprise.

I am Richard G. Jones, Executive Director of the Kansas Association of Conservation Districts.

The Association represents the 105 county conservation districts in Kansas. Conservation Districts provide assistance to landowners and operators for the protection and improvement of their soil, water, plant, and animal resources. Conservation Districts are governed by a five member board of supervisors made up of local landowners who serve without compensation.

Many of the Conservation Districts provide specialized services to the landowners and operators (cooperators) in their district. Some of these services are sale of native grass seed, sale of trees for windbreaks, sale of drip irrigation equipment for establishing windbreaks, renting notill seed drills, renting native grass drills, and renting tree planters. Conservation Districts provide these specialized services because in most cases they are not available from other sources.

Conservation District provides each cooperator who is planning to install a conservation practice, whether it is structural such as terraces, water impoundments, waterways or establishing vegetation, such as grass seeding or tree planting, a list of venders who do that work in their district. The cooperator is free to choose which vender he wants to do his work. This venders list includes all the private firms working in the conservation district.

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If Conservation District cooperators are to receive federal or state cost sharing for installing a conservation practice, then that practice must meet certain specifications agreed to by the cooperator and the district. In the case of grass seeding, the seed source must not be from distances outside the adaptability of the grass being planted and must have a state seed tag giving the percent germination and percent of pure live seed. The cooperator must provide the seed tags. This type of operation protects the cooperator from applying a practice that will not do a lasting conservation job.

All the revenue received from the sale of merchandise or the renting of specialized equipment is returned to the local conservation programs carried out by the Conservation District. Other vendors who get in the conservation business when things are at their best and reap a short term profit and disappear when things are not going their best, do not put anything back into the local conservation programs.

These are the conservation programs that are maintaining and protecting our state's soil and water resources for future generations.

The Kansas Association of Conservation Districts believe that Senate Bill No. 164 could adversely affect the operations of our State's Conservation Districts and should not be passed.

TESTIMONY OF RICHARD J. EDLUND
NATIONAL FEDERATION OF THE BLIND
P.O. Box 11185
Kansas City, Ks 66111

Senate Committee On Economic Development
Subject: Senate Bill 164

Chairman Kerr and committee members:

My name is Richard Edlund. I am president of the Kansas state chapter of the National Federation of the Blind. I am speaking on behalf of my organization to state our outright opposition to Senate Bill 164.

Our analysis of S.B. 164 indicates that many programs which benefit the blind could be seriously hampered, if not completely derailed by the passage of this bill. One such program is the Business Enterprise Program, now under the administrative jurisdiction of Kansas Services for the Blind. Under the two part test of "an activity in competition with private industry", the B.E.P. program receives Federal Funding under the Federal Rehabilitation Act. Although the program receives no state funding at this time, it is noteworthy that the Randolph-Sheppard Act which created the Blind Vendor program is an act without appropriation. Therefore, in the event that Congress should decide to require state participation in funding of B.E.P., the state would be precluded from doing so if this bill is enacted into Kansas law. Retail food service, which is the main activity of the B.E.P. program, clearly can be performed "by an existing private enterprise located in Kansas."

Vocational Rehabilitation is another program which could be made subject to the provisions of S.B. 164. Unlike B.E.P., V.R. does receive partial state state funding under the 80/20 state/federal match formula under Title I. of the Federal Rehabilitation Act. This meets the first part of the definition under Section 1. As for the second part, Rehabilitation is, even as we speak, becoming a function of private enterprise. Many private rehabilitation firms are providing professional services under contracts with carriers of workers compensation. There are even some privately owned and operated rehabilitation centers for the blind, many of which are doing a good job of providing rehabilitation. Therefore, it is not unconceivable that even such "obviously public" functions as vocational rehabilitation could be terminated by S.B. 164. The range of activities to which this bill, in enacted, could be applied, we leave to the imaginations of the committee. State supported colleges and universities, public libraries, and even public parks are among the possibilities.

We are not opposed to the expansion of private enterprise into new areas previously believed to be the exclusive domain of the public sector. In fact, many exciting, dynamic things are being accomplished in the areas of rehabilitation centers for the blind, and sheltered workshops. We believe that part of the reason for these developments is driven by the direct competition between private and public sector. Consider also that if S.B.

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164 is passed, that this would terminate many successful collaborative efforts between the private and public sectors, such as Kan Work, Projects With Industry, the Job Training Partnership, and other initiatives. Could it be also that KTEC Kansas, Inc., the Kansas Lottery and the Kansas Racing Commission could also be forced to close their doors? In other words, a little competition is not contrary to or inconsistent with current state or Federal public policy.

We thank you for entering our comments into the record, and hope the committee will report S.B. 164 unfavorably.

Respectfully Submitted

Richard J. Edlund
President, National Federation Of the Blind Of Kansas

TESTIMONY

By the Kansas Contractors Association
before the Senate Economic Development Committee
On Senate Bill 164

February 16, 1989

Mr. Chairman, and members of the Senate Economic Development Committee. Thank you for the opportunity to appear before you today to give some very brief testimony. My name is Ed DeSoignie, I am the Public Affairs Director of the Kansas Contractors Association. Our association represents over 335 heavy, highway, and municipal contractor and associate member firms in the Kansas construction industry.

The association appears before the Committee in support of the concept embodied in Senate Bill 164. Speaking directly to road, bridge, and municipal construction projects, the association notes that governmental entities in Kansas have long operated under the policy of awarding construction contracts to the lowest responsible bidder. We believe this process has worked satisfactorily to provide needed facilities to the public.

With this in mind, we would bring to the Committee's attention the fact that we have noticed an increase in the number of local governmental units competing with private sector firms. We are finding local governments undertaking road construction projects under the justification that such projects can be constructed at a lower cost than by a private sector firm. We are in support of requiring demonstration of these costs by governmental units through generally accepted accounting methods.

We would urge favorable consideration of Senate Bill 164. This concludes my prepared remarks and I would be available for questions. Thank you.

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Economic Development Committee
Senate Bill 164 - Competition with Private Enterprise

Testimony Prepared By
Hyde S. Jacobs
February 16, 1989

I am Hyde S. Jacobs, Assistant to the Dean of Agriculture, Kansas State University.

Many Kansas State University programs are designed to assist private enterprise, particularly in agriculture and rural areas, to improve their production, protection, and marketing skills.

In its legislated mission, K-State utilizes a pilot flour mill, bakery, feed formulation plant, full-line dairy processing plant, meat and poultry slaughter and processing complex and similar facilities in its teaching, research and extension programs.

In addition, K-State faculty have developed extensive and nationally recognized programs in plant and animal breeding, plant and animal nutrition and crop and animal protection. Research in growing, managing and marketing the state's important crops is conducted on campus, at four branch experiment stations and on 11 experimental fields. Feeding, grazing or other management trials with livestock are conducted at five separate locations.

Of necessity, many of those programs involve producing, processing and marketing agricultural products. Those efforts are an integral part of K-State's teaching, research, and extension programs. The funds derived thereby are legislatively authorized for use as operating expenses, for replacement cattle, and for carefully planned research and demonstration programs.

The following are selected examples where the products or services resulting from teaching, research and extension programs are offered for sale. The list is not comprehensive.

1. Sale of meat as a by-product of our teaching, research and extension programs. It would be impossible to continue the scope of present research and teaching efforts without recovering some costs through sale of the product.

When operative, work in the newly established Agricultural Value-Added Processing Center will intensify efforts to produce value-added products using meat, food and feed grains and horticultural products.

2. Sale of milk and milk products to individuals in dormitories and on campus. This could be viewed as competitive with private industry but without ability to market the product, the research and teaching functions would be seriously curtailed.

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3. Production and sale of foundation seed. The agricultural experiment station in each state is charged with the production, quality control and distribution of foundation seed resulting from experiment station research. Foundation seed is sold to qualified growers to facilitate the distribution of pure seed and to partially recover production and distribution costs.
4. The Kansas Artificial Breeders Service Unit, developed by request of the livestock industry, has a long history of supplying superior semen to producers.
5. Crops and livestock produced on the experimental stations and experimental stations fields during research, demonstration or management trials are sold to facilitate a continuing research and demonstration program.

Each of these activities is essential to the teaching, research and extension program at Kansas State University. Those programs have been established and the resulting funds have been used as directed by the legislature.

Under the provisions of Senate Bill 164, each of those activities could be construed to be in competition with private industry. However, It seems clear that those and similar programs at Kansas State University were authorized by the legislature to provide teaching, research and extension support for private industry, for students and for farmers, families and communities.

Should Senate Bill 164 be adopted, it is recommended that the teaching, research and extension programs conducted by Kansas State University be exempted from the provisions of the act.