

Approved 5-3-90  
Date

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS

The meeting was called to order by SENATOR AUGUST "GUS" BOGINA at  
Chairperson

11:10 a.m./~~p.m.~~ on APRIL 3, 1990 in room 123-S of the Capitol.

All members were present except:

Senator Johnston, who was excused

Committee staff present:

Research Department: Diane Duffy, Leah Robinson

Revisor: Norm Furse, Gordon Self

Committee Staff: Judy Bromich, Administrative Assistant  
Ronda Miller, Committee Secretary

Conferees appearing before the committee:

Representative Martha Jenkins

Trudy Aron, Executive Director, Kansas Society of Architects

George Barbee, Executive Director, Consulting Engineers Council

Ed Martin, Department of Architectural Services

Gary Karst, Horst, Terrill & Karst

Representative David Miller

Ron Hein, UNISYS Corporation

Elizabeth Taylor, WANG

Ray Hauke, Board of Regents

Art Griggs, Department of Administration

**SB 780 - Exchange of real property and improvements thereon in Reno County**

Senator Dave Kerr explained that SB 780 would involve the receipt of 26 acres of mined out property by the Department of Corrections (DOC) that belongs to Cargill in exchange for the lease of 9 acres to Cargill that is presently owned by DOC. (Attachment 1) He said that the reason for the exchange is that the Department of Health and Environment says that there is better control of surface water by drilling diagonally. He stated that DOC would also grant an easement to K 61 Highway. There is no time limit on the agreement. Concern was expressed about the state's liability on the leased property and Cargill's obligations in terms of maintenance. It was noted by staff that easement details are being written into the bill; SB 780 is simply authorization legislation. Two safeguards that are built into the bill are Finance Council and Attorney General approval.

Senator Winter moved, Senator Feleciano seconded, that Section a, page 2 of SB 780 be amended to include language that shall assure that the state is protected against any additional liabilities or obligations in respect to environmental hazards or other potential liabilities. The motion carried.

**HB 2804 - Transfer of certain state property located in Topeka to the city of Topeka**

Senator Parrish explained that HB 2804 allows for the transfer of 1.2 acres at 6th and Rice Road for the purpose of constructing a fire station. (Attachment 2) Senator Parrish moved, Senator Winter seconded, that HB 2804 be amended to indicate that if the property is not used for the construction and operation of a fire station, it reverts back to the state. The motion carried.

**HB 2797 - Sale and lease of real estate used by correctional institutions**

Representative Martha Jenkins explained that HB 2797 extends the lease of a state park between DOC and Lansing for another 5 years. She distributed Attachment 3 which contained an amendment allowing the lease of land by DOC

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 WAYS AND MEANS  
 123-S 11:10 XX APRIL 3 90  
 room \_\_\_\_\_, Statehouse, at \_\_\_\_\_ a.m./p.m. on \_\_\_\_\_, 19\_\_.

to the Lansing Historical Society. She stated that the amendment was brought to her attention after the bill was passed by the House.

Senator Allen moved, Senator Feleciano seconded, that HB 2797 be amended with the balloon contained in Attachment 3. The motion carried.

Chairman Bogina expressed his desire that SB 650, HB 2804, HB 2797, and SB 780 be merged into one bill.

Senator Winter moved, Senator Hayden seconded, that HB 2804 be amended into HB 2797. The motion carried.

Senator Kerr moved, Senator Harder seconded, that SB 780 be amended into HB 2804. The motion carried.

Senator Gaines moved, Senator Salisbury seconded, that SB 650 be amended by stating that the University of Kansas Medical Center must concur with the transfer of property. The motion carried.

Senator Allen moved, Senator Parrish seconded, that SB 650 be amended into HB 2797. The motion carried.

Senator Feleciano moved, Senator Parrish seconded, that HB 2797 as amended be recommended favorable for passage. The motion carried on a roll call vote.

SUB HB 2605 - Architectural services for capital improvement projects for state agencies relating to fees of project architects

Ms. Trudy Aron appeared in support of Sub HB 2605 and reviewed Attachment 4. In answer to a question, she said that the state is experiencing more difficulties in hiring architects, and that there is not other group of professionals with a fee schedule.

Senator Winter moved, Senator Salisbury seconded, that Section 1 be deleted from Sub 2605. In answer to a question, Ms. Aron stated that one person from the Department of Architectural Services, one from the agency and one person from the Department make up the negotiating committee.

Mr. Ed Martin testified in support of Sub 2605 and reviewed Attachment 5. He stated that the original HB 2605 eliminated the fee, but the House advised against trying to pass that legislation because of the potential for abuse with "no cap". Mr. Martin said that he did not believe that the state always got its money's worth because low fees cause corners to be cut which, in turn, results in litigation and nonuse of property.

The motion to amend carried.

Senator Harder moved, Senator Salisbury seconded, that Sub HB 2605 as amended be recommended favorable for passage. The motion carried on a roll call vote.

HB 3009 - State architectural services, negotiating committees, convened, project

Mr. Ed Martin gave a brief explanation of the bill and noted that is was requested by the Attorney General. He said it provides more flexibility on small projects. Senator Doyen moved, Senator Harder seconded, that HB 3009 be recommended favorable for passage. The motion carried on roll call vote.

The Chairman adjourned the meeting.

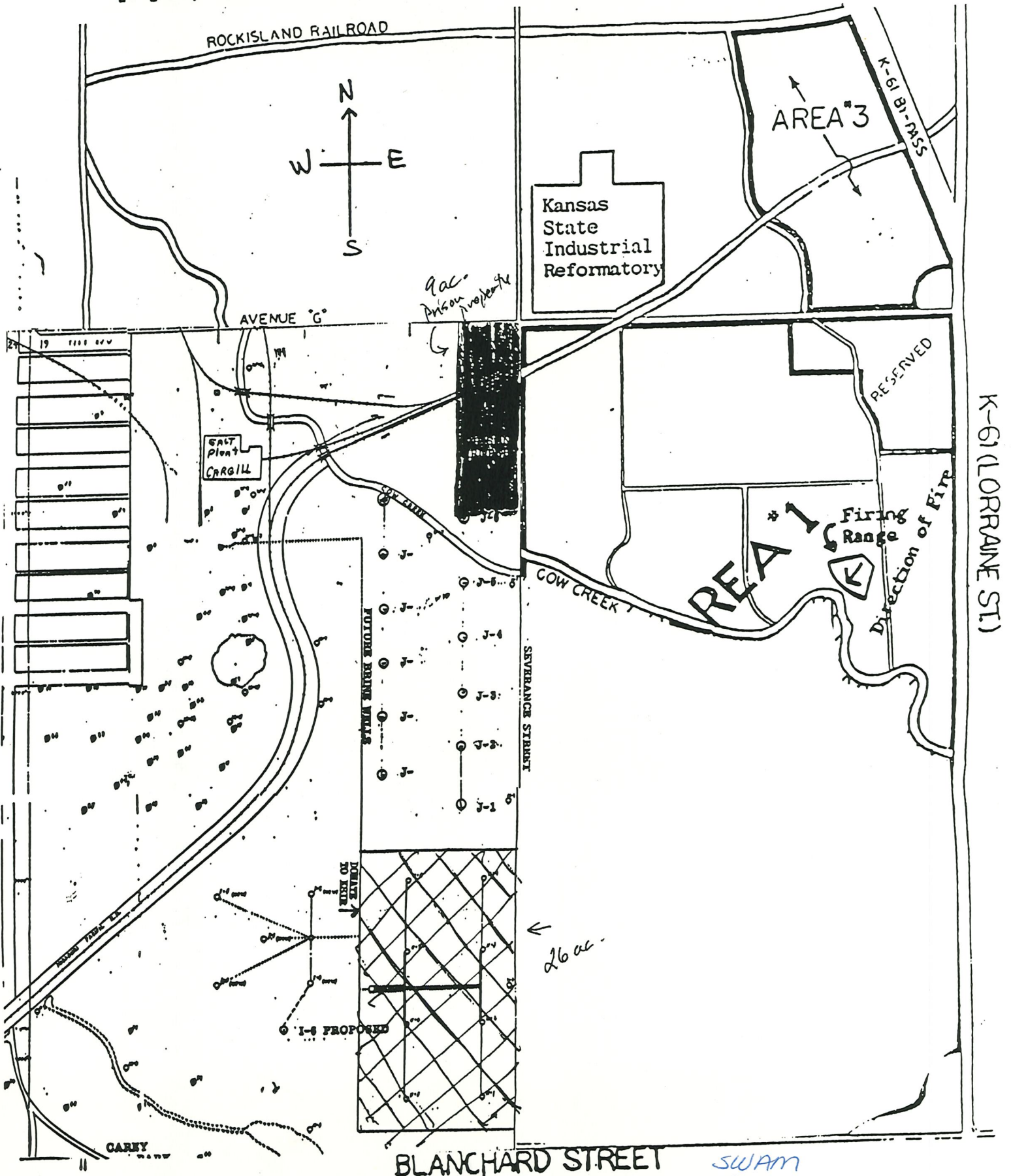


Proposal

Cargill will exchange or donate approximately twenty-six (26) acres of land currently used for brine production and referred to as the "H" gallery. This land would become Kansas State Industrial Reformatory (KSIR) gallery. This land would become Kansas State Industrial Reformatory (KSIR) owned property upon closure and well capping of the "H" gallery which is tentatively scheduled for January 1991. Cargill would retain mineral rights on this property and the right to use the existing brine wells and "H" gallery for brine disposal following state regulations on proper brine disposal procedures.

In exchange for this assignment of land to the State of Kansas, KSIR would grant Cargill easements to run two brine lines and one gas line across state owned property. These easements would run along either the north or south boundary of state owned land (to be selected at Cargill's option) located west of K61, east of Severance, south of Avenue "G", and north of Blanchard. Cargill would select the north or south easement alternative within six months of the effective date of the agreement.

KSIR would also agree to ~~exchange~~ <sup>lease</sup> nine (9) acres of mineral rights and easement to drill and operate a directional drill rig on this state owned property west of Severance.



SWAM  
April 3, 1990  
Attachment 1



# CITY OF TOPEKA

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Harry "Butch" Felker, Mayor  
215 E. 7th Street Room 352  
Topeka, Kansas 66603  
Phone 913-295-3895  
Fax Number 913-295-3850

## HOUSE APPROPRIATIONS COMMITTEE TESTIMONY

MAYOR FELKER on HB 2804 - Room 514 S - Tuesday, February 13, 1990,  
1:30 p.m.

Thank you for this opportunity to speak to you today. I brought a map which shows the outer perimeter of the city limits, the red dots are the existing stations and the yellow areas are the underserved areas according to fire response standards.

The City Council has planned to add two additional stations in the 1990 Capital Improvement Program. The No. 1 priority is the east and north areas of Topeka. The blue dot represents the Oakland Expressway and the 75 Bypass. As you can see, there will be accessibility to go north and south. This bill helps us financially obtain a fire site without paying for land acquisitions. It seems when the City wants to purchase land, the value is very high, when we want to sell land, the value is very low. This site is an advantage to the state for on-site fire protection of state owned facilities and when development occurs further east and south, the City can respond immediately.

The reverter clause is there in case but we do feel it will happen. We can't bring the CIP to a complete stop - we ask your assistance to pass this bill to build this station. The Department of Corrections has been supportive and working with us.

SWAM  
April 3, 1990  
Attachment 2



# CITY OF TOPEKA

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City Council  
215 E. 7th Street Room 255  
Topeka, Kansas 66603  
Phone 913-295-3710

Testimony to the House Appropriations Committee

Mary Holmgren - February 13, 1990

Thank you for the opportunity to testify in favor of HB 2804. For nearly five years, I have been the city council representative in the area in which this land transfer would occur. While I do not speak for the City as an officially designated representative, as an individual council member, I strongly support this bill, and would like to share with you my reasons:

1. The City of Topeka Capital Improvements program projects that two fire stations should be built in Topeka. The transfer of land proposed in HB 2804 enables the city to build a fire station at the 6th and Rice Road location, without bonding the cost of purchase of the property. The state of Kansas has an opportunity to work with us to provide services and minimize the tax burden.

2. This transfer sends a positive message to the citizens of Topeka. In the past, the relationship between the Department of Corrections, and the neighborhood have been stormy at times. This proposed transfer signals a new era of cooperation between the Agency and the citizens and the city government. This is a relationship which I would like to see nurtured into a long term and mutually beneficial one, and I have confidence that this will

Testimony, House Appropriations Committee  
Mary Holmgren, Topeka City Council  
2-13-90

occur.

3. When a fire station is built, it will physically enhance this neighborhood. It will be a community symbol and a source of pride for the neighborhood. The fire station will, to a certain extent, provide a buffer between the correction facilities and the entrance to the residential neighborhood nearby.

4. The state through its cooperative effort will enhance the city's ability to provide public safety services to the citizens of East Topeka.

Because of the city's management and budget process, a few months may elapse before the City Council makes a specific commitment on this fire station project. I want to assure you that I, as an individual council member, am committed to the project and will do all that I can to ensure that it is thoughtfully considered and approved by the city council. Your approval of this legislation will provide encouragement for the council, and will be greatly appreciated.

  
Mary Holmgren, City Council Dist. 3

# HOUSE BILL No. 2797

By Representative Jenkins

2-2

9 AN ACT concerning sale and lease of certain real estate held for  
10 correctional institutions; amending K.S.A. 76-176 and repealing  
11 the existing section.  
12

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

14 Section 1. K.S.A. 76-176 is hereby amended to read as follows:  
15 76-176. (a) The secretary of administration is hereby authorized to  
16 sell and convey or lease in the manner hereinafter provided the  
17 following real estate, or any part thereof, title to which is vested in  
18 the state of Kansas and which is held for the use and benefit of a  
19 correctional institution, as the same is defined by K.S.A. 75-5202,  
20 whenever the secretary of corrections shall find and determine that  
21 such real estate, or any part thereof, is no longer required for the  
22 use or benefit of such institution and the sale and conveyance or  
23 lease thereof is in the best interests of the state of Kansas.

24 (b) The secretary of administration is hereby authorized to sell  
25 and convey or lease the following described real estate, or any part  
26 thereof, held for the use and benefit of the state industrial  
27 reformatory:

28 All of the east one-half of section 19, township 23 south, range 5  
29 west of the 6th P.M. in Reno county, Kansas.

30 (c) The secretary of administration is hereby authorized to lease  
31 real estate title to which is vested in the state of Kansas and which  
32 is held for the use and benefit of correctional institutions and which  
33 real estate is utilized for agricultural purposes for a period of not to  
34 exceed three years, except that the secretary may lease to the city  
35 of Lansing, Kansas, for a period of not to exceed ~~fifteen years~~ *five*  
36 *years, and such additional periods, not in excess of five years each,*  
37 *as the secretary determines appropriate,* the following described  
38 property for use by such city as a public park: A tract of 93.63 acres,  
39 more or less, held for the use and benefit of the Kansas state pen-  
40 itentiary and located in section 30, township 9, range 23 east of the  
41 6th P.M. in Leavenworth county, Kansas. Such lease shall contain  
42 a provision reserving to the state of Kansas the right to the use of  
such property for use by the Kansas state penitentiary.

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April 3, 1990  
Attachment 3



1 (d) The secretary of administration is hereby authorized to lease  
2 to the city of Lansing, Kansas, for a period of not to exceed ninety-  
3 nine years, the following described property for use by such city for  
4 the construction and operation of a wastewater treatment facility: A  
5 tract of 14.0 acres, more or less, held for the use and benefit of the  
6 Kansas state penitentiary and located in section 19, township 9 south,  
7 range 23 east of the 6th P.M. in Leavenworth county, Kansas, plus  
8 necessary acreage for interceptor sewer lines, a more complete legal  
9 description of said tract to be contained in the lease agreement.  
0 Such lease shall contain a provision granting the city of Lansing all  
1 necessary easements for the construction and maintenance of inter-  
2 ceptor sewer lines, and shall further provide for continuous use of  
3 said sewer system by the state of Kansas correctional facilities for  
4 the duration of and in accordance with the terms of said lease.

5 Sec. 2. K.S.A. 76-176 is hereby repealed.

6 Sec. 3. This act shall take effect and be in force from and after  
7 its publication in the Kansas register.

3-2  
(e) The secretary of administration is hereby author-  
ized to lease real estate, title to which is vested in the  
state of Kansas and which is held for the use and benefit  
of Kansas state penitentiary, to the Lansing historical so-  
ciety, inc. for the location and development of a railroad  
depot as a public museum. The specific site of the lease  
shall be subject to the approval of the secretary of correc-  
tions and shall be consistent with the current and future  
needs of the department of corrections.



# THE KANSAS SOCIETY OF ARCHITECTS, AIA

A Chapter of the American Institute of Architects

The Jayhawk Tower 700 Jackson, Suite 209 Topeka, KS 66603 913•357•5308

**TO:** Members of the Senate Ways & Means Committee

**FROM:** Trudy Aron, Executive Director

**RE: SUPPORT OF SUBSTITUTE HOUSE BILL 2605**

**WHAT THE BILL DOES:** Since 1974, Kansas has had a State mandated fee schedule for architectural services on State projects. The fee is based on a percentage of construction cost, with the percentage being reduced as construction costs increase. These fee percentages have not changed since being enacted in 1974. Substitute HB 2605 increases the dollar amount of construction costs allowed in each of the percentage amounts (currently the maximum fee on projects not exceeding \$1,000,000 in construction costs is 7%, in this bill, projects up to \$2,250,000 could receive 7%). The State's negotiating committee can, currently, authorize up to an additional 4% fee for projects which include remodeling of existing construction. This bill allows the negotiating committee to increase the fee up to this 4% for all projects based on the scope of the work and the complexity of the project.

**WHY THE BILL IS NEEDED:** Design and construction has changed significantly since the mid-70's. The complexity of buildings and the technology for those projects have increased many-fold. Because architectural fees are statute mandated, and allow little flexibility, the most complex projects are awarded the same general fee as low tech, simple projects.

Architecture is a team effort. The architect is the design team leader. As such, the architect hires, and pays for, all engineers and other consultants. Today's complex, sophisticated buildings require more consultants, not less. The inflexibility of the current fee schedule often does not allow the architect to hire the best team for the project being designed.

Small projects also suffer greatly from too little fee. Every project, no matter how small, requires certain services. Basic services require a minimum of time to perform. The smaller the project, the larger the fee percentage needed to cover these services.

The problems above are compounded by the dramatic increase in services required by the State. These

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Skyler W. Harper, AIA

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Steven A. Scannell, AIA

DIRECTOR  
F. Lynn Walker, AIA

PAST-PRESIDENT  
Vance W. Liston, AIA

EXECUTIVE DIRECTOR  
Trudy Aron

SWAM  
April 3, 1990  
Attachment 4

additional services include energy impact statements, solar energy feasibility and life cycle cost analysis, fire protection plans, color renderings, detailed material/labor estimates, administration of multiple contracts, etc. The architect receives NO additional fees for these added services.

**WHAT THIS WILL COST THE STATE:** One of the greatest tools the architect and their team of consultants have is the ability to explore various options available to clients (in this case the State). Some areas which may be explored are more efficient space utilization which can save square feet, more efficient use of materials which can save money on construction, more efficient life cycle design which can save money on operations and maintenance, better integration of architectural, mechanical, and/or electrical components which can save on the total cost of the project. While it is impossible to quantify the amount the State would be able to save on a project by project basis, the overall savings to the State in the future will be significant.

**WHY THIS IS THE SOLUTION:** Substitute House Bill 2605 gives the State's negotiators the needed flexibility to pay a fair and reasonable fee based on the **scope and complexity** of the services the architectural team is expected to perform.

**KSA SUPPORTS HOUSE BILL 2605.** The result will be better State buildings at a reasonable cost.

SENATE WAYS & MEANS COMMITTEE

SUBSTITUTE HOUSE BILL 2605 - ARCHITECTURAL FEES

Mr. Chairman, Members of the Committee

I'm Gary Karst, Principal in the firm of Horst, Terrill & Karst Architects in Topeka.

I appreciate the opportunity to share with you some of the concerns that the architectural community has about the current State fee schedule.

- 1) Through the more than 30 years that I've been in practice, I have experienced the various State applied parameters to A/E selection & services. Each change the State has made thru the years has been positive towards achieving better coordination of the project team from design thru construction. However, the current fee caps are no longer in the best interest of the State because they do not reflect the realities of building design today.
  
- 2) Not unlike any other business or profession, architect's have experienced a tremendous increase in the cost of doing business since the current fee schedule was adopted in 1974. In order for you to make any judgement on this question you need to know what an architect's costs are. The process of designing a facility is a Team effort which involves many people comprised

of many different firms and consultants all of which are coordinated and paid by the architect. The most simple project will involve at least two other consulting firms besides the architect whereas 10 to 12 consulting firms may be involved on a highly complex project. Not surprising, each of these firms also has had increased costs of doing business since 1974. Not only has our normal overhead increased during that time, but additional services are also being required due to more technologically complex facilities of all types.

- 3) The complexities of technology are exciting and challenging to a creative profession. Our profession is very labor intensive and pursuing alternative solutions, researching new products, analyzing life cycle costs of alternatives, etc. are very time consuming. This translates into overhead be it in-house or via consultants. No one person is specialized in each and every facet of our society which must be housed in a building. An architect is, however, trained to recognize the necessity for specialized expertise whenever it's beneficial to the Life Cycle of a project. The specialties of each consultant on the project team must then be coordinated by the architect into a unified and cohesive end product.

- 4) If the fee can't cover those specialized services, some will most likely get slighted. This could mean buildings which may not be state-of-the-art facilities. More importantly, it may also mean increased operating and maintenance costs throughout the life cycle of the building. This cost can be many times that of additional A/E fees up-front.
  
- 5) The State has an excellent process for negotiating fees for our services. The people representing the State's interest are highly qualified professional who know what a service should cost and are as tough in the negotiating process as anyone we deal with. Fees are not going to run rampant with this bill... these people won't let it happen. Some projects won't be effected due to competition, but it will permit the negotiating team to allow enough fees to cover required services and special consultants whenever it is in the State's best interest.

I urge your favorable consideration of this bill and thank you for your time.

March 28, 1990

Substitute House Bill 2605  
Observations Regarding Architectural Fees

Revising the fee schedule for architects is in the best interest of the State of Kansas.

The present fee schedule is satisfactory for most state projects. However, there are a few for which the current maximum legal fee is inadequate in relation to private, professional standards.

For forty years I have observed and participated in contracting for architects in Kansas, both as a private architect and as a professional representative of the State. Our problem lies with the more complicated buildings requiring more complicated systems and more consultants. Fifteen or twenty years ago a standard 6% fee was normal. Since then, the following factors have contributed to the need for a higher fee:

- a. Professional liability insurance (\$25,000 per year for a small firm).
- b. Starting salaries for engineering graduates have risen more than other professions.
- c. Value engineering studies.
- d. Solar or alternate fuel studies.
- e. More complicated controls and mechanical systems.
- f. More site inspection during construction.


An example of a complicated health or research laboratory facility:

<u>Per Million Dollars of Construction</u>	
<u>Used to Be</u>	<u>Now</u>
6% Fee for A/E \$60,000	6% Fee for A/E \$60,000
1/3 of Construction is Mechanical	1/2 of Construction is Mechanical
3% Fee for Mechanical Engin.	5% Fee for Mechanical Engin.
Mech. Constr. Contract \$333,000	Mech. Constr. Contract \$500,000
Mech. Engin. Fee \$10,000	Mech. Engin. Fee \$25,000

This \$15,000 increase for the mechanical engineering consultant is a 25% increase for the architect to pay out of his \$60,000 fee.

The Board of Regents has been faced in recent years with several projects for which the fee allowed by current law is inadequate. Reducing the amount of or quality of professional services to fit an inadequate fee is not good business. The fees are relatively minor compared to the problems that are caused by inadequate services.

I am fully confident that we who serve on selection and negotiating committees will continue to protect the owner's interest while, at the same time, continue to authorize and supervise a contract fair to both parties.

  
Warren Corman, Director of Facilities  
Registered Architect  
Licensed Professional Engineer



**Southwestern Bell  
Telephone**

220 East Sixth Street  
Topeka, Kansas 66603  
Phone (913) 276-8273

**Vance W. Liston, AIA**  
District Manager - Real Estate Management

April 2, 1990

TO THE SENATE WAYS AND MEANS COMMITTEE

CONCERNING SUBSTITUTE FOR HOUSE BILL 2605

I am an architect employed by a corporation that owns more than 700 buildings in the state of Kansas. I'm writing in support of this bill from the perspective of my role as a building owner and as a citizen of Kansas who believes the state should build quality structures that can be maintained long term at the least possible cost.

My job as negotiator for consultant services for my corporation is two fold. I am responsible for the provision of quality construction projects at the lowest possible, life cycle cost. I believe the role of the State Division of Architectural Services is very similar to mine.

My experiences have convinced me that adequate, initial fees for consultants saves my corporation money in the long term. The key word is adequate. More complex projects require payment of a higher fee in order to obtain reasonable review of alternatives. If we negotiate too diligently on any project, we will receive a set of construction documents that will serve their purpose. We may not obtain the most energy efficient or the most maintenance-free building system. High operating costs remain a part of a less-than-adequate design for the life of the building....potentially a very high penalty to pay just to save a small percentage of initial construction costs.

Because of the similarities I see between my responsibility and that of Architectural Services, I urge your support of HB 2605.

I believe that the state and it's tax payers will be much better served if Architectural Services has the ability to negotiate adequate fees. The current fee structure has been in place since the mid seventies.



Inflation has reduced the available fee that can be negotiated. Projects have become much more complex. The state has demanded more services. I am convinced that the current fee caps do not provide sufficient fees on the most complex projects to assure the best buildings for Kansas. |

Respectfully submitted,

James W. Gist

Testimony to Senate Ways and Means Committee  
April 2, 1990

RE: House Bill 2605, as amended

The Division of Architectural Services supports Substitute House Bill 2605 because we feel it is a reasonable solution to a real problem.

While the current architect's fee calculation as described in K.S.A. 1263 is workable on relatively uncomplicated projects, it is proving to be increasingly deficient on the larger and more complex buildings which are often being constructed today.

Many buildings built today contain very sophisticated mechanical and electrical systems which were non-existent just a few years ago. This is especially true of facilities at the KU Medical Center, as well as various research facilities on the other campuses. In addition, the heating, ventilating and air conditioning systems on almost all buildings now have increasingly sophisticated control and monitoring systems, energy management systems, etc. These are just a few examples of where increased technology has caused increased engineering services to achieve proper results.

The project architect on a large project today is paid slightly over 5% in professional fees. From that amount, he is not only expected to cover his own overhead and profit, but to hire all the necessary engineers and other special consultants to properly design all aspects of the facility. These engineers and consultants cannot be hired for 5%, and the architect is required

SWAM  
~~March~~ April 3, 1990  
Attachment 5

to pay a higher fee for those services. When the state hires professional engineering and consulting services, we expect to pay from 8 to 11%, depending on the work needed. When we expect the architect to pay fees higher than the fee percentage he is receiving from the state, we put the architect into a very difficult business situation. Services must be adjusted to compensate for lack of fee, and the state is the loser when the building we have paid for is less than what it could have been, or less than what we expected.

House Bill 2605 adjusts the basic fee calculations already in K.S.A. 75-1263 as necessary to allow for the effects of inflation since it was originally passed. In addition, it allows new construction to be treated the same as how remodeling and renovation projects have been treated for years. That is, it would allow the negotiating committee the ability to add up to 4% of additional fees as deemed necessary to compensate for the relative complexity of the project. This was a good idea when it was passed for work involving existing structures, and it is a good idea which now needs to be extended to new projects where appropriate.

The key word in describing House Bill 2605 is "flexibility". This bill would give the negotiating committee the flexibility to

recognize the range of technical competence needed to be successful in completing particular facilities, and the flexibility to adjust the fee as appropriate within a limited range to compensate the design professionals accordingly.

The real beneficiary of House Bill 2605 will be the state, as it will be able to receive the necessary services to maximize the return on its construction dollars. It is hard for us to get the full range of services we need when we are unable to pay for them.