

Approved: March 9, 1995
Date

MINUTES OF THE SENATE COMMITTEE ON COMMERCE.

The meeting was called to order by Chairperson Alicia Salisbury at 8:00 a.m. on March 7, 1995 in Room 123-S of the Capitol.

Members present: Senators Salisbury, Burke, Feleciano, Gooch, Harris, Kerr, Petty, Ranson, Reynolds, Steffes and Vidricksen.

Committee staff present: Lynne Holt, Legislative Research Department
Jerry Donaldson, Legislative Research Department
Bob Nugent, Revisor of Statutes
Betty Bomar, Committee Secretary

Conferees appearing before the committee:

Charles R. Warren, President, Kansas, Inc.
Jeffrey A. Chanay, Attorney
Bob Corkins, Kansas Chamber of Commerce and Industry
Karl Peterjohn, Executive Director, Kansas Taxpayers Network
Connie Burrow, S.E. Kansas Vice-President, Kansas Association of Public Employees

Others attending: See attached list

SB 100 - State contractor accountability
SB 101 - Changes in budgeting procedures
SB 102 - Establish Kansas performance review board

Charles R. Warren, President, Kansas, Inc., presented the Committee the Kansas Council on Privatization report pursuant to SCR 1626, passed during the 1994 Session. The report provides a detailed analysis of the issues surrounding privatization of governmental services, the identification of state services that may be in competition with the private sector, and recommendations to make state government more competitive and improve the delivery of services to Kansas citizens. SB 100, SB 101 and SB 102 are bills introduced upon the recommendation of the Council. The Council reviewed other state governments which have had extensive experience with contracting out to the private sector. The Council relied primarily on the approaches and methods adopted in Michigan, particularly the analytical method which has been applied successfully, called the PERM (Private, Retrain, Eliminate or Modify) analysis. Four committees were appointed to conduct in-depth inquiries into relevant responsibilities. The committees were: Cost Accounting, Procurement, Public Employees, and Target Opportunities.

Mr. Warren concluded by stating that privatization has occurred extensively in Kansas state government; yet no formal process has been established for its consideration or implementation. No common framework or methodology has been adopted to determine whether and in what instances privatization could or should occur. Decisions to privatize have been vested almost entirely within the executive branch of the state. No formal mechanism exists for citizens, legislators, or public employees to be involved in those decisions. SB 100, SB 101 and SB 102 are a mechanism to provide the state with a methodology to privatize certain services.

Jeffrey Chanay, Chairman of the Kansas Council on Privatization, testified in support of establishing the Kansas Performance Review Board (KPRB) and the adoption of the PERM analytical model to determine the best strategy for improving the efficiency of government service. He testified privatization can be broadly defined as the act of reducing government, while increasing the role of the private sector in an activity or in the ownership of assets. The Kansas Council on Privatization was charged with studying the desirability and feasibility of privatization and reporting the results of that study to the Governor and legislature.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON COMMERCE, Room 123-S Statehouse, at 8:00 a.m. on March 7, 1995.

Under SB 102, the KPRB would be charged with conducting an analysis of certain government functions and making recommendations to the Governor and legislature concerning the results of the analysis. SB 102 adopts a PERM analytical model. The PERM analytical model, the analysis of the targeted governmental service, when completed, would result in one of four possible decisions: to privatize the activity in whole or in part; to eliminate the activity; to retain it in its current form; or to modify the activity, but retain it in state government. SB 100, SB 101 and SB 102 will establish a framework for maximizing efficiency in the delivery of public services while minimizing the financing required for the production of those services. Privatization of certain services can be efficient and at a savings to the taxpayers; however, there must be a monitoring system established to determine whether the goals are achieved or whether the contract should revert back to government.

Mr. Chanay advised there is a typographical error in SB 101, Page 2, Line 13, the figure should be "1,000,000" rather than "10,000,000". See attachment 1

Bob Corkins, Director of Taxation, Kansas Chamber of Commerce and Industry and a staff member of the Council on Privatization, testified in support of SB 101 and SB 102 and to convey its membership's long-standing interest in the privatization of government functions. SB 102, as intended, minimizes the political motives which may dictate what state service is to be reviewed and when. The KPRB would be an executive entity, and its staff would conduct their work only at the direction of the new board's members. Mr. Corkins advised there is a fiscal note on SB 102, between \$250,000 and \$500,000. The Council expects an average PERM analysis to have a fully allocated cost of about \$25,000 per project. KCCI contends that the KPRB should justify its legislative appropriation by showing at least a ten-fold return on investment at the end of three years or be subject to automatic abolishment. KCCI has no position on SB 100 as the Chamber feels it does not do much. See attachment 2

Karl Peterjohn, Executive Director, Kansas Taxpayers Network, and a member of the Council on Privatization, testified in support of SB 100, SB 101 and SB 102, intended to strengthen positive incentives, create a new positive incentive in the form of the Kansas Performance Review Board, and positively examine the value of privatization. Mr. Peterjohn related to the Committee the experience of the City of Wichita which entered into a contract with a private trash hauling an example of a privatization project beneficial to government and at a savings to the governmental entity. Mr. Peterjohn, in response to Senator Kerr's concern about the cost of contract attorneys compared to public defenders to perform Indigents Defense Services, stated perhaps savings is created when the beneficiary receives the service directly and is not a third-party service. See attachment 3

Connie Burrow, a representative of Kansas Association of Public Employees, presented the concerns of the Association as relates to SB 102. Ms. Burrow was a member of the Kansas Council. The Association is in agreement with the PERM analysis but are opposed to various concepts that are used and/or left out of the process. Ms. Burrow stated that employees have been denied meaningful input into the PERM process as SB 102, is written. The cost of each analysis was stated to be \$25,000; however Ms. Burrow testified that when all contractual costs are included, the cost rises to \$80,000. See attachment 4.

KAPE requests several amendments to SB 102 set out as follows:

Page 2, Line 23, add the words "or public sector be added and will read as follows: (1) A written suggestion or complaint regarding the opportunity to modify, eliminate or delegate to the private sector, or public sector, a governmental function by a citizen of the state including legislators and public employee organizations:

Page 3, Line 2, the addition of "or public sector" to read as follows: Upon conclusion of the data collection, the secretary shall make a preliminary recommendation to the board concerning whether the governmental function should be delegated to the private sector, or public sector, eliminated, retained in its present form or modified.

Page 3, Line 23, would better serve taxpayers if it reads as follows: The accounting should determine whether a governmental function can be performed at a cost savings through the private or public sector, at a quality at least equal to that achieved currently.

Upon motion by Senator Burke, seconded by Senator Harris, the Minutes of the February 28, 1995 meeting were unanimously adopted.

The Committee adjourned at 9:00 a.m.

MEMORANDUM

To: Senate Commerce Committee
From: Jeffrey A. Chanay
Date: March 7, 1995
Subject: Kansas Council on Privatization/Senate Bills 100, 101 and 102

Madam Chairman and Members of the Committee:

My name is Jeff Chanay and I am an attorney in private practice with the Topeka law firm of Entz & Chanay. I appear today as Chairman of the Kansas Council on Privatization. I thank you for the opportunity to testify in favor of Senate Bills 100, 101, and 102.

Other conferees will testify concerning the detailed aspects of the Council's work and the specific details of Senate Bills 100 and 101. I testify today to highlight the two major recommendations contained within the Council's report and Senate Bill 102 -- the establishment of the Kansas Performance Review Board and the adoption of the PERM analytical model to determine the best strategy for improving the efficiency of government service.

Across the country, state and local governments are turning to privatization as a means of improving efficiency in the delivery of public services while lowering the cost to taxpayers for those services. In various states virtually every function of government -- from highway construction to social welfare programs to public education -- has been performed by the private sector. According to a 1993 survey conducted by the Council of State Governments, more than 85 percent of state auditors, budget directors, and comptrollers predicted increased privatization over the next five years.

Privatization can be broadly defined as the act of reducing government, while increasing the role of the private sector in an activity or in the ownership of assets. Privatization involves transferring the financing and/or the production of a service from the public sector to the private sector, and privatization activities may take such forms as contracting out, vouchers, asset sales, deregulation, and service shedding.

March 7, 1995
Commerce

Attachment 1

Kansas, like most states, has privatized several governmental functions over the past few years. However, privatization has proceeded in a piecemeal, haphazard fashion as there is no coherent state policy to guide the privatization decision making process. Thus, there is a clear and compelling need to establish a framework within Kansas state government that provides a rigorous methodology and process for determining whether the option of privatization is appropriate.

Since June of 1994, the Kansas Council on Privatization invested nearly one thousand hours of research and meeting time to prepare a privatization plan for Kansas. The Kansas Council on Privatization was charged with studying the desirability and feasibility of privatization and reporting the results of that study to the Governor and legislature. The result of the Council's work is our final report and Senate Bills 100, 101, and 102.

The first and foremost concept to emerge from the Council's work is the need for a permanent Board to analyze selected activities of government for privatization. Titled the Kansas Performance Review Board, the KPRB, working with the Department of Administration and the targeted state agency, would analyze certain functions of government to determine whether privatization is appropriate. Under Senate Bill 102, the KPRB would be charged with conducting an analysis of certain government functions and making recommendations to the Governor and legislature concerning the results of the analysis.

The second major concept to emerge from the Council's work is the need for an analytical model to determine the best strategy for improving the efficiency of a particular government service. Both the Council's report and Senate Bill 102 adopts a Michigan-type PERM analytical model.

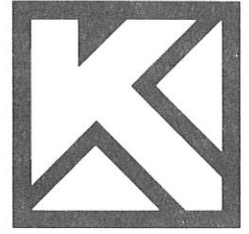
Under the PERM (the acronym for privatize, eliminate, retain or modify) analytical model, the analysis of the targeted governmental service, when completed, would result in one of four possible decisions: to privatize the activity in whole or in part; to eliminate the activity; to retain it in its current form; or to modify the activity, but retain it in state government. The purpose of this proposed analytical model is to have a more responsive, more effective, more efficient, and less costly state government. Consequently, the analysis must be comprehensive. It must examine the interrelationships among agencies and programs, discover duplication of activities in or among agencies, evaluate the need for particular services and service levels, and provide for an accurate estimate of the recommended actions on the state budget and the quality of life of Kansas citizens.

The Council's final report contains a well-reasoned, fully researched privatization plan for Kansas. If adopted, Senate Bills 100, 101, and 102 will establish for Kansas a framework for maximizing efficiency in the delivery of public services while minimizing the financing required for the production of those services. It is the view of the Council that by instilling competitiveness into governmental operations, scarce revenue dollars will be utilized in a more efficient, cost-conscious fashion.

I thank the Committee for its consideration of these bills, and request that Senate Bills 100, 101, and 102 be reported favorably for passage.

LEGISLATIVE TESTIMONY

Kansas Chamber of Commerce and Industry



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SB 101 & 102

March 7, 1995

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the

Senate Committee on Commerce

by

Bob Corkins
Director of Taxation

Madam Chair and Members of the Committee:

My name is Bob Corkins, director of taxation for the Kansas Chamber of Commerce and Industry. It is a privilege to speak in support of SB 102 and SB 101 to convey our membership's long-standing interest in the privatization of government functions. KCCI last year supported SCR 1626 which established the Kansas Council on Privatization and I, personally, provided staff support to that group whose recommendations are now before this committee.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 3,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 55% of KCCI's members having less than 25 employees, and 86% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

The heart of the Council's work is represented by SB 102. It is not the "hit list" of targeted state program reductions which much of the public anticipated. An end product of that sort would have been equally inappropriate and impossible for the Council to pursue. From the start of our research, all

*March 7, 1995
Corkins*

Attachment 2

Information indicated that the solution (i.e. the way to achieve optimum state privatization) would be a process rather than a neatly packaged product.

SB 102 is the process which KCCI and the Privatization Council believes will best address the interests of state efficiency. It is patterned largely after the state of Michigan's privatization efforts. However, the glaring weakness of Michigan's method is that it is conducted purely through executive branch authority. If Governor Engler leaves office, there is a high risk that his privatization initiatives will leave as well. Consequently, SB 102 attempts to better institutionalize that process in Kansas.

There are a couple of other ways in which we believe this plan improves upon Michigan's:

SB 102 would create a more autonomous new entity. The Kansas Performance Review Board (KPRB) would technically be an administrative branch subdivision. This is necessary in order to assure compliance from those state agencies which are being investigated. While the Legislative Division of Post Audit is engaged in activity similar to that planned for KPRB, Post Audit is controlled entirely by the legislature. The Kansas Department of Administration is another possible actor for performing PERM analyses (Privatize, Eliminate, Retain or Modify), but direct and undue influence by the Governor is the risk with this option. The intent of this bill is to minimize political motives which may dictate what state service is to be reviewed and when. Although KPRB would be an executive entity, its staff would conduct their work only at the direction of the new board's members.

KPRB would serve an ombudsman function. Michigan depends upon each of its state agencies to identify which of their services are good candidates for privatization. Michigan officials candidly admit this as a weakness in their process. It might surprise nobody here that over 80% of the ideas submitted by Michigan agencies have resulted in recommendations to either modify the programs in question or to do nothing. Conversely, recommendations to either privatize or eliminate the analyzed services are much less common. Michigan's experience verifies that state agencies will display an inherent, if not unconscious, bias to suggest ideas that will not disturb the status quo. Under SB 102, the ideas for submitting particular state functions to a PERM analysis would come from a variety of sources...including the private sector. Legislators, the Governor, and any other public employee would also be free to suggest projects for KPRB to undertake. The final selection of PERM projects and their relative priority would be decided by KPRB itself.

The suggested creation of this new entity baffles many people at first blush. A common reaction is "you want to *reduce* bureaucracy by *increasing* bureaucracy?" The question is both obvious and meaningful. Important reasons for proposing this approach have already been stated. While all PERM analyses could be performed by the private sector -- and we certainly will demand that KPRB operate itself in the most efficient and frugal manner possible -- the odds of getting the cooperation of targeted agencies would be slight. That concern is crucial to the success of future privatization because the agencies are the gatekeepers of all the data necessary to make accurate decisions.

Consequently, SB 102 does have a state fiscal note. The Privatization Council's estimate is \$250,000 to \$500,000 depending upon the workload which the legislature wants KPRB to assume. Based upon the calculation of Council members, and later affirmed by specific cost estimates from Michigan, the Council expects an average PERM analysis to have a fully allocated cost of about \$25,000 per project. That would allow KPRB to undertake an average of 10 projects per year. Please note that the "fully allocated cost" of a project would include reimbursement to the targeted agencies for their work in responding to questionnaires and producing the pertinent data. The Council envisions a modest KPRB staff of three or four employees, with independent contract consultants hired as needed for complex projects and as permitted by the legislative appropriation.

KCCI may diverge from the wishes of the Privatization Council in the following regard: KCCI contends that the new Performance Review Board should justify its legislative appropriation by showing at least a **ten-fold return on investment at the end of three years** or be subject to automatic abolishment. In other words, if this new entity were to receive \$500,000 for three years without resulting in a cumulative savings of at least \$15 million in state spending, we believe it should be abolished.

That point leads toward our consideration of SB 101. KCCI supports SB 101 with the assumption it will be amended to comply with the Council's recommendation. The Council requested that the state Division of the Budget perform a privatization review for all new state programs in excess of \$1 million. SB 101 was inaccurately drafted with a threshold figure of \$10 million.

This proposal is relevant to the cost of the Review Board in SB 102 because this is how Michigan attempts to control the cost of its PERM analyses. If new programs are submitted for bids from the private sector, then Michigan has no need to conduct a full-blown PERM analysis of the new program in question. In effect, a state agency requesting authorization for the new program would have to bid against the private sector in order to win the contract. This eliminates the need to review service delivery options *after* the decision has already been made to perform the service in-house.

We believe these two bills will provide the state game plan for privatization which has been sorely lacking in Kansas. Greater privatization will save the state money and improve agency efficiency. It will also open tremendous opportunities for small businesses (who are particularly interested in this initiative) to apply their market-driven advantages for the benefit of the whole state.

KCCI therefore urges your favorable action upon SB 101 and SB 102. Thank you for your time and consideration.

KANSAS TAXPAYERS NETWORK
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SENATE COMMERCE COMMITTEE TESTIMONY
ON S.B. 100, 101, & 102 March 7, 1995

Karl Peterjohn, Executive Director

Madam Chairman, and committee members, thank you for the opportunity to be able to testify. I have the privilege of serving on the Kansas Council on Privatization which generated the ideas behind these three bills. Today I'm also speaking on behalf of the Kansas taxpayers who support the Kansas Taxpayers Network as well as a council member.

Another Privatization Council member is Professor Henry Butler. He was crucial in emphasizing the impact of incentives on the operation of governmental bodies. The concept of incentives, both positive and negative, must be kept in mind while drafting this legislation. We need to create more positive incentives to economize, to implement efficiencies, to look for the lowest cost ways of providing services, and maximize the value provided to Kansas citizens from each tax dollar spent. The negative incentives which are attached to bureaucracy must be eliminated and, if that is impossible, at least reduced in size and scope.

These three bills try to strengthen positive incentives, create a new positive incentive in the form of the Kansas Performance Review Board, and positively examine the value of privatization. A recent study conducted by Wendell Cox and Sam Brunelli for the American Legislative Exchange Council (Vol. 20, No. 7) discusses the Excess Value of Public Employment. In this ALEC study 16 separate advantages exist which the public employees enjoy and which their private counterparts lack. This translates into a 11.5 percent in what this study identifies as "excess value" for public employees receiving identical wages compared with the private sector. In Kansas, state employees enjoy substantial advantages over their private sector counterparts and this excess cost also hurts the private sector of the Kansas economy.

I mention this not to divert your attention from these bills but to point out the need to take advantage of this disparity through the privatization alternative. I'm sure that you will hear from critics of privatization who will oppose parts or the entirety of these three bills. I hope you will keep in mind the testimony the Privatization Council received from the Economic Policy Institute's Max Sawicki opposing privatization. In his testimony to our council he cited the problems associated with privatization of trash service. Sawicki told our council that privatization of this service inevitably leads to higher prices, poorer service, a monopolized market, and numerous other market failings. Unfortunately, Mr. Sawicki was unaware that Wichita

March 7, 1995
Commerce

Attachment 3

had successfully privatized trash collection back in the late 1970s with none of these deleterious effects occurring.

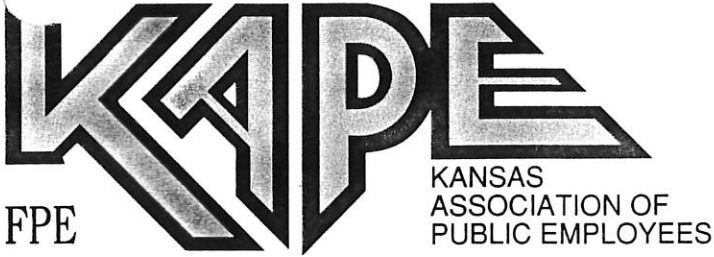
However the incentives to privatize trash hauling were quite unique in Wichita's case and don't translate into positive incentives at the state level. The private sector option will be examined by the creation of a state performance review board. This board does have a price tag attached to it. However, the results of this board should easily pay for itself many times over in additional savings to the state. It will be a visible symbol of the effort being made to change state incentives.

Opposition will be heard from some state employees towards this legislation. It is surprising in only one sense. The Economic Policy Institute studies report ("The Truth about Public Employees Underpaid or Overpaid? by Dale Belman and John Heywood, E.P.I., June 22, 1993, p.19) that there is no discrepancy between the pay in the private sector and state employees. If this is indeed correct, then the competition between public and private sectors for state business will occur on a level playing field.

Public employees should have nothing to fear from contracting out, load shedding to lower cost private alternatives, and providing positive incentives for improving state service delivery. However, if the ALEC study is correct and state employees are receiving compensation which exceeds the private sector there will be a number of areas where privatization can provide a way for saving tax dollars.

In another ALEC study Cox and Brunelli quote the AFL-CIO: "It is not uncommon that work done by public employees can be done for as much as 50 percent less in the private sector." (quote from America's Protected Class: The Excess Value of Public Employment, by Cox and Brunelli, A.L.E.C., Vol. 20, No. 7, June 1994, p. 1) The performance review board provides a mechanism and incentive to fully explore this option in S.B. 102. In S.B. 101 statutes will be modified to explore privatization further. In S.B. 100 you will be looking and documenting full value for state purchases which can take advantage of factors other than price.

Ultimately, the success or failure of privatization will rely upon the incentives put in place. Administrative factors are just as important as any legislation being considered. However, the legislature should not shirk from its responsibility to provide Kansas taxpayers with the clear evidence that every effort is being made to maximize the performance of every dollar paid in taxes. These three bills should be enacted into law as soon as possible to create positive incentives to economize.



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SENATE BILL NO. 102

PRESENTATION OF CONNIE BURROW
BEFORE THE SENATE COMMITTEE ON COMMERCE
MARCH 7/8, 1994

As a representative of Kansas Public Employees and KAPE, I wish to express our concerns in relation to Senate Bill No. 102. It was my privilege to serve and take part in the discussions of the Privatization Council, which was established and met during this past summer.

The methodology and process for determining whether privatization options are appropriate, efficient and effective was studied and out of that study, the PERM process was recommended. The PERM (Privatize, Eliminate, Retain or Modify) analysis is an analytical method successfully used by Michigan in determining contracting out possibilities.

We stand in agreement with the PERM analysis but are opposed to various concepts that are used and/or left out of this process.

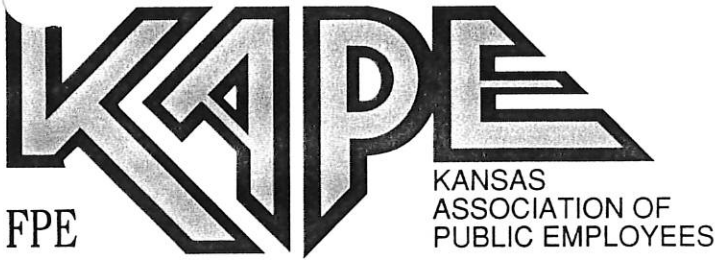
The employee's concerns are attached for your review as they appeared in the Privatization Report. Your attention is directed to those areas of disagreement and ask that you evaluate these concerns and consider further work to incorporate them with a PERM type analysis.

I feel that, due to the short time constraint, other options were not considered that would change government operations. These include a cooperative effort to improve services and make the best possible use of employees.

Employees have been denied meaningful input into the PERM process and the bill, as written, reflects this attitude. For example, Page 2, Line 21 of the bill states: *Sec. 4, (a)The board shall be authorized to initiate an analysis of a governmental function upon receipt of any of the following* and goes on to list 3 ways under which they will consider performing an analysis. None of which includes public employees being given a chance to bring a service back in-house once it has been privatized. This wording does not allow an analysis to be performed due to complaints from employees.

*March 7, 1995
Connie*





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We would suggest that the words "or public sector" be added to Page 2, Line 23, to read as follows:

(1) A written suggestion or complaint regarding the opportunity to modify, eliminate or delegate to the private sector, or public sector, a governmental function by a citizen of the state including legislators and public employee organizations:

This change would allow everyone the same opportunities to trigger an analysis.

On Page 3, Line 2, we would recommend the addition of "or public sector" to read as follows:

Upon conclusion of the data collection, the secretary shall make a preliminary recommendation to the board concerning whether the governmental function should be delegated to the private sector, or public sector, eliminated, retained in its present form or modified.

We believe that Page 3, Line 23, would better serve taxpayers if it reads as follows:

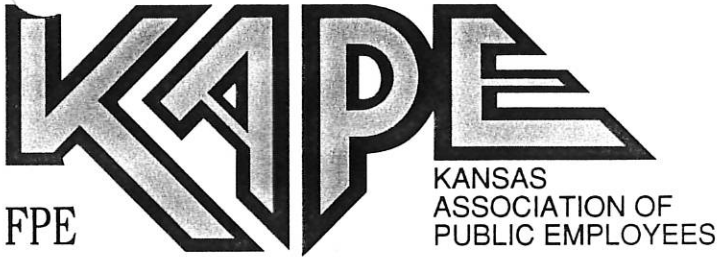
The accounting should determine whether a governmental function can be performed at a cost savings through the private or public sector, at a quality at least equal to that achieved currently.

All of these changes would better serve the taxpayers and promote the best methods of delivering services.

SUMMARY

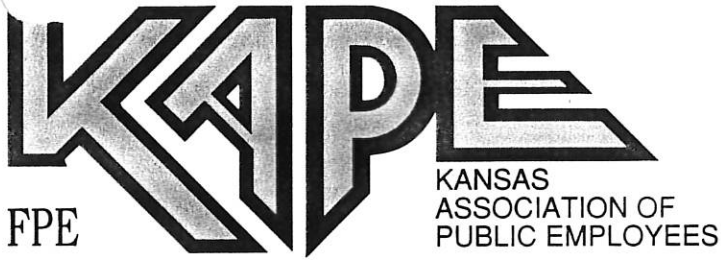
In summary, the following concerns and recommendations need your attention to promote quality and efficiency in government services:

1. Further committee work to seriously consider all available options, including those recommended by the Office of the American Workplace and the U.S. Department of Labor. These "best practices" reflect national study and recommendations and should not be ignored.



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2. Concentrate on the "Retain" and "Modify" of the PERM process as well. Government services in general need to be redefined and every successful business has used their employees for valuable input. This is not occurring at the present time and will hinder the processes and goals desired.
3. Develop the monitoring processes carefully. Do not ignore them and assume the PERM process will fulfill that responsibility. It does not. Carefully written contracts, monitors and quality standards will prove to be the success or failure of privatizing. These items will require considerable time, training and money for successful transitions to new business practices. If monitoring is not made top priority, this will be a major problem area.
4. Look further into highly privatized agencies and make sure public funds are not at risk such as experience by KPERS who is 84% privatized.
5. All contracting of services should be subject to open meetings laws and Freedom of Information Act for public protection and assurance of proper conduct.
6. Avoid exploitation of employees by paying equitable wages and benefits.
7. Reconversion costs must be estimated and considered in case of program failure.
8. Develop a system to reward public managers and employees for budget savings or increased services without budget increases. This is done by private enterprise and should be politically acceptable.
9. Be aware of the possible use of public funds and the opportunity to turn a personal profit in privatizing services, with low accountability measures in place. Privatizing fragments the system and must be approached with caution and safeguards. Accepting the responsibility for a privatizing failure will further erode public confidence in government.
10. To restore public faith and confidence in Kansas Government, there desperately needs to be a commitment from the Kansas Legislature, employees, unions, administrators and private industry. A commitment to a higher level of state services and employment practices with regard to sound financial budgeting is recommended.



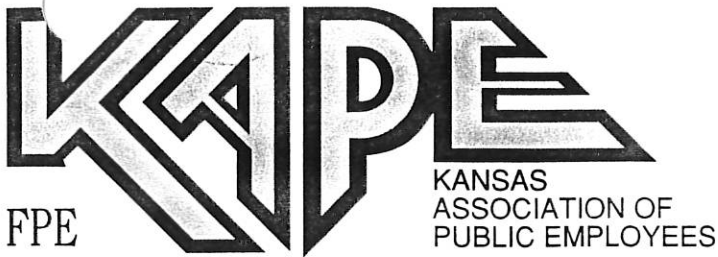
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In closing, I would ask you to review our concerns and recommendations carefully and fully, here in this report and the detailed report attached.

Your fair and impartial analysis of these reports and meetings are vital to the future of all Kansans.

I appreciate the opportunity to appear before you to express our concerns and hope that by open communication and participation, we can improve our services to the people of Kansas.





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**KANSAS COUNCIL ON PRIVATIZATION
S.C.R. 1626**

Privatization Alternatives and Concerns

I. Concerns

As the Privatization Council summarizes it's recommendations, and as a member of that council and a representative of public employees, I feel that there are major issues and recommendations that I would like to submit in addition to those addressed by the council. The work of this council has focused on privatizing government services. High performance workplaces have found other options that produce quality services, efficient use of public resources and create highly motivated employees. These best practices have been recognized by the Office of the American Workplace and the U.S. Department of Labor. All of the various successful options were impossible to cover in just six months of study. If, in fact, the PERM analysis is adopted, there remains other options of "retain" and "modify" that need positive, high performance modification. Employees and their labor unions in Kansas see this as a opportunity to forever change the systems they use to serve the people of Kansas and keep this state fiscally responsible. The options for employees, managers and taxpayers to join together for quality Kansas government need to be considered. There are other options that will be mentioned and appreciation is expressed to the Privatization Council for being a leader in including Kansas employees in their deliberations. We view this as a beginning and ask for the opportunity to participate in the future in designing a system that truly works.

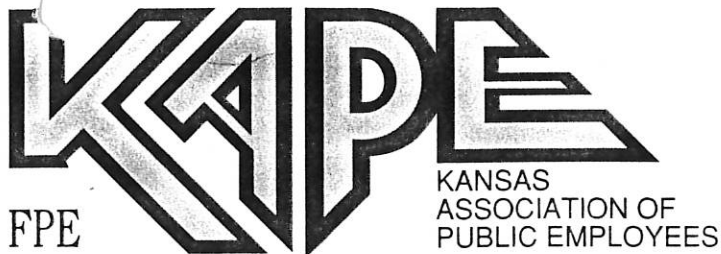
II. Other Options

The contracting out of public services, in some cases, may save tax dollars if the contractor performs well and contracts are effectively and clearly written for proper objectives. However, the risk of poorly written contracts, loosely monitored activities, and political favoritisms with financial benefits may result in a much higher cost to the taxpayer. Lowering employees standards of living for the sake of profit may also shift costs from private contractors to the taxpayer in the long run.

The PERM analysis is agreeable and may prove to be a valuable tool for the legislature, taxpayers, agencies and employees if it is bipartisan and administered honestly. It does not address the other options of "Retain" and "Modify".



45



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Another option to include for "Retaining" and "Modifying" is a Labor-Management Partnership such as used by the state of New York. The goals and commitments contained in New York's plan, for example, are consistent with the employee's vision for Kansas government and quoted as follows:

Enhanced customer focus -- Understanding that users of government services (including both direct and indirect users) are the final judges of quality. Developing constant sensitivity to the needs of an organization's customers (both internal and external) and committing to meet those needs expeditiously. Striving to ensure that program functions and attributes contribute value, lead to satisfaction, and affect preferences of customers.

Best process -- Recognizing that every work activity is a process to be improved or, if necessary, redesigned to obtain better results and enhance value to the customer. Eliminating unnecessary components, steps, delays, and errors. Improving responsiveness and cycle time. Coordinating interdependent or related processes across programs and agencies to guarantee the most effective use of resources.

Empowered employees -- Bringing the work force into the decision making process. Respecting people and their ability to contribute to improvement. Recognizing untapped potential in employees and encouraging innovation and entrepreneurialism among the work force.

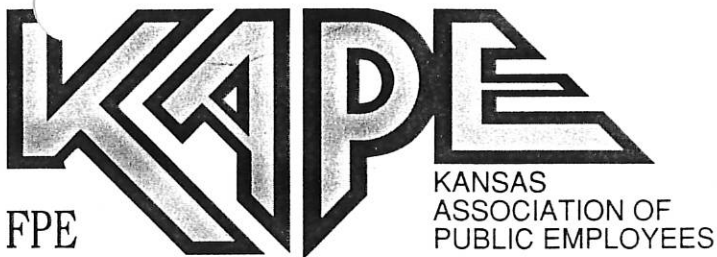
Continuous improvement -- Improving products, services, and processes constantly. On a repeating basis, assessing progress quantitatively and qualitatively and using information gained to plan improvements. Never allowing the status quo to suffice.

Fundamental to the success of this program is partnership between labor and management at all levels. KQM (Kansas Quality Management), which is similar, and is relatively new, needs expanded involvement and commitment, in which, employees are eager to participate. KAPE and their leadership will commit their resources and involvement in educating and encouraging employees to become committed to the above goals and to promote those goals to other unions and public employees.

A plan such as New York's could lead to new respect, ideas and services to make a win-win situation for all of Kansas. In the present recommendation, employee participation and commitment are missing.



46



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III. Criticism

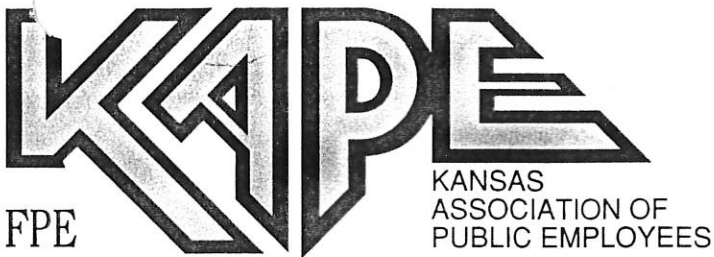
The employees union, KAPE, was allowed a voice on this council and that is gratefully acknowledged. However, a true partnership, to address more than privatizing services, was never achieved. A responsibility to sincerely find the best methods available for quality government is not one to take lightly and I propose that further positive and cooperative efforts could lead to the high quality workplace desired. If the goal is just to privatize, without further employee involvement for redesigning the delivery systems, then it is probable we will never find a common ground. The focus should be on positive aspects of using employees, their experience and knowledge, to accomplish common goals in lieu of threats of job loss to privatization. Fear has been recognized as a detriment to high performance workplaces and there is constant fear in privatization. Further contracting out bureaucracy will be expensive, difficult to manage and control, and true accountability for quality services becomes lost in the shuffle. Employees are already turning to the union with complaints of declining services due to contracting out, training needs, understaffing, wasteful practices, needed equipment to perform their jobs, etc. The negative public employee image must change and we believe the employees of this state want to be a part of that change. Kansas legislators control agency budgets, appoint managers, and approve FTE positions. This state is our business and like a private business, it should be run with pride. Pride in management ability, quality services and in the employees who make it possible. Constant negative criticism of employees who must perform daily public services should not be encouraged or tolerated.

The Office of the American Workplace was created in 1993 to examine and report on the very best practices employed by the country's best run workplaces. CEO's, managers, directors, labor leaders and workers, academic and investment leaders, came forward with "best practices" that further strengthen KAPE's position on high-performance, high-commitment enterprises.

Taken from the U.S. Department of Labor's November issue of "American Workplace," those practices were:

- # *Training and continuous learning* for every employee. High-performance organizations may devote 5 percent or more of payroll to training and will often cross-train employees in multiple skills. Today's workers need to master a broad array of new skills and find ways to constantly improve design and quality of products and services.
- # High-performance enterprises communicate strategic plans, management priorities, and financial and operating constraints as part of a systematic *information sharing* program.



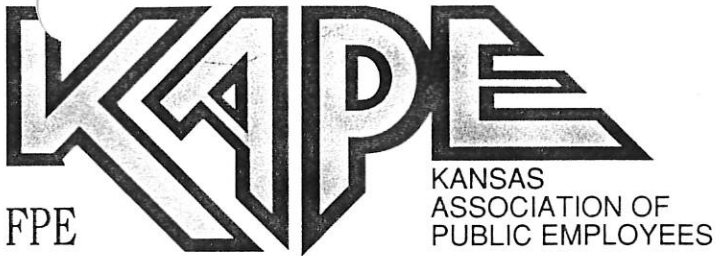


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- # *Employee participation* is built into the organizational structure and pushes responsibility down to teams of workers.
- # *Organizational structures* are flatter, broadening a worker's ability to respond to changing demands and creating flexibility within the enterprise. Products or services are no longer "handed off" to the next in line; entire teams invent new processes and build new services.
- # Increased flexibility leads to better *worker-manager and labor-management partnerships*, laying the foundation for a joint focus on product and service quality and on joint accountability, responsibility and decision making.
- # *Compensation is linked to performance* through such programs as gainsharing, profit sharing, employee stock ownership, and team-based pay.
- # Layoffs become the option of last resort, since companies value their investment in workers. A number of companies cited a commitment to *employment security* by adopting no-layoff policies, redeploying workers, or using other strategies.
- # High-performance enterprises provide a *supportive work environment*, offering flexible work schedules, child care resources, health benefits, and other employee-friendly commitments.
- # And finally, high-performance firms and organizations view *integration* of these practices as essential to long-term, strategic business success.

"The preliminary anecdotal and empirical evidence suggests a strong relationship between these practices and corporate performance," said Jonathan Low, director of OAW's Performance Measurement Project. "Not everybody is adopting high-performance practices yet. Our job is to build on the current information and share the results." He added that the next step would be "to encourage more business to adopt these practices, which, we believe, will make them more globally competitive."

The opportunity exists for this council to create a new program, taking advantage of the latest recommendations, and modeling their business of state services after those of the most successful businesses in the country. Considering the councils proposals, very few of the "best practice" principles outlined previously are included.



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The contracting out of public services requires a very comprehensive monitoring process to safeguard public funds, assure contract compliance, monitor contractor quality and protect against any political improprieties.

The success of privatization and true cost reductions in agency budgets will depend on this carefully structured process. The accountability and monitoring processes have not been developed.

While some degree of privatization exists in nearly every agency, KAPE is particularly concerned that agencies such as SRS and KDOT, which are the most highly privatized, also account for a tremendous share of the state budget.

It is entirely possible, especially in light of the lack of a well founded procedure on which privatization decisions are based, that privatization is less efficient than programs delivered by public employees.

That possibility mandates the need for great caution in adopting privatization as a solution to the state's financial concerns. The privatization solution may be worse than the fiscal problem we are trying to address.

Another privatization concern for Kansas taxpayers should be the threat of fraud such as experienced recently by KPERS (Kansas Public Employees Retirement System) which is currently 84% privatized.

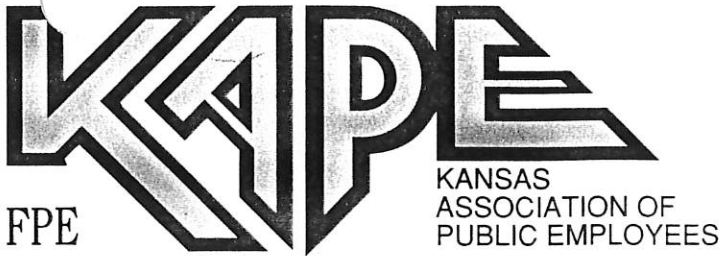
All contracting of services should be subject to open meetings laws and Freedom of Information Act for public protection and assurance of proper conduct.

IV. Recommendations

There are six items which any proposed plan should contain and guarantee:

1. The plan should demonstrate real cost savings.
2. Services should be equal to or better than currently provided.



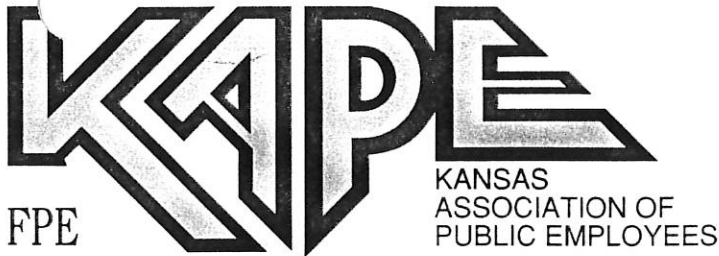


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3. Potential contractors should avoid exploitation of employees by paying equitable wages with benefits and pensions and comply with equal opportunity and reporting requirements. (A study by Marshall Barry, PhD. at the Florida International University in Miami, showed that workers displaced by contracting out lost medical insurance for themselves and their family members. And employees of the contractor also had no health insurance provided by the contractor. As a result, many of these employees or their family members sought treatment at local public hospitals, with taxpayers footing the bill. In essence, the Florida taxpayers were subsidizing the private contractor's health insurance provision.)
4. Require open bidding, including employees and unions as bidders.
5. There needs to be an independent system monitor.
6. There must be an efficient cost accounting system in place to evaluate agency functions. True costs and current staffing levels must be known before proper comparisons can be made. Additionally, the costs of resuming government services must be considered in case of program failure.

Other cost accounting concerns to be considered include:

- o When analyzing in-house cost information for labor costs, the number of positions shown should reflect current staffing levels. Vacant or frozen budgeted slots should not be included in the cost estimate.
- o If materials and supplies are not provided to the contractor, then it's important to make sure that projected costs for these items do not outpace inflation.
- o In-house estimates for overhead should include only those costs which would disappear if work is contracted.
- o In-house costs may also be higher than they should be because of bloated management, inefficiencies in service delivery, lack of investment in current employees or equipment or other reasons for high public cost.



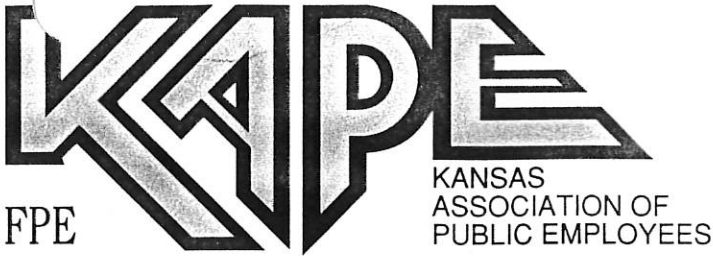
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- o Public budget cost that will continue with the contractor should be part of both in-house and contractor estimates of performing the work. Check that both parties agree on who bears the cost of particular items.
- o The agency may require contractors to provide for emergencies and insure against failure to provide services. Is the contractor bonded? Who is liable for poor performance or failing to provide a service? The public entity should be protected from lawsuits arising because of contracting failure.
- o Is the contractor being asked to do the same work and being held to the same standards as public employees? Often the contract itself may allow cuts in the quality, quantity or scope of service.
- o Are there cost considerations for services now provided by public employees for items such as Radiological Monitoring for Wolf Creek and Emergency Response Teams for radiation spills or accidents? Will contractors be expected to provide these services at no extra cost as KDOT does now? Will these services be cut? Will inspectors/monitors be required to attend training courses and who pays for necessary training? Other KDOT schools might include: Asphalt or Concrete Seminars; Pavement Marking; Bridge Inspection, etc.
- o Reconversion costs need to be spelled out for clear understanding.

Personnel Concerns:

- o What investments are being made in current employees for training? How does it compare to other businesses? Are new skills rewarded or recognized? Are skills and training keeping up with technology or are various jobs allowed to become ineffective and inefficient to make contracting out more attractive?
- o As trained public employees retire, quit or otherwise leave public service, will there be private monitors monitoring other private contractors? Would that be good public policy?





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V. Conclusion

Public employees have chosen careers to serve the people of Kansas. Their dedication and time devoted to that service should not be jeopardized due to unsatisfactory systems that need revision. These employees should be a valuable resource to use in designing quality, effective workplaces.

Further cooperative efforts to solve existing differences and devise a higher level of quality government services is recommended. A truly competitive workplace is possible with cooperation. This council's recommendation is structured toward privatizing only.

To restore public faith and confidence in Kansas Government, there desperately needs to be a commitment from employees, unions, administrators, private industry and the Kansas legislature. A commitment to a higher level of state services and employment practices with regard to sound financial budgeting is recommended.

The PERM analysis combined with a labor-management agreement would accomplish that commitment. If the two programs were combined, the taxpayers would reap the benefits of a motivated, productive and fiscally responsible state business.

Respectfully Submitted by:



Connie L. Burrow
S. E. Vice President
K.A.P.E.

