

Approved: 2-19-97  
Date

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS.

The meeting was called to order by Chairperson Dave Kerr at 11:00 a.m. on February 13, 1997 in Room 123-S of the Capitol.

All members were present except:

Committee staff present: Alan Conroy, Legislative Research Department  
Kathy Porter, Legislative Research Department  
Mark Burenheide, Legislative Research Department  
Norman Furse, Revisor of Statutes  
Michael Corrigan, Revisor of Statutes  
Judy Bromich, Administrative Assistant  
Janet Henning, Committee Secretary

Conferees appearing before the committee: Jeff Wagaman, Deputy Secretary, Department of Administration  
John Houlihan, Director of Purchasing, Department of Administration  
Linda Mannering, Chief Financial Officer, ESU  
Michael Byington, Wichita Industries & Service for the Blind  
Shelly Krestine, Grants Manager, Kansas Council on Developmental Disabilities

Others attending: See attached list

It was moved by Senator Jordan and seconded by Senator Salmans that bill draft 7 RS 1009 be introduced as requested by Senator Jordan. The motion carried on a voice vote.

It was moved by Senator Petty and seconded by Senator Morris that bill draft 7 RS 0333 be introduced as requested by Jonathan Small representing Koch Industries and Taxpayers Coalition. The motion carried on a voice vote.

It was moved by Senator Gilstrap and seconded by Senator Salmans that the minutes for February 7 and 10 meetings be approved. The motion carried on a voice vote.

**SB 5:** State agencies purchasing supplies

Jeff Wagaman, Deputy Secretary of Administration, told Committee members that **SB 5** would help agencies operate more efficiently and quickly, utilizing the updated procurement regulations and statutes (Attachment 1).

John Houlihan, Director of Purchases, Department of Administration, spoke to Committee members regarding **SB 5** which would allow Division of Purchases to be more responsive to the needs of state agencies and the vendor community (Attachment 2). In response to questions from Committee members regarding limits on purchasing, Mr. Houlihan stated this would be for goods and services. Several Committee members discussed concerns regarding the availability of goods needed for daily operations. Mr. Houlihan advised Committee members that **SB 5** probably would not reduce any costs but would ultimately be a savings of time involved to obtain the goods and services. Senator Ranson informed Committee members that according to **SB 5**, the Director of Purchases shall prepare a detailed report at least once each calendar year for contracts over \$5,000 entered into without competitive bids. Upon questioning, Mr. Houlihan stated that this report would not include items purchased with grant money or by a purchasing consortium. Senator Ranson requested that Committee members be furnished a current report.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS, Room 123-S Statehouse, at 11:00 a.m. on February 13, 1997.

Linda Mannering, Chief Financial Officer, Emporia State University, appeared before Committee members in behalf of the Regents Council of Business Officers in support of SB 5, (Attachment 3). Ms. Mannering informed the Committee the bill would allow for greater flexibility for the Director of the Division of Purchases to expedite purchases and create efficiencies and savings. Ms. Mannering stated the Regents Council of Business Officers acknowledges the need for proper accountability and responsibility and believes SB 5 has certain safeguards built within the wording to hold the Director of Purchases responsible and for him to hold agencies accountable. In response to a question, Ms. Mannering stated turnaround time for purchasing requests has improved considerably.

Michael Byington, Director of Governmental Affairs, Wichita Industries & Services for the Blind, Inc. appeared before Committee members in support of SB 5 (Attachment 4). Mr. Byington began by stating he wished to propose amendatory language to SB 5, (page three, end of line four and prior to the beginning of line five) "Authority to make purchases of less than \$5,000 shall be granted to Kansas Industries for the Blind (KIB) when such purchases are of raw materials used in the manufacture of goods manufactured and sold by that agency". Mr. Byington stated that KIB has experienced some difficulty in competing with private, not for profit providers because these providers can buy raw materials directly while KIB must go through State purchasing. Mr. Byington told Committee members that regardless of whether KIB remains a state agency or is privatized, their first interest is for the blind workers at KIB to keep their jobs and for additional job opportunities to be developed by and through that facility.

Shelly Krestine, Grants Manager, Kansas Council on Developmental Disabilities, appeared before Committee members in support of SB 5 (Attachment 5). Ms Krestine told Committee members that SB 5 would benefit individuals who have been approved for funds to receive assistive technology through the Vocational Rehabilitation System. Acquisition of equipment is a lengthy process and the bidding and contracts procedures further delay needed technology. Any measures to enhance this process would be beneficial to all persons involved.

The Chairman advised Committee members that SB 5 would be held until requested reports were received from the Director of Purchases.

The Chairman advised Committee members that SB 97 is exactly the same as SB 5, therefore, it was moved by Senator Salisbury and seconded by Senator Ranson that SB 97 be "killed". The motion carried on a roll call vote.

The Chairman again advised Committee members that SB 98 was exactly the same as SB 14, therefore, it was moved by Senator Ranson and seconded by Senator Lawrence that SB 98 be "killed". The motion carried on a roll call vote.

The Chairman adjourned the meeting at 12: 15 p.m.

The next meeting is scheduled for February 14, 1997.



**Testimony to the  
Senate Ways and Means Committee  
Honorable David Kerr, Chair  
February 13, 1997**

**Presented by  
Jeff Wagaman, Deputy Secretary of Administration  
Senate Bill 5**

Mr. Chairperson and members of the Committee, thank you for the opportunity to appear before Ways and Means Committee today. I am Jeff Wagaman, Deputy Secretary of the Department of Administration. Before John Houlihan, Director of Purchases, explains Senate Bill 5, I wanted to give you a little history on this measure and offer a few remarks.

Mr. Chairman, Madam Vice-Chair, and Committee members, the Department of Administration does appreciate your continued support of the Department of Administration this session. Secretary Stanley appreciates your introducing our agency legislation and scheduling hearings. As John will explain shortly, Senate Bill 5 is very similar to Senate Bill 402 of the 1996 Session. The purpose of Senate Bill 5 is to amend our competitive bid statutes which have been changed little since 1953. Mr. Houlihan has attempted to streamline many of the processes in the Division of Purchases to make the division smaller, more efficient and more user friendly for our agencies, Regents schools, and the vendors who do business with the state. With your help, Senate Bill 402 passed the Senate last year 33 to 7. It was then referred to the House Appropriations Committee where it was amended significantly. The bill was ultimately vetoed by the Governor.

Over the summer, the Legislative Education Planning Committee (LEPC) was greatly interested in the measure. Chairman Empson and LEPC invited Mr. Houlihan and I to appear and discuss Senate Bill 402 and the benefits to state agencies and to Regents institutions. The members of LEPC encouraged us to work with the Regents and introduce the bill again. Over the summer and fall, John and I have worked with the Regents officials and even visited several of the campuses. Mr. Houlihan has worked closely with the Regents Council of Business Officers and has received their support for this measure.

This measure when passed, will help agencies operate more efficiently and quickly utilizing our updated procurement regulations and statutes. The state's purchasing is conducted without favoritism and guarantees all purchases are made in a manner that fosters maximum competition, lower prices, and accountability of the taxpayers. The services of our division are provided by a procurement staff that has over 265 years of combined purchasing experience. Each officer has

specific expertise in buying items such as medical supplies, computers, building materials, and office goods. We feel this expertise is an asset for all agencies and universities. By pooling all of our purchasing power for agencies and universities, we are able to buy good and services at significant price reductions.

In addition, the Division of Purchases has significantly reorganized and reduced their staff in the last 24 months in an effort to become more efficient. The number of full time employees has been reduced from 37 to 27. At the same time, the budget of the Division has been reduced by 15%. Despite these reductions, the Division still strives to provide quality service to agencies.

Thank you for allowing us to appear on behalf of Senate Bill 5. I am please to introduce John Houlihan, the Director of Purchases, who will explain Senate Bill 5 in greater detail and answer your questions. Thank you again for your support of the Department of Administration.



DEPARTMENT OF ADMINISTRATION  
Division of Purchases

BILL GRAVES  
*Governor*

DAN STANLEY  
*Secretary of Administration*

JOHN T. HOULIHAN  
*Director of Purchases*  
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SENATE WAYS AND MEANS COMMITTEE  
TESTIMONY  
SENATE BILL NO. 5  
FEBRUARY 13, 1997

Presented by John T. Houlihan  
Director of Purchases

Mr. Chairman and members of the committee. I am John Houlihan, Director of Purchases. Thank you for the opportunity to speak on behalf of the Department of Administration in support of Senate Bill No 5.

The purpose of Senate Bill No.5 is to amend K.S.A. 75-3739, the competitive bid statute, which has been changed little since 1953. These changes will allow the Division of Purchases to be more responsive to the needs of state agencies and the vendor community. This bill is essentially the same as Senate Bill No. 402 which was passed by the 1996 Legislature, but vetoed by the Governor because of an unacceptable amendment added by the House of Representatives. Senate Bill No.5 will allow the following:

1. With the approval of the Secretary of Administration, the Director of Purchases may delegate authority to any state agency to make purchases of less than \$25,000 under certain prescribed conditions and procedures.
2. Allow all purchases estimated to be less than \$25,000 be made after the receipt of bid solicitations by telephone, telephone facsimile or after receipt of sealed bids following at least three days' notice posted on a public bulletin board.
3. Permit purchases estimated to exceed approximately \$25,000 but not more than \$50,000 be made after receipt of sealed bids and at least three days' notice posted on a public bulletin board.

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Attachment # 2

4. Allow all purchases estimated to exceed \$50,000 be made after receipt of sealed bids and notice published once in the Kansas Register not less than 10 days before date of bid opening.

5. Let the Director of Purchases obtain goods and services without competitive bids: when compatibility with existing contractual services, supplies, materials or equipment is the overriding consideration, when a used item becomes available and is subject to immediate sale, or when in the judgment of the Director of Purchases and the head of the acquiring state agency, not seeking competitive bids is in the best interests of the state. All procurements of this type shall be reported quarterly to the Chairperson of the House Appropriations Committee, the Senate Ways and Means Committee, and the Legislative Coordinating Council.

6. Permit state agencies to contract directly for goods and services with other state agencies, or with federal agencies, political subdivisions of Kansas, agencies of other states or subdivisions, or private nonprofit educational institutions without obtaining permission from the Director of Purchases or seeking competitive bids.

7. Allow the Director of Purchases to sponsor, conduct, or administer a cooperative purchase agreement or consortium for purchases of supplies, materials, equipment or contractual services.

8. Delegate authority to any state agency to make purchases under certain prescribed conditions and procedures when the acquisition is funded, in whole or in part, from a grant. As used in this bill, a grant means a disbursement made from federal or private funds, or a combination of these sources, to a state agency.

None of these changes will have a fiscal impact on the Division of Purchases, but they will allow the division to operate in a more efficient manner and be more responsive to the needs of the state agencies and the vendor community.

This concludes my prepared testimony, are there any questions?

Testimony before the Legislative Educational Planning Committee  
February 13, 1997

The Regents Council of Business Officers endorses Senate Bill No. 5 as proposed by the Educational Planning Committee. The changes put forth in this bill are needed given the increased pace at which business is being transacted and the demands for improved procedures to match this pace. The bill allows for greater flexibility for the Director of the Division of Purchases to expedite purchases and create efficiencies and savings. For example, Section (7) (I) would permit the director to explore participation and cooperation in consortiums that should result in cost savings to the State of Kansas and our institutions. Section (7) (e) would permit further delegation to our institutions as long as the institutions have proven their worthiness of such delegation. Section (5) supports the Director in purchasing equipment that must be compatible with existing systems or configurations which is a concern as the Regents continue to update information systems. Section (7) (j) allows for the director of purchases to delegate authority to state agencies making purchases from federal or private funds. This section provides for the efficiency needed by the Regents in managing purchases related to research funding.

The Regents Council of Business Officers acknowledges the need for proper accountability and responsibility and believes that Senate Bill 5 has certain safeguards built within the wording to hold the Director of Purchases responsible and to those he would deem appropriate to delegate local authority. We ask for your favorable action on Senate Bill No. 5.

Testimony prepared by on behalf of the Regents Council of Business Officers:

Roger Lowe  
Vice President for Administration  
Wichita State University

Linda Mannering  
Chief Financial Officer  
Emporia State University

Senate Ways and Means Committee

Date 2-13-97

Attachment # 3



WICHITA INDUSTRIES & SERVICES FOR THE BLIND, INC.

PLEASE REPLY TO: Michael Byington  
WISB Governmental Affairs Office  
P. O. Box 1063  
Topeka, Kansas 66601  
(913) 575-7477 (office and voice mail)  
(913) 233-2539 (FAX)

February 13, 1997

TO: Senate Ways and Means

SUBJECT: Senate Bill 5

I rise in support of this bill. I will suggest some amendments which will further strengthen its beneficial aspects, but after doing so, I will recount some situations which are examples of problems the bill could resolve even in its current form.

I will deal with the proposed amendatory language first. On page three, at the end of line four and prior to the beginning of line five, insert the following sentence.

"Authority to make purchases of less than \$5,000 shall be granted to Kansas Industries for the Blind when such purchases are of raw materials used in the manufacture of goods manufactured and sold by that agency"

In justification of this amendment, I would point out that the body of law potentially impacted by Senate Bill 5 already contains considerable specific exemptions for unique purchasing situations experienced by the State where traditional competitive bidding processes and other purchasing procedures simply do not work. The proposals already in this bill add some more unique examples as well as broadening general authority. It is thus certainly not inappropriate to add one more specific situation to the laundry list.

Kansas Industries for the Blind (KIB) is the last State-operated sheltered workshop for the blind in Kansas. Virtually all of its manufacturing contracts are with the federal and State government. In the case of KIB's federal contracts through National Industries for the Blind (NIB), the quality and quantity of future contracts available depends on the delivery of quality products on an on-time basis. Although the State Use contracts are a little less formal in their requirements, there is currently permitted a certain degree of competition

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Attachment # 4

A not-for-profit  
agency providing  
employment &  
services to people  
who are blind.

801 East Lincoln  
Wichita, Kansas 67211  
(316) 267.2244  
Fax (316) 267.4312

925 Sunshine Road  
Kansas City, Kansas 66115  
(913) 281.0710  
Fax (913) 281.2450

1600 North Walnut  
Pittsburg, Kansas 66762  
(316) 231.8600  
Fax (316) 231.8620

between Kansas Use Law covered entities. KIB, as a State agency thus must compete with private, not-for-profit competitors for the sale of certain products to the State. Both quality and on time delivery are thus important factors in keeping a market share of State business. KIB has experienced some difficulty in competing with private, not for profit State Use Law providers because these providers can buy raw materials directly while KIB must go through State purchasing. This has slowed down the delivery of raw materials, and some quality problems have also resulted. NIB contracts have also been effected by quality and on-time delivery problems resulting from inferior raw materials or inability to get materials in a manner which is responsive to the business delivery needs.

A Legislative Post Audit was done over this past fall. Although KIB essentially received a clean bill of health from an audit standpoint, the audit did find that some changes in purchasing procedures would be beneficial.

Largely because of the above referenced problems, though, KIB has lost money as a business for the past several years. The reaction of the Kansas Department of Social and Rehabilitation Services (SRS) to this situation has been to announce that KIB will be privatized or closed. Attempts to privatize KIB last year, however, were not successful. KIB currently remains a State agency and although Rehabilitation Services Commissioner, Joyce Cussimano, or Secretary Chronister, have not mentioned closing the facility in several months, House Bill 2271, currently before the Legislature, seeks legislative authority and direction in further privatization attempts. The fact is, however, there is no guarantee that KIB will or can be successfully privatized. If it is not, the blind people who work there do not want to lose their jobs. They do not feel the losses experienced by KIB are a result of any flagging or inadequate work efforts on their parts, and they do not feel that the eccentricities of State purchasing arrangements should be the cause of their unemployment.

It seems odd that the State of Kansas would look at privatization or closure of KIB before it would look at fixing the major problem which is causing it to lose money. The problem is fixable. It is vested largely in KIB's inability to purchase raw materials through procedures which are competitive with the work of not-for-profit companies who also are engaged in federal Javits-Wagner-O'Day Act (JWOD) business and/or State Use

business.

Now some of you may be wondering at this point in this testimony why WISB is involved in this matter or is concerned with the welfare of KIB as a State facility. After all, it is well known that we were involved last year in the unsuccessful negotiations with the State for KIB privatization. It might seem as though our position should be to let KIB die a slow death whereupon there may be greater motivation on the part of the State for successful privatization. Also, it might seem to be in our best interest for KIB to not do well as it represents, hypothetically, a competitor. Our response is that this is not the way we do business, and such a position in the long run would not constitute a sound business practice.

Our Board of Directors has not yet made a decision as to whether WISB will bid to privatize KIB if and when the State releases requests for proposals (RFPs) which may be authorized by House Bill 2271. If such RFPs are forthcoming, however, and if WISB does again become a bidder, it would certainly be in our best interest to adopt a KIB which is in the best possible financial health. We thus want to see it do well as a State facility.

If the State of Kansas withdraws its interest in privatization because KIB is made to function more cost effectively as a State agency, or if a not-for-profit operator other than WISB ends up as the privatizing agency, we will have still, through our advocacy, satisfied an aspect of our mission. Our mission is *"To enhance the personal independence of individuals whose blindness, often accompanied by other disabilities, impacts their opportunities for employment, success, and integration into community life."* Our first interest is thus for the blind workers at KIB to keep their jobs and for additional job opportunities to be developed by and through that facility. We want this to happen whether we run the show, the State does, or another private, not for profit does.

We would thus ask that you help KIB survive and grow through the adoption of this amendment and then through the adoption of the amended bill. I will now turn to the bill as it now stands and explain why we see it as positive even in its current form.

Competitive bidding has never worked well for functions

the State of Kansas performs in the areas of vocational rehabilitation and related purchasing of durable medical equipment. It slows the rehabilitation process and decreases the chances that the disabled consumer will get the equipment which is their first choice, and which in fact has the best likelihood of making them employable or more independent. This in turn causes State dollars to be spent inefficiently, because the few dollars saved through the bidding process may well result in the disabled end user not being able to succeed in their employment or independence outcome. Money is spent on equipment which never proves useful. I will provide some examples which have been brought to my attention by some of my blind and visually impaired peers and also from my own experiences with vocational rehabilitation and assistive technology funding.

I have a birth defect related visual condition which causes me to be considered legally blind even though I have some travel vision. Though my vision is not correctable in the traditional sense, I use very highly technical, assistive devices very effectively. Such equipment allows me to hold a job and do some things which legally blind people usually can not.

Although I can read almost any size of print for short periods of time, to read longer documents without extreme fatigue, I require the use of such equipment as a closed circuit television magnification device (CCTV) or an electronic reader. State Rehabilitation Services buys quite a few CCTVs every year for people who are legally blind and who are seeking their first job. These are expensive enough items that they have in the past had to be competitively bid or have been put on sole source types of contracts. I can tell you from experience that there are several brands of CCTVs which will meet even very specifically written bid specifications. Because of the way the optics and camera equipment interact with my eyes, however, I can read more than three times as fast with some models as I can with others. I have talked with other legally blind people who tell me they have had the same experience, so I am not all that unique. If I am a Rehabilitation Services, client, and am perhaps up for my first job, the reading speed I am able to achieve may determine whether I succeed or fail in my employment attempt. I think in such a situation I should be the judge of what equipment will work best, not the competitive bidding process.

My distance vision is also impaired in that I see no fine

detail even though I can see colors and rough shapes at a distance with good accuracy. I am allowed to drive in familiar areas only provided that I wear a highly technical bioptic telescope lens which gives me a small area of good detail vision for such purposes as reading road signs, locating addresses and landmarks, etc. The equipment is so technical and complex to use that I had to work with various types of vision therapy for over a year before I was allowed to attempt driving or other higher level activities with this lens system. As a person who has managed to remain gainfully employed for the past 19 years, I have had to replace my lens system several times at my own considerable expense. My first system, however, was purchased for me by vocational rehabilitation, and was purchased on competitive bid. I was lucky in that the folks who sold the equipment I could best use got the bid, but it might not have worked out that way. Now again, as in the example above, I have tried several systems which are all similar enough to meet most bid specifications. I can use some brands much more quickly and effectively than others. Now I ask you, do you prefer to have me behind the wheel using a system I select, or is it better to have me using a system selected through the competitive bid process and by someone who has never worked with me?

My last example concerns a type of equipment I do not use, but it is a clear example of where the competitive bid process caused a waste of state monies, and caused a group of blind people who use Braille great difficulty in starting their first professional jobs. A number of years ago, some new technology came out called "paperless Braille" or "refreshable Braille displays." This equipment can be attached to a computer, or in some cases, serve as a small laptop computer. A Braille display where the dots pop up, a few words at a time, on a tactile touch screen takes the place of the monitor screen, which of course the blind person can not use. This equipment represents a major breakthrough in employment related technology for people who are blind. When this type of equipment first came on the market, there were two major companies which made it. Word gets around the blindness community pretty quickly, so most of us who are blind or legally blind heard soon after the equipment hit the market that one brand worked well and that the other was a laughing stock and not worth the plastic it was made from. The State, of course, put the purchase of this equipment out for competitive bid. Of course the rotten equipment came in as low bid. It did indeed meet the bid specifications. It just did not work.

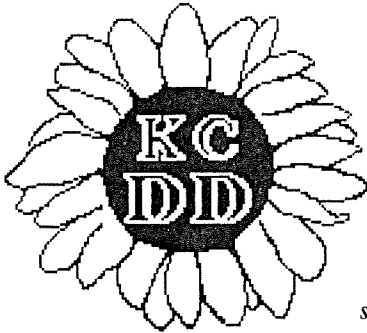
I do not remember exactly how many of these turkeys the State bought, but I think somewhere between five and ten. I know several of the blind people who got them, and none of them were able to use them on the job. In at least one instance, the person lost the job because of the lousy equipment, and many years later, the State ended up purchasing him some decent paperless Braille equipment with which he experienced a successful job attempt. He continues to be employed today, but the original poor equipment set him back several years. What is more, after the first paperless Braille equipment the State bought for blind rehabilitation services clients did not work, SRS decided that this type of equipment must not be practical for employment and they refused to buy any type of it for several years. The policy on this issue only changed after a number of State SRS officials saw my wife, who is a totally blind Braille user, make a public, scholarly presentation using her paperless Braille device. (By the way, hers was the good brand, but she only got it because we went into debt by about the price of a new car to get it for her. This was during the time the State was not purchasing this class of device, and even though she used it on her first job, we had to go into massive debt before she was working to get it. Had my aunt not died and left us some money against which we could borrow, we would not have been able to finance it.)

In closing, the only problem I have with this bill is that it may not go far enough. It gives the Secretary of Administration and/or the Director of Purchases permissive authority to grant exemptions and prescribe procedures in a number of instances, but there are probably many instances where I would support the Legislature's simply codifying purchasing exemptions specifically in the law. Nonetheless, the adoption of the Legislation would further improve a system, which is improving somewhat already, but which has often malfunctioned in the past at great expense to the State. The amendments proposed at the beginning of this testimony will simply make it a stronger and more useful piece of legislation.

Sincerely yours:

Michael Byington  
Director of Governmental Affairs

MB/mjb



## ***Kansas Council on Developmental Disabilities***

BILL GRAVES, Governor

TCM ROSE, Chairperson

JANE RHYS, Ph. D., Executive Director

Docking State Off. Bldg., Room 141, 915 Harrison

Topeka, KS 66612-1570

Phone (913) 296-2608, FAX (913) 296-2861

*"To ensure the opportunity to make choices regarding participation in society and quality of life for individuals with developmental disabilities"*

### **SENATE WAYS & MEANS COMMITTEE**

**February 13, 1997**

Testimony in Regard to S.B. 5, AN ACT RELATING TO PURCHASES OF AND CONTRACTS FOR SUPPLIES, MATERIALS, EQUIPMENT, AND SERVICES.

Mr. Chairman, Members of the Committee, I am appearing today on behalf of the Kansas Council on Developmental Disabilities to testify in favor of Senate Bill 5. The Kansas Council is a federally mandated, federally funded council composed of individuals appointed by the Governor. At least half of the membership are persons with developmental disabilities or their immediate relatives. We also have representatives of the major agencies who provide services for individuals with developmental disabilities. Our mission is to advocate for individuals with developmental disabilities to see that they have choices regarding their participation in society.

We support S.B. 5 as it will benefit individuals who have been approved for funds to receive assistive technology through the Vocational Rehabilitation (VR) System. Acquisition of equipment through VR is a lengthy process, and the bidding and contracts procedures further delay needed technology getting to those who need it to move forward with their careers and their lives. Any measures to speed up the process would be greatly appreciated by individuals waiting for equipment, their families, service agencies, employers, vendors, and the list goes on. Thank you for the opportunity to testify today, and I would be happy to answer any questions.

Shelly Krestine, Grants Manager

Kansas Council on Developmental Disabilities

Docking State Office Building, Room 141

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**Senate Ways and Means Committee**

Date *2-13-97*

Attachment # *5*