

Approved: 2-4-98  
Date

## MINUTES OF THE HOUSE COMMITTEE ON APPROPRIATIONS.

The meeting was called to order by Chairperson Phil Kline at 1:30 p.m. on January 27, 1998 in Room 514-S of the Capitol.

All members were present except: Representative JoAnn Pottorff - Excused

Committee staff present: Alan Conroy, Stuart Little, Carolyn Rampey, Legislative Research Department;  
Jim Wilson, Mike Corrigan, Revisor of Statutes Office;  
Helen Abramson, Administrative Aide; Linda Swain, Appropriations Secretary

Conferees appearing before the committee:

Thaine Hoffman, Director, Division of Architectural Services, Department of Administration  
Bill Caton, President, Kansas Development Finance Authority  
Charles E. Simmons, Secretary, Department of Corrections  
Carla Stovall, Kansas Attorney General  
David Pope, Chief Engineer, Water Resources Division, Department of Agriculture

Others attending: See attached list

Thaine Hoffman, Director, Division of Architectural Services, gave an overview of the Energy Conservation Bond Program (Attachment 1). He stated, if passed, **HB 2603** would raise the cap from \$5M to \$10M, and Bill Caton, President, Kansas Development Finance Authority spoke on the issue of financing the program.

Following the overview, several of the committee's concerns were discussed. Chair Kline reminded the committee the presentation was not part of an official hearing on **HB 2603**. Concerns included: the justification for raising the limit to \$10,000,000; the procedures and statutes used in transferring funds from agency budgets; the rationale in agencies delaying work which would save the state money; questions on the Regent's budget for improvement programs; questions on whether audits are being used as tools to identify recommended improvements. Representative Helgeson requested an estimate of costs for a complete audit of each of the Regent's campuses. Chair Kline noted the Regents would have an opportunity at later date to come before the committee.

### Hearing on HB 2534 - Correctional inmates; eligibility for unemployment benefits

Secretary Simmons was recognized to testify on behalf of **HB 2534** (Attachment 2). The bill makes it clear that inmates are prohibited from receiving unemployment benefits while incarcerated. He urged the committee's favorable action.

After questions by the committee, the hearing was closed. No action was taken on the bill.

At 2:10 p.m. Chair Kline announced a five minute recess. The meeting was reconvened at 2:15 p.m.

Attorney General Carla Stovall introduced: Don Pitts, the Assistant Attorney for the office that handles water law; and David Pope, Chief Engineer for the Water Resources Division, Department of Agriculture.

Attorney General Stovall made a slide presentation on the Kansas/Colorado water lawsuit originally filed in 1985. She reviewed recent developments in the litigation: the judgement for Kansas on almost every issue; Kansas is entitled to pre-judgement interest (something never previously decided in a water lawsuit); reparation could come in the form of water or money; the Kansas' model, rather than Colorado's model was adopted to determine the amount of water lost; the Kansas model being significantly higher than the Colorado model; Colorado legislators are beginning to make estimates to the press on possible amounts of the settlement, with quotes as low as \$30M and as high as \$100M.

A discussion followed. Major concerns remain including water rights and restrictions. Attorney General Stovall noted it will probably be another two years before the lawsuit will be finally concluded.

Attorney General Stovall continued with a presentation on water rights between Kansas and Nebraska. She requested introduction of a resolution in the House asking for support for a lawsuit. The resolution would require a lawsuit be filed against the State of Nebraska. Separation of powers allows the Attorney General to file the suit on her own, but since the legislature has the authority to control the funds, she would like to know in advance if there is enough interest in the legislature to finance the litigation. Passing the resolution would not bind the legislature to any level of funding. It would simply make a statement that there is strong legislative support and acknowledge there isn't any other way to protect Kansas water rights.

A chart of the Republican River Basin (Attachment 3) was distributed to the committee members. Attorney General Stovall and David Pope gave a brief history of the problems in the basin leading up to recommendations (by the Attorney General's office and the Water Resources Division) to file a lawsuit. The Governor was in agreement the lawsuit should be filed.

Discussion followed the slide presentation. Concerns were expressed on the importance of correctly estimating litigation costs.

Representative Spangler commended the Attorney General, her staff, and the other individuals involved for the work they are doing.

The meeting adjourned at 3:10 p.m.

The next meeting is scheduled for January 29, 1998.

## APPROPRIATIONS COMMITTEE GUEST LIST

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NAME	REPRESENTING
Megan Rachow	intern for Rep Pottorff
Thaine Hoffman	DOAS
Dan Etzel	DOAS
Trudy ARON	AmInst of Architects
Erik Sartorius	Pete McGill + Assoc.
PAUL BICKNELL	KDHR
Linda Tierce	KDHR
Bill Caton	KDFA
Charles Simmons	Dept. of Corrections
Vickilyn Felsel	Budget
Louis Chubwa	DOB
Earl Lewis, Jr	Dept of Ag
David L Pope	Dept of Agriculture
Donald L. Pitts	Office of AG

(1)

**ENERGY CONSERVATION BOND PROGRAM (K.S.A. 75-37,111 et seq.)  
HOUSE BILL 2603**

**Overview of Program:**

The program started in Fiscal Year 1990.

The purpose of the program is to save the state money by conserving energy. The program administrator in the Division of Architectural Services looks for areas where energy could be saved. These could be upgrading light fixtures with new, more efficient ballasts, replacing heating and air conditioning systems, replacing windows, installing insulation, adding better controls, etc. The most promising of these are analyzed to determine the cost, the energy savings, and the payback period. For those with a reasonable payback period, we use seven years, and they're recommended for financing. These projects are bundled and bonds are sold to finance these projects, and the bonds are repaid through the savings in utility bills. The Division of Budget reduces the agency's budget accordingly. It is an excellent program and needs to be maximized.

There are many private firms that provide this type of services, but it is hard to verify all the numbers, so we feel more comfortable doing it in house; also, those companies are in business for a profit and they pay higher interest on money, so it is cheaper to do it ourselves.

The following are examples of projects:

- Central Chiller Plant - University of Kansas
- Air Conditioning, Grubbs Hall - Pittsburg State University
- Window Replacement, Fairmount Housing - Wichita State University
- Reroof (install insulation), Union - Emporia State University
- Lighting - Osawatomie State Hospital

Although the program is approved for up to \$5 million in project costs per fiscal year, the bond sales have been as follows:

1990	\$ 3,461,000.00
1992	\$ 2,609,000.00
1993(L)	\$ 395,000.00
1993(M)	\$ 2,959,500.00
1995	\$ 2,479,760.00
1996(A)	\$ 4,689,540.03
1996(J)	\$ 2,967,275.00
	<b>\$19,561,075.03</b>

House Bill 2603 proposes to increase the \$5 million limit. Since this program saves costs and therefore taxpayer money, the more projects we do, the better. I do feel that an increase would be helpful. The problem is that we work with \$5 million in projects, but since there is a cut off date, for various reasons agencies aren't ready to proceed, so they pull out and it is too late to substitute. If we had a higher limit, we could work with that and at least get the \$5 million. I therefore support HB 2603, but there are other issues that also need to be addressed.

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Attachment 1*

Another problem with the bonds is that they need to be issued in large increments, thus bundling is necessary. In some cases, a remodeling project could include energy conservation measures, but the agency can't hold up the project several months until the energy bonds are sold, so the opportunity is lost. In other cases, the bond issue is too soon and analysis and approvals cannot be done in time for the bond issue.

A third problem is that only energy costs can be considered. In western Kansas, water is a precious commodity and needs to be conserved. More efficient cooling towers, etc., save water and the water savings should be included. I would recommend that this be included in House Bill 2603 if it is continued. I don't think that would be very controversial.

A similar concern is that in some cases, such as automatic controls on boilers, salaries could be saved. However, these aren't covered in the legislation either, and these are more controversial, since it we need to insure that the positions are actually given up. We are still working on that problem.

The last and largest problem is that the program is set up to save the STATE money. This makes sense, but there is not enough incentive for the agencies to use the program. Some are enthused because they get new equipment that saves on maintenance, but others are reluctant to use the program because their budget is then lowered to pay for the project, and after the project, they do not realize the savings. We therefore have to really SELL a program that should sell itself.

Bill Caton at the Kansas Development Finance Authority and the Department of Administration are developing a means that appears to solve these problems. Rather than issue bonds once a year, he would set up a line of credit, using an RFP process so everyone has an equal chance. This would allow us to proceed with individual projects as they were developed, cutting out the long delays and deadlines. This alone would greatly improve the program. To do this, they would use existing legislation now used for equipment leases, although the two programs would be somewhat different. Bill is here today for questions concerning the financing end of the program.

Since it would be using other legislation, the cost justification could include savings such as water.

Another advantage is that they would allow the agencies to make the loan payments rather than reducing agency budgets. This would make the program more attractive to the agencies, although the Division of Budget would still have the information and could use it as they develop future budgets.

We feel this would greatly improve the effectiveness of the program. Again, the program does not save anyone money if it is not used. The problem now is timing. We are not quite ready to unveil the alternate program, so we might encourage you to proceed with House Bill 2603. Yet, you have so many bills to consider, it is a shame to have you spend time on this if the alternate approach is to be used.

Do you have any questions or comments for Bill or I?



THAINE HOFFMAN, AIA  
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DIVISION OF ARCHITECTURAL SERVICES



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Bill Graves  
Governor

Charles E. Simmons  
Secretary

MEMORANDUM

Date: January 27, 1998  
To: House Committee on Appropriations  
From: Charles E. Simmons  
Secretary of Corrections  
Re: HB 2534

The Department of Corrections supports HB 2534.

HB 2534 is intended to make it clear that inmates are prohibited from receiving unemployment benefits while incarcerated. As background, the Department of Corrections sought introduction of HB 2151 amending the provisions of K.S.A. 44-703 pertaining to the definition of "employment". However, after discussion with the Department of Human Resources during the 1997 legislative session, it appeared that a different statute should be amended, since HB 2151 in its current form, would have unintentionally denied federal tax credits to employers by limiting the definition of the term "employment". The Department of Human Resources advised that a better method of accomplishing the goal of the Bill would be through amendment of the benefit eligibility conditions established by K.S.A. 44-705. HB 2534 incorporates the Department of Human Resources' recommendation and accomplishes the intent of the Department of Corrections. HB 2534 directly prohibits inmates from receiving unemployment compensation while incarcerated irrespective of whether the offender had been employed prior to his or her incarceration or whether the offender would be entitled to receive unemployment compensation due to his or her participation in the correctional industry program once released from confinement.

The disqualification of an incarcerated offender from receiving unemployment compensation while incarcerated serves the purpose of insuring that any private industry employment will conform to the requirements of the federal "Prison Made Goods Act". The federal "Prison Made Goods Act" requires that offenders employed in a correctional industries program be ineligible to receive unemployment compensation while incarcerated.

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Attachment 2

MEMO: House Committee on Appropriations  
Re: HB 2534  
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The Department of Corrections supports prohibiting incarcerated inmates from receiving unemployment benefits. Inmates in the custody of the department are employed both within the confines of correctional facilities in the private industry program and through the work release program. The Department of Human Resources has consistently found that inmates who are removed from private employment but remain incarcerated are "unavailable for work". However, this administrative finding may be subject to challenge on the ground that some employment opportunities, albeit limited, nonetheless exist within the confines of a correctional facility. Additionally, the federal Prison Made Goods Act, 18 U.S.C. § 1761, requires that inmates engaged in a correctional industry be ineligible to receive any payments for unemployment compensation while incarcerated.

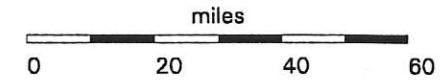
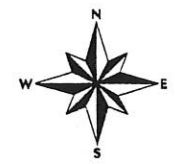
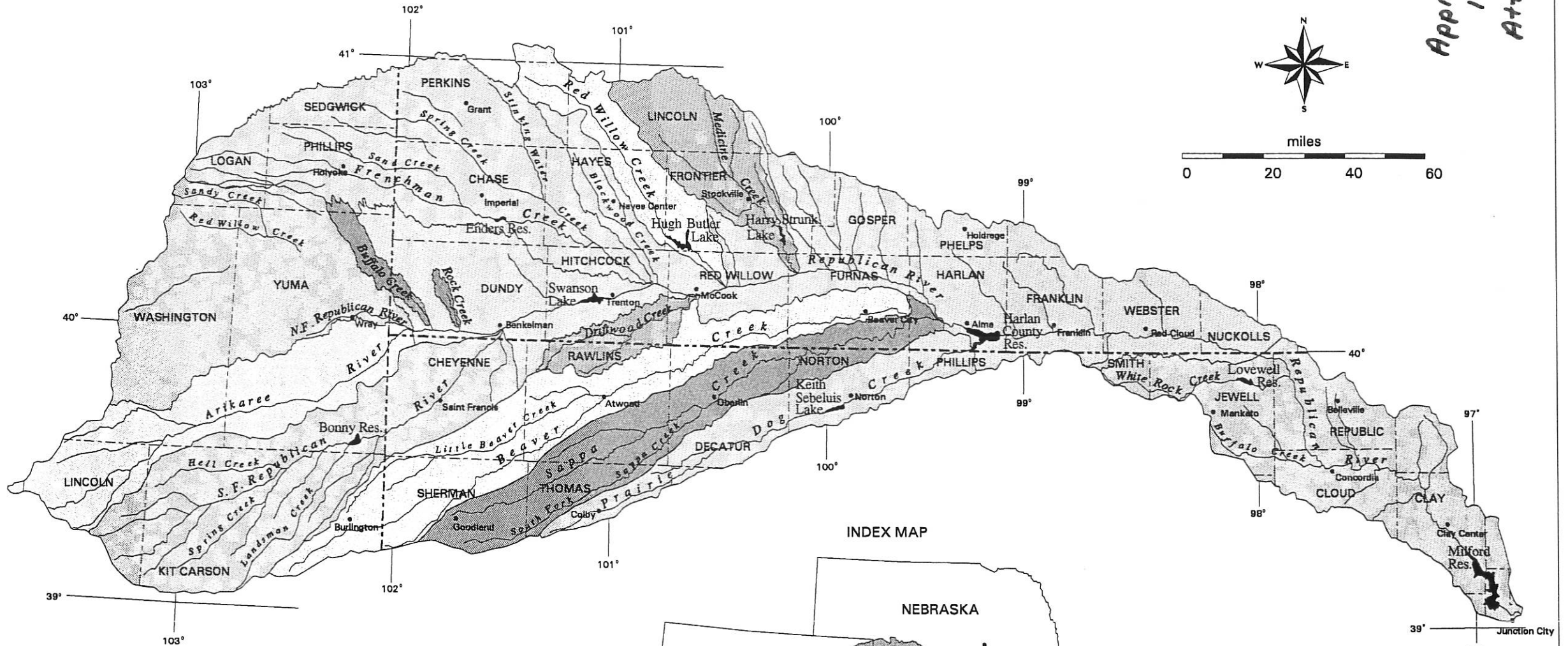
Due to the requirement of federal Prison Made Goods Act and the absence of a need to extend unemployment compensation benefits to incarcerated inmates, the department urges that favorable consideration be given to HB 2534. This amendment would codify the Department of Human Resources' administrative practice of disqualifying incarcerated inmates from receiving unemployment compensation benefits while incarcerated.

CES/TGM/nd

cc: Legislation file

# Republican River Basin

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 Attachment 3



- LEGEND**
- Lakes and Reservoirs
  - Basin Boundaries
  - County Lines
  - Rivers or Streams
  - State Lines
  - County Seats



The main source of data for this map is from USGS data at a scale of one to two million. This data includes hydrology, counties and HUC8 boundaries (1987). The Buffalo, Rock, Frenchman, N.F. Republican, and Driftwood Creek basins are HUC11 boundaries from the Nebraska Natural Resources Commission (1994). Cities and towns in Nebraska are also from the NRC.

Kansas Department of Agriculture  
 Division of Water Resources  
 SWRMP, June 1995