

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairperson Michael O'Neal at 3:30 p.m. On February 19, 2001 in Room 313-S of the Capitol.

All members were present.

Committee staff present:

Jerry Ann Donaldson, Legislative Research Department
Jill Wolters, Revisor of Statutes Office
Cindy O'Neal, Committee Secretary

Conferees appearing before the committee:

Representative Dale Swenson
Andy Sanchez, Kansas Association of Public Employees
Leta Denise Mitchell, Wichita
Janet Schalansky, Secretary Social & Rehabilitation Services
Kathy Porter, Office of Judicial Administration
Representative Jim Garner

Committee minutes from February 5, 6, 7, 8, & 12, were distributed.

Hearings on **HB 2375 - Kansas Payment Center; support payments received & distributed by employees of SRS**, were opened.

Representative Dale Swenson appeared as the sponsor of the bill. He explained that it would bring the payment center under SRS and would help with the efficiency and effectiveness of the payments. He was not sure about how much money this would cost but hopes that it would end up being a savings to the state. (Attachment 1)

Andy Sanchez, Kansas Association of Public Employees, believes that a public service such as child support payments should be handled through SRS and not a private contractor. He has had a number of field representatives who have visited employees at the work site and they have reported back that there is a lot of fear from employees about reporting the problems with the Kansas Payment Center. (Attachment 2)

Leta Denise Mitchell, Wichita, reported that she has continually had problems receiving her payments on time, even though her ex-husband's employer has made the payments to the Center on time. She is concerned about her ability to purchase medication for her daughter if the payments are continually late. (Attachment 3)

Written testimony from Penny Blue regarding her problems with the Kansas Payment Center was provided to the committee. (Attachment 4)

Hearings on **HB 2375** were closed.

Hearings on **HB 2508 - child support enforcement, Kansas Payment Center & income withholding**, were opened.

Janet Schalansky, Secretary Social & Rehabilitation Services, commented that the proposed bill would codify the authority of Kansas Supreme Court to require child support payments to be sent to the Kansas Payment Center. She provided an update as to the steps SRS & Tier has taken to address concerns voiced at the January 22, 2001 meeting. (Attachment 5)

Secretary Schalansky reported that:

- between October - February \$1 million in emergency checks had been cut between SRS & Tier
- SRS has used some of the \$144 thousand fines to offset payments owed from Tier to SRS. This offset helps support the program

Chairman O'Neal made the comment that the SRS should collect all fines due and be placed in the State

Treasury so that the state would receive the interest and that Tier should be paying for their own enhancements because that was stated in their contract.

He questioned if overtime was paid to SRS employees who monitored Tier. Secretary Schalansky replied that if they worked overtime they probably received payment. He then questioned who made those overtime payments, SRS or Tier. The Secretary replied that overtime was probably paid by SRS since they insisted that their employees be there to help solve problems. The Chairman stated that Tier should have paid the overtime and been fined since they were not turning around checks within 24 hours.

Kathy Porter, Office of Judicial Administration, reminded the committee that without legislation action the Administrative Order will expire June 30, 2001. (Attachment 6)

Committee members were concerned about the record keeping ability of the Kansas Payment Center and the possibility of litigation because of unpaid child support.

The committee request a copy of the SRS audit as to what types of cases are being held in the suspense file.

Hearings on **HB 2508** were closed.

Hearings on **HB 2402 - SRS responsible to pay late fees assessed to persons who did not receive child support or maintenance payments on time**, were opened.

Representative Jim Garner appeared as the sponsor of the bill. The proposed bill would be an element to provide help to citizens by allowing them to claim losses & damages due to missed or late child support payments. (Attachment 7)

Hearings on **HB 2402** were closed.

Hearings on **HB 2361 - creating the central payment center advisory commission**, were open.

Chairman O'Neal discussed the reason for the advisory commission and suggested that one appointment be added to the list, that being an appointment from the Office of Judicial Administration.

Hearings on **HB 2361** were closed.

It was announced that the bills heard today would be assigned to a sub-committee which would be appointed at a later date.

The committee meeting adjourned at 5:45p.m. The next meeting is scheduled for February 20, 2001.

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DALE A. SWENSON

COMMITTEE ASSIGNMENTS
BUSINESS, COMMERCE & LABOR
HEALTH & HUMAN SERVICES
JOINT COMMITTEE ON SPECIAL
CLAIMS AGAINST THE STATE
JUDICIARY

Testimony H.B. 2375

House Judiciary Committee

February 19, 2001

Thank you for the opportunity to appear before you today.

H.B. 2375 places The Kansas Payment Center under the supervision of the Secretary of Social and Rehabilitation Services. The bill also re-staffs the center with state employees.

It is my belief that government that is closest to home is the best. State employees are more likely to be vested with the problems surrounding the payment center than outside vendors. I am confident that whatever is needed, state employees and management will be expeditious to make KPC efficient and cost effective.

Two other bills before this committee are a testament that changes in KPC are desperately needed. H.B. 2361 would create a payment center advisory commission to study the problems. H.B. 2402 would have SRS take the financial responsibility for the KPC business problems. Together, these House Bills are powerful evidence of how deep and widespread the problems are.

We cannot afford not to take action. We cannot take chances with the families needing child support payments. Too many of them are becoming destitute.

I urge the committee to take favorable action on H.B.2375.

House Judiciary
2-19-01
Attachment 1

Testimony of Andy Sanchez, Executive Assistant to the President
The Kansas Association of Public Employees, KAPE/AFT, AFL-CIO
Before the House Judiciary Committee

Delivered on February 19, 2001

Thank You Mr. Chairman and members of the Committee. I appreciate the opportunity to speak before the Committee. I am the spokesperson for KAPE, and today I am here to speak in support of HB2375. KAPE represents about 20,000 State Employees across the State.

KAPE supports HB2375 primarily because we believe a public service responsibility such as this belongs to a public agency such as SRS, and not in the responsibility of a private contractor. Our members have relayed to us, that new minimized responsibilities of overseeing the processing of child support checks have left them out of the loop. That is, while inquiries often put blame upon SRS workers for late checks being received, workers can only pass-on inquiries and simply are not privileged to enough information to provide public service. Clearly this is a broken link in providing quality public service.

Secondly, we support this bill because no review was done on this venture. The Kansas Performance Review Board was created for that very purpose. This entity, created in statute by the Kansas Council on Privatization Task Force in 1994 provides a complete systemic analysis before the privatization of a government function occurs. But, this valuable resource, a check and balance entity, was not given a chance to pass judgement in this instance. This entity provides the accountability Kansans deserve, yet, their funding and their very existence is in jeopardy this session by SB180.

The Governor refers to State Employees in his State of the State, as "talented" and as "providing excellent results", yet more and more functions of the State are experimenting with private contractors. The experimenting in another SRS endeavor is Foster Care and it has resulted in exorbitant costs and poor service. Some have referred to it as a "black hole". We believe funding such as that in to Foster Care would have been better invested in Public Employees. The same is true here.

HB2375 provides for a bold step by making a public service again a service performed by Public Employees. But the step does not seem so bold to us, because we know employees are concerned about government and their jobs. It is our hope that their working environment should be one that they are willing to offer their own suggestions on how to make government more efficient and cost effective. I urge this Committee to reinvest in our most valuable resource, Public Employees. Selling to the lowest bidder is no way to provide public service.

Thank You.

February 19, 2001

Leta Denise Mitchell
3850 S. Meridian # 409
Wichita, Ks 67217

Dear Sirs:

On October 2, 2000 I received a letter from the Kansas Pay Center, advising me that effective October 1, 2000, they would be processing all of my child support payments. They advised me that this was being done so the State Of Kansas would be in compliance with the Federal Government mandate that the State have one local pay center for all child support in the State Of Kansas. The letter went on advising me how to access the Pay Center on the internet, the 800 number and my pin number. The letter also advised that these changes would not effect my payments.

My ex-husband's paydays are every other Monday and I knew he would be getting paid on October 9th so I would be receiving a check for \$65.58 on October 12th or 13th. The 12th and 13th came and went and no check arrived. I called the 800 number and entered my social security number and received a message that my pin number had not been activated yet. I then call the number back, and after Aprx. 20 to 25 mins. on hold A customer service representative advised me that until the first payment was processed in their system the pin number would not work. The actual process of the first payment is what activated the pin number. I explained that I didn't understand because my ex-husband got paid on October 9th, and his employer advised him that they had sent the money to the Kansas Pay Center. Why in the world would the payment not be processed it. The representative advised me that they were five days behind. I ask her exactly what that meant and she advised they were processing checks received 5 days ago. After talking to the representative I was feeling secure that the payment would be coming because surely my check was received 5 days prior. I am unsure of the exact date I finally received this check, but I know it was after October 23rd. The reason I know this, is because October 23rd my ex-husband got paid again which meant his employer sent another payment to the Kansas Pay Center. From October 13th to the day I got that check, several phone calls were made to the Kansas Pay Center. I had several phone conversations with a gentleman by the name of Mr. Jim Robertson. Mr. Robertson was very helpful in getting the money to me. When the check did arrive, the check was a Kansas State Check not a check from the Kansas Pay Center. A day or two after the first check of approximately \$65.58 finally arrived, I did receive the second payment withheld from my ex-husband's check on October 23rd. Once again this check was from the State Of Kansas, Not the Kansas Pay Center.

November 6th and November 20th were the pay dates for my ex-husband. I did receive checks the end of each of those weeks. Once again the checks were from the State Of Kansas not the Kansas Pay Center. I didn't question this, I was just glad to finally be receiving the checks on a regular basis again.

December 4th, my ex-husband got paid and I received approximately \$65.58 on December 8th, 2000. Once again the check was from the State Of Kansas not the Kansas Pay Center. December 18th, my ex-husband got paid. I was planning to use that check to go home for Christmas on December 23rd. My daughter was planning on staying with my mother during Christmas break so I would not need to buy a lot of groceries for the week of December 25th through January 1st, 2001 as she would be at grandma's house. I had budgeted \$30.00 groceries for that week because it would just be me. I was going to use \$15.00 for gas so I could go home for Christmas (Caldwell Ks) and leave \$15.00 with my mom so my daughter would have spending money while she was there for the week. I ended up borrowing money for the gas to get home on and left no spending money for my daughter. I received

that check on December 26th, 2000. That check was a Kansas Pay Center Check, drawn on a bank in Missouri in the amount of approximately \$65.58.

January 1st, 2001 was the next pay date for my ex-husband. I have yet to receive that check. I contacted Mr. Robertson's office the week of January 8th. Mr. Robertson was not available and another person in his office helped me. I cannot remember this man's name. I advised this gentleman that they needed to get me that check immediately because there was no extra money in my budget that could be pulled for groceries. Be advised that my great grandmother passed away on December 18th and my daughter had been ill with her asthma so my payroll check was a little short and with Christmas expenses in there to, the money was real tight. I advised the gentleman that if he could not get the Pay Center to get me my child support check was there anyway SRS could give me some emergency money. He advised he would check into it and call me back. Within a couple hours he called back and advised that the pay center showed they had processed the check on January 2nd and I should have already received it. I questioned this because my ex-husband's pay date was January 1 and since that was a holiday how could they process it on January 2nd. However it is possible that his employer issued checks prior to the New Year Holiday. The gentleman advised me that he could get me a emergency check from the SRS office in Wichita. He advised me that I would have to sign a promissory note stating that when the check arrived I would take it to SRS in Wichita. He also advised me that I needed to contact the Kansas Pay Center and request an affidavit that the check was lost or stolen so they could re-issue it. I requested the affidavit, filled it out and sent it back. I received an emergency check from SRS in Wichita approximately 72 hrs after I called the Child Support Enforcement. NOTE: AS OF THIS DATE FEB. 19TH, 2001 I AM STILL WAITING FOR THIS REPLACEMENT CHECK.

January 15th ex-husband's payday. I receive a check for approximately \$65.58 on the 19th of January from the Kansas Pay Center.

January 29th ex-husband's payday. I receive a check on Feb. 1st. for \$32.79. I knew this wasn't right because January has an extra week and in the past, when the State Of Kansas processed the checks, I would only receive a small check in the amount of approximately \$10.00. This is because I get \$148.00 a month and would have already received approximately \$131.00 in the month. I looked at the stub of the check and it shows that \$21.86 of this check was for arrears and 10.93 was actual child support. I do not know how Victor Mitchell can be in arrears when the child support is being taking directly out of his check every pay day and even though the checks have been late, I have received all of the checks except for the January 1st check which the pay center admitted they received, processed and mailed to me.

On February 10th I received a check for \$32.81. The check stub shows that this is money received from Victor Mitchell's employer on 1-30-2001. This is not correct. They sent me a check on Feb. 1st. I then went to the web site and pulled my payment record, and the payment record does not even show the payment on Feb. 8th. It shows they mailed a payment on 1-30-2001 for \$68.31, and a payment on 2-17-2001, which I have not received yet. The record shows nothing on a check they sent to me on 2-8-2001. I have attached a copy of the two check stubs that clearly shows the money was from an income withholding dated 1-30-2001. It will also show that \$21.86 of the check received on Feb. 1st is for arrears and there is no way Victor can be in arrears.

I no longer feel secure in even cashing the checks when I get them.

I never had this problem when the State Of Kansas was processing my child support. I no longer have any confidence what so ever in this company managing my daughter's child support.

In closing, I would just like to advise this committee that as we enter into spring and summer, my budget gets very tight. My daughter has chronic respiratory asthma. As of Feb. 15th we have added a inhaled steroid to her daily preventive medication and when we get closer to ragweed season in August we will add breathing treatments on a daily basis instead of a as needed basis. This increases my medication budget from \$40.00 a month to \$55.00 a month. She is 9 years old and every year except for 2 since she was born she has done a 5 to 7day hospital say during ragweed season because her asthma goes completely out of control.

My KGE budget will increase due to the fact that I do not have central air in my home and I have to run two window units. I run a 110 unit in my daughter's bedroom and 220 unit to cool the rest of the house.

My day care budget increases because school is out and I pay for 9 hrs a day instead of 45 mins. in the morning and 45 mins. in the afternoon.

I pride myself on the fact that I work a full time job and receive no assistance from the State Of Kansas. However if the State Of Kansas doesn't step in and take over the local pay center, then Tier Technologies will put me right in the welfare line.

Thank you for taking the time to listen.

Leta Denise Mitchell

02/19/01

My name is Penny M. Blue. I own a 14 acre farm, have a 40 hour a week job, and four daughters. My story starts out with the simple facts. According to the Petition for Divorce papers filed January 16th, 2001, I was to receive \$547.00 in child support from my husband, Phillip Blue beginning February 1st, 2001. This was to be the first child support payment to be made during our divorce proceedings. As of February 8th, I had not received anything. I called the Kansas Payment Center, spent 30 min. on hold only to be told in short manner that they had not received it, there was no record of it.

I waited a few more days, giving them the benefit of doubt. In the meantime, I talked to a friend who had had the same experience as me. She suggested that I call and ask them to look in the "suspended file". That is where her payments were found to be. I called once more on February 12th and spoke to a very nice woman who told me she could check the suspended file but would need to have the check number and the exact dollar amount. I had to have someone in my office call my husband on another line and get the information, then relay that back to the KPC rep. Sure enough, they had it all along. KPC had received the first half of the payment (\$273.50) sometime close to the first of the month and had not bothered to send it to my account. My husband not only sent the check but made copies off all court documents and sent it certified mail to try to eliminate any possible problems. I feel that regardless of his efforts, the payment was mishandled. Also on the 12th, Phillip Blue mailed the second half of the \$547.00 monthly payment, which I later received on Friday, February 16th.

I was told on February 12th that the found check would be cut the next day and sent out immediately. Knowing now what was going on, I called my bank and spoke to the Branch Manager, Kenny Fisher. I explained to him my situation and that I was waiting for the money that was suppose to be in my account as of the first to cover the checks I had wrote. He pulled my account information and told me that as of that moment I had a total of 10 returned checks from that day and the day previous. My NSF charges totaled \$300.00. Kenny reviewed the rest of my account, and stated that I was a good customer, not prone to overdrafts on a regular basis, and because of this, he was willing to try to work with me to the best of his ability. He offered to refund back to my account half of the \$300.00 charges (\$150.00) and freeze my account until all my checks had been deposited. I accepted his

offer. After my conversation with Mr. Fisher I deposited my paycheck, then went to my home to check the mail. There I found my checks from KPC for the child support, one from my first husband, James R. Beer, and the first payment sent by Phillip Blue. I then went back to the bank and deposited them both. While I appreciate very much what Mr. Fisher has done for my bank account, I am left dealing with the charge of \$150.00 that is the result of an error on KPC's part. I know that may be a small amount of money to some, but for me and my family that is approximately one and a half weeks worth of groceries, or maybe one or two bills that would have been paid on time. Or maybe I would have been able to afford the trip to speak in person to you today and express the fact that something needs to change. Something needs to be done. I've heard the stories of others having their utilities shut off. I consider myself very lucky. On the other hand I am in a bind now, and it's going to take some time before I'm out.

I urge you to consider making a change with the way our children's money is being handled.

THANK YOU

Ray M. Blue

**Kansas Department of Social and Rehabilitation Services
Janet Schalansky, Secretary**

House Judiciary Committee
February 19, 2001

HB 2508 - Kansas Payment Center

Mr. Chairman and members of the committee, thank you for this opportunity to testify in support of House Bill 2508, the Kansas Payment Center (KPC).

This legislation codifies the authority of the Kansas Supreme Court to require that child support payments be sent to the KPC. As you are aware a proviso in the 2000 omnibus budget bill was enacted which authorized the Kansas Supreme Court to issue an administrative order directing child support payments to be made to the KPC instead of to the district courts. The legislative proviso and Supreme Court Administrative Order No. 154 will both expire on July 1, 2001.

I'm not going to reiterate the background information I presented to you last month regarding the KPC but will provide you with an update as to the steps Tier and the Department have taken since the hearing on January 22nd regarding your concerns.

- 19 new Tier staff members have been hired and started training for various positions on Feb 6th.
- In response to the Court Trustees and SRS field staff a new system issues tracking mechanism was implemented Feb 5th consolidating all state and Tier issues into one tool available on the internet.
- Enhanced procedures have been implemented for Supervisor call backs. Supervisors are returning calls during the day, evening, and weekend.
- Promoted a customer service representative to lead worker to assist the customer service unit in providing answers to procedural and system questions.
- Increased monitoring of calls resulting in some Tier staff leaving the KPC.
- Increased outreach to employers regarding submission of payments by Electronic Funds Transfer (EFT). There has been an 11% increase in employers use of EFT. We continue to receive positive feedback from employers who are making use of EFT.
- The number of phone calls brought to our attention regarding the KPC are continuing to decline. Calls to the Governor's office peaked the week of October 30th at 109 compared to last weeks total of 7 calls.

- Doubled the number of users who can access the web site at any given point in time from 250 to 500.
- SRS has solicited input from Court Trustees regarding future enhancements to the system and is in the process of doing a cost benefit analysis to prioritize the enhancements.

Additionally, I support the Committee's bill (House Bill 2361) creating the central payment advisory commission. We welcome any opportunity for continued improvement in the central disbursement unit within the child support system. Input from the commission would be helpful during the contracting process and in assisting the Department with public education on child support.



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Testimony to the House Judiciary Committee
February 19, 2001
Kathy Porter

The Office of Judicial Administration (OJA) wishes to testify in support of House Bill No. 2508. OJA has worked closely with the Kansas Department of Social and Rehabilitation Services (SRS) in the development and implementation of the Kansas Payment Center (KPC). Prior to implementation of the KPC, support-related payments were made to the local office of the clerk of the district court or the local court trustee. Cooperation between Tier Technologies (the vendor operating the KPC), SRS, and OJA was necessary to make the transition from the local systems to the centralized system as successful as possible.

SRS introduced Senate Bill 530 to the 2000 legislature. This bill would have, in part, redirected payment of support from the local court locations to the KPC. SB 530 died in committee, therefore, a proviso in the 2000 Omnibus budget bill was enacted which authorized the Kansas Supreme Court to issue an administrative order directing child support payments to be made to the KPC instead of to the district courts, at the time the KPC was ready to begin operations.

In September 2000, Secretary Schalansky and Tier President Jim Weaver both wrote letters to Kansas Supreme Court Chief Justice Kay McFarland, stating they believed the KPC was ready to begin statewide operation on September 29, 2000, and requested the Kansas Supreme Court to issue the administrative order authorized by the Legislature. SRS was facing the federal requirement to begin operation or to incur substantial federal monetary penalties. Therefore, the Supreme Court did issue Administrative Order No. 154, which directs that support payments be made to the KPC.

It is important to note that Administrative Order No. 154 is effective only through

June 30, 2001, therefore continued operation of the KPC will require legislation this year. In current law, K.S.A. 2000 Supp. 60-1610 (a)(1) states, "Every order requiring payment of child support under this section shall require that the support be paid through the clerk of the district court or the court trustee except for good cause shown." There are parallel requirements for payment through the courts for other forms of support and maintenance. These are all amended in the proposed legislation to redirect such payments to the Kansas Payment Center. Last year's proviso and subsequent Supreme Court Administrative Order have temporarily made that redirection occur.

Without legislative action, the statutory requirements that support payments be made through the clerk of the district court or the court trustee will again become effective on July 1, 2001. At that point in time, the KPC will have been in operation for nine months, and it will be nearly impossible for the system of receipting and disbursing these payments to be returned to the courts.

With regard to the specific provisions of House Bill 2508, on page 5, at lines 20-24, we would suggest the elimination of the last sentence which reads, "Upon designation by the Kansas supreme court, the central unit for collection and disbursement of support payments shall commence operations with respect to support orders entered in each county as provided in a schedule adopted or approved by the supreme court or the supreme court's designee." This language was part of the proposed bill from last session, but is not necessary in the present bill, as the KPC is already in operation.

In addition, we wish to include an additional cleanup item in House Bill No. 2508. We proposed to eliminate the language in K.S.A. 2000 Supp. 23-4,111(e) which states, "If support payments are undeliverable to the obligee, any such payments shall be held in trust by the court until the payments can be delivered." This subsection addresses payments on income withholding orders. Those payments are currently made to the KPC, not to the district court. Therefore, this statute is no longer necessary. In addition, any such payments currently held by the court would be much more likely to reach the intended recipients if they were submitted by the court, as all other unidentifiable funds are, to the State Treasurer pursuant to the Unclaimed Property Act, K.S.A. 58-3934 et seq.

Finally, in regard to House Bill No. 2361, we request an additional Commission member, "the Judicial Administrator or designee."

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JIM GARNER
HOUSE DEMOCRATIC LEADER

Testimony in Support of
HB 2402
House Judiciary Committee
19 February 2001

Chairman O'Neal and members of the committee:

Thank you for the opportunity to appear and testify in support of HB 2402. This bill would establish an expedited method allowing citizens to make claims against the state and seek reimbursement for damages and out of pocket losses incurred due to the failures of the state and the Kansas Payment Center (KPC).

People have incurred real losses because of incompetence of Tier Technologies and SRS. Individuals have incurred late fees on utility bills or credit card accounts, "bounced check" fees, and garnishment expenses. I strongly believe the state has a responsibility to reimburse these individuals for these costs and to hold them harmless for losses resulting from wrongs caused by the state and its agent.

House Bill 2402 does the following:

Direct the Office of Administrative Hearings to review claims for losses and damages due to missed or late child support payments. The Secretary of SRS would be responsible for paying such claims approved by the administrative law judge. The claim must be processed within 30 days of receipt. The bill also requires the Secretary to notify persons receiving child support of the right to make claims under the bill.

Members of this committee completely understand how poor the service of the Kansas Payment Center has been. It reflects horribly upon the state. I have received complaints from constituents of rudeness, out-right lying and non-responsiveness by the employees at Tier Technology.

The **very least** we should do is offer to make things right with the people who have lost money because of their experiences with the KPC.

House Judiciary
2-19-01
Attachment 7

My personal suggestion, beyond reimbursing citizens for their losses, is to totally scrap the current KPC. I encourage the members of the committee to seriously explore an alternative which would go back to allowing the courts to handle child support payments. I never heard complaints with the system administered by the clerk of the courts. I read in the February 2001 Kansas Criminal Justice Information System Newsletter that the Office of Judicial Administration is pursuing a new case management system that "will move the courts toward a uniform technology infrastructure that supports the collection and maintenance of critical court information". We should explore the option of getting waivers from the federal government to pursue and implement a centralized court information system to document child support payments. Needless to say, I am not impressed with Tier Technology or the current system and think we should develop a different approach.

Nevertheless, people in our state have been wronged by the KPC and have experienced monetary damages. HB 2402 provides a quick method for reimbursing these individuals for their losses. I urge you support for HB 2402.

Again, thank you for the opportunity to share my support for HB 2402.