

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE.

The meeting was called to order by Chairperson Senator Nancey Harrington at 10:30 a.m. on February 26, 2002 in Room 245-N of the Capitol.

All members were present.

Committee staff present: Russell Mills, Legislative Research Department
 Dennis Hodgins, Legislative Research Department
 Theresa Kiernan, Office of the Revisor
 Nikki Kraus, Committee Secretary

Conferees appearing before the committee:

 Karl McNorton, State Fire Marshal's Office
 Don Rhinehart, Reliance Energy, Peabody & Inman
 Justin Holstin, Propane Marketers Association of Kansas
 Stan Odle, Farmway Co-op.
 Tom Whitaker, Kansas Motor Carriers Association
 Tim Ryan, City of Overland Park
 Diane Gjerstad, Wichita Public Schools
 Larry Baer, League of Kansas Municipalities
 Jim Clark, Assistant Attorney General for State Fire Marshal's Office

Others attending: Please see attached

Ben Burgess, Kansas Parole Board, asked the committee for the introduction of a bill regarding parole hearings and parole violation hearings which are not subject to the open meetings act.

Senator Brungardt made a motion to introduce. Senator Gilstrap seconded the motion. The bill was introduced.

Chairperson Harrington opened the public hearing on:

SB 625–Fire safety and prevention fire sprinklers, alarms and extinguishers; flammable liquids and gasses

The committee received a copy of the Fiscal note for the bill. (Attachment 1)

Karl McNorton, State Fire Marshal's Office, presented testimony in favor of the bill. (Attachment 2)

Don Rhinehart, Reliance Energy, Peabody & Inman, presented testimony in favor of the bill. (Attachment 3)

Justin Holstin, Propane Marketers Association of Kansas, presented testimony in favor of the bill. (Attachment 4)

Stan Odle, Farmway Co-op., presented testimony in favor of the bill. (Attachment 5)

Senator O'Connor asked why there is a difference in the fees between small and large companies, and Mr. Odle stated that there is a difference because there are more trucks and facilities in a larger operation. He stated that the fee difference would make sure that everyone is on a more even playing field.

In response to a question from Senator Barnett regarding insurance, Mr. Odle stated that he also sits on the National Propane Safety Committee, and he has helped to write some of the federal regulations and to get information to people. He stated that there is no government regulation of who is in the business in the state

CONTINUATION SHEET

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE at on February 26, 2002 in Room 245-N of the Capitol.

of Kansas, and there is no way to track how the training is applied in every business. He stated that, unlike his own business, he has been in contact with others who have had no training. He stated that he was concerned that some businesses spend a great deal of money each year insuring that their employees are trained when others do no such training. He stated that many businesses are leaving the propane industry because of accidents. He stated that he thinks that insurance companies need to do a better job of training everyone involved with this product. He stated that this product is safe, but people need to be trained.

Tom Whitaker, Kansas Motor Carriers Association, presented testimony in opposition to the bill. (Attachment 6)

Senator Brungardt asked Mr. Whitaker if he had spoken with the propane marketers about his concerns, and Mr. Whitaker stated that until this bill came about, he didn't even know this existed.

Russell Mills, Legislative Research Department, stated that he wanted to answer Senator O'Connor's question from the previous day. He stated that there is an old statute that goes back to 1963, and it lists about 35 state agencies that collect fees. He stated that the statute grabs 20% of all the fees collected by those agencies; the rationale behind this is to reimburse the state general fund for accounting, auditing, budget, legal, payroll, personnel, and purchasing services and any and all other services which are performed by state agencies for other state agencies. He stated that this is very common.

Chairperson Harrington stated that the public hearing for **SB 625** was closed.

Chairperson Harrington opened the public hearing on:

SB 622--School building construction standards; fire safety

Karl McNorton, State Fire Marshal's Office, presented testimony in favor of the bill. (Attachment 7)

Chairperson Harrington asked Mr. McNorton if this bill would pass costs onto school districts, and she stated that the committee might want to get a fiscal note on the bill.

Senator Vratil stated that he believed that this bill would impose significant additional costs for construction. He stated that he would like an explanation of the language on page 1, lines 29-31.

Mr. McNorton stated that many of the communities believe that they don't have any say about what goes on when schools are built there. He stated that his organization was asking that the community have a little bit of say so and look at the building and inspect it to be sure it was being built according to the code it was being designed to.

Senator Vratil asked Mr. McNorton if he realized that such language might require school districts to comply with two different codes such as the international code and a city code, which may be different in irreconcilable and inconsistent requirements.

Mr. McNorton stated that there is that possibility, but he thinks that the law is pretty clear that when a school is designed, it has to be designed to this code. Senator Vratil stated that was true except for that sentence, and Mr. McNorton stated that was a possibility. Senator Vratil asked why Mr. McNorton was providing that a school may have to comply with two different codes which are irreconcilable and inconsistent. Mr. McNorton stated that he had not been looking at specific building codes and if they had a special ordinance in effect.

In response to a question from Senator O'Connor, Mr. McNorton stated that the bill is not more strict than what is on the books, but it is more current. He stated that cost might actually be less for a sprinkler system than constructing the building for fire separation.

Chairperson Harrington stated that Don Seifert, City of Olathe, wanted to go on record as being for the bill. (Attachment 8)

CONTINUATION SHEET

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE at on February 26, 2002 in Room 245-N of the Capitol.

Tim Ryan, City of Overland Park, presented testimony in favor of the bill. (Attachment 9)

Theresa Kiernan, Office of the Revisor, stated that as a follow up to Senator Vratil's question, she would like to know if this is an attempt to amend another statute which provides this exception that schools do not have to meet the stricter local codes; she stated if that is the case, then she needs to amend another section.

Senator Vratil stated that he thinks that it is an attempt to amend another section.

Mr. Ryan stated that stricter local restrictions are more of a climatic issue; therefore, jurisdictions have to recognize differences such as snow loading, seismic changes, etc.

Ms. Kiernan asked if schools have to get building permits, and Mr. Ryan stated that his opinion of the Attorney General's opinion on this is that if the local jurisdiction requires them to get permits and inspections, they have to, but they only have to comply with the codes that are adopted at the state level.

Senator Vratil asked Mr. Ryan about the language in lines 29-31, stating that in Mr. Ryans' testimony he stated that he spoke about the City of Overland Park adopting the international code, and if that was the case, then there would be no purpose to having that sentence.

Mr. Ryan stated that would only be the case if that last sentence meant that we had amended those codes, then we could apply those amendments.

Senator Lyon asked if the international code does not allow for variances in seismic or snow loads. Mr. Ryan stated that all building codes do allow for those, but within the codes, there are variances between different parts of the United States.

Diane Gjerstad, Wichita Public Schools, stated that she was concerned that ongoing projects may be affected by the bill.

Senator Vratil stated that if the committee delayed the effective date, then that might eliminate problems.

Chairperson Harrington stated that the committee would not be working the bill today to allow the concerned parties to get together and discuss differences.

Larry Baer, League of Kansas Municipalities, presented testimony in favor of the bill. (Attachment 10)

Trudy Aron, AIA of Kansas, stated that this is not anything different than what she has had with periodic updates in building codes. She stated that as long as the designer knows which code to use, then that is what they are going to design to. She stated that as far as cost goes, as long as everybody knows what the rules are when you start out, then there shouldn't be any difference in cost. She stated that if the international code was not adopted, then building codes would be further and further away from what is state of the art.

Chairperson Harrington opened the public hearing on:

SB 623—Firefighters; disqualification of certain persons

Jim Clark, Assistant Attorney General for State Fire Marshal's Office, presented testimony in favor of the bill. (Attachment 11)

Larry Baer, League of Kansas Municipalities, presented testimony in opposition to the bill. (Attachment 12) He stated that he attached proposed amendments to his testimony. (Attachment 13)

Chairperson Harrington drew the committee's attention to a fiscal note for **SB 622**, **SB 623**, and **SB 625**, respectively. (Attachment 14) (Attachment 15) (Attachment 16)

The meeting adjourned at 11:50 a.m. The next meeting will be held at 10:30 a.m. on March 6, 2002 in Room 245-N.

SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
GUEST LIST

DATE: February 26, 2002

NAME	REPRESENTING
LARRY R BAKER	LICM
Sustia Holstin	Propane Marketers Ass'n of KS
Stanley Ode	Lawrence Coop
Donald C. Reinert	Reliance Energy Partners, LLC
Christi Stewart	Ks Motor Carriers Assoc.
Mike Hearn	Ks Fire Marshal Office
Karl M. Norton	Ks Fire Marshal Office
Jim Clark	" " " "
Tom Whittaker	Ks Motor Carriers Assn
Rose Rozniarek	KS Fire Marshal Office
Heady Aron	Am Inst of Architects
Tom Ryan	City of Overland Park
Ed Kottinski	Ks. State. Dept. of Education
Tom Palace	Amn of Kansas
Erik Sartorius	City of Overland Park
Matt Bartholt	ks. Co-op Council
Pat Lehman	KS FIRE SERVICE ALLIANCE
Jim Keating	KS Firefighters Association
Gale Haag	state fire marshal

STATE OF KANSAS



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Bill Graves
Governor

Duane A. Goossen
Director

February 26, 2002

The Honorable Nancey Harrington, Chairperson
Senate Committee on Federal and State Affairs
Statehouse, Room 143-N
Topeka, Kansas 66612

Dear Senator Harrington:

SUBJECT: Fiscal Note for SB 625 by Senate Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning SB 625 is respectfully submitted to your committee.

Current law authorizes the State Fire Marshal to certify the inspection, installation, and servicing of fire extinguishers in businesses for which it can charge a fee of \$25 to \$200. SB 625 expands the programs and activities that would be subject to a certification fee to include fire detection and sprinkler systems, explosives and blasting agents, fireworks, flammable or combustible liquids, liquid propane gas, and liquid petroleum gas. In addition, the bill would increase the maximum certification fee from \$200 to \$500.

The Office of the State Fire Marshal indicates that additional revenues would be generated by applying the certification fee to more programs and by increasing the maximum fee from \$200 to \$500. The agency estimates additional revenues of \$200,000 to the Fire Marshal Fee Fund in FY 2003.

The agency estimates it would require \$254,005 in additional expenditures from its fee fund in FY 2003. This estimate includes \$183,205 in salaries and wages for 3.0 Fire Inspectors, 2.0 Fire Investigators, 1.0 Fire Protection Specialist and 2.0 Office Specialists, as well as \$70,800 in other operating expenditures. Salaries and wages expenditures are estimated for one-half year in FY 2003.

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Attach #1

The Division of the Budget notes that the fiscal effect as a result of the passage of this bill is impossible to estimate precisely. However, given the significant expansion in the number of programs that would require certification, it is reasonable to suppose that additional resources would be required. The Office of the State Fire Marshal estimates expenditures for the last half of FY 2003 on the assumption that the first half would be used to plan for the expansion in certification activities. It should be noted that the bill becomes effective July 1, 2002; therefore, the fiscal note of the bill, as drafted, should be based on a full cost for FY 2003. It should also be noted that, based on the information currently available, any expansion of expenditures in the operation of the Fire Marshal's Office close to the agency's estimate would exceed the revenues generated by the bill. In that case, the agency would have to use uncommitted balances in the Fire Marshal Fee Fund to cover any increase in expenditures beyond what the bill provides.

Sincerely,



Duane A. Goossen
Director of the Budget

cc: Beth Fenske, Fire Marshal's Office

**Testimony in support of Senate Bill 625 before the
Senate Federal and State Affairs Committee**

Date: February 26, 2002

By: Karl W McNorton, Director

Fire Prevention Division

Kansas State Fire Marshal's Office

The bill provides for establishing fees for current programs (fire protection systems, fireworks, and explosives) and to establish fees for liquefied petroleum gas registration and licensure program.

SB 625 will provide the state fire marshal the authority to establish fees for the programs listed in lines 16 through 43 of page one of the bill. The fees will be user-based collection for certification, licensure, and permits to provide necessary safety and security to Kansas communities. We feel that users of these programs should be funded by a fee for their successful completion of certification, licensure, or permit and not funded through the general fee collection paid through insurance premiums. The state fire marshal has the authority to establish rules and regulations for the designated programs and has in many cases. However, it doesn't have the authority to set or collect fees for licensure, certification, or permits for programs already established.

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Attach #2

We are concerned for the safety and security of Kansans. History has shown us that lives and property are lost due to improper storage, security, and handling of explosives, lack of concern for the safety of the public at outdoor fireworks displays, and improper or inadequate installation of fire protection systems and alarms.

We are proposing fees for plans review of flammable and combustible liquid and liquefied petroleum gas.

In your package of testimony we have included some pictures and news articles illustrating some of the problems we have seen and continue to see. Some cases have inflicted harm to individuals and losses to property. Some have potential to cause harm to many, as is the case of the explosive manufacturer in southeast Kansas or the instance where a 9,500-gallon propane transport overturned west of Great Bend. Some system installations have caused delay in notification to the building occupants to evacuate and other systems have not functioned at all either due to improper installation or improper maintenance by unqualified people.

The bill would allow the establishment of minimum insurance requirements for all programs and set minimum limits of liability for persons or businesses responsible ensuring public safety while providing their services.

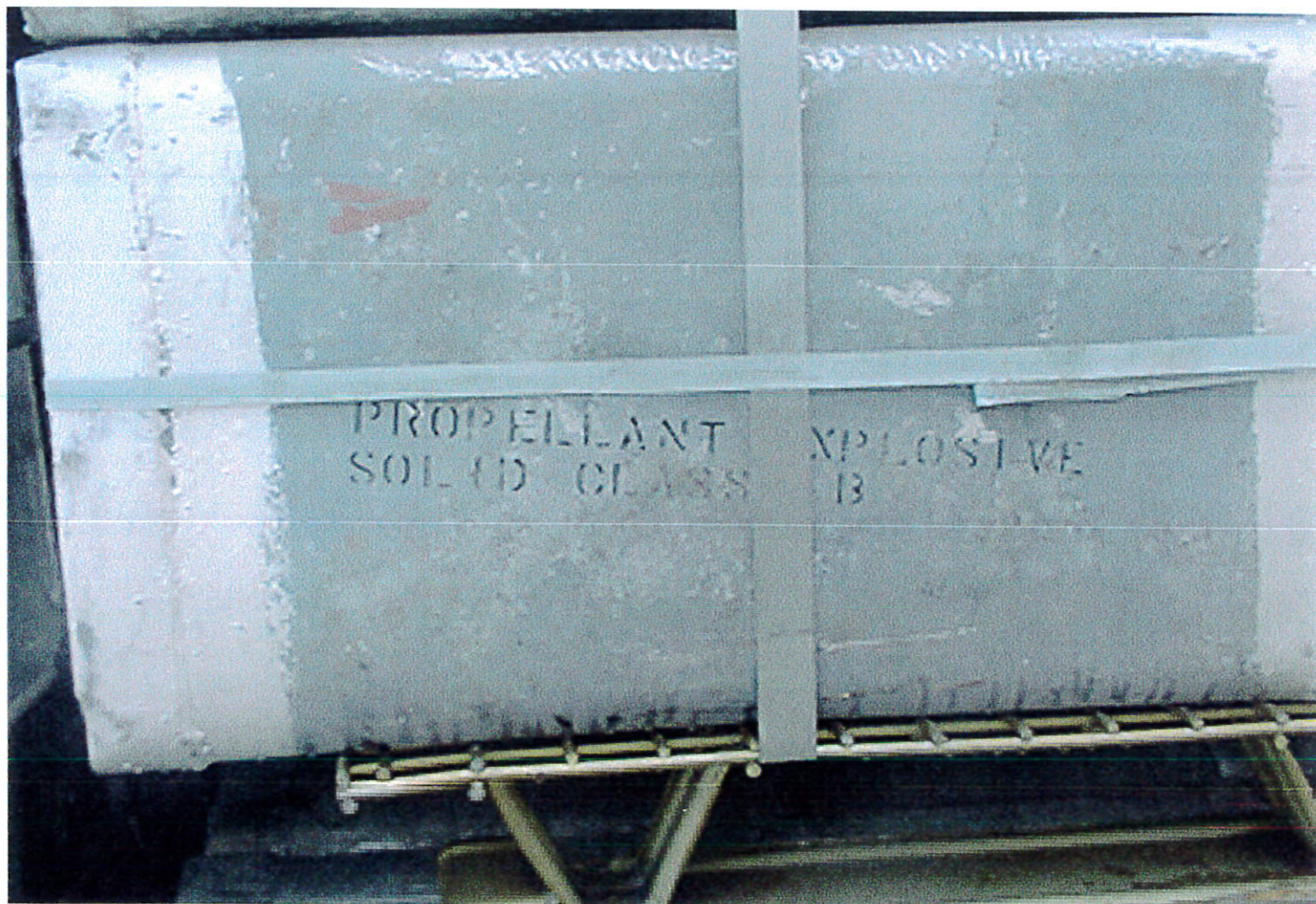
Two provisions of SB 625 will establish a registration, licensure, and site permit program for LP-Gas. This proposal has been in the works for a number of years and is a request of the Propane Marketers in Kansas.

We would propose to amend the words "liquid propane gas" on line 32 of page one and "liquid petroleum gas" on line 34 of page one to "liquefied petroleum gas" in both instances.

We also propose amending section (d) definition of business to be consistent with other law. It should read as follows:

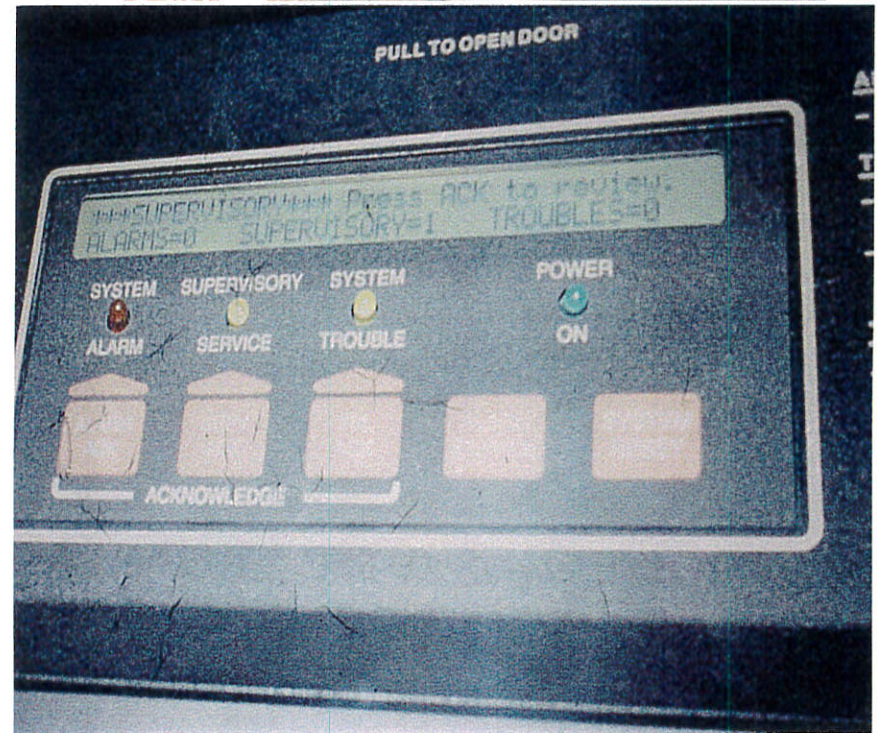
"Business" means any person, ~~who inspects, services or installs portable fire extinguishers or automatic fire extinguishers for commercial cooking equipment~~ *partnership, corporation, or association*, but does not include (A) any person or authorized agent of the person who installs a portable fire extinguisher for protection of the person's own property ~~or business or (B) any individual acting as a representative or employee of a certified business.~~

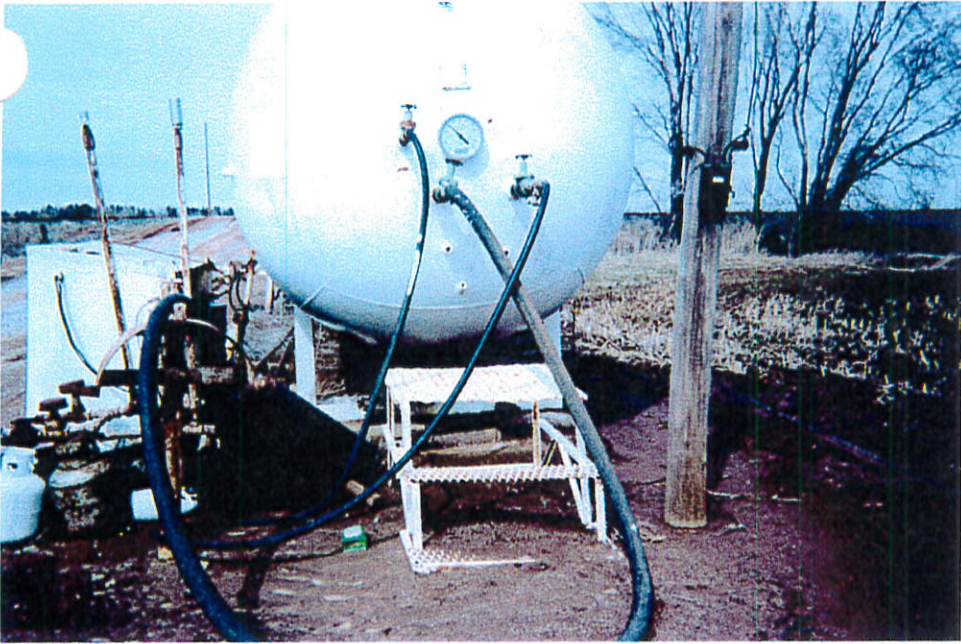
The Propane Marketers Association of Kansas whom we have worked very closely with for several months on this proposal will be offering an amendment that we support.





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Date: February 26, 2002

By: Donald Reinert
Reliance Energy Partners
Peabody, Kansas

I am General Manager of the Reliance Energy Partners, LLC. We have 15 employees serving Rice, Reno, McPherson, Harvey, Marion, and Butler and Sedgwick counties.

I would agree with the other testimony in that this has been a much-needed program for our industry and to the propane customers in Kansas.

We have a tremendous amount of rules, regulations and codes that affect our industry. At the present, we are not playing or servicing our customers equally. At the present and in the past, we have pretty much operated by voluntarily complying with those regulations, rules and codes.

With more compliance requirements added continuously, the way customers equitably are being serviced is widening. We have dealers that comply and those that do not.

We are not asking for additional rules, regulations and codes, but we need enforcement of what we have. Volunteerism has not worked. As a result, whether directly or indirectly related, our

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insurance rates have sky rocketed. In comparison to another bordering state, because their insurance claims' losses are lower than Kansas, their insurance is close to 40% less than ours.

We want to make this industry, as safe as within reason and by initiating an enforcement arm through the State Fire Marshal's Office is a way to get this done.

At present the State Fire Marshal's Office has neither the time nor manpower to take on this program. Therefore, we as an industry are willing to fund this through a fee structure. This program with the projected fees, would cost our company approximately \$1,500 annually. I feel this is money well spent by offering safety to not only our customers but to the communities we operate out of and the citizens we meet on the roads we travel.

I feel our customers deserve this by having a safer form of energy to use.

I encourage you to support this bill.



Propane Marketers Association of Kansas

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Justin K. Holstin
Executive Vice President

Testimony on SB 625
Senate Judiciary Subcommittee on SB 489
February 26, 2002

Thank you Madam Chair and members of the committee, I appreciate the opportunity to speak with you today about SB 625. My name is Justin Holstin, and I am the Executive Vice President of the Propane Marketers Association of Kansas. PMAK represents over 300 businesses and individuals representing every aspect of the propane industry including exploration, processing, transportation, manufacturing, and local residential and business service. The Propane Marketers Association of Kansas supports the SB 625.

I will not take too much time telling you about the legislation because you have already heard from Karl McNorton and will hear from two of my members who also serve as members of the Propane Advisory Board.

First, I must thank Karl and the staff of the Fire Marshal's office for working so hard. Since I began working for the Propane Marketers Association of Kansas last July, I have witnessed the dedication and professionalism of the Fire Marshal's office. Whenever possible, they are willing to answer questions and offer assistance and go that extra mile to help marketers. They act to enforce regulations but in helpful way as to help protect the public and help companies be aware of their requirements.

The propane industry in Kansas is dedicated to the safety of customers and employees. This safety includes training in the proper handling, dispensing, and maintenance of propane and propane related materials. However, the help that we receive from the Fire Marshal's office can only be so much due to their limited resources and budget. This legislation allows the Fire

PROPANE
EXCEPTIONAL ENERGY

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Marshal's office to have adequate resources to enforce regulations and focus more on the propane industry.

Karl, and the Gale Haag, took a great step with this legislation by allowing many interested groups to be actively engaged in the process of drafting the legislation and regulations. This was a team-effort. Through this involvement and cooperation between the Fire Marshal and interested parties we have come to a consensus of what is needed in Kansas, how it can be achieved, and what process is needed to implement new regulations and requirements.

I realize that it is very different to have a group come before you to ask for regulations and fees, but let me assure you that this is something that a majority of the industry feels is necessary. In fact, the propane industry has requested this for many years to help provide equity between companies, insure safety for consumers, and increase regulatory compliance. These fees and regulations are something that will greatly benefit the industry and creates a partnership between the propane industry and the Fire Marshal's office. Although some details regarding regulations still need to be worked out, I would not be standing here before you if the majority my membership did not feel that this was a good process.

Currently there is a crisis facing the propane industry. Insurance availability has become difficult and premiums have dramatically increased in the past year. We feel as an industry that this legislation and the accompanying regulations would help to solve part of the problem through regulations and resources which will provide better enforcement of regulations and a create a proven safety record. If more propane companies become better aware of regulations and safety procedures, insurance companies may feel that propane companies in Kansas are good business.

In the process of creating this legislation and regulations the Propane Advisory Board has looked extensively at the regulations of Oklahoma and Texas to formulate how and to what extent regulations should be created in Kansas. An outstanding amount of ideas were discussed at our meetings between members of the advisory board, which included representatives from all sectors of the propane industry including insurance, large corporations and cooperatives, small

propane companies, transporters, and equipment supply companies. What has been created is something that will provide resources to the Fire Marshal and create regulations to help the industry. There were many discussions about the equitable nature of the fee structure and these have been answered. Through these fees, the Fire Marshal will be pinching pennies while helping the industry. In short, if you'll excuse the pun, we will get the biggest bang for our buck.

We have looked at a possible fee structure and believe that it will be fair and equitable for all members of the industry from small "mom and pop" operations to large cooperatives or corporate propane operations. For example, under the proposed fee structure, a small business would probably only pay fees to the Fire Marshal, which will go directly to the Fire Marshal's office, of less than \$300 per year. These fees are still under consideration and being negotiated based on new information collected. We believe that the benefits of this legislation greatly outweigh the costs incurred by marketers.

The Propane Marketers Association of Kansas will also be presenting an amendment at a later date that is a worked on by both PMAK and the Fire Marshal's office. This amendment will insure the industry's involvement in the fee structure and regulations so that the marketers will still have the ability to be involved in the process. Again, this is just one example of the working relationship and cooperation that the industry has with the Fire Marshal's office.

In short, this legislation will increase safety, education, and compliance within the propane industry. The marketers of Kansas support this legislation, and ask for your help and support of the legislation. We have come to you with an established structure we believe is both needed and fair and hope that you would support the legislation. At the appropriate time, I would be glad to answer any questions you may have.



Farmway Co-op, Inc.

PO Box 528, 204 E Court

Beloit, KS 67420 785-738-2241

**Testimony in support of Senate Bill 625 before the
Senate Federal and State Affairs Committee**

Date: February 26, 2002

By: Stanley L. Odle
Safety/Compliance Director
Farmway Co-op Inc.
Beloit, Kansas

I am a lifetime resident of the state of Kansas with having my home in North Central Kansas. I have been employed by the Farmway Co-op, Inc. Beloit, KS since 1992 and am a member of the cooperative for 26 years.

Farmway is in the propane business with 5 facilities in Lincoln and Mitchell counties. We have 169 employees who work with a membership of over 4,000 farmers, ranchers and customers.

The propane business goes back to the 1940 in our community. I have had propane in my home and on my farm all of my life.

Having been involved in safety for the past 15 years, I feel we must provide a level playing field for all that is in the propane business. Safety is first and foremost when we work with propane. From the transport to the facility, from the facility to the bobtail and from the bobtail to the tank, and to the last appliance in the home, we as a company must take ownership in the safety of the families we serve.

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A level playing field of training and an understanding of compliance for all employees involved from the person taking the call to the person serving the customer propane, we all must understand the properties and effects of propane.

I want to encourage each of you to support and pass the SB 625 to make the business a more level playing field. The competitor down the street and out of state must have the same opportunity to train their employees, provide safe vehicles, provide home safety checks and provide minimums of liability insurance. With the development of this bill the regulations will be built to provide a tracking mechanism to find those businesses that have operated without providing any less than product to a customer.

With this bill you will be part of offering a plan for each business that will provide a playing field that we all can be a part of. There will be a mechanism for keeping all in the same field and provide a future that is safe for all customers that want propane on the farm, in the home and anywhere then need it.



KANSAS MOTOR CARRIERS ASSOCIATION

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Wal-Mart Stores, Inc.
Public Relations Chairman

MEL GRAVES
S&G Associates, Inc.
Allied Industries Chairman

TOM WHITAKER
Executive Director

Legislative Testimony by the Kansas Motor Carriers Association

In Opposition to Senate Bill No. 625

Presented before the Senate Federal and State Affairs Committee
Senator Nancey Harrington, Chairman
Tuesday, February 26, 2002 Statehouse, Topeka, Kansas

MADAM CHAIRMAN AND MEMBERS OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE:

I am Tom Whitaker, executive director of the Kansas Motor Carriers Association. I appear here this morning representing our 1,400 member firms and the Kansas trucking and highway transportation industry.

The Kansas Motor Carriers Association is opposed to Senate Bill No. 625. At first blush, it would appear that SB 625 does not affect our industry due to narrow way the term "business" is defined on page 2, line 38-40 of the bill. We understand it was the intent of the author to expand the definition of "business" to include all businesses, not just those who inspect, service or install portable fire extinguishers or automatic fire extinguishers for commercial cooking equipment.

Should the Committee expand the definition of "business", KMCA respectfully requests that an exception be included to specifically exempt motor carriers properly registered with the Kansas Corporation Commission from the provisions of SB 625.

The KCC has adopted all federal rules and regulations concerning the transportation of hazardous materials. The KCC, the Kansas Highway Patrol's Motor Carrier Safety Assistance Program and the Federal Motor Carrier Safety Administration currently enforce these regulations. Requiring a permit issued by the State Fire Marshall would duplicate ongoing regulation by the KCC. In addition, we believe the cost of the permit and paperwork would be a burden on our already heavily taxed industry.

KMCA asks that if the Committee forwards this legislation to the full Senate, you include an exemption for the motor carrier industry.

We thank you for the opportunity to appear before you and would be pleased to respond to any questions.

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Attach #6

Testimony in support of SB 622
Senate Federal and State Affairs Committee

Date: February 26, 2002

By: Karl W McNorton, Director
Fire Prevention Division
Kansas State Fire Marshal's Office

This bill will amend K.S.A. 31-150 concerning fire safety and prevention; relating to standards for school construction.

SB 622 will update the adopted standards for school construction from the uniform building code to the international building code. The uniform building code is no longer being published and hasn't been since 1997. Current code adoption by state fire marshal regulation for new school construction is the 1991 edition of the uniform building code.

The three model code groups, the international conference of building officials, the building officials and code administrators, and the southern standard building code organizations have merged into the international code council and developed the international family of codes. The design community, municipalities, architectural services and this agency have found that using a code that is this old is difficult and does not take advantage of new technologies in construction methods and fire protection.

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Attach # 7

This proposal also provides for new design to meet any special more restrictive provisions of fire protection that a local municipality may require, such as sprinkler systems.

It also provides the option for the two plumbing and mechanical codes as published by either the international association of plumbing and mechanical officials or by the international code council. This option will allow the designer the option of meeting the local municipalities code for a plumbing or mechanical code.



MEMORANDUM

TO: Members of the Senate Committee on Federal and State Affairs

FROM: Donald R. Seifert, Policy Development Leader *MS*

SUBJECT: Senate Bill 622; Construction Standards for School Buildings

DATE: February 26, 2002

On behalf of the city of Olathe, thank you for the opportunity to present this statement in support of Senate Bill 622. This bill would update language in current law concerning construction code standards for school buildings. Specifically, the bill would require school buildings to comply with the 2000 editions of the international building codes. From a public safety perspective, it is important for school construction standards to remain current with progress in the development of building codes. After months of study, and recent adoption of the family of international codes referenced in the bill, the city of Olathe strongly endorses the use of these new codes.

Because of the rapid growth and young population of our city, school construction in Olathe is a very important issue. Occupying facilities that include 27 elementary school, 7 junior high schools, and 3 high schools, it is difficult to recall a time in our community when the Olathe School District did not have a school under construction. Building and construction officials within the city and the school district have a good working relationship whereby new schools meet local code standards before occupancy. This bill should only enhance that relationship.

Thank you again for the opportunity to support this bill.

*Sn Fed St
02/26/02
Attach # 8*

City Hall • 8500 Santa Fe Drive
Overland Park, Kansas 66212
www.opkansas.org

February 26th, 2002

Nancey Harrington, Chairperson
Pete Brungardt, Vice Chairperson
Members of the Senate Federal and State Affairs Committee

Subject: Senate Bill No. 622

I am writing in support of the proposed Senate Bill 622, which updates the model codes being used for the construction of school buildings in the State of Kansas to the International Codes.

I am the Codes Administrator with the Building Safety Division for the City of Overland Park, Kansas. I also am currently serving as President of BOCA International and as a member of the Board of Directors for the International Codes Council. I have been employed in the Building Safety Division for over 23 years and have been directly involved in various school projects including elementary, middle, and high schools. Over the years there have been numerous problems with code enforcement on schools primarily dealing with differences in codes and interpretations on requirements of codes between local and state agencies.

These problems have occurred for many reasons such as:

- The use of different model codes between the local municipalities and the State agencies i.e., the BOCA National Codes versus the ICBO Uniform Building Codes;
- The use of different editions of the same model code i.e., the 1985 Uniform Building Code versus the 1994 Uniform Building Code.
- The technical provisions of the State adopted code is the same as the locally adopted code but the interpretations between the respective staffs are different.
- The only routine enforcement agencies are the local jurisdictions on all disciplines.
- Differences in the level of training of the respective staffs.

The proposed bill does not solve all the issues but it is a big step in uniformity throughout the State in dealing with codes relating to schools.

Historically, local jurisdictions can issue permits and execute inspections on schools if they are enforcing the state adopted regulations. This is based on an opinion rendered by the State Attorney General's office. This proposal will enhance the relationship between local and state agencies by utilizing codes that both are familiar with and have substantial training on.

This proposal also is in step with the changes made to KSA 31-134a two years ago that recognized the International Codes as equivalent to the State Fire Prevention Codes. Further several communities throughout the State have already adopted or are in the process of adopting the family of International Codes such as Manhattan, Overland Park, Lenexa, Olathe, Shawnee, etc.

Some interesting facts that I feel need to be stated related to the International Codes are as follows:

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Nancey Harrington, Chairperson

February 26th, 2002

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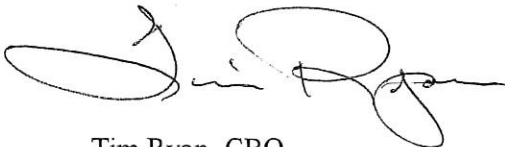
- The International Codes are not new codes. These codes are the result of a combined effort between the three Model Code Groups in the United States i.e., Building Officials and Codes Administrators Int. (BOCA), the International Conference of Building Officials Int. (ICBO), and the Southern Building Code Congress Int. (SBCCI). Approximately 97% of all jurisdictions in the United States are currently utilizing codes published by one of these three organizations. The International Codes are simply the next edition of these codes. These codes are proven and tested.
- The individual regional codes published by each of the three Model Code Groups will no longer be published.
- The International Codes are the most technically advanced codes in existence today recognizing both prescriptive and performance-oriented codes.
- These codes recognize newer and state-of-the-art advanced technologies.
- These codes promote the use of fire sprinkler systems and alarm systems more than ever before.
- The International Codes were promulgated by all parties who have an interest in the built environment utilizing a governmental consensus process. Contrary to some opposition views, these code were not written only by building officials but included representatives from all disciplines of code enforcement including fire, plumbing, and mechanical. Industries such as the National Association of Home Builders, American Institute of Architects, Building Owners and Managers Association, the Plumbing Heating and Cooling Contractors, etc., all participated in the process to develop these codes.
- Certifications held by current model code members are not negatively impacted by adoption of these codes.

We would also like to suggest one enhancement to the proposal by recognizing the 2000 edition of the International Building Code as an option to the construction of mobile, modular, portable, or relocatable school buildings in paragraph (b) for all the reasons stated above.

In closing the City of Overland Park supports SB 622 and feels that this is giant step towards providing consistent regulations for the built environment within our State and applaud the proponent for their efforts in bringing this issue forward. We feel that this will solve many problems that have continually surfaced at the local level when dealing with school construction.

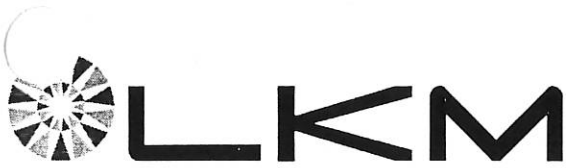
I hope you look with favor on SB No. 622. Further, I will be in attendance at the committee hearing on this issue and will be available to answer any questions regarding codes in Overland Park and issues surrounding the International Codes.

Respectfully submitted,



Tim Ryan, CBO
CODES ADMINISTRATOR

Cc Gale Haag
Lori Knadle
Roger Peterson
Ted McIntosh



300 SW 8th Avenue
Topeka, Kansas 66603-3912
Phone: (785) 354-9565
Fax: (785) 354-4186

League of Kansas Municipalities

Date: February 26, 2002
To: Senate Federal and State Affairs Committee
From: Larry R. Baer
Assistant Legal Counsel
Re: SB 622 - Testimony in Support

Thank you for allowing me to appear before the Committee on behalf of the League of Kansas Municipalities and its member cities and present testimony in support of SB 622.

We fully support the fire marshal's initiative to provide for the updating of building, mechanical, electrical and plumbing codes that are applicable to new school construction. In addition, and every bit as importantly, SB 622 would provide that local, municipal provisions regarding construction, when special or more restrictive than national building codes, would apply to new school construction. Building regulations and codes are imposed and enforced at the local level for the purpose of public health, safety and welfare. To the greatest extent possible, these rules and regulations should be applied on an equal basis. SB 622 permits this.

Cities in Kansas have provisions requiring the installation and maintenance of fire retardant or suppression systems (sprinkler systems) in public and commercial buildings – banks, shopping centers, warehouses, convenience stores, and the like -- but do not have the authority to extend these requirements to school buildings.

The League supports SB 622 because municipal building codes and local requirements, which have been adopted locally to help assure public safety, could then be applied universally to all new construction within the municipality's jurisdiction.

Again, thank you for allowing the League to appear and present testimony on this matter.



OFFICE OF THE
KANSAS STATE FIRE MARSHAL

700 SW JACKSON ST, SUITE 600, TOPEKA, KS 66603-3714
PHONE (785) 296-3401 / FAX (785) 296-0151

Gale Haag
Fire Marshal

Bill Graves
Governor

Testimony in Support of

Senate Bill No. 623

Presented on behalf of State Fire Marshal Gale Haag
February 26, 2002

Senate Bill 623 is an attempt to impose minimal qualifications for firefighters in the State of Kansas. At present there are no statewide restrictions on or qualifications for firefighters, although some municipalities may have them.

The bill is an effort to keep persons convicted of arson or explosives-related offenses from becoming firefighters. The prohibition will probably be more applicable to rural areas that are dependent on volunteer firefighters, since large departments with paid firefighters already require a background check of potential employees. A more stringent prohibition, such as a conviction of any felony or domestic violence crime as now applies to law enforcement officers, was considered, and rejected. This was due to the fact that a firefighter serves one specific purpose, operates entirely within public scrutiny, and would require some volunteer fire departments to eliminate well-qualified people from their ranks.

There are many horror stories of firefighters who intentionally set fires possibly to gain attention to their fire fighting skills or to fulfill some other perverse need. This bill will not keep these individuals from joining a fire department in the first place, but it may serve as a deterrent to such behavior. More importantly, if successful, it will at least eliminate those with prior convictions for such unlawful behavior.

"Where fire safety is a way of life."

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Attach # 11



League of Kansas Municipalities

300 SW 8th Avenue
Topeka, Kansas 66603-3912
Phone: (785) 354-9565
Fax: (785) 354-4186

Date: February 26, 2002
To: Senate Federal and State Affairs Committee
From: Larry R. Baer
Assistant Legal Counsel
Re: SB 623 - Testimony in Opposition with Suggested Amendments

Thank you for allowing me to appear before the Committee on behalf of the League of Kansas Municipalities and its member cities and present testimony on SB 623.

A close reading of SB 623 reveals flaws. We believe that the problems are unintended by the bill drafters. We further believe that the bill can be remedied. Therefore, while appearing in opposition to SB 623 we also present proposed amendments which are attached to my written testimony.

SB 623 provides that "[n]o person shall be appointed . . . employed . . . or allowed to participate . . . as a volunteer or otherwise in the operation of any fire department . . .". As worded, SB 623 creates a mandate that each city, township, or county that maintains a fire department and each fire district to perform a background check on each proposed firefighter as well as all others involved with the operation of the fire department. This would include clerical staff and any other person in a support capacity. This is a mandate with fiscal impact. There are approximately 15,000 firefighters statewide. Potentially, each of the 15,000 firefighters and all support staff, of an unknown number, that are involved in the operation of each fire department would require such check.

The Kansas Bureau of Investigation confirms that the performance of a background check is not a difficult task. In Kansas there are about 7,000 users who have access to conviction records through the Kansas Criminal Justice Information System (CJIS). This includes nearly all police departments and sheriff offices. Although the background checks can be performed locally there is a charge to the requesting agency. The current charge is \$15.00 per person for each record search conducted. If all 15,000 firefighters, plus an unknown number of support staff, must have record searches conducted on them, this represents an expenditure of at least a quarter million dollars statewide.

The cost for the state records check is only the tip of the iceberg. The SB 623 prohibition extends to convictions and adjudications for similar violations under federal and other state law, city ordinances and county resolutions. This requires a national

check. While available through CJIS, the national check would add another \$25 - \$30 per person. In other words, the total statewide fiscal impact could easily exceed \$600,000. This is money that would have to come from existing fire department budgets or property tax increases.

The financial impact will be most sharply felt in the little departments across the state: the Kingmans with 30 volunteers and a population of approximately 3,400; the Effinghams and Cunninghams with 10 -12 volunteers per department and populations of 500 to 600; and the Grinnells with 16 volunteers and a population of 350 or less. Kansas has nearly 400 municipal fire departments and some 130 rural fire districts, plus county and township fire departments. When one considers that of the 627 incorporated cities in Kansas nearly 550 of these have a population of less than 3,000 and of that 550 about 425 have a population of less than 1,000, it is easy to see that the fiscal cost of this bill will be hard felt by the smaller cities. There will also be an impact upon the larger departments. But with larger tax bases and larger departmental budgets, SB 623's relative impact will be less than on the small departments. Also, the larger departments may already be doing or requiring some background checks.

As written, SB 623 is flawed but not fatally flawed. We believe that the financial consequences pointed out above were not intended. The flaws can be easily addressed and righted. We propose that the bill be amended to allow a fire department to satisfy the record check requirement by having the prospective volunteer or employee execute an affidavit under oath or affirmation swearing or affirming that he or she has never been convicted or adjudicated for violation of the 4 state statutes now referenced as well as any federal or other state law or city or county ordinances for similar offenses. The amendment should also provide that any department may run such record check or checks on a prospective volunteer or employee as may be deemed necessary to satisfy the concerns being addressed by SB 623. With such amendments the League would support SB 623.

Thank you for your consideration of our position on SB 623.

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2
3 SENATE BILL No. 623
4

5 By Committee on Federal and State Affairs
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8

9 AN ACT concerning firefighters; relating to qualifications thereof.
10

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

12 Section 1. No person shall be appointed to, employed by or allowed to participate as
13 a volunteer or otherwise in the operation of any fire department or fire district in the state of
14 Kansas if such person has been convicted as an adult or adjudicated as a juvenile offender, for
15 violating K.S.A. 21-3718, 21-3719, 21-3731 or 21-4110, and amendments thereto, or has been
16 convicted or adjudicated for similar violations under federal or other state law, city ordinances or
17 county resolutions.

18 Section 2. All persons seeking to be appointed to, employed by or allowed to
19 participate as a volunteer or otherwise in the operation of any fire department or fire
20 district in the state shall, as part of the application process, swear or affirm by written
21 affidavit that they have not been convicted or adjudicated of the offenses specified in
22 section 1. Such affidavit shall be given under the pains and penalties of perjury and shall
23 become a part of the employment or appointment process. Any fire department or fire
24 district may require or conduct such record check or checks on a prospective volunteer or
25 employee as may be deemed necessary to determine the accuracy of affidavit.

26 Section 3. An affidavit in substantially the following form shall be deemed
27 satisfactory to meet the requirements of this act:
28

29 STATE OF KANSAS, COUNTY OF _____:
30

31 (Name of Applicant) ("Affiant") does hereby swear or affirm,
32 under the pains and penalties of perjury that he/she has never been convicted
33 as an adult or adjudicated as a juvenile offender, for violating K.S.A. 21-3718
34 (arson), K.S.A. 21-3719 (aggravated arson), K.S.A. 21-3731 (criminal use of
35 explosives) or K.S.A. 21-4110 (giving a false alarm), and amendments thereto,
36 or has been convicted or adjudicated for similar violations under federal or
37 other state law, city ordinances or county resolutions.

38 Affiant understands and agrees that (Name of taxing entity
39 supporting fire department) may conduct such record check or checks as it
40 deems necessary to confirm the accuracy of the statements made in this
41 affidavit and does hereby consent to any such record search or searches.

42 Affiant further understands and agrees that the representations made
43 in this affidavit are material to the selection, employment or appointment
44 process and that misrepresentations will result in the Affiant being
45 disqualified for service with the _____ fire department.

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Name: _____
Date: _____

Signed and Sworn to (or affirmed) before me on (Date) by (Name of person giving affidavit) .

Notary Public

[SEAL]

My Appointment Expires:

Section 4. This act shall take effect and be in force from and after its publication in the statute book.

STATE OF KANSAS



DIVISION OF THE BUDGET
State Capitol Building, Room 152-E
Topeka, Kansas 66612-1575
(785) 296-2436
FAX (785) 296-0231
<http://da.state.ks.us/budget>

Bill Graves
Governor

Duane A. Goossen
Director

February 26, 2002

The Honorable Nancey Harrington, Chairperson
Senate Committee on Federal and State Affairs
Statehouse, Room 143-N
Topeka, Kansas 66612

Dear Senator Harrington:

SUBJECT: Fiscal Note for SB 622 by Senate Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning SB 622 is respectfully submitted to your committee.

SB 622 would update the code compliance of school buildings to reference the most recent international codes. The bill would add Washburn University, private institutions, and foreign institutions to the list of postsecondary institutions that are exempt from provisions related to accessibility by disabled persons. Additionally, those institutions would be exempt from requirements for building plans to bear the seal of a licensed architect or engineer and be submitted for approval to the State Board of Education. These institutions also would be added to the list of institutions that would be required to submit a code "footprint" to, and receive approval from, the State Fire Marshal prior to new construction or remodeling.

SB 622 would have no fiscal effect.

Sincerely,

A handwritten signature in cursive script that reads "Duane A. Goossen".

Duane A. Goossen
Director of the Budget

cc: Beth Fenske, Fire Marshal's Office
Marvin Burris, Board of Regents
Dale Dennis, Education

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02/26/02
Attach # 13

STATE OF KANSAS



DIVISION OF THE BUDGET
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Bill Graves
Governor

Duane A. Goossen
Director

February 25, 2002

The Honorable Nancey Harrington, Chairperson
Senate Committee on Federal and State Affairs
Statehouse, Room 143-N
Topeka, Kansas 66612

Dear Senator Harrington:

SUBJECT: Fiscal Note for SB 623 by Senate Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning SB 623 is respectfully submitted to your committee.

SB 623 would prohibit a person who has been convicted of a crime from participating as a volunteer in any fire department or fire district.

This bill would not have a fiscal effect on the state, but the League of Kansas Municipalities notes that volunteer fire departments would have to conduct background checks on current employees and applicants to ensure that the individual had never been convicted of a crime. This would require background checks at a cost of \$15 each for the 15,000 volunteers in the state, at a total cost of \$225,000. In addition, costs would be incurred for each new applicant.

Sincerely,

A handwritten signature in cursive script that reads "Duane A. Goossen".

Duane A. Goossen
Director of the Budget

cc: Beth Fenske, Fire Marshal's Office
Kim Gulley, League of Kansas Municipalities
Judy Moler, Kansas Association of Counties

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02/26/02
Attach #14

STATE OF KANSAS



DIVISION OF THE BUDGET
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Bill Graves
Governor

Duane A. Goossen
Director

February 26, 2002

The Honorable Nancey Harrington, Chairperson
Senate Committee on Federal and State Affairs
Statehouse, Room 143-N
Topeka, Kansas 66612

Dear Senator Harrington:

SUBJECT: Fiscal Note for SB 625 by Senate Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning SB 625 is respectfully submitted to your committee.

Current law authorizes the State Fire Marshal to certify the inspection, installation, and servicing of fire extinguishers in businesses for which it can charge a fee of \$25 to \$200. SB 625 expands the programs and activities that would be subject to a certification fee to include fire detection and sprinkler systems, explosives and blasting agents, fireworks, flammable or combustible liquids, liquid propane gas, and liquid petroleum gas. In addition, the bill would increase the maximum certification fee from \$200 to \$500.


The Office of the State Fire Marshal indicates that additional revenues would be generated by applying the certification fee to more programs and by increasing the maximum fee from \$200 to \$500. The agency estimates additional revenues of \$200,000 to the Fire Marshal Fee Fund in FY 2003.

The agency estimates it would require \$254,005 in additional expenditures from its fee fund in FY 2003. This estimate includes \$183,205 in salaries and wages for 3.0 Fire Inspectors, 2.0 Fire Investigators, 1.0 Fire Protection Specialist and 2.0 Office Specialists, as well as \$70,800 in other operating expenditures. Salaries and wages expenditures are estimated for one-half year in FY 2003.

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The Division of the Budget notes that the fiscal effect as a result of the passage of this bill is impossible to estimate precisely. However, given the significant expansion in the number of programs that would require certification, it is reasonable to suppose that additional resources would be required. The Office of the State Fire Marshal estimates expenditures for the last half of FY 2003 on the assumption that the first half would be used to plan for the expansion in certification activities. It should be noted that the bill becomes effective July 1, 2002; therefore, the fiscal note of the bill, as drafted, should be based on a full cost for FY 2003. It should also be noted that, based on the information currently available, any expansion of expenditures in the operation of the Fire Marshal's Office close to the agency's estimate would exceed the revenues generated by the bill. In that case, the agency would have to use uncommitted balances in the Fire Marshal Fee Fund to cover any increase in expenditures beyond what the bill provides.

Sincerely,



Duane A. Goossen
Director of the Budget

cc: Beth Fenske, Fire Marshal's Office