

MINUTES OF THE HOUSE COMMERCE AND LABOR COMMITTEE

The meeting was called to order by Chairman Don Dahl at 9:00 a.m. on February 3, 2004 in Room 241-N of the Capitol.

All members were present except: Representative Mary Kauffman- absent

Committee staff present:

Jerry Ann Donaldson, Legislative Research Department
Norm Furse, Revisor of Statutes
Renae Jefferies, Revisor of Statutes
June Evans, Committee Secretary

Conferees appearing before the committee: Secretary John Moore, Commerce and Housing
Representative David Huff
Bill Schutte, President, The Green Co., Inc.
Mike Crow, Director, Division of Operations, KDOT
Corey Peterson, Associated General Contractors of Kansas, Inc.
Bob Totten, Kansas Contractors, Inc.
Keith Myers, Department of Administration, Division of Purchases

Others attending:

See Attached List.

The Chairman opened the meeting at 9:00 a.m. and welcomed Secretary John Moore to the committee.

John Moore, Secretary, Kansas Department of Commerce, gave an overview of the Department. The mission statement is to empower businesses and communities through bold leadership using strategic resources to realize prosperity in Kansas. Kansas' strategy for job retention and creation is to have economic development efforts regionally focused and led with the state's resources available to complement and strengthen those efforts.

There are seven economic development regions. Over 500 attended a statewide prosperity summit in Wichita on October 1. A 12-point economic revitalization plan was unveiled. (1) Continued commitment to statewide priorities. (2) Business retention and recruitment. (3) Energy policy. (4) Value added agriculture. (5) Workforce development. (6) Seed financing and new business assistance. (7) Life sciences. (8) Rural business development. (9) Inventory of support programs. (10) Image and marketing. (11) Tourism. (12) Ad Astra strategy.

Either through legislation that will be introduced, proposals in the Governor's budget or actions already underway, all twelve points in the economic revitalization plan will be addressed. Legislation has been introduced to dramatically revise incentives. The Governor's Economic Policy Council was created with two members of the Senate Commerce and House Economic Development Committees.

Legislation has been introduced to create a Biosciences Authority and an Emerging Industry Investment Act, create an angel investor network to raise seed capital, and create a Center of Entrepreneurship with a statewide foundation for entrepreneurship.

Executive Reorganization Order No. 31 moves education and training division and all related workforce development programs from Kansas Department of Human Resources to the Department of Commerce (Attachment 1).

The Chairman thanked the Secretary for the very good briefing on the Department of Commerce.

The Chairman opened the hearing on **HB 2521 - State and municipal contracts; reference for Kansas**

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMERCE AND LABOR COMMITTEE at 9:00 a.m. on February 3, 2004 in Room 241-N of the Capitol.

domiciled bidders.

Staff gave a briefing on **HB 2521** concerning contracts for purchases by the state or municipalities. A contractor domiciled outside the state of Kansas, to be successful, shall submit a bid less than the lowest bid submitted by a responsible contractor domiciled in Kansas by the following percentage: (a) For a contract amount of less than \$250,000, 1%; (b) for a contract amount of \$250,000 or more but less than \$500,000, 2%; (c) for a contract amount of \$500,000, or more but less than \$1,000,000, 3%; and (d) for a contract amount of \$1,000,000 or more, 4% (Attachment 2).

Representative Huff, the sponsor of **HB 2521**, testified the bill is designed to give Kansas businesses a slight percentage break when bidding for state government business. This bill would not effect bids between Kansas businesses. This bill would not effect out-of-state bidders when no Kansas business is involved. The intent of this bill is to give a very slight advantage to Kansas businesses bidding against out-of-state companies for Kansas state government businesses. (Attachment 3).

William P. Schutte, President, The Green Company, Inc., Kansas City, KS, testified in support of **HB 2521**, stating the bottom line is that Kansas companies pay Kansas taxes. It is incumbent upon Kansas state legislators to do everything possible to keep Kansas monies in the state of Kansas (Attachment 4).

Mike Crow, Director of Operations for the Kansas Department of Transportation (KDOT) testified in opposition to **HB 2521**. KDOT has significant concern regarding the impact of this legislation on the cost of all contracts and, as introduced, grave concern on the impact that this type of preference would have on the ability of KDOT to utilize Federal Aid on highway construction projects planned for the remainder of the ten year Comprehensive Transportation Program.

Under the Federal Aid guidelines, KDOT cannot use this type of preference on Federal Aid projects. If KDOT were to use this type of preference in the selection process for projects, Federal Highway Administration will not participate in the project and KDOT would lose federal funds for the project. This is significant when considering that a great many projects are funded in part by federal dollars, many of which are up to 80% federally funded. Consequently, this type of preference would mandate 100% state-funded projects, severely eroding the number of projects that could be completed (Attachment 5).

Corey D. Peterson, Executive Vice President, Associated General Contractors of Kansas, Inc., (AGC) testified as an opponent to **HB 2521** which would provide a preference to in-state contractors bidding on public projects. The AGC of Kansas has had a long-standing position opposing any bill that would provide such preference to in-state contractors. AGC feels that artificial barriers have not proven to be a productive means to garner business for Kansas contractors. Many of our member contractors conduct business outside of Kansas.

While the AGC of Kansas opposes **HB 2521** as written, it would not oppose the bill should amendments be made that would exclude building construction (Attachment 6).

Bob Totten, Public Affairs Director, Kansas Contractors Association (KCA), is an opponent to **HB 2521** in its present form. However, with the amendment offered by Representative Huff, the KCA would remove their opposition. The proposed amendment at the end of line 21 would add "but not including contracts for the construction, improvement, reconstruction or maintenance of roads, streets and bridges in the state or contracts with commercial building contractors for construction or repairs for state or municipal owned buildings". Our members are very much against the original bill which would have required preferential treatment to instate contractors (Attachment 7).

D. Keith Meyers, Director, Divisions of Facilities, Printing, and Purchases, Kansas Department of Administration, testified as a neutral party on **HB 2521**. K.S.A. 75-3740a establishes reciprocity. In other words, if another state penalizes a Kansas bidder, Kansas would penalize a bidder from that state to the same degree. Currently, 29 states have similar reciprocity laws. **HB 2521** would establish a preference for Kansas vendors who bid on goods and services for any governmental entity in the state of Kansas.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMERCE AND LABOR COMMITTEE at 9:00 a.m. on February 3, 2004 in Room 241-N of the Capitol.

The challenge presented by this legislation is finding the balance between the economic benefit to Kansas vendors by providing this protectionist measure versus the potential additional cost to state agencies and local units as well as the potential loss of opportunities for Kansas vendors in other states due to reciprocity laws (Attachment 8).

The following provided written testimony in opposition to **HB 2521**: Mark Tallman, Assistant Executive Director/Advocacy (Attachment 9), Trudy Aron, Executive Director, The American Institute of Architects (Attachment 10), and Eric King, Director of Facilities for the Kansas Board of Regents (Attachment 11).

The Chairman closed the hearing on **HB 2521**.

Representative Grant moved and Representative Hill seconded approval of the minutes of January 14, 20, 21, 22, 27 and 28. The motion carried.

The Chairman stated the committee would work **HB 2330 - Prohibited acts and remedies for certain acts involving sale of motor fuel below cost.**

Representative Patterson moved and Representative Hill seconded on line 18, page 2 on first offense give a Notice to Cease and Desist without a penalty effective within 24 hours of receipt; second violation would be \$1,000 fine per day and the third violation would be \$10,000 per day. The motion carried.

Representative Pauls moved and Representative Ruff seconded on page 2, line 29 to remove "or" and replace with "and", in line 30 strike "if applicable". The motion carried.

Representative Pauls moved a conceptual motion and Representative Swenson seconded to put under "Rules and Regs Authority". The motion carried.

Representative Patterson moved and Representative Hill seconded to insert on page 2, line 9, "within six months of the violation" after "action" and on line 24 after "violation". The motion carried.

Representative Patterson moved and Representative Swenson seconded on page 1, line 29, remove "invoice price or the lowest terminal price" and replace with "average of the three lowest terminal prices posted by a supplier". On page 1, lines 32 and 33 remove "or transportation costs" and replace with "offered from a common carrier for hire designated for the terminal from which the most recent supply of motor fuel delivered to the retail location". The motion carried.

Representative Hill moved and Representative Grant seconded to move **HB 2330** out favorably with amendments. The motion carried.

The meeting adjourned at 10:40 a.m. and the next meeting will be February 4.

KANSAS DEPARTMENT
OF COMMERCE
OVERVIEW
FOR
HOUSE COMMERCE AND
LABOR

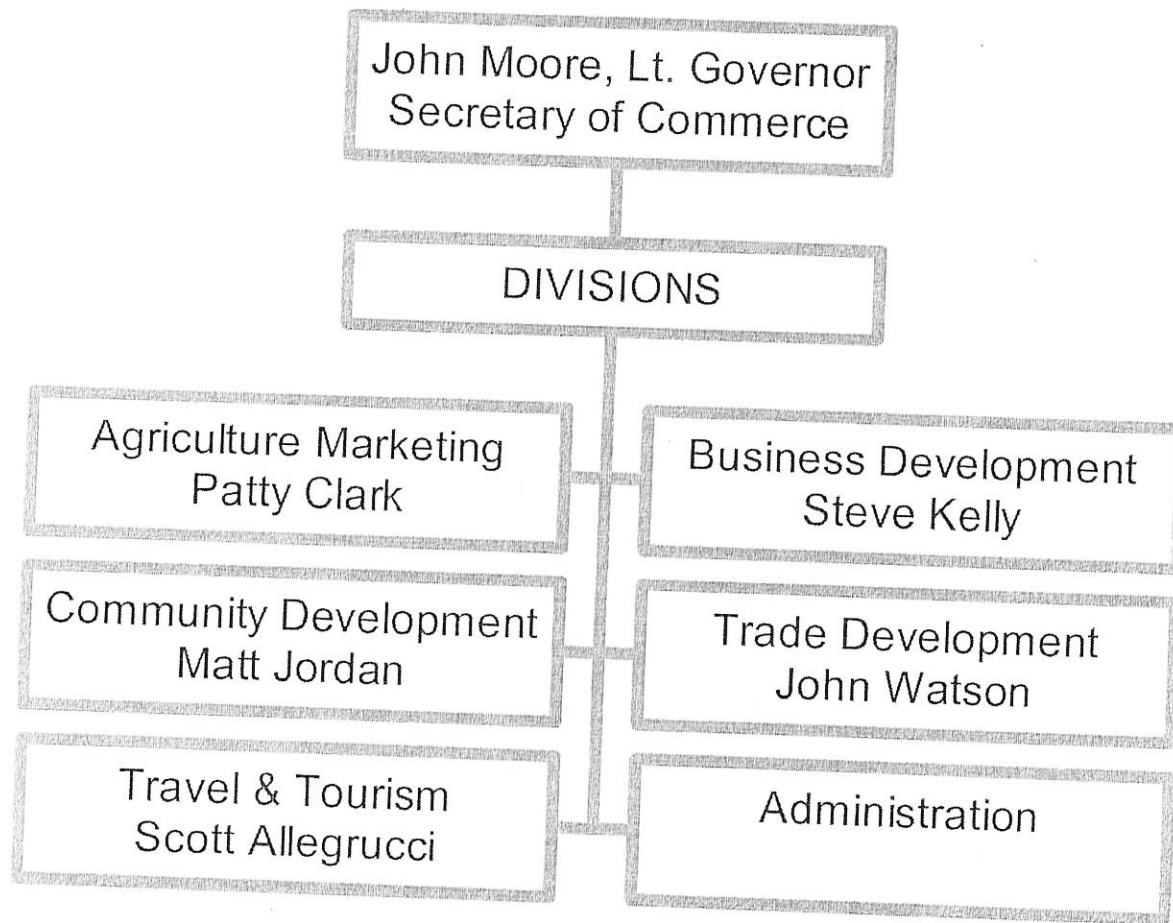
Comm & Labor
2-3-04
Atch #1

FEBRUARY 3, 2004

MISSION STATEMENT

TO EMPOWER BUSINESSES AND
COMMUNITIES THROUGH BOLD LEADERSHIP
USING STRATEGIC RESOURCES TO REALIZE
PROSPERITY IN KANSAS.

KANSAS DEPARTMENT OF COMMERCE



KANSAS DEPARTMENT OF COMMERCE

- KEY PERSONNEL ADDED IN 2003
 - STEVE KELLY, DEPUTY SECRETARY, COMMERCE
 - SCOTT ALLEGRUCCI, DIRECTOR OF TRAVEL & TOURISM, APRIL 14, 2003
 - PATTY CLARK, DIRECTOR OF AGRICULTURE MARKETING, APRIL 1, 2003
 - MATT JORDAN, DIRECTOR OF COMMUNITY DEVELOPMENT, APRIL 28, 2003

- KEY ORGANIZATIONAL CHANGES
 - HOUSING DIVISION MOVED TO KANSAS DEVELOPMENT FINANCE AUTHORITY

- KEY OPEN POSITIONS
 - DIRECTOR OF ADMINISTRATION
 - DIRECTOR OF BUSINESS DEVELOPMENT DIVISION
 - STAR BONDS ANALYST

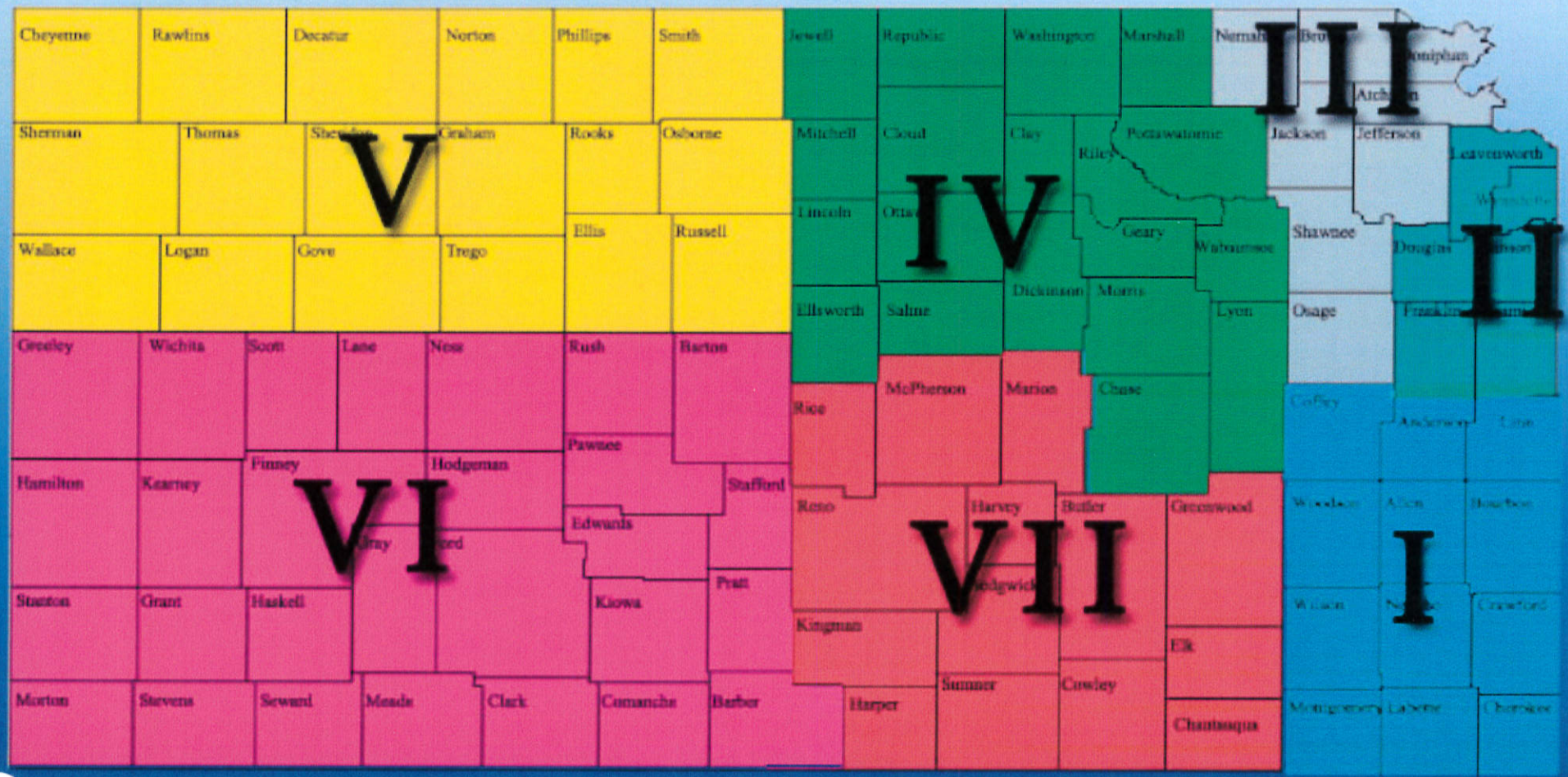


1-5

KANSAS DEPARTMENT OF COMMERCE

**KANSAS' STRATEGY FOR JOB RETENTION
AND CREATION IS TO HAVE ECONOMIC
DEVELOPMENT EFFORTS REGIONALLY
FOCUSED AND LED WITH THE STATE'S
RESOURCES AVAILABLE TO
COMPLEMENT AND STRENGTHEN
THOSE EFFORTS**

ECONOMIC DEVELOPMENT REGIONS



KANSAS DEPARTMENT OF COMMERCE

REGIONS	CHAIRS	COORDINATORS
SOUTHEAST	GENE BICKNELL	LYNDA WILKINSON
EAST CENTRAL	JIM COLE MAL WARRICK	DAN KOENIG CINDY CASH
NORTHEAST	KRIS ROBBINS	DOUG KINSINGER
NORTH CENTRAL	DALE DAVIS	KENT HEERMANN
NORTHWEST	LARRY McCANTS	CAROLYN APPEGATE
SOUTHWEST	STEVE IRSIK DONNA SHANK	JACK TAYLOR
SOUTH CENTRAL	CHARLIE JOHNSON STEVE ROONEY	MIKE GERMANN

• APPROXIMATELY 1,500 KANSANS ATTENDED THE SEVEN REGIONAL
MINI-SUMMITS



KANSAS DEPARTMENT OF COMMERCE

- A STATEWIDE PROSPERITY SUMMIT WAS HELD IN WICHITA ON OCTOBER 1
- OVER 500 KANSANS ATTENDED
- A 12-POINT ECONOMIC REVITALIZATION PLAN WAS UNVEILED
- CREATED FROM REGIONAL PRIORITIES
 - CONTINUED COMMITMENT TO STATEWIDE PRIORITIES
 - BUSINESS RETENTION & RECRUITMENT
 - ENERGY POLICY
 - VALUE ADDED AGRICULTURE
 - WORKFORCE DEVELOPMENT
 - SEED FINANCING & NEW BUSINESS ASSISTANCE
 - LIFE SCIENCES
 - RURAL BUSINESS DEVELOPMENT
 - INVENTORY OF SUPPORT PROGRAMS
 - IMAGE & MARKETING
 - TOURISM
 - AD ASTRA STRATEGY

KANSAS DEPARTMENT OF COMMERCE

REGIONAL PRIORITIES IN THE REVITALIZATION PLAN

<i>State Revitalization Plan</i>	Region I	Region II	Region III	Region IV	Region V	Region VI	Region VII
Business Retention & Recruitment	×	×	×		×	×	×
Energy Policy				×	×	×	
Value Added Agriculture	×			×	×		×
Workforce Development	×	×	×	×	×		×
Seed Financing & New Business Assistance	×	×	×		×	×	×
Life Sciences		×	×				
Rural Business Development			×			×	×
Inventory of Support Programs	×			×	×		×
Image & Marketing	×	×	×	×	×	×	×
Tourism	×	×		×	×	×	
The Ad Astra Strategy							
Education, Transportation, Cooperation/Efficiencies	×	×	×	×	×	×	

KANSAS DEPARTMENT OF COMMERCE

- AS PART OF THE STATEWIDE ECONOMIC REVITALIZATION PLAN
 - SEVEN REGIONAL ECONOMIC DEVELOPMENT PLANS ARE IN PLACE
 - A GOVERNOR'S ECONOMIC POLICY COUNCIL HAS BEEN CREATED

KANSAS DEPARTMENT OF COMMERCE

- EITHER THROUGH LEGISLATION THAT WILL BE INTRODUCED, PROPOSALS IN THE GOVERNOR'S BUDGET OR ACTIONS ALREADY UNDERWAY, ALL TWELVE POINTS IN THE ECONOMIC REVITALIZATION PLAN WILL BE ADDRESSED

KANSAS DEPARTMENT OF COMMERCE

- TWELVE POINTS OF THE ECONOMIC REVITALIZATION PLAN
 - CONTINUED COMMITMENT TO STATEWIDE PRIORITIES
 - GOVERNOR'S EDUCATIONAL PLAN
 - ALL PROJECTS PROMISED IN THE 1999 COMPREHENSIVE TRANSPORTATION PLAN COMPLETED ON TIME

KANSAS DEPARTMENT OF COMMERCE

- TWELVE POINTS OF THE ECONOMIC REVITALIZATION PLAN

- BUSINESS RETENTION AND RECRUITMENT

- LEGISLATION HAS BEEN INTRODUCED TO DRAMATICALLY REVISE INCENTIVES

- TRANSFERABLE TAX CREDITS
- DIFFERENTIATE BETWEEN COMPANIES CREATING \$8.00/HOUR JOBS AND COMPANIES CREATING \$30.00/HOUR JOBS
- DIFFERENTIATE BETWEEN JOBS CREATED IN COUNTIES WITH DECLINING POPULATIONS AND JOBS CREATED IN GROWTH AREAS
- IMPROVE TO RECRUITMENT OF CORPORATE OFFICES, RESEARCH CENTERS AND PROFESSIONAL FIRMS
- TREAT EXISTING FIRMS FOR RETENTION

- COUNCIL CREATED WITH TWO MEMBERS OF SENATE COMMERCE AND HOUSE ECONOMIC DEVELOPMENT COMMITTEES



KANSAS DEPARTMENT OF COMMERCE

- TWELVE POINTS OF THE ECONOMIC REVITALIZATION PLAN
 - RURAL BUSINESS DEVELOPMENT
 - VALUE ADDED AGRICULTURE
 - LEGISLATION HAS BEEN INTRODUCED TO
 - CREATE TAX CREDITS FOR INDIVIDUALS/ORGANIZATIONS WHO CONTRIBUTE TO REGIONAL FOUNDATIONS CHARTERED TO FOSTER RURAL ECONOMIC DEVELOPMENT
 - THIS CAN ENCOMPASS VALUE ADDED AGRICULTURE
 - INITIATIVES IN AGRITOURISM AND RENEWABLE ENERGY SOURCES ARE COMPATIBLE
 - SUPPORT OF ENTERPRISE FACILITATION CONTINUED

KANSAS DEPARTMENT OF COMMERCE

- TWELVE POINTS OF THE ECONOMIC REVITALIZATION PLAN
 - BIOSCIENCES
 - SEED FINANCING AND NEW BUSINESS START-UP
 - ENTREPRENEURSHIP
 - LEGISLATION HAS BEEN INTRODUCED BY REPRESENTATIVE WILK AND SENATOR JORDAN TO:
 - CREATE A BIOSCIENCES AUTHORITY AND AN EMERGING INDUSTRY INVESTMENT ACT; EMINENT SCHOLARS
 - CREATE AN ANGEL INVESTOR NETWORK TO RAISE SEED CAPITAL
 - CREATE A CENTER OF ENTREPRENEURSHIP WITH A STATEWIDE FOUNDATION FOR ENTREPRENEURSHIP
- COMPANION LEGISLATION

KANSAS DEPARTMENT OF COMMERCE

- TWELVE POINTS OF THE ECONOMIC REVITALIZATION PLAN
 - WORKFORCE DEVELOPMENT
 - EXECUTIVE REORGANIZATION ORDER No. 31 ISSUED JANUARY 14, 2004
 - MOVES EDUCATION AND TRAINING DIVISION AND ALL RELATED WORKFORCE DEVELOPMENT PROGRAMS FROM KANSAS DEPARTMENT OF HUMAN RESOURCES TO THE DEPARTMENT OF COMMERCE
 - WORKFORCE INVESTMENT ACT
 - COMMISSION ON DISABILITY CONCERNS
 - CERTIFIED APPRENTICESHIP PROGRAM
 - LEGISLATION CREATING “KANSASFIRST” WILL BE INTRODUCED IN THE SENATE COMMERCE COMMITTEE



KANSAS DEPARTMENT OF COMMERCE

- TWELVE POINTS OF THE ECONOMIC REVITALIZATION PLAN
 - WORKFORCE DEVELOPMENT
 - DRIVERS
 - RESPONSIBILITIES/COMMUNICATION
 - RELOCATING AND EXPANDING COMPANIES' USE OF TRAINING GRANTS
 - OBJECTIVE TO HAVE A SEAMLESS MARKET DRIVEN SYSTEM
 - KANSAS TECHNICAL TRAINING INITIATIVE (KTTI)
 - KANSAS INSTITUTE FOR TECHNICAL EXCELLENCE (KITE)

KANSAS DEPARTMENT OF COMMERCE

- TWELVE POINTS OF THE ECONOMIC REVITALIZATION PLAN
 - ENERGY POLICY
 - STATE'S ENERGY RESOURCE COORDINATING COUNCIL (KERCC) BEING REORGANIZED
 - TO RECOGNIZE TRADITIONAL SOURCES OF ENERGY AND EMERGING RENEWAL SOURCES – WIND, ETHANOL, BIOMASS, BIODIESEL

KANSAS DEPARTMENT OF COMMERCE

- TWELVE POINTS OF THE ECONOMIC REVITALIZATION PLAN
 - IMAGE & MARKETING
 - ONLY AREA IDENTIFIED AS A TOP FIVE PRIORITY IN ALL SEVEN REGIONS
 - \$2.1 MILLION PLACED IN BUDGET
 - DATA BASED RESEARCH AND IMAGE PROMOTION
 - \$37,500 AVAILABLE TO EACH REGION TO DEVELOP A MARKETING PLAN
 - TOURISM
 - DESTINATION ATTRACTIONS AND EFFECTIVE PROMOTION BEING STUDIED
 - AD ASTRA
 - STATE IMAGE
 - TOURISM
 - SMALL BUSINESSES
 - RURAL KANSAS
 - KANSAS ARTISANS
 - RETAIL
 - THE IMPACT OF INTERSTATE TRAFFIC

Economic Development Initiatives Fund (EDIF) Outcomes

EDIF Outcome Measures		
	Actual FY2003	2001-2003
Jobs created and jobs retained by projects utilizing KDOC assistance	16,346	50,748
Payroll generated by projects utilizing KDOC	\$221,188,804	\$952,430,864
Capital investment in Kansas resulting from projects utilizing KDOC assistance	\$817,165,781	\$2,821,441,703
Funds leveraged through match in projects utilizing KDOC assistance	\$34,781,348	
Individuals trained through workforce development programs	12,066	36,970
Sales generated by projects utilizing KDOC assistance	\$70,728,618	\$256,879,171
Increase in visitation resulting from KDOC tourism promotion efforts	305,894	1,023,247
Kansans served with counseling, technical assistance, or business services	6,118	
Number of communities receiving community assistance services	339	

KANSAS DEPARTMENT OF COMMERCE

- OTHER IMPORTANT ACTIONS IN 2004
 - BASE REALIGNMENT AND CLOSURE (BRAC)
 - STAR BONDS APPLICATIONS
 - CUBAN MARKET OPPORTUNITIES
 - INTEGRATION OF KDHR FUNCTIONS
 - COMMERCE, KANSAS TECHNICAL ENTERPRISE CORPORATION (KTEC) AND KANSAS, INC. SYNERGISM
 - THE COLLINS STRATEGY

Horn

the agency architect for the project, as the case may be, so as to avoid error and mistake on the part of the contractors. In all cases where material described in a contract can be obtained from any state institution, the director of purchases shall exclude the same from the contract.

(e) All bids with the names of the bidders and the amounts thereof, together with all documents pertaining to the award of a contract, shall be made a part of a file or record and retained by the director of purchases for five years, unless reproduced as provided in K.S.A. 75-3737, and amendments thereto, and shall be open to public inspection at all reasonable times.

(f) As used in this section and in K.S.A. 75-3741, and amendments thereto, "project architect" shall have the meaning ascribed thereto in K.S.A. 75-1251, and amendments thereto.

History: L. 1953, ch. 375, § 40; L. 1978, ch. 337, § 12; L. 1986, ch. 328, § 1; L. 1990, ch. 319, § 14; July 1.

Source or prior law:

76-101, 76-101a, 76-101b, 76-101c, 76-103.

Cross References to Related Sections:

Construction data and evaluation standards, see 75-3783.

Bids for public improvement projects, procedures for correction of mistakes, see 75-6901 et seq.

Attorney General's Opinions:

Competitive bids on real estate leases by department of administration. 81-169.

Competitive bids; exceptions. 86-170.

Procurement negotiating committees, services or technical products; bidding exemption. 88-126.

Procurement negotiating committees; services or technical products. 93-28.

CASE ANNOTATIONS

1. Lowest responsible bidder has claim of entitlement qualifying as property interest under due process clause. *Anderson-Meyers Co., Inc. v. Roach*, 660 F.Supp. 106, 110, 111 (1987).

75-3740a. State and local government contracts; bidders domiciled in other states.

To the extent permitted by federal law and regulations whenever the state of Kansas or any agency, department, bureau or division thereof or any municipality of the state including, but not limited to, county, school district, improvement district or other public body lets bids for contracts for the erection, construction, alteration or repair of any public building or structure or any addition thereto or for any public work or improvement or for any purchases of any goods, merchandise, materials, supplies or equipment of any kind, the contractor domiciled outside the state of Kansas, to be successful, shall submit a bid the same per-

cent less than the lowest bid submitted by a responsible Kansas contractor as would be required of such Kansas domiciled contractor to succeed over the bidding contractor domiciled outside Kansas on a like contract let in such contractor's domiciliary state.

History: L. 1972, ch. 336, § 1; L. 1984, ch. 326, § 1; July 1.

Cross References to Related Sections:

Bids for public improvement projects, procedures for correction of mistakes, see 75-6901 et seq.

Attorney General's Opinions:

City ordinances; validity of local preference legislation. 85-121.

75-3740b. Purchase of recycled paper; requirements; price preference. (a) As used in this section:

(1) "Newsprint," "printing paper" and "writing paper" have the meanings provided by 40 CFR 250.4 (53 Fed. Reg. 23562-23563).

(2) "Waste paper" means waste paper, as defined by 40 CFR 250.4 (53 Fed. Reg. 23562-23563), containing not less than 10% postconsumer material by weight.

(b) Subject to the provisions of subsection (c), the state shall spend on newsprint or high grade bleached printing or writing paper containing not less than 50% waste paper by weight, if sufficient amounts of such paper are available:

(1) For the fiscal years beginning July 1, 1991, and July 1, 1992, an amount equal to not less than 10% of the total dollar amount of newsprint and high grade bleached printing and writing paper purchased by the state during the immediately preceding fiscal year;

(2) for the fiscal year beginning July 1, 1993, an amount equal to not less than 15% of the total dollar amount of newsprint and high grade bleached printing and writing paper purchased by the state during the immediately preceding fiscal year;

(3) for the fiscal year beginning July 1, 1994, an amount equal to not less than 20% of the total dollar amount of newsprint and high grade bleached printing and writing paper purchased by the state during the immediately preceding fiscal year; and

(4) for fiscal years beginning on and after July 1, 1995, an amount equal to not less than 25% of the total dollar amount of newsprint and high grade bleached printing and writing paper pur-

*Comm labor
2-3-04
Atch # 2*

HB 2521

Thank you Chairman Dahl, Vice Chair Novascone, Ranking Minority Ruff and fellow legislators. First, let me explain the intent of HB 2521. House bill 2521 is designed to give Kansas businesses a slight percentage break when bidding for state government business. This bill would not effect bids from two Kansas business. This bill would not effect two out of state bidders when no Kansas business is involved. The intent of this bill is to give a very slight advantage to Kansas businesses bidding against out of state companies for Kansas state government businesses. This bill would also effect city and county government. When a Kansas

Comma Labor
2-3-04
Atch #3

business bids successfully for our taxpayers business, that business will still pay payroll and property taxes back to our state on a successful bid. Sometimes we forget this important point. On a slight difference of a bid lost by 1%, it would have been more than made up for on payroll, property and sales taxes, if the business would have gone to a Kansas company. Our purchasing departments managed approximately 1800 bids in 2003. Of these bids approximately 60% of these bids were retained by Kansas businesses 40% went to outside states. (See attachment #1) Of these 1800 bids 1500 were from \$1 to \$250,000. (See attachment #3) This bill would give a 1% break in this category for our businesses versus out of state. I

have been convinced that highway construction and building construction should be exempted from this bill because of the unique aspect of that business (See attachment #4) Slight preferential treatment of state businesses is not unique. There are many states that have some form of preferential treatment of their in state businesses. They vary from state to state, product to product, and percent to percent. There were 11 pages listed of these states and I only attached these to your committee leadership testimony. Let me repeat myself in saying the intent of this bill is to give Kansas business who can qualify for quality work a very slight advantage to keep state business in Kansas. S - F - Q

INFORMATION PRESENTED BELOW IS BASED ON
 CONTRACTS MANAGED BY THE DIVISION OF PURCHASES
 AS OF APRIL, 2003

	NUMBER OF VENDORS FROM EACH STATE	
GRAND TOTALS	1827	100%
KANSAS - TOTAL	1096	60.0%
MISSOURI - TOTAL	207	11.3%
NEW YORK - TOTAL	64	3.5%
CALIFORNIA - TOTAL	33	1.8%
TEXAS - TOTAL	33	1.8%
ILLINOIS - TOTAL	32	1.8%
FLORIDA - TOTAL	28	1.5%
NEW JERSEY - TOTAL	28	1.5%
OHIO - TOTAL	24	1.3%
MINNESOTA - TOTAL	22	1.2%
OKLAHOMA - TOTAL	22	1.2%
VIRGINIA - TOTAL	22	1.2%
PENNSYLVANIA - TOTAL	21	1.1%
NEBRASKA - TOTAL	20	1.1%
MARYLAND - TOTAL	14	0.8%
IOWA - TOTAL	13	0.7%
COLORADO - TOTAL	12	0.7%
NORTH CAROLINA - TOTAL	12	0.7%
WASHINGTON - TOTAL	12	0.7%
INDIANA - TOTAL	11	0.6%
CONNECTICUT - TOTAL	10	0.5%
WISCONSIN - TOTAL	9	0.5%
MASSACHUSETTS - TOTAL	8	0.4%
GEORGIA - TOTAL	7	0.4%
KENTUCKY - TOTAL	7	0.4%
MICHIGAN - TOTAL	7	0.4%
TENNESSEE - TOTAL	6	0.3%
UTAH - TOTAL	5	0.3%
ALABAMA - TOTAL	4	0.2%
ARIZONA - TOTAL	6	0.3%
NEW MEXICO - TOTAL	4	0.2%
SOUTH CAROLINA - TOTAL	4	0.2%
ARKANSAS - TOTAL	3	0.2%
MISSISSIPPI - TOTAL	3	0.2%
NEW HAMPSHIRE - TOTAL	3	0.2%
SOUTH DAKOTA - TOTAL	3	0.2%
MONTANA - TOTAL	2	0.1%
NORTH DAKOTA - TOTAL	2	0.1%
OREGON - TOTAL	2	0.1%
WYOMING - TOTAL	2	0.1%
DELAWARE - TOTAL	1	0.1%
DISTRICT OF COLUMBIA - TOTAL	1	0.1%
NEVADA - TOTAL	1	0.1%
VERMONT - TOTAL	1	0.1%
CANADA - TOTAL	4	

INFORMATION PRESENTED BELOW IS BASED ON
PURCHASE ORDERS PREPARED BY THE DIVISION OF PURCHASES
 FISCAL YEAR 2003

	DOLLARS SPENT		NUMBER OF ORDERS	
GRAND TOTALS	\$ 37,421,554.72	100%	852	100%
KANSAS TOTAL	\$ 28,201,037.04	75.36%	509	59.74%
MISSOURI TOTAL	\$ 3,418,108.00	9.13%	93	10.92%
CALIFORNIA TOTAL	\$ 893,973.12	2.39%	29	3.40%
NEBRASKA TOTAL	\$ 774,645.57	2.07%	28	3.29%
WISCONSIN TOTAL	\$ 546,206.00	1.46%	4	0.47%
ILLINOIS TOTAL	\$ 500,350.83	1.34%	16	1.88%
COLORADO TOTAL	\$ 394,684.10	1.05%	7	0.82%
WASHINGTON TOTAL	\$ 276,936.60	0.74%	3	0.35%
PENNSYLVANIA TOTAL	\$ 275,328.21	0.74%	14	1.64%
OKLAHOMA TOTAL	\$ 212,476.74	0.57%	17	2.00%
NEW YORK TOTAL	\$ 202,037.80	0.54%	19	2.23%
NEW JERSEY TOTAL	\$ 197,288.77	0.53%	9	1.06%
TEXAS TOTAL	\$ 194,057.99	0.52%	13	1.53%
IOWA TOTAL	\$ 151,950.00	0.41%	1	0.12%
MASSACHUSETTS TOTAL	\$ 147,463.20	0.39%	7	0.82%
INDIANA TOTAL	\$ 138,036.50	0.37%	8	0.94%
MINNESOTA TOTAL	\$ 127,232.84	0.34%	10	1.17%
MICHIGAN TOTAL	\$ 110,556.00	0.30%	7	0.82%
OREGON TOTAL	\$ 78,651.14	0.21%	5	0.59%
VIRGINIA TOTAL	\$ 72,743.00	0.19%	2	0.23%
GEORGIA TOTAL	\$ 57,420.00	0.15%	3	0.35%
FLORIDA TOTAL	\$ 55,130.76	0.15%	7	0.82%
NORTH CAROLINA TOTAL	\$ 46,514.04	0.12%	8	0.94%
ARKANSAS TOTAL	\$ 41,071.33	0.11%	4	0.47%
ARIZONA TOTAL	\$ 41,000.00	0.11%	1	0.12%
SOUTH DAKOTA TOTAL	\$ 40,625.00	0.11%	1	0.12%
MARYLAND TOTAL	\$ 40,000.00	0.11%	1	0.12%
NORTH DAKOTA TOTAL	\$ 38,028.00	0.10%	1	0.12%
MISSISSIPPI TOTAL	\$ 36,550.00	0.10%	1	0.12%
MONTANA TOTAL	\$ 30,392.00	0.08%	2	0.23%
OHIO TOTAL	\$ 23,801.71	0.06%	9	1.06%
CONNECTICUT TOTAL	\$ 23,598.43	0.06%	4	0.47%
ALABAMA TOTAL	\$ 10,774.76	0.03%	3	0.35%
SOUTH CAROLINA TOTAL	\$ 9,306.00	0.02%	2	0.23%
NEW HAMPSHIRE TOTAL	\$ 7,609.14	0.02%	1	0.12%
UTAH TOTAL	\$ 3,456.10	0.01%	2	0.23%
KENTUCKY TOTAL	\$ 2,514.00	0.01%	1	0.12%
CANADIAN TOTAL	\$ 496,260.00	n/a	9	n/a

I believe that this is what you requested:

Spend above \$1 million	\$415,786,681
Spend between \$500,000 and \$1 million	\$75,817,299
Spend between \$250,000 and \$500,000	\$62,259,322
Spend between \$0 and \$250,000	\$196,152,475

#7

This should reflect a combination spend of the contracts displayed my first e-mail message.

Thank you for your patience.

Mr. Chris Howe, CPPB, Deputy Director
 Kansas Division of Purchases
 900 SW Jackson, Room 102N
 Topeka KS 66612-1286
 Telephone: 785-296-2374
 Facsimile: 785-296-7240
 E-mail Address: chris.howe@da.state.ks.us
 Check out our Web Address: <http://da.state.ks.us/purch>

The Division of Purchases manages many different types of contracts, including:

1) Contracts that were bid through a competitive bid process. In FY03, we managed approximately 1800 different contracts in this category. This is the toughest category from which to glean information, as the current accounting system does not collect contract identification information. I regret that the numbers are not more exact. Our best estimate of the contract count from this category is as follows:

1 million and higher	75-85
500,000 to 1 million	65-75
250,000 to 500,000	55-65
0 to 250,000	Remainder (1500+)

2) Contracts established through non-competitive means. KSA 75-3739 includes some exclusions from the competitive bid process, including genuine sole sources, statutory exemptions, and others. In FY03, we reviewed over 2300 contracts in this category, and we maintained our own manual database for these transactions.

1 million and higher	129
500,000 to 1 million	59
250,000 to 500,000	91
100,000 to 250,000	253
50,000 to 100,000	383
0 to 50,000	1430

3) One-time purchases can be considered a contract as well. We use the Request for Quotation document to bid equipment and services that do not recur.

1 million and higher	4	
500,000 to 1 million	8	
250,000 to 500,000	17	
100,000 to 250,000	39	
50,000 to 100,000	70	
25,000 to 50,000	142	
10,000 to 25,000	189	
5,000 to 10,000		171
0 to 5000	218	

3-6

#4

Session of 2004

HOUSE BILL No. 2521

By Representative Huff

1-14

AN ACT concerning contracts for purchases by the state or municipalities; providing a preference for bidders domiciled in Kansas.

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

Section 1. Except as otherwise provided by K.S.A. 75-3740a, and amendments thereto, whenever the state of Kansas, or any agency, department, bureau or division thereof, or any municipality of the state,

including, but not limited to, county, school district, improvement district or other public body, lets bids for contracts for the erection, construction, alteration or repair of any public building or structure or any addition thereto or for any public work or improvement or for any purchases of any goods, merchandise, materials, supplies or equipment of any kind **but not**

Including contracts for the construction, improvement, reconstruction, and maintenance of all roads, streets and bridges in the state, AND COMMERCIAL BUILDING CONTRACTORS FOR CONSTRUCTION OR REPAIRS FOR STATE OWNED BUILDINGS.

the contractor domiciled outside the state of Kansas, to be successful, shall submit a bid less than the lowest bid submitted by a responsible contractor domiciled in Kansas by the following percentage:

- (a) For a contract amount of less than \$250,000, 1%;
- (b) for a contract amount of \$250,000 or more but less than \$500,000, 2%;
- (c) for a contract amount of \$500,000 or more but less than \$1,000,000, 3%; and
- (d) for a contract amount of \$1,000,000 or more, 4%.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

All contracts for the construction, improvement, reconstruction, and maintenance of the highway system, the cost of which exceeds one thousand dollars (\$1,000), except

H!

given to in-state small, or minority-owned businesses, in-state prison industries, or industries for the blind. The following provide some examples of the policies from other states.

None of the states surrounding Kansas offer an absolute preference to in-state vendors. The State of Iowa offers a 5 percent preference for firms providing coal mined within the state.

The State of Alaska provides a number of percentage preferences depending on the type of goods or services provided. The preference varies from 3 percent for bids utilizing Alaska products to 15 percent for a bidder who is offering services through a qualified employment program, as defined by Alaska statutes.

California offers percentage preferences from 5 percent for in-state small business bidders, bidders who employ high-risk unemployed people, and vendors in specific target areas and economic zones, to 10 percent for bids utilizing recycled paper.

Hawaii offers preferences from 3 percent (commodities produced, manufactured, grown, mined, or excavated in the state) to 15 percent (software development businesses principally located within the state).

The State of Indiana offers a 15 percent "Indiana Small Business Preference" to in-state vendors who meet the criteria established by statute.

Michigan requires that all state printing work is to be awarded to in-state printers. No other preferences are offered.

In New Mexico, a business must be pre-certified as a "resident firm" and must claim a preference on its bid document to receive a 5 percent preference on goods and materials grown, produced, processed, or manufactured wholly within the state.

South Carolina statutes provide that end products made, manufactured, or grown in South Carolina shall be procured unless the cost is 7 percent higher than end products made elsewhere.

In Wyoming, a preference of up to 5 percent applies for all commodities manufactured or produced in Wyoming or supplied by a Wyoming resident capable of producing the same. For construction projects, a 5 percent preference is granted to in-state bidders provided that no more than 20 percent of the work is sub-contracted to out-of-state firms. For printing work, a 10 percent preference is granted if at least 75 percent of the work is done in-state.

I hope this information is helpful to you. Please let me know if you need anything further.

LR/sp

Enclosures

3-8



February 3, 2004

Mr. Chairman and Committee Members:

The Green Company, Inc. manufacturing facilities and offices are located in Lenexa, Kansas. The Green Company is a fairly typical Kansas company: our 26 employees, with one exception, are Kansas residents. The Green Company is a long-time Kansas business entity (since 1973), although the company was originally founded in Missouri in 1885. Our annual payroll is approximately \$800,000.

The Green Company designed and manufactured the very first State of Kansas Service Award Lapel Tac in 1989-90. All work done by The Green Company with the state of Kansas over the ensuing fourteen-year period has been carried out on a bid basis. The Green Company lost the State of Kansas Service Award bid to a Texas company in 1996-97. The winning bid totaled approximately \$14,000. The Green Company's losing bid was high by approximately \$168.00.

Over the years I have seen state bids written with local—one might say protectionist—1% to 10% preference percentages. As policy, The Green Company doesn't bid on out-of-state work if the preference is over 5%. Some states' bids ask if at least 50% of the actual work is done within the state, and if at least 50% of the materials used are local to the state, and if at least 50% of the bidding company's employees are residents of the state. Louisiana is one example; however, that state does not disclose the preference percentage given to local, Louisiana bidding companies. Closer to home, the city of Kansas City, Missouri gives preference to Kansas City, Missouri companies. Even though we're located in the greater metropolitan Kansas City area, The Green Company receives no preferential treatment due to our Kansas location.

The bottom line is that Kansas companies pay Kansas taxes. It is incumbent upon Kansas state legislators to do everything possible to keep Kansas monies in the state of Kansas. Over the long run, occasionally paying a slightly higher price to a Kansas company for goods and services helps everyone in the state of Kansas.

Thank you for your time and efforts in this regard.

Sincerely,

William P. Schutte
President

WPS/skh



Comm & Labor
2-3-04
Atch # 4

KANSAS

DEPARTMENT OF TRANSPORTATION
DEB MILLER, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

**TESTIMONY BEFORE
HOUSE COMMERCE AND LABOR COMMITTEE
REGARDING HOUSE BILL 2521
PREFERENCE FOR CONTRACT BIDDERS DOMICILED IN KANSAS**

February 3, 2004

I am Mike Crow, Director of Operations for the Kansas Department of Transportation (KDOT). On behalf of KDOT, I am here to provide testimony in opposition to providing a preference for contract bidders domiciled in Kansas.

KDOT has significant concern regarding the impact of this legislation on the cost of all contracts and as introduced, grave concern on the impact that this type of preference would have on the ability of KDOT to utilize Federal Aid on highway construction projects planned for the remainder of the 10-year Comprehensive Transportation Program (CTP).

Under the Federal Aid guidelines, KDOT cannot use this type of preference on Federal Aid projects. If KDOT were to use this type of preference in the selection process for projects, Federal Highway Administration will not participate on the project and KDOT would lose federal funds for the project. This is significant when considering that a great many projects are funded in part by federal dollars, many of which are up to 80% federally funded. Consequently, this type of preference would mandate 100% state-funded projects, severely eroding the number of projects that could be completed.

Highway contractors who bid work for KDOT are required to be pre-qualified. Once pre-qualified they can bid on projects that meet their capabilities taking into account the number of projects engaged in and their technical abilities to complete the required scope of services. Contracts are awarded without regard to the location of their home offices.

Highway contractors who are from out of state typically incur higher costs for staffing, mobilization, and expenses and are already at a financial disadvantage due to the added expense of constructing a project some distance from their home offices, storage yards, shops, etc. When they are the low bidder, the state is truly achieving the best value available. This same argument can be associated with other contracts for equipment, service, and materials. While a larger market generally provides lower costs, transporting that equipment, service, or material usually becomes the equalizer.

KDOT is in the 5th year of the 10-year CTP. To apply the proposed local preference to the remaining highway construction projects in the CTP would eliminate our ability to utilize federal funds on those projects where the preference is imposed and KDOT would be unable to deliver the committed projects of the CTP. For this reason, KDOT is strongly opposed to the inclusion of highway construction projects in the preferential treatment for bidders domiciled in Kansas as originally introduced.

**TESTIMONY OF
ASSOCIATED GENERAL CONTRACTORS OF KANSAS
BEFORE HOUSE COMMITTEE ON COMMERCE AND LABOR
ON HB 2521**

February 3, 2004

By Corey D Peterson, Associated General Contractors of Kansas, Inc.

Mister Chairman and members of the committee, my name is Corey D Peterson, Executive Vice President of the Associated General Contractors of Kansas, Inc. The AGC of Kansas is a trade association representing the commercial building construction industry, including general contractors, subcontractors and suppliers throughout Kansas (with the exception of Johnson and Wyandotte counties).

The **AGC of Kansas opposes HB 2521**, which would provide a preference to in-state contractors bidding on public projects.

The Associated General Contractors of Kansas has had a long-standing position opposing any bill that would provide such preference to in-state contractors. AGC feels that artificial barriers have not proven to be a productive means to garner business for Kansas contractors. Additionally, many of our member contractors conduct business outside of Kansas. These companies would likely face similar barriers in those states, should Kansas put this into law. It is the AGC of Kansas opinion that the current statute, 75-2740a, which includes a reciprocity clause, is effective as written.

AGC of Kansas appreciates any attempt to help the contractors of the state of Kansas. However, in this case, we do not feel HB 2521 would be a positive change for its members.

While the AGC of Kansas opposes HB 2521 as written, it would not oppose the bill should amendments be made that would exclude building construction. Thank you for your consideration.

Commerce & Labor
2-3-04
Atch # 6

THE KANSAS CONTRACTORS ASSOCIATION, INC.



OFFICERS

TOM RITCHIE, President
Wichita, Kansas

MARY SULLIVAN, Vice President
Kansas City, Kansas

CORKY BEACHNER, Treasurer
St. Paul, Kansas

STAFF

DAN RAMLOW, Executive Vice President
BOB TOTTEN, Public Affairs Director
JIM RAMSAY, Member Services Director

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MIKE MORRAND
Paola, Kansas

LARRY O'DONNELL
Overland Park, Kansas

KIP SPRAY
Great Bend, Kansas

Testimony

By the Kansas Contractors Association

before the House Commerce Committee

February 3, 2004

Mr. Chairman and members of the Committee, I am Bob Totten, Public Affairs Director for the Kansas Contractors Association. Our organization **represents over 400 companies** who are involved in the construction of highways and water treatment facilities in Kansas and the Midwest.

Today, I want to tell you of our opposition to HB 2521 in its present form. However with the amendment offered by Representative Huff, we will remove our opposition. Our members are very much against the original bill which would have required preferential treatment to instate contractors.

At first reading, I can well understand why many of you would be in support of the bill. It would make sure Kansas contractors would have a leg up in a competitive field. But our members don't only work in Kansas, they go where the work is and sometimes that leads them to building roads in the other states.

Comm & Labor
2-3-04
Atch # 7

The ramifications of a bill like 2521 would unfortunately hammer our opportunities to get work in another state. Most states have a law similar to a law that is in effect in Kansas which says that if another state gives preferential treatment to their home state contractors, then those contractors from that state will be penalized a similar amount on bids submitted in their state. In other words, if Kansas enacts a law like this one, then Oklahoma will penalize our Kansas contractors when they bid work in Oklahoma.

Our members staunchly favor the lowest and competitive bid approach to bid procurement. They believe it is the most fair way to provide work to the Kansas customer that is the lowest price available.

Our members really gripe about out of state contractors getting work but they care more about a fair opportunity and taking away that fair opportunity is more important than having preferential treatment.

I have attached an amendment which would take care of our concerns for your consideration however I believe Mr. Huff has already done that in his amendment. I stand for questions.

Session of 2004

HOUSE BILL No. 2521

By Representative Huff

1-14

AN ACT concerning contracts for purchases by the state or municipalities; providing a preference for bidders domiciled in Kansas.

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

Section 1. Except as otherwise provided by K.S.A. 75-3740a, and amendments thereto, whenever the state of Kansas, or any agency, department, bureau or division thereof, or any municipality of the state, including, but not limited to, county, school district, improvement district or other public body, lets bids for contracts for the erection, construction, alteration or repair of any public building or structure or any addition thereto or for any public work or improvement or for any purchases of any goods, merchandise, materials, supplies or equipment of any kind **but not including contracts for the construction, improvement, reconstruction, and maintenance of all roads, streets and bridges in the state**, the contractor domiciled outside the state of Kansas, to be successful, shall submit a bid less than the lowest bid submitted by a responsible contractor domiciled in Kansas by the following percentage:

- (a) For a contract amount of less than \$250,000, 1%;
- (b) for a contract amount of \$250,000 or more but less than \$500,000, 2%;
- (c) for a contract amount of \$500,000 or more but less than \$1,000,000, 3%; and
- (d) for a contract amount of \$1,000,000 or more, 4%.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

All contracts for the construction, improvement, reconstruction, and maintenance of the highway system, the cost of which exceeds one thousand dollars (\$1,000), except

Kansas Department of Administration
Howard Fricke, Secretary
1000 SW Jackson, Suite 500
Topeka, Kansas 66612-1268
(785) 296-3011

House Commerce and Labor Committee
H.B. 2521 Establishing Preference for Kansas Domiciled Vendors

D. Keith Meyers, Director
Divisions of Facilities, Printing, and Purchases
February 3, 2004

Thank you for this opportunity to provide testimony regarding H.B. 2521.

K.S.A. 75-3740a establishes reciprocity. In other words, if another state penalizes a Kansas bidder, Kansas would penalize a bidder from that state to the same degree. Currently, 29 states have similar reciprocity laws.

H.B. 2521 would establish a preference for Kansas vendors who bid on goods and services for any governmental entity in the State of Kansas. At first blush, this appears to be sound public and economic policy, because of the apparent assistance these provisions would provide to businesses domiciled in the State of Kansas. Unfortunately, due to reciprocity, Kansas vendors would face an equal penalty if they try to do business in the 29 states with reciprocity laws.

It should be noted that 15 states have preference laws somewhat similar to this proposed legislation. In most cases, these preferences extend to locally produced or manufactured goods like coal, natural gas, agricultural products, and printing. Of these 15, only four states (Alaska, New Mexico, West Virginia, and Wyoming) apply these preferences across all goods and services.

As of April 2003, the Division of Purchases managed contracts with 1831 vendors. 60% of those businesses maintained locations within Kansas, 38.8% provided addresses in states other than Kansas, and 0.2% were located in Canada. Our focus has been on obtaining competitively priced goods and services for the State of Kansas without causing vendors to demonstrate where they are domiciled.

The challenge presented by this legislation is finding the balance between the economic benefit to Kansas vendors by providing this protectionist measure versus the potential additional cost to state agencies and local units as well as the potential loss of opportunities for Kansas vendors in other states due to reciprocity laws.

Comm & Labor
2-3-04
Atch # 8



Written Testimony on **HB 2521**
before the
House Committee on Commerce and Labor

by

Mark Tallman, Assistant Executive Director/Advocacy
Kansas Association of School Boards

February 3, 2004

Mr. Chairman, Members of the Committee:

Thank you for the opportunity to submit written testimony in opposition to **HB 2521**. As we understand this bill, it provides that an out-of-state bidder, in order to be successful, must submit a bid that is lower than Kansas domiciled bidders on bids let for contracts for the erection, construction, alteration or repair of any public building or structure or an addition thereto or for any public work or improvement or for any purchases of any goods, merchandise, materials, supplies or equipment of any kind. The bill requires the out-of-state bidder to submit a bid that is lower by the following percentages:

For a contract amount of less than \$250,000, 1 percent;
for a contract amount of \$250,000 or more but less than \$500,000, 2 percent;
for a contract amount of \$500,000 or more but less than \$1,000,000, 3 percent; and
for a contract amount of \$1,000,000 or more, 4 percent.

This expands the scope of the current law by including expenditures for construction, reconstruction or remodeling as the current law only applies to materials, goods or wares. This also increases the costs of construction as compared to the current law because the out-of-state bidder cannot be awarded the bid even though it is the lowest and is equally responsible as compared to the Kansas domiciled bidder if the referenced schedule is not met.

KASB understands the desire to keep Kansas tax dollars spent in the state. However, we are also concerned about the potential increase to school district operating costs at a time when those costs are already rising and state funding is not keeping up. We believe locally elected school board members should be allowed to balance those competing interests. We do not believe the state should **require** local boards to award contracts to more expensive Kansas domiciled bidders.

Thank you for your consideration.

Commerce Labor
2-3-04
Atch # 9



February 3, 2004

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Rich Bartholomew, AIA
Overland Park
President Elect
Mark Franzen, AIA
Overland Park
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Jan Burgess, AIA
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C. Stan Peterson, AIA
Topeka
Jennifer Rygg, Assoc, AIA
Wichita
Jason Van Hecke, AIA
Wichita
Kyle Wedel, AIAS
Manhattan

TO: Representative Dahl and Members of House
Committee on Commerce and Labor

FROM: Trudy Aron, Executive Director

RE: **OPPOSITION FOR HB 2521**

Good morning, Representative Dahl and members of the Committee. I am Trudy Aron, executive director, of the American Institute of Architects in Kansas (AIA Kansas.)

AIA Kansas is a statewide association of architects and intern architects. Most of our 700 members work in over 100 private practice architectural firms designing a variety of project types for both public and private clients including justice facilities, schools, hospitals and other health facilities, industrial buildings, offices, recreational facilities, housing, and much more. The rest of our members work in industry, government and education where many manage the facilities of their employers and hire private practice firms to design new buildings and to renovate or remodel existing buildings.

The reality of HB2521 is that it will hurt as many Kansas firms as it will help. Many architectural, engineering and construction firms export their services to other states as well as other countries. Protectionist policies in Kansas may mean a few more jobs for Kansans but it also means that these same Kansas firms will not be competitive in other states. A number of our firms provide the majority of their services for out-of-state clients but their firm and their employees are based in Kansas and pay Kansas taxes.

We believe the current language in 75-3740a assures a level playing field by applying the same preferences to Kansas firms that other states apply.

When the playing field is level, we believe Kansas firms can compete with the best – be it foreign or domestic.

AIA Kansas does not support HB2521. We think it will harm, more than protect, Kansas firms in our national and global economy. Thank you.

Executive Director
Trudy Aron, Hon. AIA, CAE
aron@aiaks.org

700 SW Jackson, Suite 209
Topeka, KS 66603-3757
Telephone: 785-357-5308 or 800-444-9853
Facsimile: 785-357-6450
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Comm & Labor
2-2-04
Atch # 10



KANSAS BOARD OF REGENTS

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February 2, 2004

Representative Don Dahl, Chairman
House Commerce and Labor Committee
300 S.W. 10th St., Room 241-N
Topeka, Kansas 66612-1504

Subj: Testimony on HB 2521

Mr. Chairman and Committee Members

My name is Eric King, and I am Director of Facilities for the Kansas Board of Regents. I appreciate this opportunity to provide written testimony on HB 2521.

The Board of Regents has concerns about this bill for the following reasons:

We do not believe that this is a pervasive problem, the vast majority of university building construction contracts go to Kansas contractors, subcontractors and suppliers. Occasionally a specialized contractor or trade may be contracted due to their particular expertise. Additionally, the state universities that border other states such as the University of Kansas Medical Center and Pittsburg State University may receive a limited number of bids from contractors outside the state.

Competitive bids among qualified contractors ensure that the State of Kansas receives the best value for its investment. The Board of Regents allocated \$10 million to the state universities in FY 2003 for projects in the range of \$500,000 or less. Under a worst case scenario HB 2521 could potentially add \$100,000 to \$300,000 paid to contractors for these projects thereby reducing the funds available for needed projects. Additional large capital projects (over \$1,000,000) could significantly increase that amount.

Finally, evaluating bids is already somewhat cumbersome. Base bids, alternates, and unit prices must be compared, as well as ensuring that bid bonds, acknowledgments of addenda, etc. are received. Adding the requirements set forth in HB 2521 will further complicate an already complicated process.

Thank you again for your consideration.

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Comm & Labor
2-3-04
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