

MINUTES OF THE SENATE WAYS AND MEANS COMMITTEE

The meeting was called to order by Chairman Stephen Morris at 12:15 p.m. on April 1, 2004, in Room 123-S of the Capitol.

All members were present except:

Senator David Adkins- excused

Committee staff present:

Alan Conroy, Director, Kansas Legislative Research Department
J. G. Scott, Chief Fiscal Analyst, Kansas Legislative Research Department
Leah Robinson, Kansas Legislative Research Department
Melissa Calderwood, Kansas Legislative Research Department
Amy Deckard, Kansas Legislative Research Department
Susan Kannarr, Kansas Legislative Research Department
Norman Furse, Revisor of Statutes
Judy Bromich, Administrative Analyst
Mary Shaw, Committee Secretary

Conferees appearing before the committee:

Senator John Vratil
Jean Krahn, Executive Director, Kansas Guardianship Program
Jim Maag, Member, Kansas Guardianship Program
Barb Conant, on behalf of Terry Humphrey, Kansas Trial Lawyers Association (written)
Karen Braman, R.Ph., Deputy Director, Governor's Office of Health Planning and Finance
Joe Fritton, Deputy Director, Division of Facilities Management
Representative Tom Holland
Trudy Aron, Executive Director, American Institute of Architects
Scott Heidner, Executive Director, Kansas Consulting Engineers (written)

Others attending:

See Attached List.

Chairman Morris opened the public hearing on:

HB 2902--Kansas guardianship program, volunteers under the Kansas torts claims act

Staff briefed the committee on the bill.

Chairman Morris welcomed the following conferees:

Senator John Vratil appeared before the committee upon the request of the Chairman to comment on **HB 2902** because he had some concerns when he learned that the bill involved the Tort Claim Act. He noted that, as he understood it, the bill provided immunity to those volunteers who participated in the Guardianship Program. He explained that his only purpose in testifying to the committee was to clarify what the Tort Claims Act does and what it does not do. Senator Vratil mentioned that it is not providing immunity, it is shifting responsibility to the state. He noted another statute which does grant some immunity to volunteers under certain circumstances, but it is not what is being dealt with here. (No written testimony was provided.)

Jean Krahn, Executive Director, Kansas Guardianship Program (KGP), testified in support of **HB 2902** (Attachment 1). Ms. Krahn explained that **HB 2902** amends the Tort Claims Act to extend liability protections to KGP volunteers similar to the board and staff. Such coverage would be reassuring to those persons currently serving in the program and help in recruiting new volunteers who may be concerned about personal liability issues should they agree to become part of the program.

Jim Maag, Member, Kansas Guardianship Board, spoke in support of **HB 2902**. (No written testimony was submitted.) Mr. Maag mentioned that Kansas should be very proud that there are many people that are there to help.

CONTINUATION SHEET

MINUTES OF THE SENATE WAYS AND MEANS COMMITTEE at 12:15 p.m. on April 1, 2004, in Room 123-S of the Capitol.

Written testimony was submitted by Barb Conant on behalf of the Kansas Trial Lawyers Association in support of **HB 2902 (Attachment 2)**.

There being no further conferees to appear before the committee, the Chairman closed the public hearing on **HB 2902**.

Chairman Morris called the committee's attention to discussion of:

HB 2899--Appropriations for FY 2004 and FY 2005, supplemental appropriations for various state agencies, and

SB 442--Fees for services provided by the state treasurer's office

The Chairman explained that **SB 442** is stalled in the House and the committee discussed amending **SB 442** into **HB 2899**.

Senator Schodorf moved, with a second by Senator Jackson, to remove the contents of **HB 2899**, amend the contents of **SB 442** into **HB 2899** and propose a **Senate Substitute for HB 2899**. Motion carried on a voice vote. Senator Barone and Senator Helgeson requested to be recorded as voting "No" on the motion.

Senator Schodorf moved, with a second by Senator Bunten, to recommend **Senate Substitute for HB 2899** favorable for passage as amended. Motion carried on a voice vote.

Chairman Morris called the committee's attention to discussion of:

HB 2902--Kansas guardianship program, volunteers under the Kansas torts claims act

Senator Kerr moved, with a second by Senator Jackson, to recommend **HB 2902** favorable for passage. Motion carried on a roll call vote.

Chairman Morris opened the public hearing on:

HB 2939--Health care data governing board, membership

Staff briefed the committee on the bill.

The Chairman welcomed Karen Braman, R.Ph., M.S., Deputy Director, Governor's Office of Health Planning and Finance, who testified in support of **HB 2939 (Attachment 3)**. Ms. Braman explained that **HB 2939** would add three members to the Health Care Data Governing Board. She mentioned that the intent of the bill is to enhance the Health Care Data Governing Board membership by adding end-users of the data and explains it further in her written testimony.

There being no further conferees to appear before the committee, the Chairman closed the public hearing on **HB 2939**.

Senator Barone mentioned that **HB 2895** is currently in the Senate Commerce Committee and has not had a hearing. He explained that **HB 2895** provides for staggered terms for the Kansas Apprenticeship Council. Senator asked that the committee consider amending **HB 2895** into **HB 2939**. Committee discussion followed.

Senator Barone moved, with a second by Senator Downey, to amend **HB 2939** by placing the contents of **HB 2895** into the bill. Motion carried on a voice vote.

CONTINUATION SHEET

MINUTES OF THE SENATE WAYS AND MEANS COMMITTEE at 12:15 p.m. on April 1, 2004, in Room 123-S of the Capitol.

Senator Downey moved, with a second by Senator Helgerson, to recommend **HB 2939** favorable for passage as amended. Motion carried on a roll call vote.

The Chairman opened the public hearing on:

HB 2748--Surplus property; transferring certain functions to the secretary of administration

Staff briefed the committee on the bill.

Chairman Morris welcomed Joe Fritton, Deputy Director, Division of Facilities Management, Kansas Department of Administration, who testified in support of **HB 2748** (Attachment 4). Mr. Fritton explained that **HB 2748** transfers the operation of Federal and State surplus property programs to the Kansas Department of Administration.

Written testimony was submitted by Roger Werholtz, Secretary, Kansas Department of Corrections, in support of **HB 2748** (Attachment 5).

There being no further conferees to appear before the committee, Chairman Morris closed the public hearing on **HB 2748**.

Senator Barone moved, with a second by Senator Jackson, to recommend **HB 2748** favorable for passage. Motion carried on a roll call vote.

The Chairman opened the public hearing on:

HB 2749--Statehouse art and history committee amended to include memorials

Staff briefed the committee on the bill.

Chairman Morris welcomed Joe Fritton, Deputy Director, Division of Facilities Management, Kansas Department of Administration, who testified in support of **HB 2749**. (Mr. Fritton's written testimony is found in Attachment 4 under the testimony of **HB 2748**). Mr. Fritton explained that **HB 2749** expands the duties of the Statehouse Art and History Committee to include memorials on the grounds of the Capitol Complex.

There being no further conferees to appear before the committee, Chairman Morris closed the public hearing on **HB 2749**.

Senator Kerr moved, with a second by Senator Barone, to amend **HB 2749** to strike the word "state" on page 2, line 7 of the bill and on the same line following the word "donor," add the words "if any". Motion carried on a voice vote.

Senator Jackson moved, with a second by Senator Downey, to recommend **HB 2749** favorable for passage as amended. Motion carried on a voice vote.

The Chairman opened the public hearing on:

HB 2752--Capital improvement projects, architectural, engineering and land surveying services

Staff briefed the committee on the bill.

Chairman Morris welcomed the following conferees on the bill:

CONTINUATION SHEET

MINUTES OF THE SENATE WAYS AND MEANS COMMITTEE at 12:15 p.m. on April 1, 2004, in Room 123-S of the Capitol.

Representative Tom Holland spoke in support of **HB 2752** in its current form. Representative Holland explained that the bill strengthens existing penalties for any employer knowingly employing illegal immigrants or using them as contractors and establishes a hotline within the Kansas Attorney General's Office. (No written testimony was provided.)

Joe Fritton, Deputy Director, Division of Facilities Management, Kansas Department of Administration, who testified in support of **HB 2752**. (Mr. Fritton's written testimony is found in Attachment 4 under the testimony of **HB 2748**). Mr. Fritton explained that he supports **HB 2752** as originally written. He had no comments on the amendments. In his written testimony, Mr. Fritton explained that the Department of Administration, in its effort to streamline state government, asks that the committee pass the portion of the bill associated with fees and limits for architectural and engineering services.

Trudy Aron, Executive Director, American Institute of Architects, testified in support of **HB 2752** as originally introduced (Attachment 6). Ms. Aron mentioned that they have no position on the amendments made by the House in new section 4.

Written testimony was submitted by Scott Heidner, Executive Director, Kansas Consulting Engineers, in support of the portions of **SB 2752** offered by the State (Attachment 7).

There being no further conferees to appear before the committee, the Chairman closed the public hearing on **HB 2752**.

The meeting adjourned at 1:15 p.m. The next meeting is scheduled for April 22, 2004, the first day of the Omnibus Session.

SENATE WAYS AND MEANS COMMITTEE
GUEST LIST

DATE April 1, 2004

NAME	REPRESENTING
Aaron Dunkel	DOB
Julia Thomas	DOB
Jim Byrnes	Sen Salaries Off.
Darkie Oullett	SRS
Kimbra Caywood	Keurney's Assoc.
Mike Huttles	Ks. Governmental Consulting
KEVIN CRONISTER	Kansas Foundation For Medical Care
Rick Mueno	Fabores' AFL-CIO
State Rep Tom Holland	10 th District
Joshua Lewis	STO
Jeff Wagoner	State Treasurer's Office
Beggy Nanna	STO
John Skiles	
Adriana	HEIN Law Firm
Judy Cron	Am Inst of Architects
JEREMY S BARCLAY	KDOC
Tom Slattery	AGE/Ks
Jim Mack	Ks Guardianship Program
Bob Covalt	Ks Trial Lawyers Assoc
Mid Warner	Dept of Administration - Facilities Management
JOE FRITTON	DEPT OF ADMIN / DFM
Grain Young	Secy of Administration

KANSAS GUARDIANSHIP PROGRAM

KGP

Main Office

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1-800-672-0086

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Chairperson

Judge Frank J. Yeoman, Jr.
Topeka

Vice Chairperson

Senator Janis K. Lee
Kensington

James Maag
Topeka

Eloise Lynch
Salina

Jack E. Dalton
Dodge City

John D. Bennett
Pittsburg

Senator Donald Betts, Jr.
Wichita

Executive Director
M. Jean Krahn

To: Senator Steve Morris, Chair, Senate Ways and Means Committee
From: Jean Krahn, Executive Director
Date: April 01, 2004
Re: HB 2902 - Concerning the Kansas Tort Claims Act
Relating to Volunteer Liability for KGP Guardians and Conservators

The goal of the Kansas Guardianship Program (KGP) is to provide that qualified, caring, willing and trained volunteers are available throughout the State to serve as court appointed guardians and/or conservators for those eligible persons in need of this level of protection and advocacy and who do not have family members willing or able to assume such responsibilities.

The KGP was initiated in 1979 under the administration of Kansas Advocacy and Protective Services, Inc., a private non-profit 501-C-3 organization. The 1995 Kansas Legislature established the KGP as a separate public instrumentality pursuant to K.S.A 74-9601 et seq., as amended.

The KGP requested an opinion of the Attorney General as to the status of its governing board, staff and volunteers in relation to the protections offered under the Kansas Tort Claims Act. The resulting opinion maintained that, while the board and staff were covered, the volunteers were not.

Volunteers in the program are willing to commit themselves to be accountable to the court for the well being of their ward and/or conservatee. Other than a small monthly stipend of \$20 to offset their out-of-pocket expenses, they receive no financial compensation for the considerable contribution they make on behalf of their wards/conservatees and the State of Kansas.

Volunteers and potential recruits frequently ask what protections exist for them. They are seeking reassurance, when functioning within the scope of their legal duties and responsibilities, that there is some level of protection available to them.

HB 2902 amends the Tort Claims Act to extend liability protections to KGP volunteers similar to the board and staff. Such coverage would be reassuring to those persons currently serving in the program and help in recruiting new volunteers who may be concerned about personal liability issues should they agree to become a part of the program.

We ask for your support in this request.

COURT APPOINTED GUARDIANS AND/OR CONSERVATORS

The Guardianship and Conservatorship Act provides for accountability of court appointed guardians and conservators (KSA 59-3075 (a) (1)" . . . a guardian shall at all times be subject to the control and direction of the court.").

Guardians and conservators are accountable to the court:

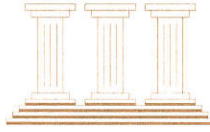
- for actions and decisions undertaken on behalf of the ward or conservatee
- through annual guardian reports and conservator accountings
- for any other reports as the court may order
- and are bonded if appointed as conservator

KGP Volunteers Serving as Court Appointed Guardians and Conservators

- KGP recruits, screens and trains volunteers
- KGP contracts with the volunteer after court appointment
- KGP volunteers appointed as conservators are bonded on a personal bond with the Secretary of SRS as the surety
- KGP provides ongoing monitoring of volunteers through:
 - ▶ Monthly Reports - the program requires a written monthly report of activities undertaken on behalf of the ward or conservatee
 - ~ Upon receipt of the report, the program provides a \$20 per month stipend to offset out-of-pocket expenses
 - ~ Volunteers do not receive a fee for services from the individuals resources
 - ▶ Notice of Annual Accountings/Reports which are due to the court
 - ~ retains a copy of these reports and accountings
 - ~ reviews accountings for accuracy and appropriateness of expenditures
 - ▶ Ongoing training, support and assistance in their advocacy efforts

Additional Information

- ▶ **Ward/Conservatee Eligibility** - must meet a financial criteria - either Medicaid or SSBG recipient AND have no immediate family member willing, able or appropriate to assume guardianship or conservatorship responsibilities
- ▶ **1617 different wards or conservatees served during FY 2003**
- ▶ **825 volunteers were serving at the end of FY 2003**



KANSAS TRIAL LAWYERS ASSOCIATION

Lawyers Representing Consumers

TO: Members of the Senate Ways & Means Committee
FROM: Kansas Trial Lawyers Association
RE: HB 2902
DATE: April 1, 2004

Chairman Morris and members of the Ways and Means Committee, the Kansas Trial Lawyers appreciate the opportunity to submit written testimony in support of HB 2902.

It is the KTLA's strong belief that liability and responsibility are important safeguards within the civil justice system and immunity should be granted in rare exceptions. Our 2004 Legislative Vice President and members of his executive review team recently met with Jean Krahn, executive director of the Kansas Guardianship Program, regarding HB 2902. After discussing KTLA's concerns about the bill and Jean's explanation of the safeguards and supervision built into the program, our legislative committee agreed to support the bill.

We appreciated the efforts made by the Kansas Guardianship Program to discuss and address our concerns. We also appreciate the KGP volunteers whose efforts help the courts help vulnerable citizens.

Thank you for the opportunity to submit our written support of HB 2902.

Terry Humphrey, Executive Director

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E-Mail: triallaw@ink.org

Senate ways and means
4-1-04
Attachment 2



KANSAS

GOVERNOR'S OFFICE OF HEALTH PLANNING AND FINANCE

ROBERT M. DAY, DIRECTOR

KATHLEEN SEBELIUS, GOVERNOR

Testimony on House Bill 2939 presented to Senate Ways and Means

by **Karen S. Braman, R.Ph., M.S.**
Deputy Director
Governor's Office of Health Planning and Finance

April 1, 2004
1:00 PM

For additional information contact:
Governor's Office of Health Planning and Finance
Karen S. Braman, R.Ph., M.S., Deputy Director

Landon State Office Building
900 SW Jackson Street, Suite 509
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Fax: 785-296-3468
www.ksgovernor.org/workgroups_hpf.html

Governor's Office of Health Planning and Finance
Karen S. Braman, R.Ph., M.S.

Senate Ways and Means
April 1, 2004

House Bill 2939

Good afternoon Mr. Chairman and members of the committee. My name is Karen Braman and I am the Deputy Director of the Office of Health Planning and Finance. I appear today in support of HB 2939, which adds three members to the Health Care Data Governing Board.

In researching the health care marketplace in our state, we have found that while Kansas has a substantial amount of health care data, the analysis and availability of that data is often inadequate. This lack of information hinders efforts to evaluate and understand issues related to health care coverage, such as cost, quality and access to health care services, and to make informed policy decisions regarding health care. Employers, who are end-users of health data, use these data to design benefit packages and to be informed consumers in the health care marketplace.

The intent of HB 2939 is to enhance the Health Care Data Governing Board membership by adding end-users of the data. These new members can help identify data that are necessary for businesses to be informed health care purchasers. The legislation adds three members: one representing a large self-insured employer; one representing a small self-insured employer; and one appointed as the Governor deems appropriate. It is also our belief that adding end-users will encourage self-insured businesses to submit their data, thus broadening the scope of information and investing it with greater value as we try gain more understanding of the self-insured market.

In conclusion, by expanding the Health Care Data Governing Board to include end-users of health care data, the Board will better serve policy makers and employers, thus enhancing the state's ability to utilize health care data.

Thank you for your time. I am happy to stand for any questions you may have.

Kansas Department of Administration
Howard Fricke, Secretary

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(785) 296-3011

Senate Ways and Means Committee
H.B. 2748 An Act Concerning Surplus Property
H.B. 2749 An Act Relating to Memorials
H.B. 2752 An Act relating to Capital Improvement Projects

Joe Fritton P.E.
Deputy Director for Facilities Management
Divisions of Facilities, Printing, and Purchases
April 1, 2004

Thank you for this opportunity to provide testimony regarding H.B. 2748, H.B. 2749 and H.B. 2752.

H.B. 2748 transfers the operation of Federal and State surplus property programs to the Department of Administration. In March 2003, the Department of Administration approached the Department of Corrections and asked to operate the Federal and State surplus property programs. These programs were originally under the Department of Administration and were transferred to the Department of Corrections in the 1980's.

The Department of Administration has been operating both programs since December 1, 2003, under a Memorandum of Agreement with the Department of Corrections. This legislation only formalizes the terms of the agreement in statute.

H.B. 2749 expands the duties of the Statehouse Art and History Committee to include memorials on the grounds of the Capitol Complex. Currently, there are two separate committees consisting of similar membership but created by two separate statutes which deal with displays and memorials both inside and outside the Statehouse. This bill attempts to reduce confusion by combining the duties into one committee with one set of guidelines.

H.B. 2752 makes two changes to the statutes affecting Capital Improvements. The first change raises the dollar limits of projects that can be performed without convening a negotiating committee. This enables a state agency to perform projects below the dollar limit using in house architects and engineers or allows the use of a previously selected "on-call" firm to do the work. These limits were last adjusted in 1996 and the proposed changes are intended to adjust them for inflation.

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Attachment 4

The second change allows the Secretary of Administration to fix, charge and collect fees for architectural services. Currently the fees are 1% for project management and 8% for design work performed by the Department. The basis of the 1% project management fee is arbitrary and thus leads to some projects subsidizing other projects. With the flat fee, large projects subsidize small projects and simple projects subsidize complex projects. The ability to fix charge and collect fees will enable the development of a fee schedule that eliminates these subsidies.

The 8% design fee applies only to small projects below the limits discussed earlier. The percentage costs of a small project are typically higher than a larger project and typically greater than 8%. In the past, the difference in cost has been absorbed by an state general fund allocation but that allocation has been significantly cut over the past five years. This legislation allows the Department to negotiate a fee with the agency for the design work performed in order to ensure all costs are recovered.

This bill as amended includes items that are in addition to limits and fees for architectural and engineering services. The Department of Administration, in its effort to streamline state government asks that the committee pass the portion of the bill associated with fees and limits for architectural and engineering services.

I would be happy to stand for any questions.

KANSAS

KANSAS DEPARTMENT OF CORRECTIONS
ROGER WERHOLTZ, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

Testimony on HB 2748
to
The Senate Committee on Ways and Means

By Roger Werholtz
Secretary
Kansas Department of Corrections

April 1, 2004

The Department of Corrections thanks the committee for the opportunity to speak in favor of HB 2748. HB 2748 transfers the management and operations of the state and federal surplus property programs to the Department of Administration from the Department of Corrections. The Department of Corrections originally began management and operation of the surplus property programs in the 1980's after the Department of Administration had managed the program for a time. The Department of Administration requested to begin management of the program again in early 2003, and began that management in December of 2003. It is understood by both parties that inmate labor will continue to be used in the operations of the surplus property program, while the Department of Administration manages the program.



April 1, 2004



TO: Senator Morris and Members of the Ways and Means Committee

FROM: Trudy Aron, Executive Director

RE: **SUPPORT OF HB 2752**

President
Rich Bartholomew, AIA
Overland Park

President Elect
Mark Franzen, AIA
Overland Park

Secretary
Jan Burgess, AIA
Wichita

Treasurer
Michael Seiwert, AIA
Wichita

Directors

Tracy Anderson, AIA
Manhattan

Richard Blackburn, AIA
Topeka

Joy Coleman, AIA
Lawrence

Douglas R. Cook, AIA
Olathe

Timothy J. Dudte, AIA
Wichita

Robert D. Fincham, AIA
Topeka

John Gaunt, FAIA
Lawrence

Jane Huesemann, AIA
Lawrence

J. Jones, Associate AIA
Manhattan

Michael G. Mayo, AIA
Manhattan

Rick McCafferty
Wichita

Tom Milavec, AIAS
Manhattan

Courtney Miller, AIAS
Lawrence

Bobbi Pearson, Assoc, AIA
Emporia

C. Stan Peterson, AIA
Topeka

Jennifer Rygg, Assoc, AIA
Wichita

Jason Van Hecke, AIA
Wichita

Kyle Wedel, AIAS
Manhattan

Good afternoon, Senator Morris and members of the Committee. I am Trudy Aron, executive director, of the American Institute of Architects in Kansas (AIA Kansas.) I appreciate the opportunity to testify in support of HB 2752 as originally drafted. We have no position on the amendments made by the House in new section 4.

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 Division of Facilities Management (DFM) currently provides a myriad of services for all state capital improvement projects. A few state agencies have their own design/construction departments and can provide some of these services including site inspection, construction meetings, etc. now provided by DFM. Instead of all agencies paying a flat 1% fee to DFM, HB 2752 allows agencies to negotiate for only the services they use. Larger agencies with in-house design and construction departments will pay less and other agencies using more services will pay what the services actual cost. This arrangement allows DFM to continue providing all agencies with independent, core of services, including the selection of architects, engineers and contractors; development and enforcement of contracts, standards and procedures; and code review for the design and construction of all state buildings.

AIA Kansas believes HB 2752 will provide better allocation of state resources where they are needed while eliminating some redundancy. We hope you will report HB 2752 out of the committee favorably. Thank you.

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

Senate Ways and Means
4-1-04
Attachment 6



Affiliated with:

American Council of Engineering Companies
Kansas Society of Professional Engineers
National Society of Professional Engineers
Professional Engineers in Private Practice

TESTIMONY ON HB 2752
SENATE WAYS AND MEANS
APRIL 1, 2004

Members of the Senate Ways and Means Committee, my name is Scott Heidner and I am the Executive Director for the Kansas Consulting Engineers, or KCE. KCE represents private engineering businesses in Kansas. We have approximately 60 member firms that employ several thousand Kansans.

I appear before you today in support of the original content of HB 2752, the language offered by the Division of Facilities Management. We were very pleased with the process which led to the introduction of this bill. All the stakeholders were brought to the table and given a chance to participate in formulating this proposal. We urge you to support those portions of the bill offered by the State. Thank you for your consideration.

Scott Heidner, Executive Director

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Senate Ways and Means
4-1-04
Attachment 7