

MINUTES OF THE HOUSE APPROPRIATIONS COMMITTEE

The meeting was called to order by Chairman Melvin Neufeld at 9:00 A.M. on March 16, 2005, in Room 514-S of the Capitol.

All members were present except:

Representative J. Williams- excused
Representative Sharp- excused

Committee staff present:

Alan Conroy, Legislative Research Department
J. G. Scott, Legislative Research Department
Amy VanHouse, Legislative Research Department
Reagan Cussimano, Legislative Research Department
Amy Deckard, Legislative Research Department
Susan Kannarr, Legislative Research Department
Leah Robinson, Legislative Research Department
Matt Spurgin, Legislative Research Department
Robert Waller, Legislative Research Department
Jim Wilson, Revisor of Statutes
Mike Corrigan, Revisor of Statutes
Nikki Feuerborn, Administrative Analyst
Shirley Jepson, Committee Secretary

Conferees appearing before the committee:

Robert Hayes, Executive Director, Health Care Stabilization Board
Peggy Hanna, Deputy Treasurer, State Treasurer's Office
Jim Garner, Secretary, Department of Labor
Tod Bunting, Adjutant General

Others attending:

See attached list.

- Attachment 1 Budget Committee Report on **HB 2264**
- Attachment 2 Technical Amendment to **HB 2264**
- Attachment 3 Testimony by Robert Hayes, Health Care Stabilization Fund on **HB 2512** and proposed **Substitute for HB2512**
- Attachment 4 Copy of Budget Committee Report on **HB 2228**
- Attachment 5 Balloon for **HB 2228**
- Attachment 6 Testimony by Peggy Hanna on **SB 123**
- Attachment 7 Testimony by Jim Garner on **SB 123**
- Attachment 8 Written testimony from Reginald Robinson on **SB 123**
- Attachment 9 Fiscal Note on SB 211
- Attachment 10 Testimony by Tod Bunting, Adjutant General, on **SB 211**

Representative Light moved to introduce legislation concerning gas fields. The motion was seconded by Representative Feuerborn. Motion carried.

Representative Schwab moved to introduce legislation concerning use of funds for school district litigation. The motion was seconded by Representative Bethell. Motion carried.

Representative Bethell, member of the Social Services Budget Committee, presented the Budget Committee report on **HB 2264** and moved for the adoption of the Budget Committee report to recommend **HB 2264** favorable for passage as amended (Attachment 1). The motion was seconded by Representative Schwab. Motion carried.

A technical amendment was made to the bill to more accurately reflect the intent of the Department of Health and Environment (Attachment 2).

CONTINUATION SHEET

MINUTES OF THE House Appropriations Committee at 9:00 A.M. on March 16, 2005 in Room 514-S of the Capitol.

Hearing on HB 2512 - Health care stabilization fund, expenditures for claims, benefit payments and expenses payable, notwithstanding date incurred.

Amy Deckard, Legislative Research Department, explained that **HB 2512** would put into statute two provisos recommended in the General Government and Commerce Budget Committee report for the Health Care Stabilization Fund to allow the agency to make expenditures for attorney fees and other professional services regardless of when the services were rendered and additionally allows the agency to make expenditures for claims and benefits payment regardless of when the services were rendered or when the judgement or settlement was made. The fiscal note indicates that there is no fiscal impact associated with this legislation.

Robert Hayes, Executive Director, Health Care Stabilization Fund, presented testimony in support of **HB 2512** (Attachment 3). Mr. Hayes indicated that the agency is uncomfortable with language in the bill, specifically "when services are rendered" and offered a Substitute Bill for **HB 2512**. The Substitute Bill does not change the intent of the legislation.

The hearing on **HB 2512** was closed.

Representative Pottorff moved to adopt **HB 2512** by adopting the **Substitute Bill for HB 2512**. The motion was seconded by Representative Lane. Motion carried.

Representative Schwab moved to recommend **Substitute Bill for HB 2512** favorable for passage. The motion was seconded by Representative Pottorff. Motion carried.

Continued Discussion and Action on HB 2228 - Kansas use law procedures, establishing the state use law committee.

Representative Pottorff, Chair of the General Government and Commerce Budget Committee, renewed the motion to adopt the Budget Committee recommendation on **HB 2228** and recommend **HB 2228** favorable for passage (Attachment 4). The motion was seconded by Representative Lane.

A balloon on **HB 2228** was presented to the Committee (Attachment 5).

Responding to a question from the Committee, Leah Robinson, Legislative Research Department, explained that the legislation excludes school districts from the purchase of services from qualified vendors; however, does not exclude school districts from the purchase of products from qualified vendors - which is the same language as in current law.

Representative Landwehr moved for a substitute motion to change language on Page 4, Section (b)(6) from "one member shall be a member of the democratic party and one member shall be a member of the republican party" to "one member shall be a member of the majority party and one member shall be a member of the minority party". The motion was seconded by Representative Feuerborn. Motion carried.

Representative Pottorff renewed the motion to adopt the Budget Committee recommendation and recommend **HB 2228** favorable for passage as amended. The motion was seconded by Representative Lane. Motion carried.

Hearing on SB 123 - State treasurer authorized to charge certain fees.

Matt Spurgin, Legislative Research Department, explained that **SB 123** would make permanent the funding mechanism for the State Treasurer's Office that has been done in proviso form during the last two legislative session to allow the State Treasurer's Office to charge service reimbursement fees to other state agencies for banking services and warrant processing, funding which supports the State Treasurer's Office.

Peggy Hanna, Deputy Treasurer, State Treasurer's Office, presented testimony in support of **SB 123** (Attachment 6). Responding to questions from the Committee, Ms. Hanna noted that the bank charge per warrant fee has been decreasing. Ms. Hanna stated that a minimum balance is maintained in the bank account with the balance of funds invested through the Pooled Money Investment Board (PMIB). The interest from

CONTINUATION SHEET

MINUTES OF THE House Appropriations Committee at 9:00 A.M. on March 16, 2005 in Room 514-S of the Capitol.

these invested funds is deposited in the State General Fund (SGF).

Jim Garner, Secretary, Department of Labor, presented testimony in opposition to **SB 123** (Attachment 7). Because the Treasurer's office charges a fee to the Department of Labor for warrants written to recipients of unemployment funds, Mr. Garner stated that the agency felt it is not a good practice to use Unemployment Insurance Trust funds to finance the State Treasurer's office.

In response to Mr. Garner's testimony, Ms. Hanna stated that the advertising expense of the treasurer's office, is paid by funds from the Learning Quest budget. Funds for this budget of administration costs in the State Treasurer's Office are provided through the program manager, American Century. Ms. Hanna also indicated that, according to statute, a warrant can be either paper or electronic.

Written testimony in opposition to **SB 123** was received from Reginald Robinson, Board of Regents (Attachment 8).

Chair Neufeld closed the hearing on **SB 123**.

Representative Schwab moved to recommend **SB 123** favorable for passage. The motion was seconded by Representative Pottorff. Motion carried.

Representative Feuerborn moved for a substitute motion to amend **SB 123**, Line 19 by inserting the language "actual" before the words "banking fees". The motion was seconded by Representative Gatewood. Motion failed.

Representative Feuerborn moved for a substitute motion to amend **SB 123**, Line 22 by inserting the language "operating costs shall not exceed 20 cents per transaction" after the word "agency". The motion was seconded by Representative Lane. Motion failed.

Hearing on SB 211 - Sub for S 211 by Committee on Federal and State Affairs--Death benefit for dependents of certain national guard members.

Robert Waller, Legislative Research Department, explained that **Substitute for SB 211** would provide an aggregate death benefit of \$250,000 to the family of a member of the Kansas National Guard who dies while on federal active duty in a combat area. The bill would authorize the Adjutant General to develop guidelines and to adopt rules and regulations for the payment of the death benefit. The expenditure would be remitted from the state emergency fund. The effective date is upon publication in the Kansas Register and is made retroactive to November 1, 2004.

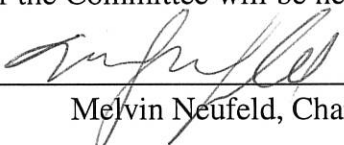
The original fiscal note on **SB 211** related to language in the bill with regard to life insurance (Attachment 9). Because the substitute legislation would be retroactive and would apply to two members of the Kansas National Guard who have died, **Substitute Bill for SB 211** would result in a fiscal note of \$500,000.

The Committee expressed a concern that benefit language in the bill is directed at the surviving spouse and children, not allowing for other family members in case the service member is a single person.

Tod Bunting, Adjutant General, presented testimony in support of **SB 211** (Attachment 10). Responding to a question from the Committee, General Bunting stated that any Kansas National Guard member on active duty is treated as any other member of the armed forces with a current death benefit of \$12,420. All members of the armed forces are eligible for service members life insurance for which they pay a premium with a maximum benefit of \$250,000. This legislation would provide an additional benefit to the members of the Kansas National Guard.

Chair Neufeld closed the hearing on **SB 211**.

The meeting was adjourned at 10:30 a.m. The next meeting of the Committee will be held at 9:00 a.m. on March 17, 2005.




Melvin Neufeld, Chair

House Social Services Budget Committee

Recommendation on H.B. 2264


Representative Brenda Landwehr, Chair


Representative Jerry Henry


Representative Barbara Ballard

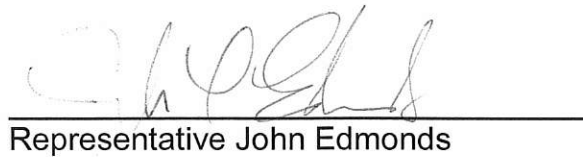

Representative Peggy Mast


Representative Bob Bethell


Representative Louis Ruiz


Representative Willa DeCastro


Representative Arlan Seigfried


Representative John Edmonds

HOUSE APPROPRIATIONS

DATE 3-16-2005

ATTACHMENT 1

House Social Services Budget Committee

Recommendations on HB 2264

Brief

H.B. 2264, as amended by the Social Services Budget Committee, would amend current statutes concerning the term of employment for the Director of Health at the Kansas Department of Health and Environment.

The bill would amend K.S.A. 75-5603 to specify that the Director of Health would be appointed by the Secretary and would serve a four-year term. After the four-year term, the Director would serve at the pleasure of the Secretary. The bill would also strike statutory language that required Senate confirmation of the first Director appointed after the effective date of the existing act.

Background

Proponents testifying on the bill included the Kansas Department of Health and Environment and the Kansas State Nurses Association. No opponents appeared on the bill. The House Budget Committee made a technical amendment to the bill to strike current statutory language requiring Senate confirmation. The Department indicated that this was its original intention when it requested introduction of the bill. The fiscal note indicates that there would be no fiscal impact as a result of the passage of H.B. 2264.

41557~(3/14/5{3:09PM})

HOUSE BILL No. 2264

By Committee on Appropriations

2-2

9 AN ACT concerning the department of health and environment; relating
10 to the director of health; amending K.S.A. 75-5603 and repealing the
11 existing section.

12
13 *Be it enacted by the Legislature of the State of Kansas:*

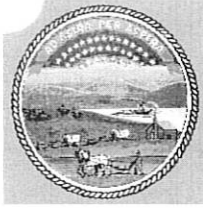
14 Section 1. K.S.A. 75-5603 is hereby amended to read as follows: 75-
15 5603. There is hereby established within and as a part of the department
16 of health and environment a division of health, the head of which shall
17 be the director of the division of health. Under the supervision of the
18 secretary of health and environment, the director of the division of health
19 shall administer the division of health. The director shall be a physician,
20 hold a valid license to practice medicine and surgery, and have experience
21 and educational training in the field of public health. The secretary of
22 health and environment shall appoint the director of the division of
23 health. ~~The first person appointed to such office after the effective date~~
24 ~~of this act shall be appointed, [subject to confirmation by the senate as~~
25 ~~provided in K.S.A. 75-4315b and amendments thereto] and. Each person~~
26 ~~appointed shall serve for a term of four years from and after the date of~~
27 ~~such appointment, and thereafter at the pleasure of the secretary. In the~~
28 ~~case of a vacancy in the office of the director of the division of health,~~
29 ~~the secretary of health and environment shall appoint a successor to fill~~
30 ~~the vacancy for the unexpired term. The director shall be in the unclas-~~
31 ~~sified service and shall receive an annual salary fixed by the secretary and~~
32 approved by the governor.

33 Sec. 2. K.S.A. 75-5603 is hereby repealed.

34 Sec. 3. This act shall take effect and be in force from and after its
35 publication in the Kansas register.

HOUSE APPROPRIATIONS

DATE 3-16-2005
ATTACHMENT 2



Health Care Stabilization Fund

Robert D. Hayes, Executive Director
300 S.W. 8th Avenue, Second Floor
Topeka, Kansas 66603-3912

Compliance Section
Claims Section
Fax

785-291-3475
785-291-3777
785-291-3550

March 16, 2005

The Honorable Melvin Neufeld, Chairperson
House Committee on Appropriations
Statehouse, Room 517-S
Topeka, KS 66612

Re: House Bill No. 2512

Dear Representative Neufeld:

During our budget subcommittee meeting I was asked about the existing provisos that annually appeared for the expenditure authorizations for the Health Care Stabilization Fund. I indicated the following provisos were needed and should be continued:

Fees – legal and professional services

Provided, That expenditures from the fees – legal and professional services account for attorney fees and other professional service fees may be made regardless of when services were rendered or when the judgment or settlement was made.

Claims and benefits

Provided, That expenditures from the claims and benefits account for claim benefit payments may be made regardless of when services were rendered or when the judgment or settlement was made.

Please notice that the wording of both of these provisos is closely related to the accounting practices, requirements and terminology of the State of Kansas and that the reference accounts (fees—legal and professional services account and the claims and benefits account) are not referred to in the Health Care Provider Insurance Availability Act.

The Health Care Stabilization Fund provides professional liability coverage for health care providers who are required to participate in the Fund. These two provisos allow the Fund to pay defense attorney fees, other defense expenses, judgments or settlements regardless of the year those defense attorney services or other defense activities were incurred or when the judgment or settlement was made.

It is our opinion that House Bill No. 2512 would introduce new terminology into an existing subsection of the Fund law that could result in confusion and other possible complications. Therefore, we do not believe that this bill, in its present form, should be adopted.

We are providing wording for a substitute bill for House Bill No. 2512. Our draft substitute bill will create a new section in the Fund law and has been reviewed by members of the Office of Revisor of Statutes. We are waiting for final comments from the Division of Account and Reports. To the best of my knowledge, our proposed substitute bill will accomplish the goal of your committee to make these two annual provisos part of the Health Care Provider Insurance Availability Act.

We have attempted to be as cautious and prudent as possible with the wording of our proposed substitute bill; however, we know that changes such as these should be carefully scrutinized. Therefore, we are willing to continue to work with your committee in obtaining the

Deborah M. Burns, D.O.
Gregory Lundstrom
Julie Quirin

BOARD OF GOVERNORS
Arthur D. Snow, Jr., M.D., Chairperson
Larry Shaffer, Vice Chairperson
Steven C. Clifton, CRNA
Rudy Haun, M.D.

HOUSE APPROPRIATIONS

DATE 3-16-2005
ATTACHMENT 3

desired result but in a way that will not make any change in the operations, coverage provisions or other related matters of the Health Care Stabilization Fund.

I will try to answer any questions you or your committee members may have regarding this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert D. Hayes". The signature is stylized with a large initial "R" and a long horizontal stroke at the end.

Robert D. Hayes
Executive Director

RDH:cs

Enclosure, Draft proposed Substitute for House Bill No. 2512

Cc: Representative Jo Ann Pottorff, Subcommittee Chairperson

Draft proposed
Substitute Bill for House Bill No. 2512

Section 1. (a) Expenditures may be made from the health care stabilization fund for attorney fees, expenses and other costs incurred in defending the fund against claims and for judgments and settlements for which the fund is liable pursuant to subsection (c) of K.S.A. 40-3403, and amendments thereto, regardless of when such attorney fees, expenses or other costs were incurred or when any such judgment or settlement was made.

(b) This section shall be part of and supplemental to the health care provider insurance availability act.

House General Government and Commerce Budget Committee

Recommendation on House Bill 2228

Brief

HB 2228 amends statutes regarding the state use law, including the catalog of products and services manufactured by Kansans who are blind or severely disabled (the "State Use Catalog")

The bill, as recommended by the Budget Committee, creates a "State Use Law" Committee with overall management responsibility for the State Use Catalog. The State Use Committee would be composed of nine members who would serve without compensation:

- one member appointed by the United School Superintendents;
- one member appointed by the State Board of Regents;
- one member appointed by the Director of Purchases of the Department of Administration;
- two members appointed by the Governor who are neutral private sector business persons;
- two members appointed by the Governor who are qualified vendors; and
- two legislators of differing political parties

The Committee would be responsible for advising the Director of Purchases on issues surrounding the provisions of the law, including:

- the development of waiver guidelines to be followed by qualifying agencies and unified school districts;
- the pricing process used by the director of purchases for eligible products and services;
- the product and service eligibility process used by the director of purchases for state use law products and services;
- review of the threshold dollar amount of purchases by state agencies or unified school districts for the state use law to apply;
- review of the provisions of the law on any bid for any purchase that is determined by the director of purchases to be a substantially higher cost than the purchase would have cost had it been competitively bid,
- the establishment of rules, regulations and policies to assure fair and effective implementation of the law, including appropriate rules and regulations relating to violations of the law,

- establishing procedures for setting fair market prices for items included on the procurement list and revision of products and prices in accordance with the changing market conditions to assure that the prices established are reflective of the market;
- assisting qualified vendors in identifying and improving marketing efforts of the products manufactured or processed and offered for sale and services offered under the law to state agencies and unified school districts;
- encouraging and assisting the director of purchases, state agencies and unified school districts to identify additional commodities and services that may be purchased from qualified nonprofit agencies not participating in the state use law catalog;
- Unified School District utilization of "services" provided by qualified vendors and
- any other issue identified by any interested party.

The Committee would be responsible for maintaining a registry of qualified vendors, as defined by the bill. The qualified vendors would be responsible for furnishing a list of products manufactured and processed by the qualified vendors. The list of products and services would be certified by the Director of Purchases.

The term "qualified vendor" is defined as:

- a not-for-profit entity incorporated in the state of Kansas that primarily employs the blind or disabled;
- is operated in the interest of and for the benefit of the blind or persons with severe disabilities, or both;
- the net income of such entity shall not, in whole or any part, financially benefit any shareholder or other individual; and
- the entity's primary purpose is to provide employment for persons who are blind or have other severe disabilities.

The bill directs the Director of Purchases to approve prices of the products and services available. All of the products or services offered to state agencies are required to meet specifications of the Director of Purchases and all products and services offered to school districts are required to meet specifications of the Board of Education of the school district.

The qualified vendors would be responsible for publishing catalogs of products and services submitted by qualified vendors, but the products or services are not necessarily required to be included in the catalog for provisions of the law to apply.

The bill also provides that when a qualified vendor is unable to supply needed products or services, or unable to meet delivery requirements, the Director of Purchases shall immediately

issue a waiver to the appropriate procurement or purchasing officer, and that the waiver will exempt the purchaser from provisions of the law.

The bill also requires qualified vendors to submit an annual report to the Governor, Legislature, Director of Purchases, Board of Regents, and the Kansas Association of School Boards, regarding sales and waivers under the provisions of the bill.

Background

Representatives of Envision, InterHab, and the Coalition for Opportunity spoke in support of the bill, as did a parent on an Envision employee. Representatives of the United School Administrators, the Kansas Association of School Boards, and Unified School District (USD) 229 (Blue Valley), USD 259 (Wichita) and USD 500 (Kansas City) appeared in opposition to the bill. Written testimony in opposition to the bill was also provided by USD 233 (Olathe).

The Budget Committee recommendations include amendments to add two legislators (of differing political parties) to the State Use Law Committee, bringing total Committee membership to nine members, to delete the requirement that mandates Unified School District utilization of "services" provided by qualified vendors, and add this topic to the list of topics on which the Committee would advise the Director of Purchases, and to clarify that members of the Committee should serve without compensation. Other amendments recommended are technical in nature.

The fiscal note prepared by the Division of the Budget indicates that the bill would have a negligible effect on state agencies' purchasing procedures or costs.

HOUSE BILL No. 2228

By Committee on Appropriations

1-31

Proposed Amendment
For Consideration by
Committee on Appropriations

HOUSE APPROPRIATIONS

DATE 3-16-2005
ATTACHMENT 5

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AN ACT concerning state procurement; relating to state purchase of products by certain qualified vendors; amending K.S.A. 75-3317, 75-3319, 75-3321 and 75-3322 and K.S.A. 2004 Supp. 75-3320 and repealing the existing sections.

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

Section 1. K.S.A. 75-3317 is hereby amended to read as follows: 75-3317. As used in K.S.A. 75-3317 through 75-3322, and amendments thereto, unless the context requires otherwise:

(a) "Director of purchases" means the director of purchases of the department of administration;

(b) "~~Kansas industries for the blind division and rehabilitation services~~" means workshops and home industry projects for blind or other handicapped persons which are located in Kansas and which are supported, operated or supervised by the division of services for the blind or rehabilitation services of the department of social and rehabilitation services "*qualified vendor*" means a not-for-profit entity incorporated in the state of Kansas that:

(1) *Primarily employs the blind or disabled;*

(2) *is operated in the interest of and for the benefit of the blind or persons with other severe disabilities, or both;*

(3) *the net income of such entity shall not, in whole or any part, financially benefit any shareholder or other individual; and*

(4) *such qualified vendor's primary purpose shall be to provide employment for persons who are blind or have other severe disabilities;*

(c) "state agency" means any state office or officer, department, board, commission, institution, bureau or any agency, division or any unit within an office, department, board, commission or other state authority;

(d) "~~rehabilitation facility~~" means any community mental health center or community facility for the mentally retarded operating under K.S.A. 19-4001 *et seq.* and amendments thereto or nonprofit corporation contracting with a mental retardation governing board to provide services under K.S.A. 19-4001 *et seq.* and amendments thereto, which has registered with the secretary of social and rehabilitation services for the purposes of K.S.A. 75-3317 through 75-3322, and amendments thereto, and

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1 shall also mean the Kansas foundation for the blind, Wichita, Kansas,
 2 center industries, inc., Wichita, Kansas, and, upon registration hereunder,
 3 any workshop or other facility for blind or other handicapped persons
 4 which is located in Kansas and which is certified to the United States
 5 department of labor and licensed by the secretary of social and rehabili-
 6 tation services as a sheltered workshop under K.S.A. 75-3307b and
 7 amendments thereto. "Unified school district" means any unified school
 8 district, board of education or any purchasing cooperative formed by one
 9 or more unified school districts.

10 (e) "Committee" means the state use law committee authorized pur-
 11 suant to section 7, and amendments thereto.

12 Sec. 2. K.S.A. 75-3319 is hereby amended to read as follows: 75-
 13 3319. (a) The director of purchases shall ~~determine fair market~~ *approve*
 14 prices of products manufactured, ~~or processed, and offered for sale and~~
 15 of services offered under K.S.A. 75-3317 through 75-3322, and amend-
 16 ments thereto, by the ~~Kansas industries for the blind division and reha-~~
 17 ~~bilitation services and by each rehabilitation facility~~ *qualified vendors*. All
 18 of the products and services shall be standard conforming. Those products
 19 and services offered for purchase by or for a state agency shall meet
 20 specifications required by the director of purchases. Those products ~~and~~
 21 ~~services~~ offered for purchase by or for a unified school district shall meet
 22 specifications required by the board of education of the unified school
 23 district. The director of purchases shall revise the prices determined un-
 24 der this section from time to time in accordance with changing market
 25 conditions.

[with the recommendation of the committee,

26 (b) Each ~~rehabilitation facility~~ *qualified vendor* shall cooperate with
 27 and shall provide the director of purchases ~~and the secretary of social and~~
 28 ~~rehabilitation services~~ with all information necessary for the administra-
 29 tion of K.S.A. 75-3317 through 75-3322, and amendments thereto.

30 (c) The provisions of K.S.A. 75-3317 through 75-3322, and amend-
 31 ments thereto, shall apply only to products manufactured or processed in
 32 Kansas ~~or services provided in Kansas by blind or other handicapped~~
 33 ~~persons by a qualified vendor~~.

[in Kansas

34 (d) The provisions of K.S.A. 75-3317 through 75-3322, and amend-
 35 ments thereto, shall not be construed to require a unified school district
 36 to purchase ~~services offered by blind or other handicapped persons under~~
 37 ~~this act. [The committee shall maintain a registry of entities which meet~~
 38 ~~the definition of qualified vendor, as defined by K.S.A. 75-3317, and~~
 39 ~~amendments thereto.~~

[The provisions of K.S.A. 75-3317 through 75-3322, and amendments thereto, shall not be construed to require a unified school district to purchase services offered by qualified vendors under this act.

40 (e) ~~The director of purchases shall convene quarterly meetings with~~
 41 ~~qualified vendors, the state use law committee and agencies to discuss~~
 42 ~~activity occurring under the state use law]~~

43 Sec. 3. K.S.A. 2004 Supp. 75-3320 is hereby amended to read as

5-3

1 follows: 75-3320. (a) The secretary of social and rehabilitation services
 2 *qualified vendors* shall furnish to the ~~department of administration~~ and
 3 to each person or officer authorized to purchase materials, services and
 4 supplies for any state agency or unified school district, a list of products
 5 manufactured or processed and offered for sale and of services offered
 6 under K.S.A. 75-3317 through 75-3322, and amendments thereto, by the
 7 ~~Kansas industries for the blind division and rehabilitation services and by~~
 8 ~~rehabilitation facilities~~ *qualified vendors*.

director of purchases

9 (b) ~~The list of products and services shall be certified by the director~~
 10 ~~of purchases.~~ The secretary of social and rehabilitation services shall *di-*
 11 *rector of purchases* may amend such list from time to time in accordance
 12 with the recommendations of the director of purchases.

13 — (c) ~~The secretary of social and rehabilitation services may charge a~~
 14 ~~reasonable publication fee to those rehabilitation facilities which advertise~~
 15 ~~their products or services on such lists. The secretary of social and re-~~
 16 ~~habilitation services shall remit all moneys received pursuant to this sec-~~
 17 ~~tion to the state treasurer in accordance with the provisions of K.S.A. 75-~~
 18 ~~4215, and amendments thereto. Upon receipt of each such remittance,~~
 19 ~~the state treasurer shall deposit the entire amount in the state treasury~~
 20 ~~to the credit of the social welfare fund committee. The list of products~~
 21 ~~and services shall be certified by the director of purchases. Each qualified~~
 22 ~~vendor shall submit to the committee, the director of purchases, state~~
 23 ~~agencies and unified school districts a list of the products manufactured~~
 24 ~~or processed and of services offered under K.S.A. 75-3317 through 75-~~
 25 ~~3322, and amendments thereto.~~

reviewed and approved

26 (c) ~~Each qualified vendor shall publish or cause to be published, a~~
 27 ~~catalog of products manufactured or processed and of services offered~~
 28 ~~under K.S.A. 75-3317 through 75-3322, and amendments thereto, by each~~
 29 ~~such vendor.~~

approved

30 (d) ~~The products manufactured and processed and services offered~~
 31 ~~under K.S.A. 75-3317 through 75-3322, and amendments thereto, by a~~
 32 ~~qualified vendor shall not be required to be published in the catalog in~~
 33 ~~order to be subject to the provisions of K.S.A. 75-3317 through 75-3322,~~
 34 ~~and amendments thereto.~~ It shall be the responsibility of the qualified
 35 vendors to provide appropriate notice to state agencies and unified school
 36 districts of the addition or deletion of any product or service provided by
 37 a qualified vendor after the publication of the catalog, provided the ad-
 38 ditional product or service has been approved by the director of
 39 purchases.

The director of purchases may amend such list from time to time in accordance with recommendations by the committee.

(e)

40 Sec. 4. K.S.A. 75-3321 is hereby amended to read as follows: 75-
 41 3321. The director of purchases and any person or officer authorized to
 42 purchase materials and supplies for any state agency or uni-
 43 fied school district or to purchase services for any state agency shall pur-

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1 chase, except as otherwise provided in this section, the products and serv-
 2 ices on the list certified by the director of purchases from the ~~Kansas~~
 3 ~~industries for the blind division and rehabilitation services or from a re-~~
 4 ~~habilitation facility~~ *qualified vendors*, when those products ~~or services~~ are
 5 to be procured by or for the state or unified school district ~~or when those~~
 6 ~~services are to be procured by or for the state. Services offered for pur-~~
 7 ~~chase are not required to be purchased by a unified school district.~~

or when those services are to be procured by or for the state. Services offered for purchase are not required to be purchased by a unified school district

8 Sec. 5. K.S.A. 75-3322 is hereby amended to read as follows: 75-
 9 3322. Whenever the ~~Kansas industries for the blind division and rehabili-~~
 10 ~~tation services and rehabilitation facilities~~ *qualified vendors* are unable
 11 to supply the products or services needed or are unable to meet delivery
 12 requirements on any order or requisition, a written waiver shall imme-
 13 diately be forwarded to the ~~director of purchases~~ *state agency procure-*
 14 *ment officer* or purchasing officer of the unified school district ~~by the~~
 15 ~~secretary of social and rehabilitation services or the secretary's designee~~
 16 ~~director of purchases~~ ~~and~~ that such waiver shall relieve and exempt the
 17 state or unified school district purchasing authority from the mandatory
 18 provisions of K.S.A. 75-3317 to 75-3322, inclusive, and amendments
 19 thereto, in the case of the specific order, request or requisition.

director of purchases by the

. If approved by the

20 New Sec. 6. On or before January 1, 2006, and annually thereafter,
 21 *qualified vendors* shall publish an annual report which shall be submitted
 22 to the governor, state legislature, director of purchases, state board of
 23 regents and Kansas association of school boards that updates and de-
 24 scribes the volume of sales for each product or service sold as well as a
 25 summary of waivers requested and issued under the provisions of K.S.A.
 26 75-3317 through 75-3322, and amendments thereto.

27 New Sec. 7. (a) There is hereby established within the department
 28 of administration, the state use law committee, hereafter referred to as
 29 the committee, to advise the director of purchases on issues surrounding
 30 the purchase of products and services provided by blind or disabled per-
 31 sons, which shall consist of ~~7~~ members.

9

32 (b) The state use law committee shall be composed of the following
 33 members:

34 (1) One member shall be appointed by the unified school
 35 superintendents.

36 (2) One member shall be appointed by the state board of regents.

37 (3) One member shall be appointed by the state director of
 38 purchases.

39 (4) Two members who are neutral, private-sector business persons in
 40 Kansas shall be appointed by the governor.

41 (5) Two members who are *qualified vendors* shall be appointed by
 42 ~~the governor.~~

(6) Two members of the Kansas legislature, one legislator shall be a member of the democratic party and one legislator shall be a member of the republican party, shall be appointed by the Governor.

43 (c) Such members shall serve for terms of two years and may be

1 reappointed. On July 1, of each year, the governor shall designate one of
2 the private-sector business members to serve as a chairperson of the com-
3 mittee. Subsequent appointments shall be made as provided for original
4 appointments for the unexpired terms.

5 (d) Members of the committee shall serve without compensation.
6 ~~Members of the committee attending meetings of the committee or at-~~
7 ~~tending a subcommittee thereof authorized by such committee, shall be~~
8 ~~paid amounts provided in subsection (e) of K.S.A. 75-3223, and amend-~~
9 ~~ments thereto.~~

10 (e) The committee shall be responsible for advising the director of
11 purchases on issues surrounding the provisions of K.S.A. 75-3317 through
12 75-3322, and amendments thereto, including, but not limited to, the fol-
13 lowing functions:

14 (1) The development of waiver guidelines to be followed by qualify-
15 ing agencies and unified school districts for participation under the pro-
16 visions of K.S.A. 75-3317 through 75-3322, and amendments thereto.

17 (2) ~~The pricing process used by the director of purchases for eligible~~
18 ~~products and services.~~

19 ~~(2)~~ Product and service eligibility process used by the director of pur-
20 chases for state use law products and services.

21 ~~(4)~~ Review the threshold dollar amount of purchases by state agencies
22 or unified school districts for state use law to apply.

23 ~~(5)~~ Review provisions of K.S.A. 75-3317 through 75-3322, and amend-
24 ments thereto, on ~~any bid for~~ any purchase that is determined by the
25 director of purchases to be a substantially higher cost than the purchase
26 would have cost had it been competitively bid.

27 ~~(6)~~ ~~Establish~~ rules, regulations and policies to assure fair and effective
28 implementation of this act, including appropriate rules and regulations
29 relating to violations of K.S.A. 75-3317 through 75-3322, and amend-
30 ments thereto.

31 ~~(7)~~ Establish procedures for setting fair market prices for items in-
32 cluded on the procurement list and revision of products and prices in
33 accordance with the changing market conditions to assure that the prices
34 established are reflective of the market.

35 ~~(8)~~ Assist qualified vendors in identifying and improving marketing
36 efforts of the products manufactured or processed and offered for sale
37 and services offered under K.S.A. 75-3317 through 75-3322, and amend-
38 ments thereto, to state agencies and unified school districts.

39 ~~(9)~~ Encourage and assist the director of purchases, state agencies and
40 unified school districts to identify additional commodities and services
41 that may be purchased from qualified nonprofit agencies not participating
42 in the state use law catalog.

43 ~~(10)~~ Any other issue identified by any interested party.

And by renumbering the remaining subsections accordingly

from a qualified vendor

Adopt

(f) The committee shall maintain a registry of entities which meet the definition of qualified vendor, as defined by K.S.A. 75-3317, and amendments thereto.

(g) The director of purchases shall convene quarterly meetings with qualified vendors, the state use law committee and agencies to discuss activity occurring under the state use law.

5-6

1 Sec. S. K.S.A. 75-3317, 75-3319, 75-3321 and 75-3322 and K.S.A.
2 2004 Supp. 75-3320 are hereby repealed.
3 Sec. 9. This act shall take effect and be in force from and after its
4 publication in the statute book.

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STATE OF KANSAS

Lynn Jenkins, CPA

TREASURER

900 SW JACKSON ST. SUITE 201
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(785) 296-3171

March 16, 2005

Testimony on Senate Bill 123

Senator Melvin Neufeld, Chairperson and Members
House Appropriations Committee

My name is Peggy Hanna of the State Treasurer's Office. Thank you for the opportunity to discuss Senate Bill 123.

Two years ago after the Governor eliminated the state general fund as a funding source for the Treasurer's office operating budget, we worked with this committee to arrive at a compromise solution to our funding situation. The solution we have been using is to bill state agencies for cash management services provided by our office. Our agency spent over \$20,000 in staff time developing and implementing a tracking system to handle the billings to the agencies. Billing for fees started July 1, 2003. That process has worked smoothly.

The current mechanism has three components: (1) pass-through of the actual banking service fees from our contractor banks — actual for FY 2004 was \$457,962; (2) \$180,000 in fees prorated by transaction lines in the SOKI system at a rate of \$15,000 per month; and (3) \$979,505 in issuance fees for non-payroll paper and electronic warrants — prorated at \$81,625 per month. By prorating the second and third fee types, we are allowed to collect the entire amount needed to fund the budget without worrying about the number of transactions the agencies process. For FY 2005, we have lowered the third amount from \$979,505 to \$829,303 since we had some carry forward from FY 2004 and our budget request is lower.

According to Federal government guidelines, state agencies with access to Federal program money have been able to draw down funds to pay for 100% of their costs for the first and second types of fees. They are able to draw down 50% of their costs for the third type of fees. By doing this, "new" money has been drawn into the state system to fund our agency.

For years we received \$1.5 million in SGF funding. Then, the Governor decided that our office along with other statewide elected offices should become fee funded. Unfortunately, our office only has two constituencies — people claiming their own money from the unclaimed property division and state agencies who receive cash management services from the Treasurer's office.

To fund our \$1.5 million budget with a claim processing fee would require a 23-25% fee on each claim. The Treasurer is against placing any fee on the citizens of Kansas for getting their own money back — let alone a 25% fee. Since these are your constituents as well as hers for the past two years you have rejected the Governor's plan and allowed us to charge state agencies for cash management services. These changes were passed by the Legislature via a proviso last session. This bill would make the fee structure per

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DEPARTMENT OF LABOR
Jim Garner, Secretary

KATHLEEN SEBELIUS, Governor

**Testimony before the
House Appropriations Committee
In Opposition to S.B. 123
Secretary Jim Garner, Kansas Department of Labor
16 March 2005**

Chairman Neufeld and Members of the Committee:

Thank you for the opportunity to appear today to testify in opposition to Senate Bill 123. The bill will create a new law imposing fees on state agencies to fund the state treasurer's office. Fees would be imposed on each voucher, warrant, or direct deposit issued by the agency.

This method of funding the state treasurer's office is currently being used pursuant to a proviso in the FY 2005 budget. For the period July 1, 2004 to January 31, 2005, KDOL has issued 464,711 unemployment insurance payments (paper warrants and electronic transfers) to unemployed individuals. We have paid \$138,759 in fees to the state treasurer's office, an average of \$.30 per warrant. In Fiscal Year 2004, KDOL issued 1,454,839 unemployment insurance payments and paid \$451,000 in fees to the state treasurer's office, an average of \$.31 per warrant. The FY 2005 Budget authorizes KDOL to transfer \$451,000 to the State Treasurer to pay for these fees. These are funds from the Unemployment Insurance Trust fund, which represents the only sustainable funding source for the agency to pay this fee.

These UI Trust Funds were never intended to fund the operations of the state treasurer's office. These are funds raised by taxes on employers to fund the UI system. I do not believe that it is appropriate to use these funds as an ongoing, year-to-year revenue source for another state agency.

These funds can be used for reasonable costs in the administration of the Unemployment Insurance program. In the last year, KDOL has experienced a cut of over \$2.5 million in our federal administrative UI grant from the federal government. We have had to lay off employees and reduce work hours in our call centers. Yet, we must spend \$451,000 to fund the state treasurer's office.

HOUSE APPROPRIATIONS

OFFICE OF THE SECRETARY
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In addition, KDOL has critical IT needs that are begging to be addressed. On January 19, 2005, all three of our call centers were out of operation for about four hours. A critical component of our system that routes all inbound calls failed. It is old and no longer supported by the original vendor. Fortunately, our IT staff was able to get the system up and running again. But the fact remains this router system is on borrowed time and will ultimately fail. It would be a much more justifiable use of the UI Trust funds for a one-time expenditure to keep the call centers operational than to use these funds for ongoing re-occurring annual contributions to fund another state agency.

I also want the committee to be aware that the charges imposed by the State Treasurer are ridiculously high. This is because the purpose for the fees is not to recoup actual costs in delivering a service, but to artificially subsidize the state treasurer's office. Our staff has contacted some neighboring states to learn what they pay for banking services. Missouri reports that it pays \$0.06 per UI warrant and Oklahoma reports spending \$0.03 per warrant. Colorado spends a total of \$69,000 for this service. The Kansas charge of \$0.27 or more per warrant (over \$450,000 per year) is based only on the needs of the state treasurer to fund the office – it is not based on actual work performed. There was no such fee imposed on agencies until 2004.

Finally, I have a serious concern that codifying this funding mechanism into state law will prevent agencies from exploring possible efforts to privatize this service. Would KDOL be prohibited from looking to private banks or other management companies to perform this service at lower costs? Moreover, codifying this into law will eliminate any pressure on the state treasurer to find any alternative funding source or mechanism to fund the office. At the very least, leave this funding source as a budget proviso and allow for further exploration of an alternative funding source for the State Treasurer's office.

I strongly oppose this effort to codify these fees as a permanent funding mechanism. I hope the state treasurer will continue to explore other, more appropriate, funding options.

Again, thank you for the opportunity to appear and express my opposition to SB 123. I will be glad to stand for any questions you may have.



KANSAS BOARD OF REGENTS

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March 16, 2005

Representative Melvin Neufeld
Chairman
House Appropriations Committee
Statehouse, Room 517-S
Topeka, KS 66612

Representative Bill Feuerborn
Ranking Member
House Appropriations Committee
Statehouse, Room 284-W
Topeka, KS 66612

Dear Chairman Neufeld and Ranking Member Feuerborn:

On behalf of the Board of Regents, I write to you to express the Board's opposition to including the state universities and the Board of Regents' office in Senate Bill 123.

As you may know, Senate Bill 123 authorizes the State Treasurer to charge the state universities, and other state agencies, cash management fees, banking service fees and fees for processing warrants. The State Treasurer's Office currently assesses these fees through an appropriations proviso, and, in Fiscal Year 2004, the state universities and Board of Regents' office were billed almost \$180,000 for such fees.

For the past three years, the Board has worked successfully with Governor and the Legislature in moving to the block grant/tuition ownership and accountability budget model for the state universities. Previous administrations and legislatures have recognized that the universities need additional management flexibility, and they have embraced this budget model as a means of providing that additional flexibility. Governor Sebelius has recognized the block grant in its purest form by recommending increased block grant funding to be allocated by the Board of Regents.

Previous administrations and legislatures have embraced full tuition ownership and accountability for the Board and the state universities by removing any restrictions on the general fees funds, and by acknowledging the Board's authority to set tuition rates at the universities. During the 2005 Session, the Board is hopeful that the legislature will go a step further by allowing the universities to retain the interest earned on tuition revenues and other non-general fund revenues. This will not only further increase resource management flexibility, but will also give full meaning to the concept of tuition ownership.

The Board and the universities have worked closely and successfully with the Department of Administration to enhance management flexibility by obtaining relief from burdensome state-level administrative requirements. The universities have made great strides in obtaining management flexibility relative to purchasing, printing, and disposal of surplus property. We have worked with the Department and the Legislature to improve the univ

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Chairman Neufeld and Ranking Member Feuerborn
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with the Division of Facilities Management (DFM) by eliminating fees and redesigning the DFM fee structure to add value to university projects. The Board has worked with the Legislature to amend legislation related to sealed bids for insurance purposes, and we are currently working to allow the universities to purchase insurance through the Midwestern Higher Education Compact and thereby achieving meaningful savings.

All of the efforts described above have served to assist the universities in their quest to educate and serve the people of Kansas. Subjecting the universities to the fee charges proposed in Senate Bill 123 represents a step backwards from the accomplishments to date. And, it is important to note that no other sector of Kansas postsecondary education (Washburn University, the community colleges, and the technical colleges and schools) is subjected to the fees outlined in Senate Bill 123. Certainly, the Legislature must determine how best to finance the State Treasurer's operations. However, we respectfully submit that assessing fees to the state universities is not consistent with the new budget model that the universities, the Governor, and the Legislature have worked so hard to achieve.

In conclusion, the Board respectfully requests that the state universities and the Board of Regents' office be exempted from the provisions of Senate Bill 123. Thank you for your consideration.

Sincerely,



Reginald L. Robinson
President and CEO

February 16, 2005

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

Dear Senator Brungardt:

SUBJECT: Fiscal Note for SB 211 by Senator Schmidt, et al.

In accordance with KSA 75-3715a, the following fiscal note concerning SB 211 is respectfully submitted to your committee.

SB 211 would require the State of Kansas to provide \$250,000 in life insurance coverage to members of the Kansas National Guard on federal active duty in a combat area. This bill would require the Adjutant General to develop, implement, and administer a plan to provide this life insurance coverage.

Estimated State Fiscal Effect				
	FY 2005 SGF	FY 2005 All Funds	FY 2006 SGF	FY 2006 All Funds
Revenue	--	--	--	--
Expenditure	--	--	\$433,720	\$433,720
FTE Pos.	--	--	--	1.00

The Adjutant General states that the Federal Servicemembers Group Life Insurance (SGLI) does offer members who are deployed to a combat area the option to purchase \$250,000 of life insurance coverage. If the state chose to reimburse the service members for the purchase of this life insurance coverage, it would cost \$16.25 per month per National Guard member. The agency estimates that 2,000 National Guard members are deployed annually for an average of 12

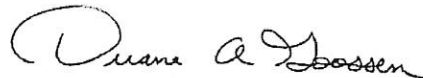
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The Honorable Pete Brungardt, Chairperson
February 16, 2005
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months. Using the SGLI, the cost to reimburse these members would cost \$390,000 (2,000 X 12 X \$16.25) per year. If the agency reimburses the Guard members on a monthly basis, it would require 1.00 new FTE position at a cost of \$31,720 to process the reimbursements. An additional \$12,000 would be needed for postage and other expenses. The total cost to implement this program would be \$433,720 in FY 2006. It is assumed that State General Fund monies would be used to fund this program, because the bill does not specify a funding source. The administrative cost to develop and implement this program would be absorbed by the agency. The fiscal effect of SB 211 is contingent upon the frequency, duration, and number of National Guard member deployments; therefore, expenditures would fluctuate.

Sincerely,



Duane A. Goossen
Director of the Budget

cc: Janice Harper, Adjutant General's Dept.

House Appropriations
Testimony supporting Substitute for Senate Bill 211
Major General Tod Bunting, The Adjutant General
March 16, 2005

Mr. Chairman, thank you for the opportunity to testify today on the substitute for Senate Bill 211.

We applaud the outstanding and continued support of the legislature for our over 7,000 National Guard men and women. Repeatedly they have been called on to serve our state and nation. Today we see large numbers of our personnel proudly serving throughout the world on extended periods of active duty.

The substitute for Senate Bill 211 shows the commitment of the legislature to recognize the sacrifice of our guardsmen by paying a death benefit of \$250,000 to the dependents of Kansas guardsmen who die on federal active duty in a combat area. Under the provisions of the bill the proceeds would come from the state emergency fund. It is important to note that had this bill been in effect over the past 30 years, disbursements would only total \$500,000.

Finally, Mr. Chairman we also support the revised effective date of this legislation to 1 November 2004 to provide this benefit to the dependents of our recently fallen National Guardsmen, SFC Wisdom and SGT Clary.

Thank you for your continued support and the opportunity to testify. We will now stand for your questions.

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