

MINUTES OF THE SENATE WAYS AND MEANS COMMITTEE

The meeting was called to order by Chairman Dwayne Umbarger at 10:30 A.M. on March 22, 2005 in Room 123-S of the Capitol.

All members were present.

Committee staff present:

Jill Wolters, Senior Assistant, Revisor of Statutes
Alan Conroy, Director, Kansas Legislative Research Department
J. G. Scott, Kansas Legislative Research Department
Debra Hollon, Kansas Legislative Research Department
Susan Kannarr, Kansas Legislative Research Department
Matt Spurgin, Kansas Legislative Research Department
Judy Bromich, Administrative Analyst
Mary Shaw, Committee Secretary

Conferees appearing before the committee:

Peggy Hanna, State Treasurer's Office
Mary Prewitt, General Counsel, Kansas Board of Regents
Representative Everett Johnson

Others attending:

See attached list.

Senator Barone moved, with a second by Senator Steineger, to approve the minutes of February 10, February 11, February 14 and February 15, 2005, as amended on the minutes of February 11. Motion carried on a voice vote.

Chairman Umbarger opened the public hearing on:

HB 2477--Unclaimed property act, stock dormancy period

Staff briefed the committee on the bill.

Peggy Hanna, State Treasurer's Office, testified in support of **HB 2477 (Attachment 1)**. Ms. Hanna explained the bill would decrease the dormancy period on abandoned stocks and mutual funds and would result in this type of property being turned over to the state two years sooner than under current law. She provided several reasons in her written testimony to favorably support the bill.

Ms. Hanna explained a balloon amendment proposed by the State Treasurer's Office because the current bill does not include all types of stock related property (**Attachment 2**). She also noted that the fiscal note that was prepared did take into consideration all types of stock related property so there would be no additional fiscal impact with the inclusion of the amendment.

There being no further conferees to come before the committee, the Chairman closed the public hearing on **HB 2477**.

Senator Kelly moved, with a second by Senator Schmidt, to amend **HB 2477** to include the balloon amendment proposed by the State Treasurer's Office. Motion carried on a voice vote.

Senator Betts moved, with a second by Senator Teichman, to report **HB 2477** favorably for passage as amended. Motion carried on a roll call vote.

The Chairman opened the public hearing on:

HB 2234--Concerning tuition rates at state educational institutions

CONTINUATION SHEET

MINUTES OF THE Senate Ways and Means Committee at 10:30 A.M. on March 22, 2005 in Room 123-S of the Capitol.

Staff briefed the committee on the bill.

Mary Prewitt, General Counsel, Kansas Board of Regents, testified in support of **HB 2234** (Attachment 3). Ms. Prewitt explained that the bill amends the statutes determining residency for tuition purposes at the six state universities. She mentioned the primary effect of the proposed amendments would be to extend the privilege of paying resident rates to more current and former members of the armed services and their spouses and dependents than the current law allows. In closing, Ms. Prewitt noted that while the Kansas Board of Regents supports the intent of the bill, it does anticipate some problems in the administration of the bill in its current form.

Detailed committee discussion and questions followed. There being no further conferees to appear before the committee, the Chairman closed the public hearing on **HB 2234**. Chairman Umbarger explained that the bill needs to have more research and may consider working the bill the following week.

Chairman Umbarger turned the committee's attention to discussion of the following bill:

HB 2105--Membership of certain members of the staff of the office of state fire marshal in the Kansas police and firemen's retirement system

Following discussion, Senator Emler moved, with a second by Senator Teichman, to recommend **HB 2105** for an interim study. Motion carried on a voice vote.

Chairman Umbarger opened the public hearing on:

HB 2072--Authorizing tuition and fee waivers for certain military personnel and dependents

Staff briefed the committee on the bill.

Representative Everett Johnson spoke in support of **HB 2072** (Attachment 4). Representative detailed information following the 9/11 event in his written testimony regarding compensation. He explained what the bill would provide for a family of a military person killed performing his/her duty detailed in his testimony. He noted that more could be done for spouses and dependents.

Mary Prewitt, General Counsel, Kansas Board of Regents testified in support of **HB 2072** (Attachment 5). Ms. Prewitt explained that the House added language to this bill which would amend the basic residency statute for the six state universities. She noted that, while the Board supports the concept, language that would accomplish this goal is included in **HB 2234**. In closing, Ms. Prewitt requested that all of Section 4 be deleted from the bill.

Senator Teichman moved, with a second by Senator Kelly, to amend **HB 2072** and remove all of Section 4 from the bill as requested by the Kansas Board of Regents. Motion carried on a voice vote.

There being no further conferees to come before the committee, the Chairman closed the public hearing on **HB 2072**. Chairman Umbarger mentioned that there would be no further action taken on **HB 2072** and asked the committee to study **HB 2234**.

The meeting adjourned at 11:50 a.m. The next meeting is scheduled for March 24, 2005.

**SENATE WAYS AND MEANS
GUEST LIST**

Date March 22, 2005

NAME	REPRESENTING
Julia Thomas	DOB
Mike Beam	Ks. LUSTK. ASSN.
Peggy Hanna	Measures Office
Mr. Ke Huttles	KGC
Kip Peterson	ICBOR
Mary Rewitt	KBOR
ERIC SEXTON	WSU
SW PETERSON	K-STATE
KL MUEY	HEIN LAW FIRM
David Keister Sr	AFSCME Public Employees
David Keister Jr	" " "
Brenda Keister	" " "
BERNARD S. TRAVIS	AFSCME Public Employees
Barbara Owens	AFSCME
Arlis Brubaker	AFSCME
Steven Lissner	AFSCME
Phil Jones	AFSCME State empl. OSH
Bebera Holbrook	
Gregory L Whitfield	AFSCME State empl LCF
APRIL BENTLEY	AFSCME ST EMPL LCF
Larry Beeson	AFSCME LCF



STATE OF KANSAS

Lynn Jenkins, CPA

TREASURER

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March 22, 2005

Senator Dwayne Umbarger, Chairperson, and members
Ways and Means Committee

Testimony on House Bill 2477

My name is Peggy Hanna from the Treasurer's Office. Treasurer Jenkins appreciates you allowing me to speak today in favor of House Bill 2477. This amendment to the Unclaimed Property Act would decrease the dormancy period on abandoned stocks and mutual funds and would result in this type of property being turned over to the state two years sooner than under current law.

The Unclaimed Property Act was enacted in 1979. It is considered a consumer protection law. Over the years our office has come to you to request enhancement provisions that would further the protection of the owners of unclaimed property. Before 1979 in Kansas, companies that lost contact with customers to whom they had written checks or held accounts for were allowed to just write off any un-cashed checks or dormant accounts. Since the Act was made law, those companies (called Holders) are supposed to make valid efforts to locate their lost customers and if they cannot locate them, after a set period of time, send those assets to the State Treasurer's office as unclaimed property.

Various types of financial assets are defined as unclaimed property, including bank accounts of all types, un-cashed checks, utility deposits, insurance policies, salaries and wages, travelers' checks, stocks, and mutual funds. Each type has its own dormancy period – or the time the Holder is allowed to hold the item before reporting it to the state as unclaimed property. That dormancy period varies from type to type for a couple of reasons: first, national trends (what other states are doing) that make for a standard of reporting for the Holders and second, what makes sense based on the type of property. For instance, salaries and wages must be reported after one year of dormancy while travelers' checks have a 15-year dormancy period. In Kansas, the norm is 5-years.

We understand that when this bill was voted on in the House, there was some misunderstanding about the impact of the changes. There are three really good reasons you should vote favorably for this bill:

1. These types of properties and the parties that handle them are regulated by the Securities and Exchange Commission (SEC). The SEC rules require that most lost accounts undergo two electronic database searches, and that these searches must be completed within twenty-four months of the account first becoming lost. For instance, if a stock property becomes lost today, sometime before March 2007, the transfer agent must twice attempt to locate the lost owner by using an electronic database. If those searches do not produce a new address for the owner, it is highly unlikely that the transfer agent merely holding the property for three additional years (as they do now) will have a different result. The state will eventually receive the property.

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Attachment 1

Currently, transfer agents and stock issuers are hiring third-party locators whose job it is to locate the owners during the period prior to the report date of the lost property. These locators do not fall under our unclaimed property laws and are known to charge from 30-35% for owners to retrieve their property.

3. Finally, these changes would yield funds into the state general fund sooner than they would have been deposited. We are required to sell stocks and mutual funds after we have held them for six months. The proceeds of these sales are deposited into the state general fund, where the state uses the funds and retains any interest earnings until such time as the owner or their heirs come forward to claim their property. Under current law, we receive one year's accumulated stock and mutual funds. With this change, in November 2005 we would receive those stocks and mutual funds that would have been received in November 2005, November 2006 and November 2007, since we would be "catching up" with the change in dormancy period. Then in November 2006, we would receive only one year's accumulated stock and mutual funds. As a result of the three years' accumulation being received in November 2005, we would be able to sell the stock after six months (or July 2006), thus realizing increased stock sale proceeds than we would normally realize. This is a one-time "bump". **The stock or the money derived from the sale of the stock would still be due and owing to the owner or their heirs.**

In our fiscal note we stated that a third-party auditor that remits a great deal of stocks and mutual funds to the state of Kansas, projects we could receive stock with an estimated value of \$8 million in November 2005 with the actual cash value to be realized in July 2006. *You have in your hands an amendment that we are bringing to you, because we realized the current bill does not include all types of stock related property. The fiscal note we prepared did take into consideration all types of stock related property so there will be no additional fiscal impact with the inclusion of this amendment.*

Nineteen states have changed their unclaimed property laws to the 3-year dormancy period on stocks and mutual funds with no negative results.

During the 2004 session, the Treasurer requested and you passed SB 399 which allowed our office to bring in property resulting from the demutualization of life insurance companies two years earlier than the law allowed. This change resulted in a one-time \$10 million receipt into the state general fund.

Here is a short history on the Unclaimed Property program:

Inception date: 1979

Total funds received since 1979: \$201 million

Total funds paid out since 1979: \$ 73 million

Total outstanding dollars: \$155 million

Average received each year: \$15 million

Average paid out each year: \$6-\$8 million

Number of properties: 705,105

Thank you again for your consideration of HB 2477.

HOUSE BILL No. 2477

By Committee on Appropriations

2-16

9 AN ACT concerning unclaimed property; amending K.S.A. 2004 Supp.
10 58-3935 and 58-3943 and repealing the existing sections.
11

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

13 Section 1. K.S.A. 2004 Supp. 58-3935 is hereby amended to read as
14 follows: 58-3935. (a) Property is presumed abandoned if it is unclaimed
15 by the apparent owner during the time set forth below for the particular
16 property:

- 17 (1) Traveler's check, 15 years after its issuance;
- 18 (2) money order, seven years after issuance;
- 19 (3) except as provided in K.S.A. 58-3943, and amendments thereto,
20 stock or other equity interest in a business association or financial organ-
21 ization, including a security entitlement under article 8 of the uniform
22 commercial code, ~~five~~ *three* years after the earlier of:

23 (A) The date of the most recent dividend, stock split, or other distri-
24 bution unclaimed by the apparent owner; or

25 (B) the date of the second mailing of a statement of account or other
26 notification or communication that was returned as undeliverable or after
27 the holder discontinued mailings, notifications or communications to the
28 apparent owner;

29 (4) debt of a business association or financial organization, other than
30 a bearer bond or an original issue discount bond, five years after the date
31 of the most recent interest payment unclaimed by the apparent owner;

32 (5) a demand, savings or time deposit, including a deposit that is
33 automatically renewable, five years after the earlier of maturity or the
34 date of the last indication by the owner of interest in the property, except
35 that a deposit that is automatically renewable is deemed matured for
36 purposes of this section upon its initial date of maturity, unless the owner
37 has consented to a renewal at or about the time of the renewal and the
38 consent is in writing or is evidenced by a memorandum or other record
39 on file with the holder;

40 (6) money or credits owed to a customer as a result of a retail business
41 transaction, five years after the obligation accrued;

42 (7) amount owed by an insurer on a life or endowment insurance
43 policy or an annuity that has matured or terminated, three years after the

and any dividend, profit, distribution, interest, redemption,
payment on principal, or other sum held or owing by a business
association for or to its shareholder, certificate holder, member,
bondholder, or other security holder

redemption, payment on principal

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Attachment 2

1 obligation to pay arose or, in the case of a policy or annuity payable upon
2 proof of death, three years after the insured has attained, or would have
3 attained if living, the limiting age under the mortality table on which the
4 reserve is based;

5 (8) property distributable by a business association or financial or-
6 ganization in a course of dissolution, one year after the property becomes
7 distributable;

8 (9) property received by a court as proceeds of a class action, and not
9 distributed pursuant to the judgment, one year after the distribution date;

10 (10) property held by a court, state or other government, govern-
11 mental subdivision, agency or instrumentality, one year after the property
12 becomes distributable;

13 (11) wages or other compensation for personal services, one year after
14 the compensation becomes payable;

15 (12) deposit or refund owed to a subscriber by a utility, one year after
16 the deposit or refund becomes payable;

17 (13) property held by agents and fiduciaries in a fiduciary capacity
18 for the benefit of another person, five years after it has become payable
19 or distributable, unless the owner has increased or decreased the prin-
20 cipal, accepted payment of principal or income, communicated concern-
21 ing the property or otherwise indicated an interest as evidenced by a
22 memorandum or other record on file prepared by the fiduciary;

23 (14) property in an individual retirement account, defined benefit
24 plan or other account or plan that is qualified for tax deferral under the
25 income tax laws of the United States, three years after the earliest of the
26 date of the distribution or attempted distribution of the property, the
27 date of the required distribution as stated in the plan or trust agreement
28 governing the plan, or the date, if determinable by the holder, specified
29 in the income tax laws of the United States by which distribution of the
30 property must begin in order to avoid a tax penalty;

31 (15) property distributable in the course of a demutualization, reha-
32 bilitation or related reorganization of an insurance company shall be
33 deemed abandoned as follows:

34 (A) Any check or draft, two years after the date of the demutualization
35 or reorganization, if the check or draft has not been presented for pay-
36 ment and the owner has not otherwise communicated with the holder or
37 its agent regarding the property;

38 (B) (i) any other property, two years after the date of the demutual-
39 ization or reorganization if instruments or statements reflecting the dis-
40 tribution are either mailed to the owner and returned by the post office
41 as undeliverable, or not mailed to the owner because of an address on
42 the books and records of the holder that is known to be incorrect; and

43 (ii) the owner has not:

1 (a) Communicated in writing with the holder or its agent regarding
2 the property; or

3 (b) otherwise communicated with the holder or its agent regarding
4 the property as evidenced by a memorandum or other record on file with
5 the holder or its agent.

6 (c) For any time more than two years after the date of demutualiza-
7 tion or reorganization, any property which is not subject to subparagraph
8 (A) or (B) of this paragraph (15) shall be treated under other provisions
9 of this chapter for the specific type of property;

10 (16) all other property, five years after the owner's right to demand
11 the property or after the obligation to pay or distribute the property arises,
12 whichever first occurs; and

13 (17) any proceeds of a sale pursuant to K.S.A. 58-817, and amend-
14 ments thereto, which remain after satisfaction of the lien provided by
15 K.S.A. 58-816, and amendments thereto, that have been unclaimed by
16 the owner for one year from receipt of the proceeds of the sale and
17 satisfaction of the lien.

18 (b) At the time that an interest is presumed abandoned under sub-
19 section (a) any other property right accrued or accruing to the owner as
20 a result of the interest, and not previously presumed abandoned, is also
21 presumed abandoned.

22 (c) Property is unclaimed if, for the applicable period set forth in
23 subsection (a), the apparent owner has not communicated in writing or
24 by other means reflected in a contemporaneous record prepared by or
25 on behalf of the holder, with the holder concerning the property or the
26 account in which the property is held, and has not otherwise indicated
27 an interest in the property. A communication with an owner by a person
28 other than the holder or the holder's representative who has not in writing
29 identified the property to the owner is not an indication of interest in the
30 property by the owner.

31 (d) An indication of an owner's interest in property includes:

32 (1) The presentment of a check or other instrument of payment of a
33 dividend or other distribution made with respect to an account or un-
34 derlying stock or other interest in a business association or financial or-
35 ganization or, in the case of a distribution made by electronic or similar
36 means, evidence that the distribution has been received;

37 (2) owner-directed activity in the account in which the property is
38 held, including a direction by the owner to increase, decrease or change
39 the amount or type of property held in the account;

40 (3) the making of a deposit to or withdrawal from a bank account;
41 and

42 (4) the payment of a premium with respect to a property interest in
43 an insurance policy, except that the application of an automatic premium

1 loan provision or other nonforfeiture provision contained in an insurance
2 policy does not prevent a policy from maturing or terminating if the in-
3 sured has died or the insured or the beneficiary of the policy has otherwise
4 become entitled to the proceeds before the depletion of the cash surren-
5 der value of a policy by the application of those provisions.

6 (e) Property is payable or distributable for the purpose of this act
7 notwithstanding the owner's failure to make demand or to present any
8 instrument or document otherwise required to obtain payment.

9 (f) Any demand or savings account or matured timed deposit with a
10 financial organization shall not be presumed abandoned if regular cor-
11 respondence to an owner of the account has not been returned to the
12 sender.

13 (g) Any outstanding check, draft, credit balance, customer's overpay-
14 ment or unidentified remittance issued to a sole proprietorship or busi-
15 ness association as part of a commercial transaction in the ordinary course
16 of a holder's business shall not be presumed abandoned.

17 (h) A holder may not impose with respect to any property payable or
18 distributable for the purpose of this act, including any income or incre-
19 ment derived therefrom, any fee or charge due to dormancy or inactivity
20 or cease payment of interest unless:

21 (1) There is an enforceable written contract between the holder and
22 the owner of the property pursuant to which the holder may impose a
23 charge or cease payment of interest;

24 (2) for property in excess of \$100, the holder, no more than three
25 months before the initial imposition of those charges or cessation of in-
26 terest, has mailed written notice to the owner of the amount of those
27 charges at the last known address of the owner stating that those charges
28 will be imposed or that interest will cease, but the notice provided in this
29 section need not be given with respect to charges imposed or interest
30 ceased before the effective date of this act, or for property described in
31 K.S.A. 58-3937 and 58-3938, and amendments thereto; and

32 (3) the holder regularly imposes such charges or ceases payment of
33 interest and in no instance reverses or otherwise cancels them or retro-
34 actively credits interest with respect to the property. Charges imposed
35 because of dormancy or inactivity may be made and collected monthly,
36 quarterly or annually except that beginning with the effective date of this
37 act, such charges may only be imposed for a maximum of five calendar
38 years.

39 (i) For the purpose of this section, a person who holds property as
40 an agent for a business association is deemed to hold the property in a
41 fiduciary capacity for that business association alone unless the agreement
42 between the agent and the business association provides otherwise.

43 (j) For the purposes of this act, a person who is deemed to hold

1 property in a fiduciary capacity for a business association alone is the
2 holder of the property only insofar as the interest of the business asso-
3 ciation in the property is concerned, and the business association is the
4 holder of the property insofar as the interest of any other person in the
5 property is concerned.

6 (k) Any property held by a financial organization that would otherwise
7 be presumed abandoned under this section shall not be presumed aban-
8 doned if the apparent owner:

9 (1) Owns other property which is not presumed abandoned and if
10 the financial organization communicates in writing with the owner with
11 regard to the property that would otherwise be presumed abandoned
12 under this section at the address to which communications regarding the
13 other property regularly are sent; or

14 (2) had another relationship with the financial organization concern-
15 ing which the owner has:

16 (A) Communicated in writing with the financial organization; or

17 (B) otherwise indicated an interest as evidenced by a memorandum
18 or other record on file prepared by an employee of the financial organi-
19 zation and if the financial organization communicates in writing with the
20 owner with regard to the property that would otherwise be abandoned
21 under this section at the address to which communications regarding the
22 other relationship regularly are sent.

23 Sec. 2. K.S.A. 2004 Supp. 58-3943 is hereby amended to read as
24 follows: 58-3943. This act does not apply to any stock or other intangible
25 ownership interest enrolled in a plan that provides for the automatic re-
26 investment of dividends, distributions or other sums payable as a result
27 of the interest unless:

28 (a) The records available to the administrator of the plan show, with
29 respect to any intangible ownership interest not enrolled in the reinvest-
30 ment plan, that the owner has not within ~~five~~ *three* years communicated
31 in any manner described in paragraph (3) of subsection (a) of K.S.A. 58-
32 3935, and amendments thereto; or

33 (b) ~~five~~ *three* years have elapsed since the location of the owner be-
34 came unknown to the association, as evidenced by the return of official
35 shareholder notifications or communications by the postal service as un-
36 deliverable, and the owner has not within those ~~five~~ *three* years com-
37 municated in any manner described in paragraph (3) of subsection (a) of
38 K.S.A. 58-3935, and amendments thereto. The ~~five-year~~ *three-year* period
39 from the return of official shareholder notifications or communications
40 shall commence from the earlier of the return of the second such mailing
41 or the time the holder discontinues mailings to the shareholder.

42 Sec. 3. K.S.A. 2004 Supp. 58-3935 and 58-3943 are hereby repealed.

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

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KANSAS BOARD OF REGENTS

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Testimony regarding HB 2234 Senate Ways and Means Committee

March 22, 2005

Mary Prewitt
General Counsel
Kansas Board of Regents

Chairman Umbarger and members of the Committee, my name is Mary Prewitt and I am the General Counsel for the Kansas Board of Regents. The Board appreciates the opportunity to provide this testimony regarding HB 2234.

House Bill 2234 amends the statutes determining residency for tuition purposes at the six state universities. The primary effect of the proposed amendments would be to extend the privilege of paying resident rates to more current and former members of the armed services and their spouses and dependents than the current law allows. In doing so, the bill would rectify some perceived inadequacies in the current statutory scheme.

Under the current law, military service persons and their spouses and dependents are entitled to resident rates as long as the military member is stationed in Kansas or assigned overseas from a duty station in Kansas. If the military member is reassigned to a duty station in another state, dependents who graduate from Kansas high schools are allowed to continue at resident rates as long as they enroll at the university within six months of their high school graduation. Dependents who are not Kansas high school graduates, however, lose eligibility for resident rates. In one recent case, this resulted in a military service person who had one son eligible for resident rates although he had never attended college in Kansas and another son who had attended KSU for two years at resident rates but who then lost eligibility for resident rates when his father was reassigned to California. This bill would allow both sons to attend at resident rates so long as both of them continued to reside in Kansas.

The bill also expands the number of discharged and retired military service persons who are entitled to resident rates. Currently, a discharged or retired service person must have been present in Kansas during their active duty for at least two years and must have established a residence in the state within 30 days of their honorable discharge or retirement. Under the provisions of this bill, any retired or honorably discharged member of the military who had a permanent change of station order for active duty in Kansas at some time during their military career will be eligible for resident rates as long as they are living in Kansas, registered to vote in Kansas and have any vehicles they own registered in Kansas.

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Attachment 3

Regents Testimony regarding HB 2234
Senate Ways and Means Committee
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Finally, the bill extends eligibility for resident rates to those who, having qualified for resident rates by virtue of being a spouse or dependent of a military service person, have lost that status through death or divorce.

The House Higher Education Committee and staff worked closely with the Regents to craft language in this bill that will be clear and easily administered by the registrars of the six Regents' institutions. In particular, the language describing the nature of the assignment to Kansas, "a permanent change of station order for active duty," is carefully chosen to refer to a status that is documented and verifiable.

The Board of Regents supports the expanded eligibility for resident rates to current and former service men and women and their spouses and dependents. Those who have served their country through military service deserve special consideration at our state supported institutions. That said, the Board does have some reservations about requirements left in the bill.

Specifically, we have reservations about using voter and vehicle registration as requirements to qualify for resident rates. In fact, currently, the Board has specified through regulation that neither is sufficient to establish residency for regular students since both are very easy to obtain and do not, therefore, indicate any continuing commitment to the state. It will pose difficulties for those administering the bill that such registrations are adequate for some but insufficient for others. Moreover, the bill as currently written requires the registrars to determine not only whether the military service person qualifying under these provisions owns any personal motor vehicles, but also whether his or her spouse and dependents living in Kansas own any personal motor vehicles. Since it is essentially impossible for our staff to do the investigation necessary to fulfill this requirement, it becomes a less than meaningful addition to the statute.

In summary, while the Board supports the intent of the bill before you, it does anticipate some problems in the administration of the bill in its current form.

Thank you for the opportunity to comment. I will be happy to answer any questions.

EVERETT JOHNSON
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TOPEKA
HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
VICE-CHAIR: HIGHER EDUCATION
MEMBER: EDUCATION
FEDERAL AND STATE AFFAIRS

March 22, 2005

Testimony in Support of HB2072
Before the Senate Ways and Means Committee
Everett Johnson, State Rep. Dist. 77

First I would like to refer to some data to which later information can be compared. After the 9/11 event, private and government money was distributed to the dependents of those who were killed. The families of those who worked in the Towers; brokers, business men, etc. were compensated in excess of three million dollars. The dependents of firefighters and police killed were compensated in excess of four million dollars. I do not begrudge them one penny.

However, in contrast, the family of a military person killed, performing his/her duty, receives a federal death benefit of only twelve thousand dollars.* If eligible, the family could also receive \$800 per month plus \$200 per month for each dependent child.

HB 2072 would provide ten semesters of free tuition and fees at any Kansas higher education institution for:

the surviving spouse and each dependent of a resident of Kansas in the military who was killed while performing his/her military duty,

the surviving spouse and each dependent of a resident of Kansas public safety officer killed while performing his/her duties,

and Kansas resident who was a prisoner of war.

Compared to the compensation afforded the families of 9/11 victims, this doesn't seem like much. Fifteen Kansas residents in the military have been killed since 9/11. We can do better for their spouse and dependents!

*If SB 211 becomes law, a Kansas guard member's family will receive \$250,000 from the state if the guard member is killed.

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Attachment 4

FOR DEPENDENTS OF KANSAS SOLDIERS SLAIN IN WAR

Bill would aid those left behind

Lawmakers mull providing free tuition

By MICHELLE BURHENN
The Kansas City Star

TOPEKA — Sierra Lister looks at her 17-month-old son and she sees her late husband.

Micah's blue eyes, blond hair and big ears remind her of Joseph L. Lister, who was killed in Iraq when

Micah was just 3 months old.

Sierra Lister wants her son to have the opportunity her husband never did. She wants Micah to go to college.

If a bill in the Kansas Legislature passes, Micah will be ensured a free education if he is eligible to attend

any of the state's 36 postsecondary institutions. Supporters say dependents of Kansas military personnel killed or captured on duty deserve help paying for postsecondary education.

"For Micah to get free tuition would be an incredible thing," Lister said. "I feel like our family has

See KANSAS, B-3



Photo courtesy of Sierra Lister

Joseph L. Lister died in Iraq when Micah was 3 months old. A bill would ensure Joseph and Sierra Lister's son a free education.

KANSAS: Bill would aid those left behind

Continued from B-1

paid enough."

Lister, who lives in Fort Scott, said that without the government's help, her son's postsecondary options would be limited. And as Micah gets older, the daily expenses will keep growing.

"It leaves you with nothing. If you didn't have to worry about your kids going through college, that would be perfect," she said. "It would be less of a strain."

The bill, authored by Rep. Everett Johnson, an Augusta Republican, would add three categories

of people to the current Kansas statute that pays for dependents of law enforcement personnel killed on duty.

Under the proposal, spouses of law enforcement officers, dependents and spouses of military personnel killed on duty after March 1, 2003, and former prisoners of war would all be covered.

Thirteen military officers from Kansas have been killed since March 1, 2003, in Iraq, according to the Department of Defense.

Joseph Lister, of Pleasanton, died Nov. 20, 2003, when his vehicle was hit by explosives in Iraq. He was 22.

The bill is now in subcommittee, where legislators will look at modifying aspects of it, including pushing back the eligibility date to include those killed in Afghanistan.

Gov. Kathleen Sebelius supports the initiative. On Friday, she announced her Military Bill of Rights, which also calls for children of soldiers stationed in Kansas to receive a break on tuition.

The governor also wants to \$1,000 to state employees who Kansas National Guard members or military reservists if they have been called to active duty for six months or more.

Johnson said the \$12,000 paid to dependents upon the death of a soldier and the monthly stipends that are up to \$800 for a widow and \$200 for each additional dependent are not enough.

"I think it's important we do something for these families," Johnson said. "I'm sure that those over there would be relieved to know that if something did happen they'd be covered."

The bill would pay for eight semesters at a Board of Regents-supported postsecondary institution. The bill asks the Board of Regents to reimburse the institution for the waived tuition and fees.

Johnson said he expects the bill to pass without a price tag attached because he said it would be difficult to estimate how many would be eligible.

Tuition for a student taking 15 credit hours would cost between \$1,500 and \$2,000 a semester this fiscal year at the six four-year institutions.

Mary Prewitt, general counsel to the regents, said that although the regents support helping people have access to an education, no money has been set aside to pay for the waivers.

She said that in the past the regents had been able to shift unused scholarship funds for reimbursements, but she did not know how the regents would pay for the waivers in the future.

Lister said she was not one to look for handouts, but admitted it was hard to be a single mother and widow at 22. "This wasn't where we were supposed to be, but this is where we're at," she said. "And this is what we have to deal with."

To reach Michelle Burhenn, Kansas statehouse reporter, call (785) 354-1388 or send e-mail to mburhenn@kcstar.com.

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Saturday, January 29, 200

THE KANSAS CITY STAR.

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Everett Johnson
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Testimony regarding HB 2072 Senate Ways and Means Committee

March 22, 2005

Mary Prewitt
General Counsel
Kansas Board of Regents

Chairman Umbarger and members of the Committee, my name is Mary Prewitt and I am the General Counsel for the Kansas Board of Regents. The Board appreciates this opportunity to provide testimony regarding HB 2072.

HB 2072 adds three new categories of individuals who will be entitled, under K.S.A. 75-4364, to a waiver of all tuition and fees required as a condition of enrollment at a Kansas institution of higher education, including all 36 institutions under the supervision of the Board of Regents. Currently, the statute provides a full waiver of tuition and fees for dependents of law enforcement officers, firefighters and emergency medical services attendants who die as a result of injury sustained while performing their duties. HB 2072 adds a full waiver of tuition and fees for the spouses of the public safety officers already covered by the statute. It also adds the dependents and spouse of any resident of Kansas who is killed on or after September 11, 2001, while and as a result of serving on active duty in the United States military, and any person who was a prisoner of war. The waiver will be provided for up to ten semesters of undergraduate instruction, or the equivalent thereof.

The Board testified on the bill before the House Higher Education Committee and, for the most part, our concerns with the bill have been addressed by the amendments made in the House. These amendments addressed problems with the definitions and use of the terms “military service” and “prisoner of war.”

In testimony before the House committee, we also pointed out that, while the statute provides that “subject to appropriations therefore” the Board of Regents will be responsible for reimbursement of the amount of tuition and fees waived by each institution, no appropriations have ever been made to cover the waivers provided by the statute. In previous years, the Board has been able to reimburse institutions by requesting and receiving gubernatorial approval to transfer as much as \$15,000.00 from other unused scholarship appropriations, however, at this time, it does not appear that the funds used in previous years will continue to be available to the Board for this purpose in future years. It is also not possible, at this time, to project the cost of the additional waivers provided for in this bill or whether sufficient funds will be available to cover the increased reimbursements.

Senate Ways and Means
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Attachment 5

Regents Testimony regarding HB 2072
Senate Ways and Means Committee
March 22, 2005
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In response to this testimony, the House added the language you now see on lines 40 through 42 of page 2 and lines 24 through 26 of page 4. The effect of this language is to require the Board to include in its annual budget submission a request for appropriations to fund waivers created by the bill and to require the Governor to recommend the funding of those requests. While this language goes part of the way toward addressing the issue we raised in the House, in the final analysis, it is the Legislature who funds the budget, not the Governor, and certainly not the Board. The Board supports the increased access to postsecondary institutions that bills such as this one provide. Nonetheless, without adequate Legislative appropriations to fund the associated costs, bills such as this one become unfunded mandates that deplete the resources available to the Board to carry out the important mission assigned to it by the Higher Education Coordination Act.

The House also added language to this bill which would amend K.S.A. 76-729, the basic residency statute for the six state universities. The added language would require the six institutions to extend resident tuition rates to the spouse and dependents of military personnel who are reassigned from Kansas to a duty station in another state. While the Board supports this concept, language which would accomplish this goal is included in House Bill 2234 which you will also hear today. The Board worked closely with the House Committee and staff to draft language in that bill which will be clear and easily administered by the registrars of the Regents' institutions and we would prefer to allow that bill to cover this issue. To that end, we would request that all of Section 4 be deleted from this bill.

Thank you for the opportunity to comment. I will be happy to answer any questions.