

MINUTES OF THE SENATE WAYS AND MEANS COMMITTEE

The meeting was called to order by Chairman Dwayne Umbarger at 11:30 A.M. on April 27, 2005 in Room 123-S of the Capitol.

All members were present except:

Senator Chris Steineger- excused

Committee staff present:

Norman Furse, Revisor of Statutes
Jill Wolters, Senior Assistant, Revisor of Statutes
Helen Pedigo, Revisor of Statutes Office
Alan Conroy, Director, Kansas Legislative Research Department
J. G. Scott, Kansas Legislative Research Department
Leah Robinson, Kansas Legislative Research Department
Amy Deckard, Kansas Legislative Research Department
Debra Hollon, Kansas Legislative Research Department
Susan Kannarr, Kansas Legislative Research Department
Carolyn Rampey, Kansas Legislative Research Department
Matt Spurgin, Kansas Legislative Research Department
Amy VanHouse, Kansas Legislative Research Department
Judy Bromich, Administrative Analyst
Mary Shaw, Committee Secretary

Conferees appearing before the committee:

Robert Hayes, Executive Director, Health Care Stabilization Fund
Jerry Slaughter, Executive Director, Kansas Medical Society
Lana Walsh, Office of Judicial Administration
Mary Ellen Conlee, Coalition for Opportunity
Matt Fletcher, Associate Director, InterHab
Linda Merrill, President and CEO, Envision, Inc.
Sherry Plenert, President/CEO, Cartridge King of Kansas (written)
Robert Vancrum, Governmental Affairs Specialist, Blue Valley Univied School District No. 229
and representing Wichita School District No. 259
Mark Tallman, Assistant Executive Director - Advocacy, Kansas Association of School Boards
Don Willson, Governmental Relations, United School Administrators of Kansas
Joe Fritton, P.E., Deputy Director of Facilities Management and Architectural Services, Kansas
Department of Administration
Eric King, Director of Facilities, Kansas Board of Regents (written)
Joe Fund, Chief Fiscal Officer, Kansas Water Office

Others attending:

See attached list.

Bill Introductions

Senator Morris moved, with a second by Senator Barone, to introduce a conceptual bill regarding clinic registration bill. Motion carried on a voice vote.

Senator Morris moved, with a second by Senator Wysong, to introduce a bill regarding the Legislative Coordinating Council accessing outside counsel regarding school finance and other matters (5rs1235). Motion carried on a voice vote.

Chairman Umbarger explained that the following sets of minutes were distributed to the committee for review: February 16, February 17, February 18, February 21, February 22, February 23, February 24, February 25, March 1, March 2, March 3, March 4, March 7, March 8, March 9, March 10, March 14 (p.m.),

CONTINUATION SHEET

MINUTES OF THE Senate Ways and Means Committee at 10:30 A.M. on April 27, 2005 in Room 123-S of the Capitol.

March 14 (a.m.), March 15, March 16, March 17, March 18, March 21, March 22, March 24, March 25, and March 30 (at the rail).

The committee was given until Tuesday, May 10, 2005, to call the Kansas Legislative Research Department regarding additions, deletions or revisions; otherwise, these sets of minutes would be considered approved as of May 10, 2005.

Chairman Umbarger opened the public hearing on:

Senate Substitute for HB 2512--Health care stabilization fund, expenditures for certain payments and expenses owing, notwithstanding date incurred

Staff briefed the committee on the bill.

Robert Hayes, Executive Director, Kansas Health Care Stabilization Fund, testified in support of **Senate Substitute for HB 2512 (Attachment 1)**. Mr. Hayes explained that the bill, to the best of his knowledge, would accomplish the goal of the legislature to make the two annual provisos (described in Mr. Hayes' written testimony) part of the Health Care Provider Insurance Availability Act without making any change in the operations, coverage provisions or other related matters of the Health Care Stabilization Fund.

Jerry Slaughter, Executive Director, Kansas Medical Society, spoke in support of **Senate Substitute for HB 2512 (Attachment 2)**. Mr. Slaughter mentioned that the Kansas Medical Society supports the clarifying language in the bill which would eliminate the need for annual provisos. He proposed an amendment related to the investments authorize for the Health Care Stabilization Fund which would authorize the Pooled Money Investment Board to invest Health Care Stabilization Fund monies in the highest levels of "investment grade" corporate bonds (copy of amendment attached to Mr. Slaughter's testimony).

There being no further conferees to come before the committee, the Chairman closed the public hearing on **Senate Substitute for HB 2512**.

Senator Schmidt moved, with a second by Senator Kelly, to adopt the amendment proposed by Mr. Slaughter that would authorize the Pooled Money Investment Board to invest Health Care Stabilization Fund monies in the highest levels of "investment grade" corporate bonds. Motion carried on a voice vote.

Senator Teichman moved, with a second by Senator Schmidt, to report Senate Substitute for HB 2512 favorable for passage as amended. Motion carried on a roll call vote.

The Chairman opened the public hearing on:

HB 2320--Seal of justice for supreme court chamber in judicial center

Staff briefed the committee on the bill.

Lana Walsh, Office of Judicial Administration, appeared before the committee as a proponent on **HB 2320 (Attachment 3)**. Ms. Walsh explained that the bill would allow the Judicial Branch to make expenditures either from the State General Fund or from any special revenue fund for a replica of the wooden seal of justice that hangs in the old Supreme Court Room in the Statehouse. The replica would be hung in the Supreme Court Room in the Judicial Center.

There being no further conferees to come before the committee, Chairman Umbarger closed the public hearing on **HB 2320**.

Senator Teichman moved, with a second by Senator Kelly, to report HB 2320 favorable for passage. Motion carried on a roll call vote.

CONTINUATION SHEET

MINUTES OF THE Senate Ways and Means Committee at 10:30 A.M. on April 27, 2005 in Room 123-S of the Capitol.

Chairman Umbarger opened the public hearing on:

HB 2228--Kansas use law procedures, establishing the state use law committee

Staff briefed the committee on the bill.

Mary Ellen Conlee, on behalf of the Coalition for Opportunity, testified in support of **HB 2228** (Attachment 4). Ms. Conlee explained that Kansas public policy has long been that state government agencies, state universities and USD's will purchase products manufactured by blind and disabled Kansas citizens so that employment opportunities that otherwise may not exist will be created. She noted that this public policy is set out in K.S.A. 75-3317 *et seq.*, and is termed the Kansas State Use Law (SUL). Ms. Conlee mentioned that for consideration is the creation of a new "SUL Committee" designed to bring required purchasers and vendors together to advise the Director of Purchases on several contentious issues that arise as vendors, state agencies and school districts attempt to comply with the law.

Attached to Ms. Conlee's written testimony, on pages 3-4, are recommended provisions and proposed amendments indicated as follows:

- Red font represents remaining provisions of **HB 2228** that need to be considered, and
- Green font represents proposed amendments to the SUL committee membership and allow for legislator's time and travel.

Ms. Conlee explained that the member of the Coalition for Opportunity introduced the language set out in **HB 2228** in order to make the SUL work better for all parties involved. She described two additional amendments that do not have the full support of the vendors (listed on page 2 of her testimony):

- One related to trying to create a definition of a "substantial purchase" by a USD that would constitute compliance with the law.
- The second relates to requiring a waiver for price if it substantially exceeds a quote or bona fide bid.

Committee questions and discussion followed regarding the definition of "substantial purchase".

Matt Fletcher, Associate Director, InterHab, testified in support of **HB 2228** (Attachment 5). Mr. Fletcher mentioned that he appeared on behalf of the Board of Directors of InterHab to encourage support in strengthening the "State Use Law". He urged approval of the bill as is, without any further amendments that may be offered.

Linda Merrill, President and CEO, Envision, Inc., Wichita, Kansas, presented testimony in support of **HB 2228** (Attachment 6). Ms. Merrill addressed that according to the 2000 Kansas Census, 429,687 people in Kansas have disabilities. She noted in Kansas, state use law vendors are employing less than 1/10% of a percent of these citizens with disabilities. Ms. Merrill explained what keeps them from employing more is the availability of work and they need the protected marketplace of the state government. Their request for **HB 2228** stems from a basic need to update definitions and current practices of the law as well as an honest attempt to address the decades of frustration by both vendors and purchasers impacted under that law. Committee discussion followed.

Sherry Plenert, President/CEO, Cartridge King of Kansas, submitted written testimony regarding **HB 2228** (Attachment 7). Ms. Plenert distributed copies of the State of Kansas, 2005 Products and Services Catalog, manufactured and offered by Kansans who are blind or severely disabled. Copies of this catalog are on file with the Kansas Legislative Research Department.

Robert Vancrum, Governmental Affairs Specialist, Blue Valley Unified School District No. 229, and

CONTINUATION SHEET

MINUTES OF THE Senate Ways and Means Committee at 10:30 A.M. on April 27, 2005 in Room 123-S of the Capitol.

representing Wichita School District No. 259 (for purposes of this hearing), testified in opposition to **HB 2228** (Attachment 8). Mr. Vancrum provided suggested amendments on page 2 of his written testimony. He explained that one of the problems that has occurred with regard to trying to impose this requirement, not just on state agencies, is trying to address over 300 school districts with their various needs and practices related to purchasing and fit into a mold as if they were a state agency. On page 3 of his written testimony, Mr. Vancrum provided some data from Blue Valley Unified School District No. 229 showing what the differences in prices would have been if they had purchased every item off the state catalog. He noted that every amount, in many cases, is 40 to 100 percent above what they are currently paying from local vendors. Senator Barone requested information regarding a broad base cost of products across the board and products that may be cheaper if purchased at other places and not the catalog.

Committee discussion followed regarding the request by the Senate Ways and Means Committee during the 2004 legislative session that all parties involved meet during the interim to work things out and no meeting had taken place with all parties until January of 2005.

Mark Tallman, Assistant Executive Director - Advocacy, Kansas Association of School Boards (KASB), spoke in opposition to **HB 2228** (Attachment 9). Mr. Tallman mentioned that the State Use Law is not being followed and feels one of the major reasons may be that people are not aware of the law. He provided three proposed amendments (detailed on page 2 of his written testimony) and especially with the first two amendments listed, they would be supportive of the bill. As an association Mr. Tallman indicated KASB would do what they could to help their members better understand the law and their obligations under it. Without these compromises, they are not supportive of **HB 2228**. Committee discussion followed.

Don Willson, Governmental Relations, United School Administrators of Kansas, testified in opposition to **HB 2228** (Attachment 10). Mr. Willson mentioned that their organization in the future will make sure their administrators know about the Kansas Use Law. He noted that they do not reject the bill and the concept is good, but their concern is no guidelines on cost. Committee discussion followed.

There being no further conferees to come before the committee, the Chairman closed the public hearing on **HB 2228**.

Senator Emler moved, with a second by Senator Kelly, to incorporate provisions into Senate Substitute for HB 2228 (5rs1245).

Senator Teichman moved a substitute motion, with a second by Senator Wysong, to add the language that deals with "substantial purchases" to Senate Substitute for HB 2228. Vote was taken on the motion and division was requested. Motion failed on a show of hands.

Motion carried on the original motion by Senator Emler on a voice vote.

Senator Emler moved, with a second by Senator Kelly, to report Senate Substitute for HB 2228 favorable for passage. Motion carried on a roll call vote.

The Chairman opened the public hearing on:

HB 2399--Authorizing certain fees for architectural and engineering services for state capital improvement projects, definitions

Staff briefed the committee on the bill.

Joe Fritton, P.E., Deputy Director of Facilities Management and Architectural Services, Kansas Department of Administration, testified in support of **HB 2399** (Attachment 11). Mr. Fritton explained that the bill would make two changes to the current statutes regarding capital improvements and architectural and engineering services which he detailed in his written testimony.

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Eric King, Director of Facilities, Kansas Board of Regents, submitted written testimony in support of **HB 2399** (Attachment 12).

There being no further conferees to come before the committee, Chairman Umbarger closed the public hearing on **HB 2399**.

Senator Teichman moved, with a second by Senator Kelly, to report **HB 2399** favorable for passage. Motion carried on a roll call vote.

The Chairman opened the public hearing on:

HB 2108--Water plan storage act; determination of rates for withdrawal and use of water; disposition of moneys

Staff briefed the committee on the bill.

Joe Fund, Chief Fiscal Officer, Kansas Water Office, testified in support of **HB 2108** (Attachment 13). Mr. Fund explained that **HB 2108** is a technical bill that would allow the Water Marketing Program to be more responsive to operational costs as well as develop a long range capital development and maintenance plan for the storage the state owns in federal reservoirs.

There being no further conferees to come before the committee, Chairman Umbarger closed the public hearing on **HB 2108**.

Senator Teichman moved, with a second by Senator Schodorf, to report **HB 2108** favorable for passage. Motion carried on a roll call vote.

Senator Morris explained that at the present time there is a predicament regarding the law suit and school finance with no way for the Legislature to respond with legal counsel. He suggested a bill that would allow the Legislature to access legal counsel. The Revisor explained that there is a bill that could be used as a substitute bill, **HB 2507**. Chairman Umbarger called the committee's attention to discussion of:

HB 2507--Appointment of legislative counsel by legislative coordinating council

Senator Emler moved, with a second by Senator Morris, to remove the contents of **HB 2507**, and recommend a **Senate Substitute for HB 2507** to allow the Legislative Coordinating Council to enter into a contract for legislative counsel. Motion carried on a roll call vote.

The meeting adjourned at 2:00 p.m. The next meeting is scheduled for April 28, 2005.

SENATE WAYS AND MEANS
GUEST LIST

Date April 27, 2005

NAME	REPRESENTING
Julie Thomas	DOB
Jerry Sloan	Judicial Branch
Uma Walsh	Judicial Branch
Linda Merrill	Envision - Coalition for Opportunity
Mary Ellen Conlee	Envision - Coalition for Opportunity
Natalie Briggs	Coalition for Opportunity - Envision
Jimmy Davis	Conlee Consulting
Sherry L. Plument	Cambridge King of Ranges
Paul A. Seidl	Cerebral Palsy Research Fnd.
Gavin Long	DOA
Stuart Little	Shane Morrison #512
JOHN DOUGHERTY	ESU
JOE FRETTON	DEPT OF ADMIN.
Marilyn Jacobson	DOA
Gary A. Zaal	HCSF
Bob Hays	HCSF
Judy Green	Am Soc of Architects
MATT FRETTON	INTERHAB
RAN PASMORE	KETCH - Coalition for Opportunity
Mark Tallman	Ks Assoc. of School Boards
Andy Sanchez	KAPE
Rebecca Bailey	KMS
Jerry Slaughter	KMS



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 29, 2005

COPY

The Honorable Dwayne Umbarger, Chairperson
Senate Ways and Means
Statehouse, Room 123-S
Topeka, KS 66612

Re: Substitute for House Bill No. 2512

Dear Senator Umbarger:

During our House 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 amounts were incurred or when the judgment or settlement was made.

To the best of my knowledge, the proposed bill will accomplish the goal of the legislature to make these two annual provisos part of the Health Care Provider Insurance Availability Act without making 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,

Robert D. Hayes
Executive Director

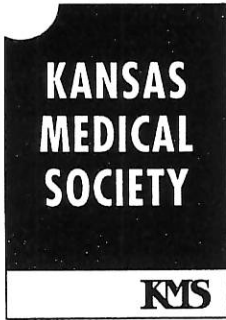
RDH:rdh

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Elaine L. Ferguson, D.O.


Senate Ways and Means
4-27-05
Attachment 1



623 SW 10th Avenue
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kmsonline.org

To: Senate Ways and Means Committee

From: Jerry Slaughter
Executive Director 

Date: April 26, 2005

Subject: Substitute for HB 2512; concerning the Health Care Stabilization Fund

The Kansas Medical Society appreciates the opportunity to appear in support of Substitute for HB 2512, which makes a technical amendment to the Health Care Stabilization Fund law regarding the payment of claims and associated expenses. We support this clarifying language, which will eliminate the need for annual provisos to authorize spending for these expenses, which typically can extend into two fiscal years, complicating the budgeting process.

Additionally, we would like to offer an amendment related to the investments authorized for the HCSF, found at KSA 40-3406. Our suggested amendment would authorize the Pooled Money Investment Board to invest HCSF monies in the highest levels of "investment grade" corporate bonds. This additional avenue for investments could provide the HCSF with an additional 75 to 100 basis points yield on its invested funds, with nominal additional risk. The increase in investment income, conservatively estimated, could be in the \$1-\$2 million range annually.

The Health Care Stabilization Fund is funded entirely by medical malpractice premiums paid by physicians, hospitals, and other categories of health care providers. To the extent that we are able to increase income on invested funds, it will help moderate the increases necessary in malpractice premiums paid by health care providers. We urge you to adopt the attached amendment, and report the bill favorably for passage. Thank you for the opportunity to offer these comments.

Senate Ways and Means
4-27-05
Attachment 2

Proposed Kansas Medical Society amendment to Substitute for HB 2512

40-3406. Investment of health care stabilization fund moneys. After consultation with the board of governors the director of investments may invest and reinvest moneys in the fund in accordance with investment policies established by the pooled money investment board under K.S.A. 75-4232, and amendments thereto, in the following:

(a) Direct obligations of, or obligations that are insured as to principal and interest by, the United States of America or any agency thereof and obligations and securities of the United States sponsored enterprises which under federal law may be accepted as security for public funds, including investments in mortgage-backed securities;

(b) repurchase agreements with a Kansas bank or primary government securities dealer which reports to the market reports division of the federal reserve bank of New York for direct obligations of, or obligations that are insured as to principal and interest by, the United States government or any agency thereof and obligations and securities of United States government sponsored enterprises which under federal law may be accepted as security for public funds;

(c) commercial paper that does not exceed 270 days to maturity and which has received one of the two highest commercial paper credit ratings by a nationally recognized investment rating firm;

(d) interest-bearing time deposits in any commercial bank located in Kansas; or

(e) the municipal investment pool fund, under K.S.A. 12-1677a, and amendments thereto.

(f) corporate bonds that are rated in one of the two highest credit rating categories by a nationally recognized investment rating firm



State of Kansas

Office of Judicial Administration

Kansas Judicial Center
301 SW 10th
Topeka, Kansas 66612-1507

(785) 296-2256

April 27, 2005

Testimony Regarding HB 2320 Senate Ways and Means Committee

Lana Walsh
Office of Judicial Administration

House Bill 2320 would allow the Judicial Branch to make expenditures either from the State General Fund or from any special revenue fund for a replica of the wooden seal of justice that currently hangs in the old Supreme Court Room in the Statehouse. The replica would be hung in the Supreme Court Room in the Kansas Judicial Center.

The bill's intent is to bring a piece of the state's history from the old Supreme Court Room to the current Supreme Court Room, and it is certainly gratifying that the Judicial Branch has been thought of in this context.

It should be noted, however, that the few special revenue funds within the Judicial Branch are, by statute, dedicated to specific purposes. The most realistic source of funding is the State General Fund, and the Judicial Branch is not in a position to request State General Fund money for an acquisition of this sort, particularly in the current fiscal climate. The Judicial Branch is concerned with obtaining sufficient funding to allow for its current staffing so that current caseloads can continue to be processed without significant delay, rather than obtaining funding for new projects or acquisitions.

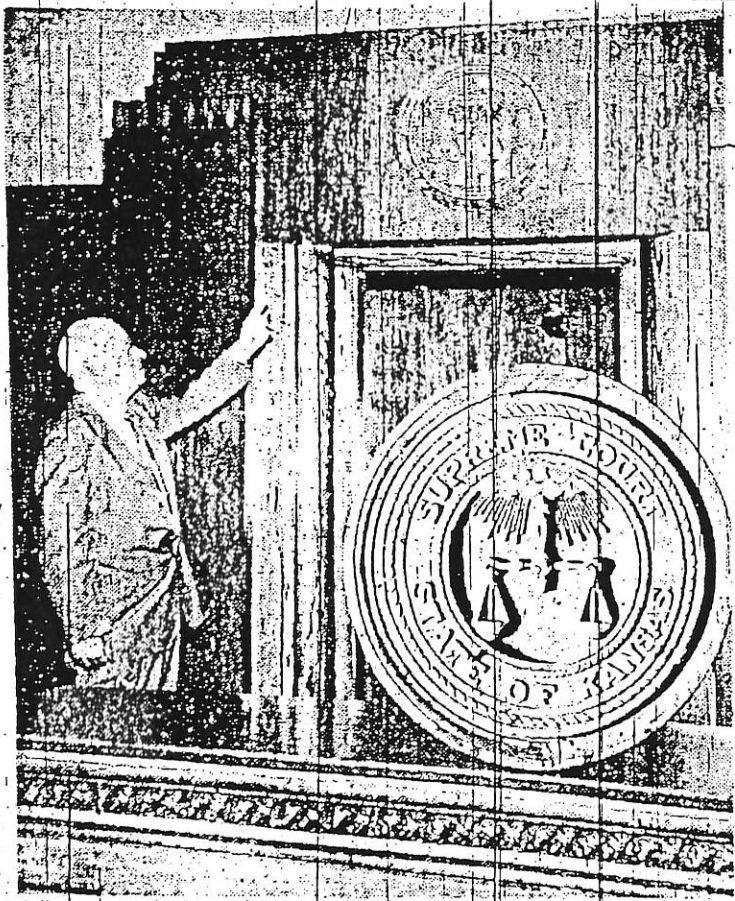
This is the sort of project that would be ideally funded from private donations. However, the Judicial Branch currently has no mechanism to solicit such donations.

If the Legislature wishes to make a specific appropriation for this purpose, or wishes to make it clear that any unencumbered State General Fund money left at the end of a fiscal year could and should be used for this purpose, the Judicial Branch would be glad to work toward accomplishing the goal of this legislation when year-end State General Fund financing would permit.

Thank you for the opportunity to comment on this bill.

LW:mr

*Senate Ways and Means
4-27-05
Attachment 3*



Capital, Oct. 6, 1948, p. 3, c. 1

WOODCARVING DRAWS ATTENTION OF MAN WHO MADE IT—L. D. Robinson, veteran custodian of the Kansas Statehouse, points to a wood-carving of the seal of the Kansas Supreme Court which graces a new paneled wood backdrop for the justices which is being used for the first time this week. A close-up view of the carving is shown in the insert. (Daily Capital Photo)

Carved Court Seal Another of Robinson's Capitol Memorials

L. D. Robinson, veteran custodian of Kansas' Statehouse, had another monument to his memory in place in the capitol building Tuesday.

It is a gracefully-carved replica of the seal of the Kansas Supreme Court which highlights a new, highly polished, wooden backdrop for the black-robed justices of the high court.

When the contract for the construction of the backdrop was let early this year, contractors did not believe they could fulfill the desire of the justices to put the seal on the work.

Robinson, one of the state's unheralded artists, volunteered to do the job.

He got a piece of Ponderosa pine 2½ inches thick and 18 inches across and went to work. As a model, he used a copy of the seal the justices gave him.

"I used a wood-carving set. I bought for about \$4.50," he said. "I just worked on it whenever I could. I'd take a little off at a time."

Bashful about his work, Robinson is being congratulated by court officials. Every detail of the seal has been reproduced faithfully.

To Robinson, it's just another in a group of artistic jobs he's done around the 89-year-old building.

Over each of the windows in the House of Representatives are paintings he painted which depict the history of transportation in Kansas from walking to today's airplanes.

In the office of the attorney general, a giant buffalo in a mural stands as a memorial to his ability as a painter, carver and general handyman.

In the lieutenant governor's office there is another of his paintings.

Used as a speaker's stand in the House of Representatives is another of his handicrafts.

"Everybody thinks it's marble," Robinson says. "It's an old porch post. I put the design on it with putty and then painted it in that mottled fashion."

All in all, Robinson's artistic abilities will make him long remembered about the Statehouse. Nearly everywhere they look citizens can see his work.

Adventist Laymen In Conference Here

Representatives of Seventh-day Adventist Churches in the Mid-



THE REV. D. E. REINER

west will attend a lay preachers institute in the Hotel Kansan today thru Sunday, the Rev. Don R. Rees, Adventist state president, said last night.

The opening meeting will be this evening at 7:30 with the Rev. D. E. Reiner, Lincoln, Neb., director of laymen's activities in the Central West, as presiding chairman of the convention. The purpose of the institute, the Rev. Reiner said, is to "strengthen the church in its community by providing it with trained laymen who will assist the pastor in his ministerial duties and to study new methods for a great forward move in lay evangelism."

Plans have been laid for classroom and field activities in keeping the challenge of their program: "The word of God to every man's door."

Two leading officials from the

Coalition for Opportunity

Testimony in Favor of HB 2228

Kansas State Use Law

Mary Ellen Conlee

April 27, 2005

Kansas public policy has long been that state government agencies, state universities and USD's will purchase products manufactured by blind and disabled Kansas citizens so that employment opportunities that otherwise may not exist will be created. This public policy is set out in K.S.A. 75-3317 *et seq.* and is termed the Kansas State Use Law (SUL). Currently, there are over 400 blind and disabled Kansans who are able to earn a competitive wage, obtain health benefits and sustain a self-sufficient lifestyle because they are employed by a SUL vendor.

After many years of non-compliance and non-enforcement of the law, SUL vendors joined together in an effort to modernize the law, streamline its administration and create a venue to make it more workable for all parties required to participate. As such, the Coalition for Opportunity was formed in the fall of 2003 and legislation was introduced during the 2004 legislative session and again in 2005 (HB 2228 and SB 118). SB 118, originally designed to bring one company, Business Technology Career Opportunities (BTCO), under the existing law has been amended in a conference committee to include those parts of HB 2228 that more broadly address vendor definition issues and clarify the responsibilities of the Kansas Director of Purchases related to the operation of the SUL.

Left for your consideration today is the creation of a new "SUL Committee" designed to bring required purchasers and vendors together to advise the Director of Purchases on several contentious issues that arise as vendors, state agencies and school districts attempt to comply with the law. Attached is a draft of proposed membership and responsibilities of the committee, remaining for consideration in HB 2228. In red, you will find proposed new language; in green, three small changes from the language as it passed the House.

Some of the contentious issues that we believe can best be addressed by a committee made up of those impacted by the law are as follows:

- Are the prices for goods and services listed in the SUL Catalogue reasonably competitive?
- Under what conditions should waivers from purchasing catalogue items be granted – delivery capacity, price and quality? How would these exceptions be determined?
- Should a threshold limitation on the required purchase standard be created to allow teachers to buy small items at a local store?
- How should comparable quality and purchasing specifications be determined?
- How should vendors market SUL products to required purchases?

For each complaint that you may hear from some purchasers about quality and price of products in the catalogue, I could bring evidence to the contrary. For example, one school district presented as evidence, a chart that identified significant extra cost related to purchasing items from the SUL Catalogue. When reviewing the chart, the SUL vendors determined that the prices listed were in some cases inaccurate, mitigating the price differential. If necessary, we can present our chart for your review.

Senate Ways and Means
4-27-05
Attachment 4

The members of the Coalition for Opportunity introduced the language set out in HB 2228 in order to make the SUL work better for all parties involved. In summary, the proposal creates an advisory committee that will serve as the venue for communication among the parties where the facts can be sorted out and compromise can be reached. A second new provision would require that qualified vendors issue an annual report outlining SUL activity.

The members of the Coalition for Opportunity have worked hard to reach a compromise on HB 2228 and have incorporated suggestions from the Department of Administration, the KS Board of Regents, and USD's. Indicative of the need for a forum that brings vendors and required purchasers together we, as lobbyists for the vendors, continued to work with school lobbyists to incorporate their amendments even after HB 2228 passed the House by a vote of 118 to 5.

Our members have agreed to a change in the committee membership that passed the House adding one more school district member so that both large and small districts will be represented. In exchange for that additional member, we are asking that remaining Governor's appointment be an advocate for the blind and disabled. In addition, House passed language states that the committee would adopt rules and regulations when in reality they can only propose rules and regulations. Finally, we have proposed language to assure that legislative members are paid their normal remuneration when attending committee meetings.

When working with school district lobbyists we considered two additional amendments that do not have the full support of the vendors:

- One related to trying to create a definition of a "substantial purchase" by a USD that would constitute compliance with the law. Some of the vendors think that this concept may work, others are fearful that it will result in their elimination from the process anticipating that purchasers would work with one of the larger vendors. In addition, lawyers for the vendors question how the specific language would be legally interpreted.
- The second relates to requiring a waiver for price if it substantially exceeds a quote or bona fide bid. The SUL vendors believe that price is already included in the list of issues to be addressed by the committee. In addition, once again, the word substantially needs to be defined and we believe that could best be accomplished by the new committee.

Current public policy supports the creation of a reasonably protected market place for a specified list of products that are produced by companies that employ the blind and disabled. To assure employment for these Kansans, some price differential is necessary. As it costs more to educate Kansans with special needs, it also costs more to adjust the workplace to meet their needs.

On behalf of the five companies that we represent that employ over 400 Kansans with disabilities in jobs with competitive wages and benefits, we ask that you support the remaining provisions of HB 2228 as presented in the attached draft. Please give those involved with the SUL a formal venue to work out the issues that divide them.

- Red font represents remaining provisions of HB 2228 that need to be considered
- Green font represents proposed amendments to the SUL committee membership and allow for legislator's time and travel.

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

New Sec. 7. (a) There is hereby established within the department of administration, the state use law committee, hereafter referred to as the committee, to advise the director of purchases on issues surrounding the purchase of products and services provided by blind or disabled persons, which shall consist of 9 members.

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

(1) ~~One~~ *Two* member(s) shall be appointed by the ~~unified school superintendents~~ *(united school administrators of Kansas, one to be representative of small unified school districts and one to be representative of large unified school districts.)*

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

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

(4) ~~Two members who are neutral, private-sector business persons in Kansas~~ *One member, who is an advocate for the blind and disabled in Kansas,* shall be appointed by the governor.

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

(6) Two members of the Kansas legislature, one legislator shall be a member of the majority party and one legislator shall be a member of the minority party, and shall be appointed by the governor.

(c) Such members shall serve for terms of two years and may be reappointed. On July 1, of each year, the governor shall designate one of the private-sector business members to serve as a chairperson of the committee. Subsequent appointments shall be made as provided for original appointments for the unexpired terms.

(d) ~~Members shall serve without compensation.~~ *Members of the committee who are members of the Kansas legislature shall be paid subsistence and mileage to attend meetings as provided in K.S.A. 75-3207. Otherwise, members of the committee shall serve without compensation.*

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

(1) The development of waiver guidelines to be followed by qualifying agencies and unified school districts for participation under the provisions of K.S.A. 75-3317 through 75-3322, and amendments thereto.

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

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

(4) Review provisions of K.S.A. 75-3317 through 75-3322, and amendments thereto, on any bid for any purchase from a qualified vendor 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.

(5) Adopt rules, regulations and policies to assure fair and effective implementation of this act, including appropriate rules and regulations relating to violations of K.S.A. 75-3317 through 75-3322, and amendments thereto.

(6) Establish 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.

(7) Assist qualified vendors in identifying and improving marketing efforts of the products manufactured or processed and offered for sale and services offered under K.S.A. 75-3317 through 75-3322, and amendments thereto, to state agencies and unified school districts.

(8) Encourage and assist 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.

(9) Any other issue identified by any interested party.

(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.



April 27, 2005

TO: Senate Ways and Means Committee

FR: Matt Fletcher, Associate Director,
InterHab: The Resource Network for Kansans with Disabilities

RE: HB 2228: Strengthening State Use Law

Chairperson Umbarger and members of the Committee, thank you for the opportunity to speak to you today. I appear on behalf of the Board of Directors of InterHab to encourage your support in strengthening the 'State Use' law in Kansas.

Our membership is comprised of more than 40 community-based organizations that serve persons with developmental disabilities all across Kansas. One of the most important roles our members play in the life of a person with a developmental disability is to assist them in their aspiration to work. Our providers offer a full range of supports in order to help persons with disabilities acquire the job skills needed to pursue employment. One method is work activities programming.

Work activities programs like those provided by KETCH, MCDS, TECH and several other organizations across Kansas are an important way for Kansans with developmental disabilities learn job skills and gain the vocational maturity needed to enter the job market in their community. For many others, these work activities encompass the extent in which they have aptitude to perform vocational activity. For these Kansans, work activities programs are especially important.

Persons with developmental disabilities comprise the most underutilized pool of labor in existence today. In fact, the chances of a person with a disability being unemployed are more than double that of their non-disabled counterparts. These programs provide the training and support needed to prepare persons with developmental disabilities for jobs in the community. Our goal should be to strengthen that vital link between employers and these potential employees.

Persons with disabilities who participate in work activities programs take a great deal of pride in the items they manufacture. They work hard to produce high-quality products.

We know a great deal of effort has gone into crafting this bill and its contents represent several compromises among interested parties. **We would urge that the Committee approve the bill as is, without any further amendments that may be offered.**

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The protection of opportunity is the reason behind the existence of the State Use law. The opportunity to learn, to grow, and to pursue a better future. Please take action to strengthen the State Use law to ensure that opportunity will always be present for Kansans with developmental disabilities. We respectfully request your support of HB 2228.

Thank you.

Testimony
In support of HB 2228
by
Linda K. Merrill, President, CEO, Envision, Inc.
Presented to the Senate Ways and Means Committee
April 27th, 2005

Thank you for your time today.

My name is Linda Merrill and I am the CEO of Envision in Wichita, KS. We provide vocational training, employment and vision rehabilitation to people who are blind or low vision. Today, I am representing Envision and my peers from organizations with similar missions who also produce products under the Kansas state use law.

In 1938, Congress passed the Javits Wagner-O'Day Act used as the model for state use laws across the country. The Javits Wagner-O'Day Act provides the **protected marketplace of the federal government**. The state use law in Kansas is not an anomaly and similar state laws can be found through out the country.

In 1953, when the Kansas Legislature enacted the state use law it was to reflect the public policy of our state government to increase employment and training opportunities for persons who are blind or have other severe disabilities through the purchase of commodities and services from rehabilitation facilities. Presently, there are eight organizations participating in the state use law. Collectively, we employ over 400 blind and disabled Kansans from all over the state, many, who are paid competitive wages, receive healthcare and retirement benefits. Our work environments offer the blind and disabled accommodated work settings that meet their special needs allowing them to earn a living in a safe environment. Just as it is the mission of the public schools to educate and prepare the special education population for graduation, it is the mission of our organizations to provide them the training, work experience and salaries to enable them to be productive Kansas citizens.

Creating jobs for people with disabilities is difficult and not the responsibility of any one person or entity. It takes private and public partners working together, but the benefits received are great. For instance, there is a substantial savings to the State and Federal Government when blind and disabled citizens are employed. A person who is eligible for Social Security due to their disability, but who chooses to work and is making \$10 an hour will have a reduction in subsidies of nearly \$8,000 annually. If that same citizen chooses the companies health insurance the subsidy savings increases to approximately \$23,000 annually. Yet, according to the 2000 Kansas census, 429,687 people in Kansas have disabilities. In Kansas, state use law vendors are employing less than 1/10th of a percent of these citizens with disabilities! *What keeps us from employing more is the availability of work.* **We need the protected marketplace of the state government.**

Today, it is my understanding our state's public policy and desire to provide employment for people who are blind or with developmental disabilities has not changed. We are here today as a collective group to ask you to reinforce this public policy. Our request for HB 2228 stems from a

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basic need to update definitions and current practices of the law as well as an honest attempt to address the decades of frustration by both vendors and purchasers impacted under this law. In addition, our members hope that your support of this legislation will reinforce the public policy behind this law and seek accountability for those who are ignoring its existence.

For sometime there has been unwillingness by required purchasers to comply with the state use law. In 1991, we asked for support from the Office of the Attorney General. In Robert Stephan's letter of April 9, 1991, he stated "*State agencies and unified school districts are under a mandatory obligation to make certain purchases from the Kansas industries for the blind division and rehabilitation services or rehabilitation facilities.*" Recently, we have seen a revived effort by state agencies and the Board of Regents to purchase items from state use law vendors. Much of this effort has come from the direction of the Director of Purchasing who has been willing to work with state purchasers as well state vendors to find solutions for making the law work better. However, this has not been the case with the majority of USD's, who continue to ignore the law as well as oppose us on our attempt to update it and provide a forum for resolving conflicts.

The school districts opposition to our legislation leads you to believe we are a major part of their budget and/or that our prices are too high when in reality neither is true. For the past six months, only 16% of Envision's state use law sales are attributed to the USD's and that comes from only 4 school districts in the state. You will find Envision's sales experience to be similar to what other vendors are experiencing.

The Kansas Legislature is where public policy decisions are made and is not the forum where we should be debating the price and quality of state use law products. Instead, we believe that the advisory committee proposed in HB 2228 should serve as the venue for resolving the issues about the administration of the state use law. HB 2228 is not proposing to make new law. It is merely trying to make the law less burdensome on all parties involved so that compliance with the law will improve.

The House passed HB 2228 by a vote of 118 to 5 and. The House also amended the provisions of HB 2228 into SB 118 and passed it by a vote of 122 to 0. I ask the Senate to join the House in their support of our mission and pass the remaining provisions of HB 2228 favorably.

Again, thank you for your time today. I will stand for questions.



Cartridge King of Kansas

Promoting vocational opportunities for people with disabilities

2109 Industrial Drive
McPherson, Kansas 67460
Ph: 620-241-7746 Fax: 620-2 3

210 S. Ida
Wichita, Kansas 67211
Ph: 316-264-5399 Fax: 316-264-0066

Senate Ways and Means Committee
RE: Testimony on HB 2228
March 30, 2005

Thank you for the opportunity to testify. I am Sherry Plenert, President/CEO of Cartridge King of Kansas.

Cartridge King of Kansas has been a subsidiary of Multi Community Diversified Services, Inc. in McPherson since 1994. All production personnel of Cartridge King are men and women with severe disabilities. Cartridge King does not receive any subsidies from the State of Kansas. We assemble and remanufacture toner cartridges for a variety of printer, fax and copiers. State agencies, universities, school districts can save up to 50% when they purchase Cartridge King remanufactured toner cartridges. Our cartridges are lab tested and come with a 100% guarantee!! In FY 2004, 85% of Cartridge King's business came from State agencies. Cartridge King appreciates the fact that the state has realized the importance of the State Use Law and is supporting the employment of disabled Kansans.

Cartridge King's mission is "to empower individuals with disabilities to maximize their potential while securing their economic self-sufficiency, independence and integration into society." The spirit and full intent of the State Use Program, which was established in 1953, is not recognized when competitive bidding and market-based pricing are the only contracting criteria.

Such practices totally disregard the **immense positive long-term economic impact of the program as it employs Kansans with disabilities. Instead of paying their own way (and taxes) they would become recipients of tax supported programs.** The State Use Program Kansas manufacturers' employ more than 400 blind and disabled individuals, which generate dollars into the local economy while reducing the costs of human services.

Please support the amended HB 2228 and give disabled individuals who already suffer the highest unemployment rate—conservatively estimated at 70% an opportunity to secure employment, as should be every Kansans right!!

Sherry Plenert, *President/CEO*

Board of Directors: Larry Schmidt, *Chairman*; Mary Whelpley, *Vice Chairman*; Jean Anderson, *Secretary/Treasurer*

Board Members: Carlton Spencer, Dr. Jerry Leopold

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Testimony on House Bill 2228 to the Senate Ways & Means Committee
Robert J. Vancrum, Government Affairs Specialist
Blue Valley Unified School District No. 229

April 27, 2005

Chairman Umbarger and the Honorable Members of the Committee:

I am here representing Blue Valley School District in opposition to House Bill 2228. Our Purchasing Director has participated in discussions with vendors promoting this bill and other budget officers and purchasing people from school districts across the state, but was unable to be here today.

Currently, only school districts and certain state agencies are included in the present law which is generally referred to as the "state use law." As I understand the major complaint of these vendors is that very few districts are actually purchasing their goods. There are many reasons:

1. Because most of these groups do not mass mail their catalogs, do not visit vendor fairs (which many districts have) and do not pay personal marketing visits on the districts, I am sure many districts are unaware of just what products can be purchased.
2. Many of the products, such as office supplies, filters, and trash bags are more expensive, sometimes as much as 100% more expensive than can be purchased from other sources. These are hard budget times for school districts. As you are aware, there has been no increase in state funding for K-12 education since 2001. Even if there had been, as government entities, we are responsible to our taxpayers as well as the state's taxpayers to operate as efficiently as possible. We are often told in these halls to operate more like a business, and yet both Kansas and the federal government impose unfunded mandates on us, such as this one, apparently without considering that it flies right in the face of what I believe most of you want us to do.
3. Many of the school district purchasing agents have also complained about the failure to timely deliver orders and, in some cases, the quality of the products delivered, as well as inability to timely find someone to rectify such reasonable complaints when they occur.

However, like most responsible members of the community, we understand the importance of being supportive of not-for-profit entities that employ our disabled citizens. I have some suggestions that could, perhaps, lead to a better result than either the present bill, or existing legislation. See the amendments on the attached page.

I would be happy to answer questions either now or anytime the committee members choose.

Amendments to HB 2228:

1. Add to Section 4: “Notwithstanding this section or other provisions of the state use law, any unified school district that satisfies the director of purchases, with the advice and consent of the committee, that purchases have been made, or contracts for purchase have been entered, for a substantial amount of a product or products described in Section 3 from a qualified vendor or vendors with respect to any given fiscal year of the district, taking into account the overall needs of such district for such products, may be granted a waiver by the director of purchases, with the advice and consent of the committee, from any further showing of compliance with the state use law for the balance of said fiscal year.”

2. Add to Section 5: “Such a waiver shall also be granted to any unified school district or state agency upon a showing that the price quoted by the qualified vendor substantially exceeds the price which such unified school district or state agency has been quoted by, or has received a bona fide bid or request for proposal price from, any other potential supplier.

3. Amend Section 7 (b) as follows:

“(1) Two members shall be appointed by the united school administrators, one to be representative of small unified school districts and one to be representative of large unified school districts.”

“(2) {no change}

“(3) {no change}

“(4) One member who is a neutral, private sector person in Kansas shall be appointed by the governor.”

“(5) {no change}

“(6) {no change}

4. Amend Section 7 (d) as follows:

“Members of the committee who are members of the Kansas legislature shall be paid subsistence and mileage to attend meetings as provided in K.S.A. 75- 3207. Otherwise, members of the committee shall serve without compensation.”

BV ID			Packaged	State Price	BV Purchase	Diff	Qty	Savings
00BV40110	Rollerball Pen	Black	Dozen	12.40	6.84	5.56	125	695.00
00BV40018	Rollerball Pen	Blue	Dozen	12.40	6.84	5.56	59	328.04
00BV40019	Rollerball Pen	Red	Dozen	12.40	6.96	5.44	91	495.04
004005173	Highlighters	Yellow	Dozen	11.25	1.56	9.69	92	891.48
004005171	Highlighters	Green	Dozen	11.25	1.44	9.81	60	588.60
004005172	Highlighters	Pink	Dozen	11.25	1.44	9.81	146	1,432.26
004005169	Highlighters	Blue	Dozen	11.25	1.56	9.69	24	232.56
00BV60122	Three ring binders	1 Inch Black	Each	3.92	0.91	3.01	425	1,279.25
004005098	Three ring binders	1 Inch Blue	Each	3.92	0.94	2.98	568	1,692.64
00BV40044	Three ring binders	2 Inch Black	Each	4.84	1.86	2.98	205	610.90
004005218	Three ring binders	2 Inch Blue	Each	4.84	1.91	2.93	183	536.19
00BV60114	Three ring binders	3 Inch Black	Each	6.32	2.98	3.34	151	504.34
00BV40211	Three ring binders	3 Inch Blue	Each	6.32	3.19	3.13	153	478.89
004005248	Three ring binders	1/2 Inch Red	Each	3.41	1.09	2.32	319	740.08

Subtotal 10,505.27

Recycled Cartridges

				State Price	BV Purchase	Diff	Qty	Savings
00BV60162	Cartridge Laser HP4000	C4127X	Each	78.00	51.00	27.00	88	2,376.00
00BV60186	Cartridge Laser HP4500	C4191A	Each	48.99	42.50	6.49	66	428.34
00BV60230	Cartridge Laser HP4100	C8061X	Each	83.99	68.00	15.99	60	959.40

Subtotal 3,763.74

Custodial Trash Bags

Case	26.20	13.44	12.76	1810	23,095.60
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Total 37,364.61

State Price is from the state catalog.
 BV Purchase is the price paid to current local vendors
 Diff is the State Price minus BV Purchase
 Qty is the quantity purchased over the past year.
 Savings is the Diff times the Qty



Testimony on **HB 2228**
before the
Senate Ways and Means Committee

by

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

April 27, 2005

Chairman Umbarger and Members of the Committee:

Thank you for allowing me the opportunity to appear today to present KASB's thoughts on **HB 2228**, a measure which makes changes to the current State Use Law (SUL) as it relates to school purchases. KASB has adopted a position that opposes "*state restrictions on school district purchasing procedures that limit the ability of local boards to consider price, quality and other relevant criteria determined to be in the best interests of the district.*" We believe the amendments that will be offered today should make this statute less onerous for the purchasers while also assisting vendors. The amendments that we strongly encourage your consideration of are included on the attached sheet for your reference.

Amendment #1 essentially provides for a purchaser that purchases a large amount of items from a SUL vendor to be able to receive a waiver from other purchasers for a stated period of time. This would reduce the paperwork for all of the parties and simplify the SUL operations. It appears to be a win-win for vendors and purchasers alike.

Amendment #2 would provide that a purchaser could be granted a waiver from purchase if the quoted price is substantially higher than the price available from another private sector or SUL vendor. There has been some resistance to this amendment by vendors but we are taking at face value their statements made in House hearings that their prices are "*always competitive and in many cases lower.*"

Amendment #3 would change the structure of the SUL committee that is established to include two persons appointed by the United School Administrators ... one from a large district and one from a small district. It would also add another vendor representative. We believe that the creation of this committee is a valuable step in guiding the future of the SUL. Without it there will be continued frustration in the vendors and purchasers ranks.

Without these amendments KASB will oppose this measure. With them we feel that the law becomes more workable and accomplishes the goal of helping businesses that employ those in the disabled community.

Thank you for your consideration.

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**PROPOSED AMENDMENTS
FROM A STATE USE LAW WORKING GROUP**

1. Add to Section 4: “Notwithstanding this section or other provisions of the state use law, any unified school district that satisfies the director of purchases, with the advice and consent of the committee, that purchases have been made, or contracts for purchase have been entered, for a substantial amount of a product or products described in Section 3 from a qualified vendor or vendors with respect to any given fiscal year of the district, taking into account the overall needs of such district for such products, may be granted a waiver by the director of purchases, with the advice and consent of the committee, from any further showing of compliance with the state use law for the balance of said fiscal year.”

2. Add to Section 5: “Such a waiver may also be granted to any unified school district or state agency by the director of purchases, with the advice and consent of the committee, upon a showing that the price quoted by the qualified vendor substantially exceeds the price which such unified school district or state agency has been quoted by, or has received a bona fide bid or request for proposal price from, any other potential supplier.

3. Amend Section 7 (b) as follows:

“(1) Two members shall be appointed by the united school administrators, one to be representative of small unified school districts and one to be representative of large unified school districts.”

“(2) {no change}

“(3) {no change}

“(4) One member who is an neutral, private sector person advocate for the blind or disabled in Kansas shall be appointed by the governor.”

“(5) {no change}

“(6) {no change}

James L. Menze
Executive Director
jmenze@usa-ks.org

M. Katharine Weickert
Director of
Administrator Services
kweickert@usa-ks.org



Kansas Association of
Elementary
School Principals
(KAESP)

Kansas Association of
Middle School
Administrators
(KAMSA)

Kansas Association of
School Administrators
(KASA)

Kansas Association of
School Business
Officials
(KASBO)

Kansas Association for
Supervision and
Curriculum Development
(KASCD)

Kansas Association of
Special Education
Administrators
(KASEA)

Kansas Association of
Secondary School
Principals
(KASSP)

Kansas Council of
Career and Technical
Education Administrators
(KCCTEA)

Kansas School
Public Relations
Association
(KanSPRA)

April 27, 2005

HB2228

Chair and members of Senate Ways and Means Committee

United School Administrators of Kansas oppose HB 2228 for the following reasons:

While the concept of aiding the "qualified vendors" is honorable in intent, we are concerned about the potential of additional expenses or the purchasing of inferior products using tax dollars.

HB 2228 has the potential to transfer purchases from local businesses that support their local schools.

Many teachers use procurement cards to secure small quantities of items needed in their classroom. This bill would eliminate or at the least, require much additional monitoring of these cards.

Most important, there is no waiver available if the cost from a "qualified vendor" exceeds what we might pay on the open market or through the bidding process. There needs to be a percentage of tolerance.

With an improved marketing concept and school superintendents being aware of the "qualified vendors", we feel there will be significant increase in purchasing from the "qualified vendors" without HB 2228.

We urge you to reject this bill.

Don Willson, Governmental Relations, United School Administrators of Kansas

Kansas Department of Administration

Duane Goossen, Secretary

1000 SW Jackson, Suite 500
Topeka, Kansas 66612-1268

Senate Committee on Ways and Means

H.B. 2399

Joe Fritton P.E.

Deputy Director of Facilities Management and Architectural Services

Department of Administration

April 27, 2005

Thank you for this opportunity to provide testimony in support of HB 2399. This bill makes two changes to the current statutes regarding capital improvements and architectural and engineering services.

First, this bill adds Landscape Architecture and Interior Design Services to the definition of Architectural Services. Adding these two services to the definition results in procurement of these professional services falling under the same qualification based selection process as the procurement of Engineering and Architectural Services. This is important as the work performed by Landscape Architects and Interior Design Services have potential life-safety code implications. This change would ensure that qualified firms are selected on state projects.

Second, this bill changes the current fee structure used by the Department of Administration on facility design and construction projects in the following manner:

For construction projects that require selection of an architectural firm (over \$500,000) or engineering firm (over \$250,000); this legislation eliminates the 1% project management fee established in statute and allows the Secretary of Administration to set a fee for services based on the capital improvement project's size and complexity. This is consistent with fee rates charged by architectural and engineering firms who typically charge more for smaller projects and complex projects and less for large and un-complex projects.

For construction projects designed by the Department of Administration's in-house architects (less than \$500,000); or in-house engineers (less than \$250,000); this legislation removes the 8% design fee and allows the Department of Administration to negotiate a fee with the state agency performing the project. Typically, fees from outside firms on these smaller projects range from 15% to 30%. Thus, the Department of Administration is currently compelled to provide services for these projects at a loss. This legislation will allow the Department of Administration to charge fees to recover actual costs. Under this legislation, the agency performing the project is not required to use the Department of Administrations in-house design services.

This legislation which migrates fees from a single percentage one size fits all concept to a fee structure based on services provided and project complexity was requested by the Joint Facilities Team which contains representatives from the Department of Administration, Department of Corrections, Kansas Board of Regents, Department of Transportation, Department of Labor, Adjutant General, Department of Wildlife and Parks, Juvenile Justice Authority and Social and Rehabilitation Services.

I would be happy to stand for questions.

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4-27-05
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KANSAS BOARD OF REGENTS

1000 SW JACKSON • SUITE 520 • TOPEKA, KS 66612-1368

TELEPHONE – 785-296-3421

FAX – 785-296-0983

www.kansasregents.org

Testimony before the Senate Ways & Means Committee

**Eric King, Director of Facilities
Kansas Board of Regents**

April 27, 2005

Good morning Chairman Umbarger and Members of the Committee. Thank you for this opportunity to appear before your committee. I am here today to speak on behalf of House Bill 2399.

This bill allows for varying degrees of professional architectural/engineering service from the secretary of administration depending on the capabilities of the agencies. For those agencies that have in-house design professionals, the services would be reduced. Minimum services provided would include assistance with contracts, code review, bidding services and project close-out. Remuneration for these services would be negotiated based on project costs, complexity, construction type and level of services required.

The basis for this change is to eliminate redundancy and promote efficiency, while maintaining a level of accountability.

Provisions of this bill were included in the May 8, 2004 Journal of the House for Board of Regent's institutions. HB 2399 would formalize these processes, and also extend them to other state agencies.

Thank you again for your time and consideration. I would be pleased to address your questions.



K A N S A S

TRACY STREETER, DIRECTOR

KANSAS WATER OFFICE

KATHLEEN SEBELIUS, GOVERNOR

**Testimony Regarding HB 2108
to
Senate Ways and Means Committee**

**Joe Fund
Kansas Water Office
April 27, 2005**

Chair Umbarger and members of the Committee, I am Joe Fund, Chief Fiscal Officer for the Kansas Water Office. I am pleased to be here today to testify in support of HB 2108.

The Kansas Water Office operates the Water Marketing Program under the authority of the State Water Plan Storage Act. The Water Marketing Program is a self funding water utility providing raw water to contract holders at a rate established annually by the Kansas Water Authority in accordance with the Storage Act.

Two years ago, we contracted with an outside consultant for a review of our program. The resulting report identified a number of changes that could, and should, be made to better serve our customers and provide financial solvency.

The Kansas Water Authority reviewed the findings of the report and authorized a policy review and public input into the needed changes. The Kansas Water Office and Kansas Water Authority received public comments at two separate rounds of basin advisory committee meetings as well as provided direct notification and request for comments to all current water marketing contract holders.

In November of 2004, the Kansas Water Authority adopted a policy section of the Kansas Water Plan that proposed changes to the State Water Plan Storage Act to address the identified programmatic recommendations.

The proposed operational changes would:

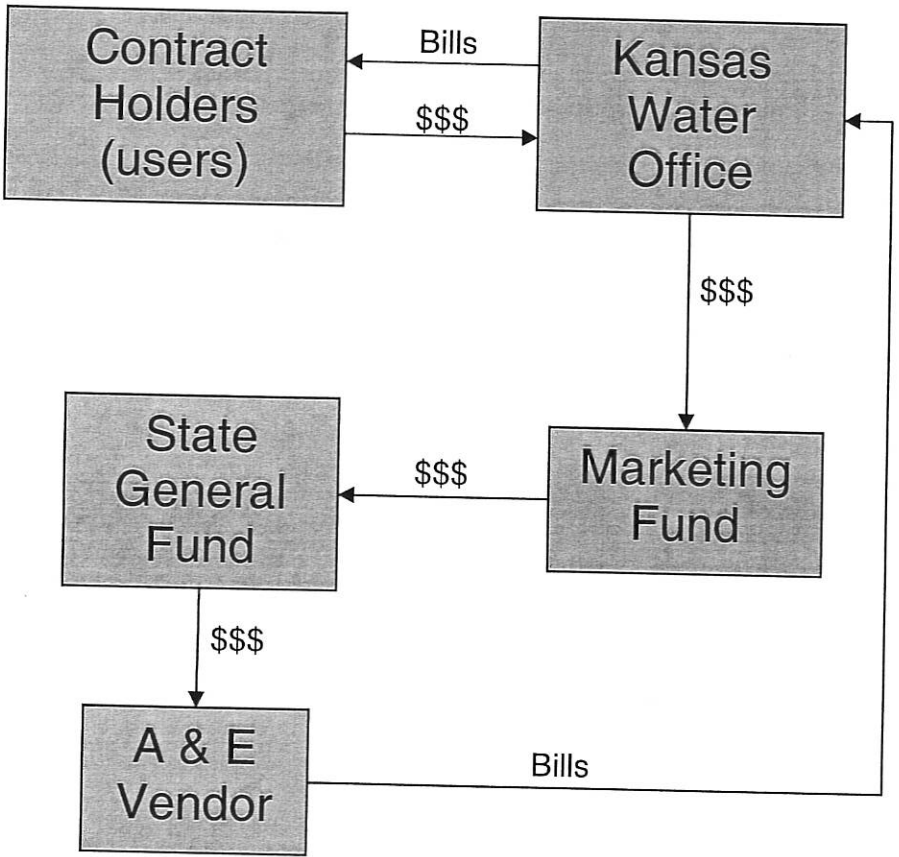
- set the operation and maintenance component of the water marketing rate based on estimates for the upcoming billing cycle rather than previous billing cycle;
- allow direct payment of administration and enforcement costs from the water marketing fund rather than the State General Fund; and
- change the depreciation reserve rate component from the present 2.5¢ / 1000 gallons to an amount determined annually by the Kansas Water Authority to meet a capital development and maintenance plan.

These changes would allow the Water Marketing Program to be more responsive to operational costs as well as develop a long range capital development and maintenance plan for the storage the state owns in federal reservoirs.

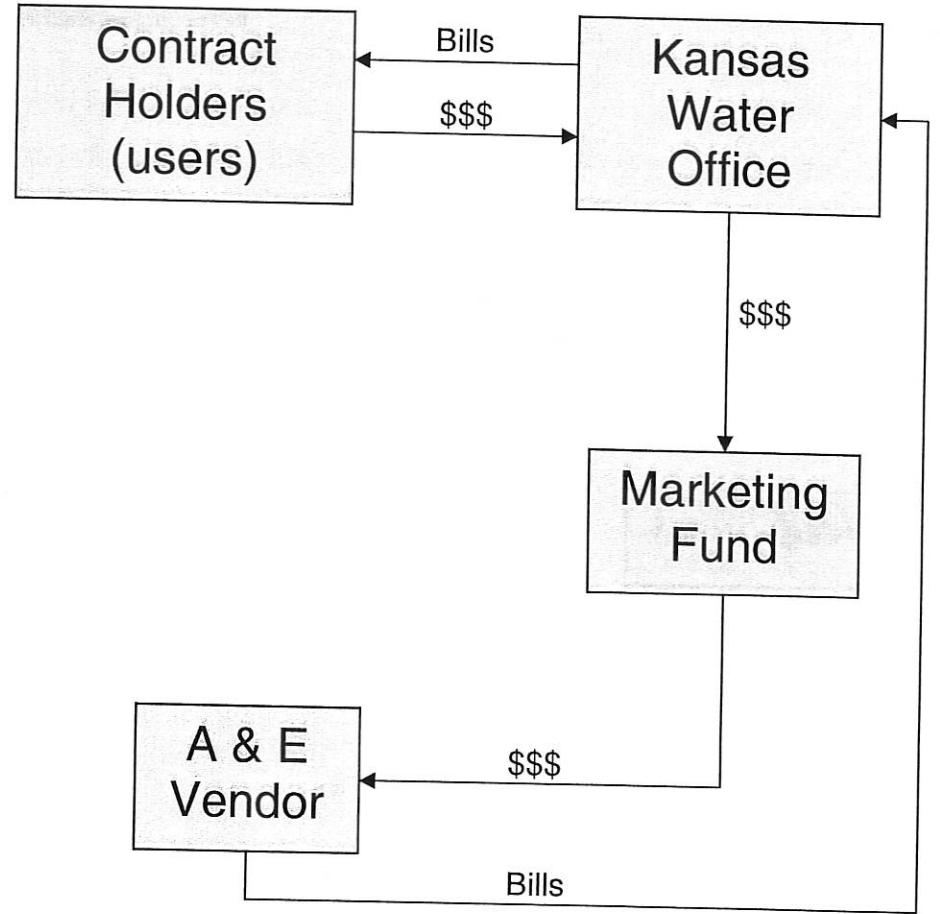
Thank you for the opportunity to appear before you today. I am happy to stand for questions at the appropriate time.

Water Marketing / Water Assurance Program Schematic

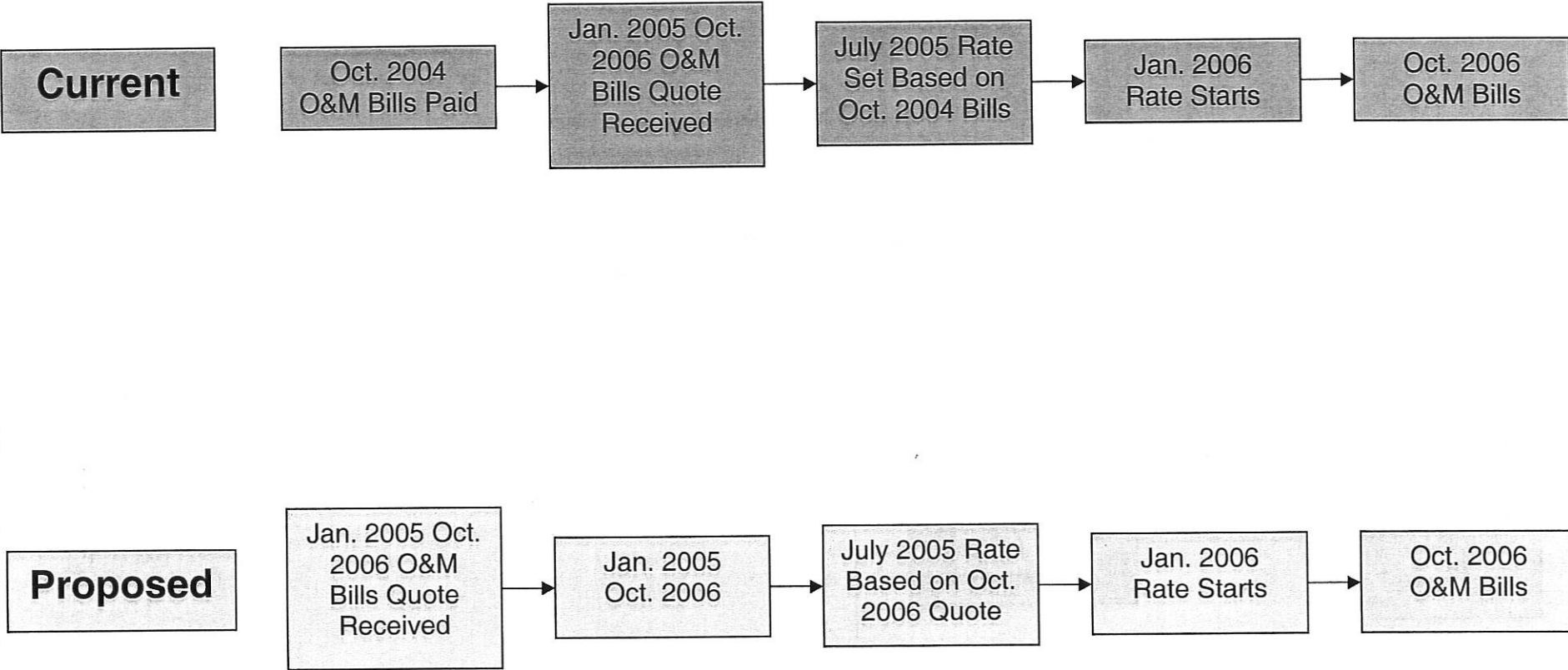
Current



Proposed



2006 Rate O & M Timeline



Current

Oct. 2004
O&M Bills Paid

Jan. 2005 Oct.
2006 O&M
Bills Quote
Received

July 2005 Rate
Set Based on
Oct. 2004 Bills

Jan. 2006
Rate Starts

Oct. 2006
O&M Bills

Proposed

Jan. 2005 Oct.
2006 O&M
Bills Quote
Received

Jan. 2005
Oct. 2006

July 2005 Rate
Based on Oct.
2006 Quote

Jan. 2006
Rate Starts

Oct. 2006
O&M Bills