

MINUTES OF THE HOUSE APPROPRIATIONS COMMITTEE

The meeting was called to order by Chairman Melvin Neufeld at 9:00 A.M. on January 31, 2006 in Room 514-S of the Capitol.

All members were present:

Committee staff present:

Alan Conroy, Legislative Research Department  
J. G. Scott, Legislative Research Department  
Becky Krahl, Legislative Research Department  
Matt Spurgin, Legislative Research Department  
Julian Efird, Legislative Research Department  
Debra Hollon, Legislative Research Department  
Jim Wilson, Revisor of Statutes  
Mike Corrigan, Revisor of Statutes  
Nikki Feuerborn, Administrative Assistant  
Shirley Jepson, Committee Secretary

Conferees appearing before the committee:

Others attending:

See attached list.

Representative Powell moved to introduce legislation concerning the animal pet act and reclassification of hunting dogs. The motion was seconded by Representative McLeland. Motion carried.

Representative Powell moved to introduce legislation concerning the release of water from Cedar Bluff Reservoir. The motion was seconded by Representative McLeland. Motion carried.

Representative Powell moved to introduce legislation concerning release of information for the Department of Wildlife and Parks. The motion was seconded by Representative Hutchins. Motion carried.

Representative Pottorff moved to introduce legislation to repeal certain sections in the Kansas Use Law. The motion was seconded by Representative Feuerborn. Motion carried.

Representative Bethell moved to introduce legislation to increase bed capacity of Homes-Plus. The motion was seconded by Representative Henry. Motion carried.

Representative Bethell moved to introduce legislation concerning the Kansas Association of Medically Underserved for a capital loan guarantee program. The motion was seconded by Representative Henry. Motion carried.

Representative Bethell moved to introduce legislation regarding instruction for State Fire Marshal personnel who are involved in regulation of residences or businesses and enforcement of regulations. The motion was seconded by Representative Powell. Motion carried.

Representative Bethell moved to introduce legislation regarding informal dispute process for the State Fire Marshal. The motion was seconded by Representative Powell. Motion carried.

Representative Bethell moved to introduce legislation requiring the State Fire Marshal to produce, for public use, interpretive guidelines on regulations enforced by the office to promote uniform enforcement. The motion was seconded by Representative Powell. Motion carried.

Representative Bethell moved to introduce legislation requiring the State Fire Marshal to provide joint educational opportunities for field personnel and providers of health care. The motion was seconded by Representative Powell. Motion carried.

Representative Bethell moved to introduce legislation to create a state-wide registry of vendors

## CONTINUATION SHEET

MINUTES OF THE House Appropriations Committee at 9:00 A.M. on January 31, 2006 in Room 514-S of the Capitol.

supplying fire safety services and products throughout the State. The motion was seconded by Representative Feuerborn. Motion carried.

Representative Hutchins moved to introduce a resolution directing colleges and universities to adopt an academic bill of rights. The motion was seconded by Representative Huy. Motion carried.

Representative Yoder, member of the General Government and Commerce Budget Committee, presented the Budget Committee report and recommendation on **HB 2196** and moved for the adoption of the Budget Committee report (Attachment 1). The motion was seconded by Representative Lane.

Representative Yoder explained that **HB 2196** was requested by the Silver Haired Legislature and introduced during the 2005 Session. The bill would direct the State Long-Term Care Ombudsman to find funding for eleven regional long-term care ombudsman positions, an increase from eight to eleven ombudsman. The Budget Committee Report did not include funding for the three additional positions. The Committee noted six positions were requested during the 2005 Session; however, only three positions were approved. It was noted that there are eleven service area regions and it is proposed to have one ombudsman in each region to train volunteers, who provide assistance to senior citizens. The Committee stated that this program has been beneficial in resolving family conflicts, assist care givers and provide assistance to maintain high standards for senior citizen care.

Representative Pottorff made a substitute motion to re-refer **HB 2196** to the Social Services Budget Committee for further discussion and a possible source of funding. The motion was seconded by Representative Bethell. Motion carried.

Representative Pottorff, Chairperson of the General Government and Commerce Budget Committee, presented the Budget Committee report and recommendation on **HB 2394** and moved for the adoption of the Budget Committee report (Attachment 1). The motion was seconded by Representative Lane. Motion carried.

**HB 2394** would establish the Kansas Alternative Project Delivery Construction Procurement Act that would provide a second method for procuring design and construction services for state public improvement contracts. Amendments recommended by the Budget Committee would clarify that various types of state highway construction projects are excluded and would add several definitions. The Budget Committee stated that there are still some unanswered questions to be resolved and hopefully will be resolved before the bill. It was noted that no one opposed the concept but felt there needs to be some clarification of the effect on highway contracts. A copy of the balloon on **HB 2394** was distributed to the Committee (Attachment.2).

Representative Pottorff moved to recommend **HB 2394** favorable for passage as amended. The motion was seconded by Representative Lane. Motion carried.

Representative Hutchins, Chairperson of the Education Budget Committee, presented the Budget Committee report and recommendation on **HB 2574** and moved for the adoption of the Budget Committee report (Attachment 3). The motion was seconded by Representative McLeland. Motion carried.

**HB 2574** would allow the Board of Regents and the state universities to dispose of property bequeathed to them without having to seek authorizing legislation or legislative approval. Deb Hollon, Legislative Research Department, noted that the bill is only directed at legislative approval.

Representative Hutchins moved to recommend **HB 2574** favorable for passage as amended. The motion was seconded by Representative Feuerborn. Motion carried.

Alan Conroy, Legislative Research Department, provided an update on state receipts stating that, as of the 31st of January, general fund tax receipts are \$44 million over the estimate made by the Consensus Revenue Estimating Group of which over \$34 million is from individual income taxes.

CONTINUATION SHEET

MINUTES OF THE House Appropriations Committee at 9:00 A.M. on January 31, 2006 in Room 514-S of the Capitol.

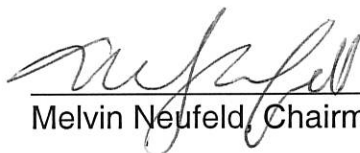
The Committee requested tracking of the performance of the voluntary streamlined tax collections.

**HB 2583, HB 2584, HB 2620 and HB 2623** were referred to the Retirement Sub Committee. **HB 2714 and HB 2730** were referred to the Social Services Budget Committee.

Chairman Neufeld appointed the following to the Retirement Sub Committee: Representative Neufeld, Representative McCreary, Representative Landwehr, Representative Weber, Representative Schwartz, Representative Gatewood and Representative Feuerborn.

Representative Gatewood moved to approve the minutes as written of January 9, January 11, January 12 and January 19. The motion was seconded by Representative McCreary. Motion carried.

The meeting was adjourned at 9:55 a.m. The next meeting will be held at 9:00 a.m. on February 1, 2006.



Melvin Neufeld, Chairman

# HOUSE APPROPRIATIONS COMMITTEE

January 31, 2006

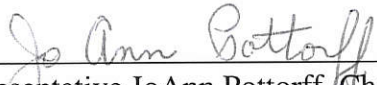
9:00 A.M.

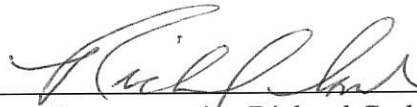
NAME	REPRESENTING
Wendy Williams	KAPA - KRMCA
Ken Seeber	Law Firm
Fred Lucky	KHA
Marcy Quinlan	Rep. Ballard
Andrew Couch	Federico Consulting
SUE PETERSON	K-STATE
Keith Kehle	KU
Deborah Merrill	KLTC Ombudsman
George Barbee	CAS Construction
D. KEITH MEYERS	DEPT. OF ADMINISTRATION
GARY HIBBS	" " "
COREY PETERSON	AGC of Kansas
Bob Tollen	K-C-A
Judy Aron	Am. Inst. of Architects Ks
Ernie Fogge	AARP
JOHN DOUGHERTY	ESU.
Janice Rae	KACCT

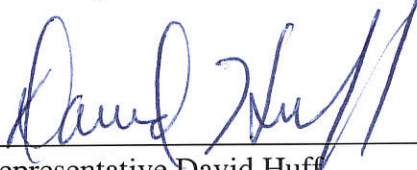
# HOUSE BUDGET COMMITTEE REPORT

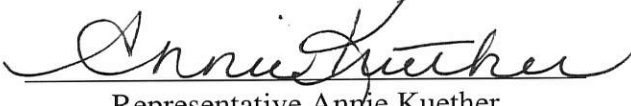
HB 2196 and HB ~~2394~~

January 25, 2006

  
\_\_\_\_\_  
Representative JoAnn Pottorff, Chairperson

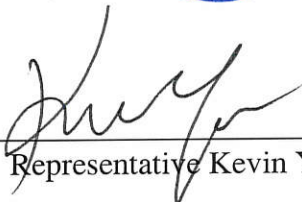
  
\_\_\_\_\_  
Representative Richard Carlson

  
\_\_\_\_\_  
Representative David Huff

  
\_\_\_\_\_  
Representative Annie Kuether

  
\_\_\_\_\_  
Representative Harold Lane

  
\_\_\_\_\_  
Representative Clark Shultz

  
\_\_\_\_\_  
Representative Kevin Yoder

HOUSE APPROPRIATIONS

DATE 1-31-2006  
ATTACHMENT 1



## House General Government and Commerce Budget Committee

### Recommendation on House Bill No. 2196

#### Brief

The bill would direct the State Long-Term Care Ombudsman, beginning for FY 2007, to include funding for 11 regional long-term care ombudsman positions in the agency's budget estimate that is submitted to the Governor and Legislature for the annual appropriations review.

#### Background

The bill was recommended by the Silver Haired Legislature and introduced in the 2005 Session. There are 11 planning service area regions, each with an area agency on aging, and the bill would set the number of regional long-term care ombudsman positions to coincide with the number of regions. Currently, there are eight regional long-term care ombudsman positions in the approved FY 2006 budget for the State Long-Term Care Ombudsman.

Conferees appearing in support of the bill included the Acting State Long-Term Care Ombudsman, who indicated that the Governor's FY 2007 budget recommendation includes funding for the 8.0 FTE positions authorized in FY 2006 for regional long-term care ombudsmen, and that an additional 3.0 FTE positions would require funding of \$210,000, with \$150,000 from the State General Fund and \$60,000 from federal funds.

Other conferees appearing in support of the bill included representatives from the Department on Aging and the Silver Haired Legislature. A representative from the Department of Administration clarified that the bill, if enacted, only requires an agency request for funding to be based on 11 positions. The Governor and Legislature would determine the level of funding and the number of staff during the appropriations process.

## House General Government and Commerce Budget Committee

### Recommendation on House Bill No. 2394

#### Brief

The bill would establish the Kansas Alternative Project Delivery Construction Procurement Act that would provide a second method for procuring design and construction services for state public improvement contracts. The bill only would apply to state agencies, including state educational institutions under the Board of Regents, that have authority to award public contracts for design and construction of state building projects. The bill would prescribe certain safeguards that must be followed if the alternative method were to be considered for a particular project.

Amendments to the bill recommended by the Budget Committee would clarify that various types of state highway construction projects are excluded and would add several definitions as recommended by conferees who supported the bill as amended.

#### Background

The bill was requested by representatives responsible for capital improvement projects who work for state agencies and institutions, including Regents institutions. After initial hearings during the 2005 Session, representatives of various groups and state agencies were asked to work on amendments to the original bill in order to alleviate objections.

Conferees appearing in 2006 to support the bill also provided a balloon with proposed amendments that a majority favored. Those conferees included representatives of Associated General Contractors of Kansas, Marin K. Eby Construction Company, Kansas Contractors Association, American Institute of Architects, and the Department of Administration.

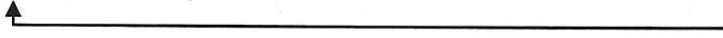
During the 2005 review of the bill, a representative from the Department of Administration explained the purpose of the legislation was to provide for use of alternative delivery methods, such as building design-build or construction manager at-risk, for state building design and construction projects. Current law requires the design-bid-build delivery method for most state projects. Under this method, a design firm first is selected, and after project plans are drafted and placed out for bids, a contractor is selected to build the project. The proposed alternative method would be used on a limited basis, after determination is made that such a method is appropriate for each particular project. The proposed alternative method might provide substantial savings of time and money, compared with the traditional design-bid-build method, according to the Department of Administration representative.

The fiscal note for the bill indicates that the use of the alternative delivery method would be the exception, rather than the rule. An agency would need to show that the alternative project delivery method would provide substantial savings of time and money, compared with the traditional design-bid-build delivery method.


HOUSE BILL No. 2394  
By Committee on Appropriations  
2-9


AGC requested balloon  
1/24/06


9 AN ACT concerning the procurement of design and construction services  
10 for state public improvements contracts; enacting the Kansas alternative  
11 project delivery construction procurement act.

12  [building



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

14 Section 1. Sections 1 through 7, and amendments thereto, shall be  
15 known and may be cited as the Kansas alternative project delivery construction  
16 procurement act.  [building

17 Sec. 2. As used in the Kansas alternative project delivery construction  
18 procurement act, unless the context expressly provides otherwise.  [building

19 (a) "Act" means the Kansas alternative project delivery construction  
20 procurement act.  [building


21 (b) "Agency" means the agency or state educational institution, as  
22 defined in K.S.A. 76-756, and amendments thereto, with the authority to  
23 award public contracts for design and construction.


24 (c) "Alternative project delivery" means an integrated comprehensive  [building  
25 design and construction process, including all procedures, actions, sequen  [building  
26 of events, contractual relations, obligations, interrelations and


27 various forms of agreement all aimed at the successful completion of the  
28 design and construction of buildings and other structures whereby a construction  
29 manager or general contractor or building design-build team is  
30 selected based on a qualifications and best value approach.

31 (d) "Ancillary technical services" include, but shall not be limited to,  
32 geology services and other soil or subsurface investigation and testing  
33 services, surveying, adjusting and balancing air conditioning, ventilating,  
34 heating and other mechanical building systems and testing and consultant  
35 services that are determined by the agency to be required for the project.

36 (e) "Architectural services" means those services described by subsection  
37 (e) of K.S.A. 74-7003, and amendments thereto.

38 (f) "Best value selection" means a selection based upon project cost,  
39 qualifications and other factors.  [ (g)

40 (g) "Building design-build" means a project for which the design and  [ (h)  
41 construction services are furnished under one contract.

42 (h) "Building design-build contract" means a contract between the  [ (i)  
43 agency and a design-builder to furnish the architecture or engineering

(f) "Building Construction" means furnishing labor, equipment, material or supplies used or consumed for the design, construction, alteration, renovation, repair or maintenance of a building or structure. Building construction does not include dams, turnpikes or related parking lots.

HOUSE APPROPRIATIONS

DATE 1-31-2006  
ATTACHMENT 2



1 and related design services required for a given public facilities construction  
2 project and to furnish the labor, materials and other construction  
3 services for such public project.

4 (j) "Construction services" means the process of planning, acquiring,  
5 building, equipping, altering, repairing, improving, or demolishing any  
6 structure or appurtenance thereto, including facilities, utilities or othe  
7 improvements to any real property, excluding highways and turnpike

(j) , roads, bridges, dams or  
turnpikes or related structures, or  
stand alone parking lots.

8 (k) "Construction management at-risk services" means the services  
9 provided by a firm which has entered into a contract with the agency

10 be the construction manager or general contractor for the value and  
11 schedule of the contract for a project, which is to hold the trade contracts  
12 and execute the work for a project in a manner similar to a general contractor,  
13 and which is required to solicit competitive bids for the trade  
14 packages developed for the project and to enter into the trade contracts  
15 for a project with the lowest responsible bidder therefor. Construction  
16 management at-risk services may include, but are not limited to scheduling,  
17 value analysis, system analysis, constructability reviews, progress  
18 document reviews, subcontractor involvement and prequalification, subcontractor  
19 bonding policy, budgeting and price guarantees, and construction  
20 coordination.

21 (l) "Construction management at-risk contract" means the contract  
22 whereby the state agency acquires from a construction manager or general  
23 contractor a series of preconstruction services and an at-risk financial  
24 obligation to carry out construction under a specified cost agreement.

25 (m) "Construction manager or general contractor" means any individual,  
26 partnership, joint venture, corporation, or other legal entity who is a  
27 member of the integrated project team with the state agency, design  
28 professional and other consultants that may be required for the project,  
29 who utilizes skill and knowledge of general contracting to perform preconstruction  
30 services and competitively procures and contracts with specialty  
31 contractors assuming the responsibility and the risk for construction  
32 delivery within a specified cost and schedule terms including a guaranteed  
33 maximum price.

34 (n) "Design-builder" means any individual, partnership, joint venture,  
35 corporation or other legal entity that furnishes the architectural or  
36 engineering services and construction services, whether by itself or  
37 through subcontracts.

38 (o) "Design criteria consultant" means a person, corporation, partnership,  
39 or other legal entity duly registered and authorized to practice  
40 architecture or professional engineering in this state pursuant to K.S.A.  
41 74-7003, and amendments thereto, and who is employed by contract to  
42 the agency to provide professional design and administrative services in  
43 connection with the preparation of the design criteria package.

1 ~~(e)~~ "Design criteria package" means performance-oriented specifications  
2 for the public construction project sufficient to permit a designbuilder  
3 to prepare a response to the division's request for proposals for a  
4 building design-build project. (p)

5 ~~(e)~~ "Director" means the director of the division of facilities  
6 management. (q)

7 ~~(e)~~ "Division of facilities management" means the division of facilities  
8 management of the department of administration. (r)

9 ~~(f)~~ "Engineering services" means those services described by subsection  
10 (i) of K.S.A. 74-7003, and amendments thereto. (s)

11 ~~(s)~~ "Guaranteed maximum price" means the cost of the work as defined  
12 in the contract. (t)

13 ~~(t)~~ "Negotiating committee" means a group of individuals as defined  
14 by K.S.A. 75-1251 and 75-5802, and amendments thereto. (u)

15 ~~(u)~~ "Preconstruction services" means a series of services that can include,  
16 but are not necessarily limited to: design review, scheduling, cost  
17 control, value engineering, constructability evaluation, and preparation  
18 and coordination of bid packages. (w)

19 ~~(v)~~ "Project services" means architectural, engineering services, land  
20 surveying, construction management at-risk services, ancillary technical  
21 services or other construction-related services determined by the agency  
22 to be required by the project. (x)

23 ~~(w)~~ "State building advisory commission" means the state building  
24 advisory commission created by K.S.A. 75-3780, and amendments  
25 thereto. (z)

26 ~~(x)~~ "Stipend" means an amount paid to the unsuccessful proposers  
27 to defray the cost of submission of phase II of the building design-build  
28 proposal. (aa)

29 Sec 3. (a) Notwithstanding any other provision of the law to the contrary,  
30 the state building advisory commission is hereby authorized to institute  
31 an alternative project delivery program whereby construction management  
32 at-risk or building design-build procurement processes may be  
33 utilized on state agency public projects pursuant to this act. This authorization  
34 for construction management at-risk and building design-build  
35 procurement shall be for the sole and exclusive use of planning, acquiring,  
36 designing, building, equipping, altering, repairing, improving, or demolishing  
37 any structure or appurtenance thereto, including facilities, utilities,  
38 or other improvements to any real property, but shall not include highways or turnpikes.

39 (b) To assist in the procurement of alternative project delivery construction  
40 services as defined under this act, the secretary of administration  
41 shall encourage firms engaged in the performance of construction services  
42 to submit annually to the secretary of administration and to the state  
43 , roads, bridges, dams or  
turnpikes or related  
structures, or stand alone  
parking lots

(v) "Parking lot" means a designated area constructed on the ground surface for the parking of motor vehicles. A parking lot included as a part of a "Building Construction" project shall be subject to the provisions of this Act. A parking lot designed and constructed as a stand alone project shall not be included as a part of this Act.

(y) "Public Construction Project" means the process of designing, constructing, reconstructing, altering, or renovating a public building or another structure. The term does not include the process of designing, constructing, altering, or repairing a public highway, road, bridge, dam, turnpike, or related structures.

1 building advisory commission a statement of qualifications and performance  
2 data. Each statement shall include data relating to the following:  
3 (1) The firm's capacity and experience, including experience on similar  
4 or related projects;  
5 (2) the capabilities and other qualifications of the firm's personnel;  
6 and  
7 (3) such other information related to qualifications and capability of  
8 the firm to perform construction services for projects as may be described  
9 by the secretary of administration.  
10 (c) The state building advisory commission shall approve those projects  
11 for which the use of alternative project delivery procurement process  
12 is appropriate. In making such determination, the commission shall consider  
13 the following factors:  
14 (1) The likelihood that the alternative project delivery method of procurement  
15 selected will serve the public interest by providing substantial  
16 savings of time or money over the traditional design-bid-build delivery  
17 process.  
18 (2) The ability to overlap design and construction phases is required  
19 to meet the needs of the end user.  
20 (3) The use of an accelerated schedule is required to make repairs  
21 resulting from an emergency situation.  
22 (4) The project presents significant phasing or technical complexities,  
23 or both, requiring the use of an integrated team of designers and constructors  
24 to solve project challenges during the design or preconstruction  
25 phase.  
26 (5) The use of an alternative project delivery method will not encourage  
27 favoritism in awarding the public contract or substantially diminish  
28 competition for the public contract.  
29 (d) When a request is made for alternative delivery procurement by  
30 an agency, the director shall publish a notice in the Kansas register that  
31 the state building advisory commission will be holding a public hearing  
32 with the opportunity for comment on such request. Notice shall be published  
33 at least 15 days prior to the hearing.  
34 (e) Notwithstanding the provisions of K.S.A. 75-3738 through 75-  
35 3744, and amendments thereto, if the state building advisory commission  
36 finds that the project does not qualify for the alternative project delivery  
37 methods included under this act, then the construction services for such  
38 project shall be obtained pursuant to competitive bids and all contracts  
39 for construction services shall be awarded to the lowest responsible bidder  
40 in accordance with procurement procedures determined and administered  
41 by the division of facilities management which shall be consistent  
42 with the provisions of K.S.A. 75-3738 through 75-3744, and amendments  
43 thereto.

HB 2394

5

1 (f) The secretary of administration may adopt regulations pursuant to  
2 K.S.A. 75-3783, and amendments thereto, for the conduct of the alternative  
3 project delivery process.

4 (g) When it is necessary in the judgment of the agency to obtain  
5 project services for a particular project as described under this act, the  
6 director shall publish a notice of the request for qualifications and proposals  
7 for the required project services at least 15 days prior to the commencement  
8 of such request in the Kansas register in accordance with  
9 K.S.A. 75-430a, and amendments thereto, and in such other appropriate  
10 manner as may be determined by the agency.

11 Sec. 4. Construction management at-risk project delivery procedures  
12 shall be conducted as follows:

13 (a) The director shall determine the scope and level of detail required  
14 to permit qualified construction manager or general contractors to submit  
15 construction management at-risk proposals in accordance with the request  
16 for proposals given the nature of the project.

17 (b) Prior to completion of the construction documents, but as early  
18 as during the schematic design phase, the construction manager or general  
19 contractor shall be selected. The project design professional may be  
20 employed or retained by the agency to assist in the selection process. The  
21 design professional shall be selected and its contract negotiated in compliance  
22 with K.S.A 75-1257 and 75-5804, and amendments thereto.

23 (c) The agency shall publish a notice of the request for qualifications  
24 and proposals for the required project services at least 15 days prior to  
25 the commencement of such requests in the Kansas register in accordance  
26 with K.S.A. 75-430a, and amendments thereto, and in such other appropriate  
27 manner as may be determined by the agency.

28 (d) The director shall solicit proposals in a three stage qualifications  
29 based selection process. Phase I shall be the solicitation of qualifications  
30 and prequalifying a minimum of three but no more than five construction  
31 manager or general contractors to advance to phase II. Phase II shall be  
32 the solicitation of a request for proposal for the project, and phase III  
33 shall include an interview with each proposer to present their qualifications  
34 and answer questions.

35 (1) Phase I shall require all proposers to submit a statement of qualifications  
36 which shall include, but not be limited to:

37 (A) Similar project experience;

38 (B) experience in this type of project delivery system;

39 (C) references from design professionals and owners from previous  
40 projects;

41 (D) description of the construction manager or general contractor's  
42 project management approach;

43 (E) financial statements; and

2-5

1 (F) bonding capacity. Firms submitting a statement of qualifications  
2 shall be capable of providing a public works bond in accordance with  
3 K.S.A. 60-1111, and amendments thereto, and shall present evidence of  
4 such bonding capacity to the state building advisory commission with their  
5 statement of qualifications. If a firm fails to present such evidence, such  
6 firm shall be deemed unqualified for selection under this subsection.

7 (2) The state building advisory commission shall evaluate the qualifications  
8 of all proposers in accordance with the instructions of the request  
9 for qualifications. The state building advisory commission shall prepare a  
10 short list containing a minimum of three and maximum of five qualified  
11 firms, which have the best and most relevant qualifications to perform  
12 the services required of the project, to participate in phase II of the  
13 selection process. If three qualified proposers cannot be identified, the  
14 selection process shall cease. The state building advisory commission shall  
15 have discretion to disqualify any proposer that, in the state building advisory  
16 commission's opinion, lacks the minimal qualifications required to  
17 perform the work.

18 (3) Phase II of the process shall be conducted as follows:

19 (A) Prequalified firms selected in phase I shall be given a request for  
20 proposal. The request for proposal shall require all proposers to submit  
21 a more in depth response including, but not be limited to:

22 (i) Company overview;

23 (ii) experience or references, or both, relative to the project under  
24 question;

25 (iii) resumes of proposed project personnel;

26 (iv) overview of preconstruction services;

27 (v) overview of construction planning;

28 (vi) proposed safety plan;

29 (vii) fees, including fees for preconstruction services, fees for general  
30 conditions, fees for overhead and profit and fees for self-performed work,  
31 if any.

32 (4) Phase III shall be conducted as follows:

33 (A) Once all proposals have been submitted, the negotiating committee  
34 shall interview all of the proposers, allowing the competing firms  
35 to present their proposed team members, qualifications, project plan and  
36 to answer questions. Interview scores shall not account for more than  
37 50% of the total possible score.

38 (B) The negotiating committee shall select the firm providing the best  
39 value based on the proposal criteria and weighting factors utilized to emphasize  
40 important elements of each project. All scoring criteria and  
41 weighting factors shall be identified by the agency in the request for  
42 proposal instructions to proposers. The negotiating committee shall proceed  
43 to negotiate with and attempt to enter into contract with the firm



1 receiving the ~~highest~~ total score to serve as the construction manager or  
 2 general contractor for the project. The negotiations shall proceed in accordance  
 3 with the same process with which negotiations are undertaken  
 4 to contract with design professionals under K.S.A. 75-1250 and 75-5804,  
 5 and amendments thereto, to the extent that such provisions are consistent  
 6 with this act. Should the negotiating committee be unable to negotiate a  
 7 satisfactory contract with the firm scoring the ~~highest~~ total score, negotiations  
 8 with that firm shall be terminated, and the committee shall undertake  
 9 negotiations with the firm with the next ~~highest~~ total score, in  
 10 accordance with this act.

best  
 best  
 best

11 (C) If the negotiating committee determines, that it is not in the best  
 12 interest of the agency to proceed with the project pursuant to the proposals  
 13 offered, the negotiating committee shall reject all proposals. If all  
 14 proposals are rejected, the director may solicit new proposals using different  
 15 design criteria, budget constraints or qualifications.

16 (D) The contract to perform construction management at-risk services  
 17 for a project shall be prepared by the secretary of administration and  
 18 entered into between the agency and the firm performing such construction  
 19 management at-risk services. A construction management at-risk  
 20 contract utilizing a cost plus guaranteed maximum price contract value  
 21 shall return all savings under the guaranteed maximum price to the  
 22 agency.

23 (E) The director shall publish a construction services bid notice in  
 24 the Kansas register and in such other appropriate manner for the construction  
 25 manager or general contractor as may be determined by the  
 26 state agency. Each construction services bid notice shall include the request  
 27 for bids and other bidding information prepared by the construction  
 28 manager or general contractor and the state agency with the assistance  
 29 of the division of facilities management. The current statements of qualifications  
 30 of and performance data on the firms submitting bid proposals  
 31 shall be made available to the construction manager or general contractor  
 32 and the state agency by the state building advisory commission along with  
 33 all information and evaluations developed regarding such firms by the  
 34 secretary of administration under K.S.A. 75-3783, and amendments  
 35 thereto. The agency may allow the construction manager or general contractor  
 36 to self-perform construction services provided the construction  
 37 manager or general contractor submits a bid proposal under the same  
 38 conditions as all other competing firms. If a firm submitting a bid proposal  
 39 fails to present such evidence, such firm shall be deemed unqualified for  
 40 selection under this subsection. At the time for opening the bids, the  
 41 construction manager or general contractor shall evaluate the bids and  
 42 shall determine the lowest responsible bidder except in the case of selfperformed  
 43 work for which the agency and the department of administration

1 shall determine the lowest responsible bidder. The construction manager  
2 or general contractor shall enter into a contract with each firm  
3 performing the construction services for the project and make a public  
4 announcement of each firm selected in accordance with this subsection.

5 Sec. 5. Building design-build project delivery procedures shall be  
6 conducted as follows:

7 (a) The director shall determine the scope and level of detail required  
8 to permit qualified persons to submit building design-build proposals in  
9 accordance with the request for proposals given the nature of the project.

10 (b) Notice of requests for proposals shall be advertised in accordance  
11 with K.S.A. 75-430a, and amendments thereto. The director shall publish  
12 a notice of a request for proposal with a description of the project, the  
13 procedures for submittal and the selection criteria to be used.

14 (c) The director shall establish in the request for proposal a time,  
15 place and other specific instructions for the receipt of proposals. Proposals  
16 not submitted in strict accordance with such instructions shall be subject  
17 to rejection.

18 (d) A request for proposals shall be prepared for each building design-  
19 build contract containing at minimum the following elements:

20 (1) The procedures to be followed for submitting proposals, the criteria  
21 for evaluation of proposals and their relative weight, and the procedures  
22 for making awards.

23 (2) The proposed terms and conditions for the building design-build  
24 contract.

25 (3) The design criteria package.

26 (4) A description of the drawings, specifications or other information  
27 to be submitted with the proposal, with guidance as to the form and level  
28 of completeness of the drawings, specifications or other information that  
29 will be acceptable.

30 (5) A schedule for planned commencement and completion of the  
31 building design-build contract.

32 (6) Budget limits for the building design-build contract, if any.

33 (7) Requirements, including any available ratings for performance  
34 bonds, payment bonds and insurance.

35 (8) Any other information that the agency at its discretion chooses to  
36 supply, including without limitation, surveys, soil reports, drawings of existing  
37 structures, environmental studies, photographs or references to  
38 public records.

39 (e) The director shall solicit proposals in a three-stage process. Phase  
40 I shall be the solicitation of qualifications of the building design-build  
41 team. Phase II shall be the solicitation of a technical proposal including  
42 conceptual design for the project and phase III shall be the proposal of  
43 the construction cost.

- 1 (1) The state building advisory commission shall review the submittals  
2 of the proposers and assign points to each proposal as prescribed in  
3 the instructions of the request for proposal.
- 4 (2) Phase I shall require all proposers to submit a statement of qualifications  
5 which shall include, but not be limited to, the following:
- 6 (A) Demonstrated ability to perform projects comparable in design,  
7 scope and complexity.
- 8 (B) References of owners for whom building design-build projects  
9 have been performed.
- 10 (C) Qualifications of personnel who will manage the design and construction  
11 aspects of the project.
- 12 (D) The names and qualifications of the primary design consultants  
13 and contractors with whom the building design-builder proposes to subcontract.  
14 The building design-builder may not replace an identified subcontractor  
15 or subconsultant without the written approval of the agency.
- 16 (E) Firms submitting a statement of qualifications shall be capable of  
17 providing a public works bond in accordance with K.S.A. 60-1111, and  
18 amendments thereto, and shall present evidence of such bonding capability  
19 to the state building advisory commission with their statement of  
20 qualifications. If a firm fails to present such evidence, such firm shall be  
21 deemed unqualified for selection under this subsection.
- 22 (3) The state building advisory commission shall evaluate the qualifications  
23 of all proposers in accordance with the instructions prescribed  
24 in the request for proposal. Designers on the project shall be evaluated  
25 in accordance with the requirements of K.S.A. 74-7003, and amendments  
26 thereto. Qualified proposers selected by the evaluation team may proceed  
27 to phase II of the selection process. Proposers lacking the necessary qualifications  
28 to perform the work shall be disqualified and shall not proceed  
29 to phase II of the process. Under no circumstances shall price or fees be  
30 considered as a part of the prequalification criteria. Points assigned in the  
31 phase I evaluation process shall not carry forward to phase II of the process.  
32 All qualified proposers shall be ranked on points given in phases II  
33 and III only. The two phase evaluation and scoring process shall be combined  
34 to determine the greatest value to the state agency.
- 35 (4) The state building advisory commission shall have discretion to  
36 disqualify any proposer, which in the state building advisory commission's  
37 opinion, lacks the minimal qualifications required to perform the work.
- 38 (5) The state building advisory commission shall prepare a short list  
39 containing a minimum of three, but no more than the top five qualified  
40 proposers to participate in phase II of the process. If three qualified  
41 proposers cannot be identified, the contracting process shall cease.
- 42 (6) Phase II of the process shall be conducted as follows:
- 43 (A) Proposers shall submit their design for the project to the level of

1 detail required in the request for proposal. The design proposal should  
2 demonstrate compliance with the requirements set out in the request for  
3 proposal.  
4 (B) Up to 20% of the points awarded to each proposer in phase II  
5 may be based on each proposer's qualifications and ability to design, construct  
6 and deliver the project on time and within budget.  
7 (C) The design proposal shall not contain any reference to the cost  
8 of the proposal.  
9 (D) The design submittals shall be evaluated and assigned points in  
10 accordance with the requirements of the request for proposal.  
11 (7) Phase III shall be conducted as follows:  
12 (A) The phase III proposal shall provide a firm fixed cost of construction.  
13 The proposal shall be accompanied by bid security and any other  
14 submittals as required by the request for proposal.  
15 (B) The proposed contract time, in calendar days, for completing a  
16 project as designed by a proposer shall be considered as an element of  
17 evaluation in phase III. The request for proposal shall establish a user  
18 delay value for each proposed calendar day identified in the proposal.  
19 (C) Cost and schedule proposals shall be submitted in accordance  
20 with the instructions of the request for proposal. Failure to submit a cost  
21 proposal on time shall be cause to reject the proposal.  
22 (8) Proposals for phase II and III shall be submitted concurrently at  
23 the time and place specified in the request for proposal. The phase III  
24 cost proposals shall be opened only after the phase II design proposals  
25 have been evaluated and assigned points.  
26 (9) Phase III cost and schedule, which shall prescribe containing the  
27 number of calendar days, proposals shall be opened and read aloud at  
28 the time and place specified in the request for proposal. At the same time  
29 and place, the evaluation team shall make public its scoring of phase II.  
30 Cost proposals shall be evaluated in accordance with the requirements of  
31 the request for proposal. In evaluating the proposals, each proposers'  
32 adjusted score shall be determined by adding the phase III cost proposal  
33 to the product of the proposed contract time and the user delay cost, and  
34 dividing that sum by the phase II score.  
35 (10) The responsive proposer with the lowest total number of points  
36 shall be awarded the contract. If the director determines, that it is not in  
37 the best interest of the state to proceed with the project pursuant to the  
38 proposal offered by the proposer with the lowest total number of points,  
39 the director shall reject all proposals. In such event, all qualified proposers  
40 with higher point totals shall receive a stipend pursuant to subsection  
41 (e)(12) of section 5, and amendments thereto, of this act, and the proposer  
42 with the lowest total number of points shall receive an amount equal to  
43 two times such stipend.

1 (11) If all proposals are rejected, the negotiating committee may solicit  
2 new proposals using different design criteria, budget constraints or  
3 qualifications.

4 (12) As an inducement to qualified proposers, the agency shall pay a  
5 stipend, the amount of which shall be established in the request for proposal,  
6 to each prequalified building design-builder whose proposal is responsive  
7 but not accepted. Upon payment of the stipend to any unsuccessful  
8 building design-build proposer, the state shall acquire a  
9 nonexclusive right to use the design submitted by the proposer, and the  
10 proposer shall have no further liability for its use by the state in any  
11 manner. If the building design-build proposer desires to retain all rights  
12 and interest in the design proposed, the proposer shall forfeit the stipend.

13 Sec. 6. Every bid conforming to the terms of the advertisement, together  
14 with the name of the bidder, shall be recorded, and all such records  
15 with name of the successful bidder indicated thereon shall, after award  
16 or letting of the contract, be subject to public inspection upon request.  
17 The secretary of administration shall, within five days after award or letting  
18 of the contract, publish the name of the successful bidder. The public  
19 notice on public display shall show the phase II and III scores and the  
20 adjusted final score. The secretary of administration shall, within five days  
21 after award or letting of the contract, have the names of all proposers  
22 whose bids were not selected, together with phase II and III scores and  
23 the final adjusted score for each, available for public review.

24 Sec. 7. The provisions of the Kansas alternative project delivery construction  
25 procurement act shall not apply to highway or turnpike projects.

26 Sec. 8. This act shall take effect and be in force from and after its  
27 publication in the statute book.

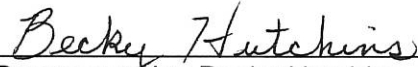
building

the process of designing,  
constructing, altering, or repairing  
a public highway, road, bridge,  
dam, turnpike or related  
structures, or stand alone  
parking lots

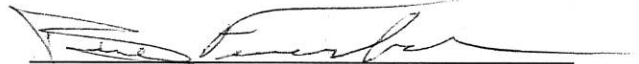


House Education Budget Committee

House Bill 2574



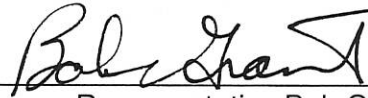
Representative Becky Hutchins, Chair



Representative Bill Feuerborn



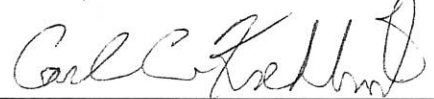
Representative Lana Gordon



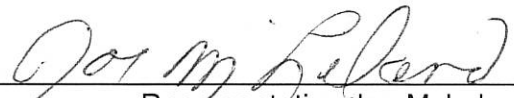
Representative Bob Grant



Representative Steve Huebert



Representative Carl Krehbiel



Representative Joe McLeland



Representative Tom Sawyer



Representative Kevin Yoder

HOUSE APPROPRIATIONS

DATE 1-31-2006  
ATTACHMENT 3

## House Education Budget Committee

### Recommendation on House Bill 2574

#### **Brief**

HB 2574 would allow the Board of Regents and the state universities to dispose of property bequeathed to them without having to seek authorizing legislation. Under current law, the Board and the universities must seek legislation to dispose of land received in a bequest if the agency holds more than one-half interest in the property. The bill would do away with the limit.

#### **Background**

The bill was introduced by the Legislative Educational Planning Committee as a part of the legislative package requested by the Board of Regents. At the hearing on the bill, a representative of the University of Kansas testified in favor of the bill. In addition, the President of the Board of Regents submitted written testimony in favor of HB 2574. There were no opponents to the bill appearing before the Budget Committee.

A fiscal note by the Division of the Budget was not available at the time of the hearing.

#### **Recommendation**

The Education Budget Committee recommends House Bill 2574 favorably for passage.