

MINUTES OF THE HOUSE COMMITTEE ON VETERANS, MILITARY AND HOMELAND  
SECURITY

The meeting was called to order by Chairman Don Myers at 1:30 P.M. on February 12, 2007 in Room 241-N of the Capitol.

All members were present.

Committee staff present:

Art Griggs, Revisor of Statutes Office  
Athena Andaya, Kansas Legislative Research  
Betty Caruthers, Committee Assistant

Conferees appearing before the committee:

Charles Yunker, American Legion  
Darrell Bencken, VFW  
Bob Ulin, Association of US Army  
Jim Bunker  
Christian Kramer  
Jim Frederick  
Randy Mettner, Adjutant General's Office  
Robin Kempf, Board of Regents

Others attending:

See attached list.

Moved by Representative Kelsey, seconded by Representative Colloton for approval of Minutes of the House Committee on Veterans, Military and Homeland Security held on February 7, 2007 be approved.

Motion carried.

Chairman Myers opened hearings on **HB 2210 - KS veterans affairs; service grant programs.**

Chairman Myers requested Revisor, Art Griggs to give a summary of the bill. He covered the changes and new requirements of the bill. Representative Ruff questioned the intent of the bill which now states that all claims now filed with the federal department of veterans affairs by the Kansas commission on veterans' affairs shall be.....etc. Representative Ruff stated this was not her intention with the bill and she would make certain to have that changed.

Chairman Myers recognized Representative Ruff who gave testimony as a proponent for the bill. (Attachment 1) She noted a loyalty to the VFW and American Legion over the years with the State, noting it was only natural they would inherit the initial phase of the claims program. Representative Ruff also stated it was never the intention to eliminate other VSO's from participation.

Chairman Myers recognized the following proponents who gave testimony on the bill:

Charles Yunker (Attachment 2)

Darrell Bencken (Attachment 3) He requests giving the present Grant Program a three year period to prove that it is working.

Chairman Myers recognized the following opponents who gave testimony on the bill:

Bob Ulin (Attachment 4) He wants a choice of providers and stated that this bill "smacks of favoritism."

Jim Bunker (Attachment 5) He believes any attempt to force veterans to use only one or two VSO's for their claims goes against everything the program was initially set up for.

Christian Kramer (Attachment 6) He believes this bill will limit veterans' access to service and that they should continue to have the freedom of choice.

Chairman Myers recognized Jim Frederick who presented testimony on behalf of George Webb (Attachment 7) and Michael Neer (Attachment 8), both opponents to the bill.

CONTINUATION SHEET

MINUTES OF THE House Committee on Veterans, Military and Homeland Security at 1:30 P.M. on February 12, 2007 in Room 241-N of the Capitol.

Chairman Myers closed hearings on **HB 2210**.

Chairman Myers opened hearings on **HB 2425 - Tuition and fees for members of Kansas army or national guard**.

Chairman Myers recognized Randy Mettner who gave testimony as a proponent for the bill. (Attachment 9) He believes this bill gives clarification to members of the Kansas National Guard regarding tuition fees for state institutions.

Chairman Myers recognized Robin Kempf who gave neutral testimony regarding the bill. (Attachment 10) She asked that the Committee refer to **HB 2352** which has the same intent as **HB 2425** but addresses the requirement of "active" service regarding National Guard members.

Chairman Myers closed the hearings regarding **HB 2425**.

Chairman Myers adjourned the meeting at 3:10.

Next meeting is scheduled for Tuesday, February 13, 2007.



STATE OF KANSAS

L. CANDY RUFF  
REPRESENTATIVE FORTIETH DISTRICT  
LEAVENWORTH COUNTY  
321 ARCH  
LEAVENWORTH, KANSAS 66048  
(913) 682-6390

STATE CAPITOL, ROOM 322-S  
TOPEKA, KANSAS 66612  
(785) 296-7647  
E-MAIL: Ruff@house.state.ks.us



TOPEKA

HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
RANKING MINORITY MEMBER: VETERANS, MILITARY &  
HOMELAND SECURITY AFFAIRS  
MEMBER: COMMERCE & LABOR  
MEMBER: JOINT COMMITTEE ON ARTS AND  
CULTURAL RESOURCES

To: Members of the House Committee on Veterans, Military and Homeland Security

From: Rep. L. Candy Ruff and Sen. Ralph Ostmeyer

Re: Testimony for HB 2210

Date: Feb. 12, 2007

When the Kansas Legislature passed SB 396 last year, we knew there would be some tweaking this year to the Veteran Claims Assistance Program. The bill before you today, HB 2210, not only includes some clean up language for the claims program, it also represents provisions we had hoped could be addressed in rules and regulations. Commissioners for the Kansas Commission on Veterans Affairs rejected some of the work done by the Advisory Council (created in SB 396), asking that eligibility criteria for the Veteran Service Organizations (VSO) be placed in statute.

HB 2210 spells out that eligibility keeping in mind the perimeters of our legislative intent. When the decision was made last year to dissolve the over 60-year dual employment relationship between the state and the American Legion and Veterans of Foreign Wars (VFW), the claims program was designed to replicate existing veteran services at the three veteran hospitals in Kansas. KCVA would continue its' rural/outreach efforts with veteran service representatives (VSRs) who served as points of intake in the process of veterans seeking benefits from the Veterans Administration. And now, using funds from the claims program as well as their own money, the eligible VSOs would not only process VA benefit claims taken at the three VA hospitals, but also referrals from the KCVA.

Following examples from the state of Washington as well as other states, the legislation last year directed KCVA to initiate the most important aspect of the new claims program, a quality control initiative operated at the Wichita office. All claim requests for VA benefits, whether from a KCVA intake worker or from a VSO in a hospital, were directed to the central clearing point to be logged in, checked for thoroughness and proper documentation and then forwarded to the VSO named by the veteran as his/her power of attorney. Not only does this quality control measure guarantee a reduction on the number of errors in the initial application process, but reduces the number of claims that are appealed because of incomplete information or improper documentation.

House Committee on Veterans, Military  
and Homeland Security  
2/12/07  
Attachment 1

When criteria for the claims program was discussed last year, several items stood out. Because the state was dissolving a long-time relationship with VSOs (American Legion and VFS) who had been permanent fixtures in the three VA hospitals for decades, those eligible for the new funding would need to have a similar presence. At the time, Rep. Lee Tafanelli described these VSOs as having “a large footprint in Kansas,” and our Advisory Council endeavored to come up with criteria that fit the description, which you will see on page three of the bill.

What I take exception to is the inference that these criteria somehow intentionally excluded the Disabled American Veterans. Frankly, the DAV had eliminated itself from consideration long before the claims program was created. Twice the DAV entered into short-time dual employment arrangements with the state, once in the late 1950s and again in the mid-1980s. Both times, the group voluntarily left state service because it did not want to comply with our reporting requirements. From what I understand of the circumstances, the DAV balked at sharing the contents of its files and the reporting obligations required of any VSO doing business with the state.

When the quality control component of the claims program became evident last year, the DAV showed no interest in participating. Not only would it not submit its claims to be reviewed for thoroughness and completeness, the DAV was not inclined to have its claims tracked for appeals. In fact, it was KCVA’s executive director George Webb’s claim that DAV was responsible for 90 percent of the appeals being handled by the VA hearing officers in Wichita that prompted me to look into the appeals process.

Because the Kansas Legislature has its own sources of information, I was able to secure from the Veterans Administration details on the appeals process or what it calls remands. More often than not appeals occurred because additional information was needed or the original claim application was not completed correctly. Of course, when disability claims were denied, an appeal also took place to protest the denial. The VA said Mr. Webb was quoting its Board of Veterans Appeals’ hearing schedule for the last week of March, when the DAV was slated to appear on 32 appeals, American Legion, 4; and VFW, 2. However, the statistics nationwide follow a similar pattern with the DAV accounting for nearly 40 percent of the appeals, the American Legion at 17 percent, and the VFW at nearly nine percent.

The issue of cross accreditation is one that deserves attention. Although this bill calls for VSOs in the claims program to cross accredit not only one another but those KCVA personnel who work at the Wichita regional office. Frankly, cross accreditation needs to be extended further to those KCVA VSRs who work in regional offices and need access to veteran records. Because of the dictates that govern access to records in the Veterans Administration, it is impossible to view them on a “read only” basis. However, the VSOs being asked to offer this accreditation are hesitant about the details. When this bill is worked, the amendment I intend to offer will address those concerns.

Besides the veterans claims program, this bill also affirms the state’s policy in regards to KCVA serving as its own veteran service organization. Although a recent Attorney General’s opinion said the state agency could serve as a veteran’s power of attorney when it came to taking and processing benefit claims, this bill clarifies the state’s policy. During the Oct. 20, 2006, KCVA commissioners’ meeting, Vice Chairman Ed Wieggers said it was not the Commission’s intention to have KCVA handle claims from start to finish. The language in the amendment Rep. Jan Pauls assisted me in drafting affirms Commissioner Wieggers’ statement.

I realize this is a policy first established in the early 1950s and there may be some who feel as though its’ time has come. But I have to disagree. There are nine VSOs in Kansas who serve as power of attorney for veterans seeking help from the VA from burial assistance to disability benefits. In testimony

presented last year to our Veterans committee, there were only three instances in the past 11 years when a veteran did not want to use any of the VSOs. When a veteran designates a Power of Attorney, he places faith in that VSO to represent him from start to finish no matter how complicated his claim gets or no matter what legal or medical assistance will be required. The state should not get itself into a potential costly situation by allowing KCVA to serve as its own VSO. And the idea of KCVA passing off the more costly and complicated claim cases to another VSO when it looks like they could become liable for the state is insulting to the veteran who placed his faith in KCVA in the first place.

HB 2210 takes the Veterans Claims Assistance Program into its second year by placing its eligibility criteria in statute, and clarifying the state's position on KCVA of not assuming the position of a veteran's service organization. Because the state had a decades-long relationship with the VFW and American Legion, it was only natural that these two VSOs would inherit the initial phase of the claims program. It was never the intention of last year's committee to completely eliminate other VSOs from participation. Although our goal in creating this program was to replicate the existing services already being given to veterans in the three VA hospitals in Kansas, we hoped that after the program was in affect for a few years, it could be expanded.

When this bill is worked, it is my intention to call for a Legislative Post Audit at the end of three years to evaluate the program's effectiveness. With that information in hand, I will be the first to suggest changes in the program that opens it up to the VSOs with a presence in at least one of the VA hospitals in Kansas.

# **HOUSE BILL No. 2210**

**By the Committee on Veterans, Military and Homeland Security**

**Monday, February 12, 2007**

**Testimony in favor of HB2210**

**By**

**Charles M Yunker, Adjutant**

**The American Legion**

**Department of Kansas**

**(785) 232-9315**

I must confess when the proposal to begin a grant program to provide Kansas Veterans and their family's assistance in filing for and obtaining their earned Federal Benefits from the US Department of Veterans Affairs, I was not convinced that was the best path to follow. It's been said that the older we get, the more disinclined we are to accept change and I've found that quite often to be true. Therefore I try to remember to take a step back and look at proposed changes with, as the comedian Gallagher says, "new eyes" and ask myself is this change just for the sake of change, or will it prove beneficial for those it is meant to assist.

Although I wasn't totally convinced last year when the Grant program was approved, I have become to believe that it is the best way to provide services to veterans and their families. That is; we have been able to retain experienced Veteran Service Representatives and their support staff in two of Kansas' VA Medical Centers in addition to hiring two new VSRs, currently receiving on the job training, who will attend formal training provided by our National organization the last week of this month. Those two individuals are assigned to our office in the VA Regional Center in Wichita where we provide space for the Kansas Commission on Veterans Affairs "Quality Assurance" staff and one VSR who received their formal training from The American Legion and who are providing the informal on the job training I've already mentioned. What that means is we have been able to fulfill vacancies previously allowed by the KCVA to remain unfilled which placed an extra burden on existing personnel and diluted services to veterans. Thus far I've only addressed The American Legion offices however the VFW's staffing and training experience is similar, although I believe their new staff has already received their fist block of formal training from their National organization.

Perhaps the single greatest success of the Grant program is the flexibility it has provided in our outreach programs. Each year we conduct our "American Legion Veterans Affairs" tour when we visit over three hundred local Posts throughout the state; despite delays in the Grant program's start which in turn delayed hiring our new personnel (and providing them very basic training) which led to short notice given to our Posts when a tour would stop at their location, we experienced an increase in the number of veterans attending the tour's stops (over 3400 compared to 3200 in 2005) resulting in over 20 new known filings for VA benefits. While twenty new filings might not seem very many at first glance; we know many others are filed in the weeks following our tours because individuals cherish their privacy therefore they wait until a crowd isn't around. Just as important is our message and information is passed on from one veteran to another and that leads to more filings by veterans who did not attend the tour.

Similarly we have attend over 8 re-integration weekend meetings with National Guard and Reserve troops, and their families, who have returned from overseas assignments. Two weeks ago we attend one such meeting with approximately 100 Guardsmen and their families which netted 5 new filings. Of course there is also the possibility of more in the future because, as I indicated earlier, some people are very private and do not wish to let others know they are filing. We have another re-integration scheduled this weekend and we have been told to expect up to 1000 to be in attendance. We also attend similar meetings at Ft. Riley, Ft. Leavenworth, and McConnell AFB during meetings held for military retirees and for those being discharged from the military.

I urge you to vote in favor of HB 2210 in its present form because the initial year of the Grant program start was delayed and we (the State and participating organizations) have not had a full year to evaluate the program. Some may argue that the program excludes other, smaller organizations therefore is unfair, and that requiring Congressional Charters is unnecessary. Obviously I am a member of The American Legion, I am also a member of the VFW, a life member of the DAV, and have been a member of the VVA and American GI Forum. First and foremost I consider myself a veteran, and as a veteran I have no problem supporting the concept of providing grants to the two largest veterans organizations in the state and nation----they have the largest network and largest



staff in Washington to process appeals. When the KCVA's predecessor, the Kansas Veterans Commission was formed in the early 1950's the DAV was included but that organization opted out on its own within five years because they refused to share information. Likewise in the 1980's the DAV wanted and was allowed back in, only to opt out again within two years. The American Legion and VFW remained steady in their partnership with the State of Kansas and will remain so under the Grant program. Congress does not grant Congressional Charters lightly and as Congressionally Chartered organizations we must report everything we do annually to Congress. In fact the IRS created a specific 501c (19) category for Congressionally Charters organizations. Together the American Legion and VFW membership exceeds seventy eight thousand and we have never used our Veterans Services programs as a means of increasing membership. Whereas the DAV has fewer than ten thousand members and the other organizations in Kansas has still fewer members. My point being the American Legion and VFW, through our regularly scheduled publications mailed to every member, and additional bulletins and newsletters mailed to local leaders within our organizations (including specific VA related news items mailed to Post Service Officers) are better positioned to service all veterans. We rely heavily upon our more than seventy-eight thousand members to make referrals to other veterans and one of our Posts is funding the production for a series of Public Service Announcements each aimed to enhance our community based outreach programs.

In closing I might add that each of our Veteran Service Representatives have been accredited by the two or more veterans organizations to represent veterans before the US Department of Veterans Affairs; at least one has been accredited by as many as four organizations. In the event a veteran's claim must be appealed the Legion's National organization has a staff of 44 people based in Washington, DC (including both medical and legal experts) to assist in processing and prosecuting appeals at every level. And all at no cost to the State of Kansas. Likewise, the VFW has a similar appeals network in place.

TESTIMONY TO THE VETERANS HOMELAND SECURITY COMMITTEE  
BY DARRELL F. BENCKEN, KANSAS VETERANS OF FOREIGN WARS

Mr. Chairman, members of the Veterans Committee. My name is Darrell Bencken and I represent the Kansas Veterans of Foreign Wars on the Veterans Service Grant Advisory Committee as the Governor's appointee. I want to thank you for the opportunity to testify here today on behalf of the Veterans Service Grant program.

As you are aware SB 396 passed last year by unanimous vote in both the House and Senate. The program was mandated to be in effect by August 1, 2006.

From June 2004 to the start of the Grant Program, VFW Service Offices were never up to strength with accredited Service Officers. The Kansas Commission on Veterans Affairs refused to replace our Service Officers under the partnership we had with the State of Kansas during that period, two (2) VFW Service Officers retired, one(1) quit and went to the VA and one (1) was lost to illness. Of course, during that time our service to veterans and their families plummeted.

During the period of November 2004 to November 2005 claim service by the KCVA was reduced nearly 50% due to the vacant offices and positions within the VFW and American Legion. This data is available through the KCVA's own reporting system, not ours. In 2005, the KCVA convened a committee to study the Joint Employment Agreement between the State of Kansas, VFW and the American Legion. For some reason we never understood and could not find out, the Disabled American Veterans (DAV) were included with a representative on the committee although they were not a part of the partnership. However, we were later told the KCVA asked the DAV to participate, thus assuring a 3 to 2 vote on every issue.

The DAV was a participant in the agreement many years ago but withdrew because they did not want to report their activity to the state or any other organization. A position the DAV maintained all during the Joint Employment Committee meetings and the meetings of the Veterans Service Grant Committee.

Yet, you have heard in testimony by the KCVA Executive Director that the Grant Program should be expanded to include them and any other veterans' organizations that exist. For your information, application forms were sent to every Kansas Veterans Organization that qualified in KSA 73-1211, which is the current statute covering eligibility to the State Veterans Service organization partnership. All of these organizations declined to participate except the Kansas VFW and American Legion. Also, I have not witnessed their presence before this committee. That indicates they have no interest in this Grant Program and further indicates they would not be an asset to the program.

In closing, I would ask one thing of this committee and that is for you to give the present Grant Program a three (3) year period to mature and prove to everyone that it is a working beyond expectations and we have the documentation to prove it.

Thank you again for allowing me to testify before you.

I now stand for questions.

**TESTIMONY REGARDING HB 2210**  
**Colonel Robert R. Ulin, US Army-Retired**  
**Kansas State President, Association of the United States Army**  
**Member, Governor's Military Council**

**Monday, February 12, 2007**

Mr. Chairman, and members of the House Committee on Veterans, Military and Homeland Security, I come before you today to express my concerns over House Bill 2210 that, if enacted in its present form, would limit support provided to our veterans.

First, I wish to commend the Kansas Commission on Veterans Affairs (KCVA) that has worked steadfastly over the years for the benefit of all Kansas veterans. Now more than ever before support provided by the KCVA is a necessary and critical component of our obligation to look out for those service men and women who are called upon to fight our nation's wars. Several groups of veterans come to mind: aging veterans especially those from the WWII and Korean War generation who are passing away in ever increasing numbers, veterans from the Vietnam War and the First Gulf War who require medical treatment from exposure to toxins and combat-related injuries and now the ever increasing numbers of service members returning from the War in Afghanistan and Iraq. This committee has a solemn responsibility to care for those who served and are currently serving our nation around the world. The action you take today will likely affect the quality and timeliness of medical care for our servicemen and women today and in the future.

In the interest of full disclosure I wish too clarify the role of the Association of the United States Army, the organization that I represent. We are not affected by this bill in any way. We are not a veteran service organization recognized by the VA to provide assistance to veterans seeking claims for medical services.

I do not intend to get into the mechanics of HB 2210, others have done that in detail. I wish to focus on one central issue and that is the State of Kansas mandating the use of congressionally chartered veteran service organizations (VSOs) to process claims for our veterans. If I'm not mistaken, the VSOs that stand to gain by the way this bill is written are the Veterans of Foreign Wars (VFW) and the American Legion (AL) while the remaining 24 VSOs recognized by the Veterans Administration to process claims on behalf of veterans would be excluded under this bill. Why would we want to impose this restriction on our veterans? Why would you wish to mandate in law and give preference to one private organization over another?

I am currently a life member of the VFW and I praise their work. Additionally, I praise the work of the American Legion, but this bill is flawed by limiting the ability of veterans from obtaining assistance of other VA-recognized VSOs to process their claims. The Veterans Administration worked hard to provide veterans with a choice of providers, why does this bill restrict that choice? Additionally, the government mandating the use of one private organization over another smacks of favoritism and may not survive a legal challenge.

I am very familiar with private organizations and their relationship to governmental entities because I run a Kansas nonprofit corporation that supports the US Army Command and General Staff College. I can assure you that the federal government provides absolutely no preference to my organization even though we solely exist to serve the US Army Command and General Staff College.

Here are some statistics from the Defense Manpower Data Center concerning casualties in the global war on terrorism from 7 October 2001 to 3 February 2007.

- Of the 27,970 casualties; that is, killed and wounded in Iraq, Afghanistan and other anti-terrorist campaigns 88 percent were classified as wounded in action.
- These wounded service members are returning home and most are seeking medical treatment of some kind.
- Additionally, in the months and years to come active, guard and reserve service members will seek compensation for service connected injuries. It should be your priority to ensure they receive prompt, reliable and accurate processing of these claims.

Why would you even consider making it more difficult for returning Kansas warriors to process claims with the VA by restricting the number of VA-recognized organizations recognized by the state? Additionally, why would you remove the Kansas Commission of Veterans Affairs, your commission, from handling these claims and providing the necessary oversight to ensure that our veterans are properly cared for?

In closing, I thank you for your service to the State of Kansas and to Kansas veterans who are counting on you to establish policies and guidelines that facilitate timely processing of their legitimate and hard-earned claims for medical care.

I remain hopeful that you will do right by the veterans of this state.



## Veteran Information Network

[www.Kansasvets.org](http://www.Kansasvets.org)  
785-221-0162



### Testimony of James A. Bunker on House Bill 2210

February 12, 2007

Honorable Chairman Myers and members of the committee,

I stand here in opposition to House Bill 2210, please keep in mind that I am not against the veteran service organization granting program, I am oppose to some of the restriction. Last year when the state first passed the legislation on the granting program, to me they had the intent of and, as it was written into the statute, “to improve the coordination of veterans benefits counseling in Kansas to maximize the effective and efficient use of taxpayer dollars and to ensure that every veteran is served and receives claims counseling and assistance” that statute, and this bill, does little to see to it that it is being done.

The first thing I would like to address is how this bill is taking away the freedom of our veterans. This freedom is the right to pick who the veteran wants to work their claim. Yes that is right this bill takes this freedom away from all of us. If this bill passes, a veteran that has MS and needs help to fill out the paper work for his claim can no longer go to the state paid VSR for that help and still have the best organization to help them. You see there is no one best organization for all types of claims, which is why we have different organizations helping veterans. The Paralyzed Veterans of America (PVA) is one of the best when it comes to claims for MS and a large list of other lesser know spinal cord diseases /disorders.

I feel that any attempt to force veterans to us only one of two Veteran Service Organization (VSO) for their claims, leaving out the five other choices, goes against everything that was conceived when the laws on the state VSR program was first sat up. If one want to go back to the VSOs that were taking part in the 1950's one would need to do a lot of looking to see all of the organizations that was able to work claims, the only thing we know for sure is that the three larges VSOs in the state now was a part of that group. We also need to keep in mind that the laws governing veterans claims have changed a lot over the past 60 years and so have the numbers and types of organization doing claims.

Also in forcing all claims, done by the state paid VSR, to go to only the American Legion and VFW as this bill calls for will also cause unnecessary delays in claims for things like head stones, educational benefits' and other types of aid given that the form is only sent to a special place. You see the

form for a dependant's post high school training, once filled out only needs to be sent to the VA center doing them that for the most part is not the RO in our state. To send a form like this to the American Legion or VFW will only delay the granting of the aid, or the changing of an address for where the check is sent when the student moves.

If this passes, the American Legion and VFW will not only get the grant for their use, they will also get the added benefits' of my tax dollars that pay and train the state VSRs to become a part of their program and leaving even more veterans with out help. You see if one gets the data from the VARO you would find that about 60% of the veterans are doing their own claims.

This bill also wants to add even more restrictions on just who can take part in the granting program. These added restrictions are only to better service the American Legion and the VFW by insuring only they can take part. This is not something in the best interest for the veterans of our state. VA data has shown time and again that the most claims, for veterans using one of the big three, are being done by the DAV. This should tell you tell that most veterans feel they are the best, and being so, they should never have been left out.

Last year the ranking Minority Leader of the committee that worked the bill setting up the granting program openly stated that she wanted the program only for the American Legion and the VFW. She also went on record that she would do any thing they asked to insure that it was only for them. Now, like then, there are some things being said about the DAV and why they can not have any of the granting funding. The last one I heard was how the DAV can not take state funding because it is a national program. Nothing is further from the truth on this. In fact Kansas is one of the few states in a granting program that does not give a grant to the DAV.

Well in doing so, they made sure that the statute left out the third largest veteran service organization that is doing the most claims in our state. This organization has had a history of being number three in size yet doing more claims in our state. They have done this with their own money and man power.

I have given the Chairman and the ranking Minority Leader some ideas on how the statute could be changed so that the other organization could take part in the granting program and to help stop the problems that we have now. It would be best that the committee would look at them and do what is right for our veterans. Any thing that leaves this program for only the American legion and VFW is not in the best interest of our veterans.

The ranking Minority Leader has also stated many times over that she wanted this program for the American Legion and the VFW in the first two years and then opens it up to the other organizations.



With the way our state budget work, that will happen no matter what we do. Next why pass a bill to add more restriction that insure that only the American Legion and the VFW will get the grants, and say it could be changed next year? Well it may be like some one here once said to me, 'Once something is in statute, it is very hard to remove it.'

It has been stated that this is a veteran issue, and right we are in thinking that; this however has really became an issue of service organization and those that want the state money and not letting any one else having it. If any one really cares about the veterans in need, we need to do away with the restriction that are in the statute so that those doing a good job can also partake while at the same time insuring the State paid ( VSR) are accredited by all that are getting a grant.

Do not be fooled by some that this is the best course for our state. We are about the only state that has set up a granting program that leaves out other veteran service organizations for what ever reason. We are also one of the very few states that don't have a coast sharing provision in our program even when the some of the VSO's have grants for this.

In closing I ask that you do what is right with the granting program in our state. That would be to not pass this bill in this format. I ask that you strike any and all parts of the statute that would restricts those that can take part of the all veterans service organizations. I ask that you change the make up of the board so that the four larges veteran organization and one veteran "at large" are on it, regardless as to if they are a part of the program. This one I feel is needed so that we do not have what some call 'The fox guarding the hen house' appearance that we have now.

Thank You;

James A. Bunker  
221-0162

Board member of  
Veteran Information Network  
Veterans of Modern Warfare

**Testimony of:  
Joseph Christian Kramer, iii  
House Bill 2210**

February 12, 2007

Honorable Chairman Myers and members of the committee;

I thank you for the opportunity to speak in opposition to House Bill 2210. This Bill is dangerous and unnecessary. It is dangerous because, far from providing greater and better service to veterans, it will severely limit veterans' access to service, by denying them the right to choose which veteran's organization may represent them in filling claims for their veteran benefits.

Do not, I ask you, be swayed by the crafty flowery language of this bill. Last years legislation removed all the unnecessary language from this statute and clearly articulated the purpose of this statute: **“ to improve the coordination of veterans benefits counseling in Kansas to maximize the effective and efficient use of taxpayer dollars and to ensure that every veteran is served and receives claims counseling and assistance.”**

HB 2210 misinforms the public and the legislative body and does not address the problem it claims to solve. The Bill pursues a discriminatory strategy, targeting all but two vegetarians' service organization the American Legion and the Veteran of Foreign Wars

(VFW). There are 48 federally recognized veterans organizations of which 26 may do veterans claims work. If this Bill passes, only the Ranking Minority Members two chosen veterans' organizations will be able to provide service to Kansas veterans.

If this bill were to become law, it would permit – or even require—the State of Kansas to direct the Kansas Commission on Veterans Affairs to deny service to veterans on mass.

If this Bill passes as written, you have slapped the face of Freedom, that which all veterans fought for: **the Freedom of Choice.**

I stand for questions.

**TESTIMONY REGARDING HB 2210**  
**George Webb**  
**Executive Director, Kansas Commission on Veterans' Affairs**  
**February 8, 2007**

This testimony is prepared for the House Veterans, Military, and Homeland Security Committee's consideration on February 12, 2007. I will be at a national conference on that day and unable to attend the Committee's hearing. I offer this testimony regarding HB 2210.

I would like to caveat by saying that if there is an amendment to HB 2210 which ameliorates the concerns I have, I am not aware of any final amendment. Therefore, my comments are made regarding the bill as available on February 8<sup>th</sup>.

In addition, my governing Commission intends to discuss this bill at the regular meeting on February 16<sup>th</sup>. Therefore, the Commission has not had the opportunity to discuss this bill and provide a Commission position.

**Regarding Section 1 of HB 2210:**

As background, KSA 73-1211 is a bedrock KCVA statute last changed in 1953. HB 2210 very fundamentally alters the role of the Agency in how it assists veterans. While the suggested change in HB 2210 appears simple on the surface, great problems emerge once it is looked at piece by piece. I ask the Committee to ensure that it fully understands each component of this bill before it goes forward, because there are significant issues of efficiency, fairness, and legality.

It is problematic to some degree that the current (1953) statute says that all claims filed by the KCVA must be prosecuted by one of the "participating veterans organizations." There is no definition of a participating veterans' organization, but one likely interpretation is that it would be any organization recognized by the VA for claims. Today that would include the KCVA, just like all other state organizations like ours. Asst Attorney General Graham researched that for me last year and could not find a definition in the history or the law regarding what was intended back in 1953.

That said, there is nothing in KSA 73-1211 that, with the interpretation I have proffered, isn't a mandate in Title 38 USC. Thus, 73-1211 could even be rescinded with no ill effects.

The proposal in HB 2210 would require all KCVA claims to be then prosecuted by an accredited rep of (1) a congressionally chartered veterans service organization that (2) is recognized by the VA to prepare, present, and prosecute claims and (3) whose organization is a recipient of the grant program. Let me address this piece by piece.

1. "All claims" would not just be the "standard" claims for compensation and pension. It would also include any claim originated by any KCVA employee – burial allowances, cemetery plot allowance claims, and one might stretch and conclude that it would be claims for VA per diem reimbursement at the homes. The inefficiency of the KCVA being required to pass these claims to a Veterans Service Organization (VSO), so they could hand them to the VA, is obvious. Even the simplest, most

automatic claim for reimbursement could not be processed, as we do now, with the VA; rather, a private organization would have to get in the loop (and, of course, claim credit for the work).

2. The “congressionally chartered” requirement is a red herring. This term and status means absolutely nothing regarding the VA’s rules about who can prepare, present, and prosecute claims. Per my recent discussions with the VA POC, of the 48 congressionally chartered veterans organizations that the VA follows, only 26 are recognized by the VA to prepare, present and prosecute claims. More important to this issue, all 50 states and 11 other veterans organizations are recognized by the VA for processing claims, but they are not (and do not need to be) congressionally chartered. The issue is being recognized by the VA. That is their test and qualifier (and also the VA’s authorization for recognized organizations to accredit their people). The KCVA is recognized by the VA to prepare, present, and prosecute claims, just like many veterans organizations. Putting the requirement of congressional charter in the statute would block the KCVA from working claims itself (and thus emasculating the KCVA). And since Congress’s House Judiciary Committee issued a moratorium on new federal charters in 1994, this would also mean that newer veterans organizations that are recognized by the VA to prosecute claims could not take any claims initiated by a Kansas state VSR – even if the Kansas vet wanted that organization as his Power of Attorney.

Applying the term “congressionally chartered” is misleading and irrelevant. From the 2004 and 2005 Congressional Research Service reports to Congress:

*“The attraction of Title 36 status for national organizations is that it tends to provide an ‘official’ imprimatur to their activities. And to that extent it may provide them prestige and indirect financial benefit.”*

*“In effect, the federal chartering process is honorific in character. This honorific character may be misleading to the public, however, when such organizations feature statements or display logos that they are ‘chartered by Congress,’ thus implying a direct relationship to the federal government that does not exist. In addition, there may be an implication that Congress approves of the organizations and is somehow overseeing its activities, which is not the case.”*

*And ... even Rep. Barney Frank was quoted in the report as a subcommittee chair: “... charters were ‘a nuisance,’ a meaningless act; granting charters implied that Congress was exercising some sort of supervision over the groups and it was not.”*

3. Requiring KCVA claims to be handled by someone or an organization recognized by the VA to do so is entirely appropriate. It’s the federal law. But it is specious to argue that a state statute must include a requirement that is already in the federal law. Hence, KSA 73-1211 could be rescinded.

4. The proposed amendment requires that any KCVA-initiated claim would have to be then forwarded to one of the grant program VSOs. Now and for the foreseeable future, that would only be the American Legion and Veterans of Foreign Wars. This amendment would mean that our state VSRs and cemetery personnel would have to say to a veteran, “If you want any VSO except the AL or VFW to work your claim, all I can do is help you fill out the initial paperwork. Then you’re on your own to turn it in to the VA and track its progress. We cannot even proceed if you simply want the KCVA to work this for you.”

This mandate would clearly funnel claims to the grant VSOs which, if the amendment to 73-1234 gets passed, have a requirement of processing 300 claims per year. By modifying KSA 73-1211 as proposed, there is assurance that the two grant recipients will meet the minimum claim requirement simply because everything coming from a KCVA representative would have to go to one of the two grant awardees.

I can anticipate, if not a legal challenge from veterans or other VSOs, a certain number of disgruntled veterans who would stop using our state-provided VSRs who are there to help them. Those veterans would have to go it alone with their claims assistance, travel significant distances to get to Wichita for help, or perhaps even just give up and go home.

In summary, as the executive director, my conclusion is that this proposed amendment to KSA 73-1211, as outlined in HB 2210, has terrible consequences for Kansas veterans, the KCVA, and all veterans service organizations except those which are grant recipients. It emasculates the KCVA, creates an inefficient administrative burden on the agency, and prevents the KCVA from giving veterans their choice of representation. A new proposed amendment was provided by Chairman Fowler (attached).

**Regarding Section 2 of HB 2210:**

As background, I can say in general that the Commission supported a grant program as a sound way of resolving the problematic issues inherent in the earlier Joint Employment Agreement (JEA). After studying almost all the other states, I personally felt that this was absolutely the right way to go – and said so in my formal JEA Committee report to the Commission in January, 2006 and my testimony to the Senate Ways and Means Committee in February, 2006. The two VSOs that were the beneficiaries of the JEA were opposed to a grant program, so getting them to support what was passed in SB 396 was a major legislative success. Much credit is due to those who worked SB 396.

Hence, I fully support the Commission in its guidance to make the grant program work to the benefit of all Kansas veterans. Throughout the summer and fall of 2006, there was considerable give and take between the Commission and the Veterans Claims Assistance Advisory Board on the form, wording, and effect of the KARs that would make the program work according to the statute. In December, 2006, the Commission held a special meeting to finalize the KARs.

SB 396 has become KSA 73-1234.

The proposed changes to KSA 73-1234 do the following:

1. They ensure that current grant recipients are first in the queue for funding, and that funding would not be reduced from the previous year. Therefore, a new VSO could not receive funds unless there were more appropriations. (Left unanswered is how this applies should the VSO fail to meet its contractual requirements, thus creating a question between the language in the contract and the level funding mandate in the proposed change to statute.)

2. They remove the requirement for VSO grant recipients to accredit KCVA field office VSRs. The Commission has considered this to be important in the efficient assistance to veterans who seek help in the KCVA field offices, so the rationale for this change is uncertain.

3. They put into statute the additional qualifiers for grant participation that the Commission took out of the proposed KARs in December, 2006. For the foreseeable future, the only VSOs that could meet these tests are the VSOs currently receiving grant funding.

In summary, I believe that the changes to KSA 73-1211, as outlined in HB 2210 in the version available on February 8<sup>th</sup>, would be a grievous mistake, and I would hope that the Committee, as it peels the onion back on the bill, would recognize that. I am suggesting an amendment (attached); that said, this amendment would really do nothing more than place requirements already mandated in federal law. Thus, KSA 73-1211 could be rescinded with no ill effects.

With respect to the changes to 73-1234, I want to assure the Committee that the Kansas Commission on Veterans' Affairs fully supports the establishment and operation of a fair and efficient grant program for veteran service organizations that assist our Kansas veterans. I have answered questions before the Committee over the last few weeks in this regard. The Kansas Commission on Veterans' Affairs will well and faithfully execute the statutes of the State of Kansas.

Respectfully submitted on 8 February, 2007,



GEORGE S. WEBB  
Executive Director

AN ACT relating to veterans; amending K.S.A. 73-1211 and repealing the existing sections.

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

Section 1. K.S.A. 73-1211 is hereby amended to read as follows: 73-1211. All claims filed with the federal ~~veterans' administration~~ *department of veterans affairs* by the Kansas ~~veterans'~~ *commission on veterans affairs* shall be prosecuted by an accredited representative of an organization, agency, or agent *recognized by the secretary of the United States department of veterans affairs to act in the preparation, presentation or prosecution of such claims under laws administered by the secretary of the United States department on veterans affairs*. No employee of any veterans' organization shall participate in or receive any funds hereinafter appropriated or made available to the Kansas veterans' *commission on veterans affairs* unless such employing veterans' organization shall prosecute any and all claims to the federal ~~veterans' administration~~ *department of veterans affairs* that are referred to them or their employees by the Kansas ~~veterans'~~ *commission on veterans affairs*.





**Michael Neer, Colonel, US Army (Retired),**  
Commissioner, KANSAS COMMISSION ON VETERANS' AFFAIRS

February 2, 2007

**Testimony to House Veterans, Military, and Homeland Security Committee**  
**Regarding Kansas House Bill 2210**

In legislative year 2006, law was passed creating public grants to Veterans Service Organizations (VSO) in the State of Kansas to assist veterans in obtaining entitlements. HB2210, session 2007, adds additional requirements to the manner in which the grant program is administered the extent to which participating VSO's accredit state employee Veteran Service performing these services in the State.

The citizens of the nation are the benefactors of the collective effort of our veterans who secure our lives and nation. We are indebted to them for their service and should give our best effort to help them as they age or deal with conditions that result from their service. We must guard against believing only veterans should care for veterans. Each of us, veteran or not has this responsibility.

If given an opportunity, every veteran will help another veteran. Veteran's Organizations will help a veteran, that is their mission and focus. Our laws and actions, though, should engage all citizens not just a few. We should seek to represent the full constituency of State -- not deflect our responsibility to only veteran organizations to accomplish that obligation.

In the end, only Government will be held accountable, will be even handed, and dependable in the application of assistance to veterans. We must move with extreme caution to assure this State does not abrogate to Private Organizations its responsibilities to assist veterans. The State must be capable and ready to accomplish all actions and increase capacity to meet all requirements when PO's cannot. Our veterans expect this from their government; a government of, by, and for the people.

The State's grant program, created in 2006, promises to be an exceptional tool empowering and encouraging private organizations in assisting veterans. However, it has been in effect a scant 5 months and has yet to mature sufficiently to determine its effectiveness, strengths and weaknesses. If anything, it is currently so restrictive that few DVA recognized Veteran Service Organizations can qualify; it should be expanded to embrace more such institutions not eliminate them.

HB2210 affects the manner in which the Kansas Commission on Veterans' Affairs conducts operations to assist veterans in obtaining assistance, entitlements, health care, employment assistance, and interment. It may materially affect the competence of services provided by the State and degrade their effectiveness.

With each bill we enact to benefit veteran affairs we should ask ourselves the questions:

- Does this benefit the veteran and how?
- Does this benefit a Private Organization and how?
- What are the full consequences of our actions on veterans?
- If passed, can the State accomplish its mission with uninterrupted service if the private organization fail to perform to standard?

If there is greater benefit to the organization than the veteran we should seek another alternatives. Our goal is and must always remain providing uninterrupted assistance to the men and women who have given their loyalty, time and health to keep us safe and secure.

This legislation as written will eliminate all but two Veterans Service Organizations recognized by the Department of Veterans' Administration to represent veteran's claims. **Two!** There are 45 others that will be denied access to our grants to assist state veterans. Let me enumerate some that will be eliminated:

- The American Red Cross
- American Gold Star Mothers, Inc
- American War Mothers
- AMVETS
- National Association for Black Veterans
- Blue Star Mothers. (these are Mothers who have lost one or more children to war)



**Michael Neer, Colonel, US Army (Retired)**  
Commissioner, KANSAS COMMISSION ON VETERANS' AFFAIRS

- Disabled American Veterans
- Legion of Valor of the United States
- Marine Corps League
- National Amputation Foundation
- Vietnam Veterans of America ( if in our history there is a group that was least appreciated by the Nation it is these)
- And 35 more

My observations, comments and recommendations on this legislation follow:

1. Page 1, lines 13-23. *K.S.A. 73-1211 is hereby amended to read as follows: 73-1211. All claims filed with the federal ~~veterans' administration~~ department of veterans affairs by the Kansas ~~veterans' commission on veterans affairs~~ shall be prosecuted by an accredited representative of an organization, agency, or agent recognized by the secretary of the United States department of veterans affairs to act in the preparation, presentation or prosecution of such claims under laws administered by the secretary of the United States department on veterans affairs. No employee of any veterans' organization shall participate in or receive any funds hereinafter appropriated or made available to the Kansas veterans' commission on veterans affairs unless such employing veterans' organization shall prosecute any and all claims to the federal ~~veterans' administration~~ department of veterans affairs that are referred to them or their employees by the Kansas ~~veterans' commission on veterans affairs~~.*
  - a. Section 1 in its entirety should be removed.
  - b. This places the State at the benevolence of private organizations (PO).
  - c. It places veterans at the caprice of PO's
  - d. It guarantees PO's are the only acting Veteran Service Officers (VSR).
  - e. It directly or indirectly infers/encourages membership in the participating PO.
  - f. It reduces or eliminates the effectiveness of non-Medical Center VSR's.
  - g. It subordinates and abrogates state responsibilities to private organizations.
  - h. It may ultimately result in the elimination of all state service representatives.
  - i. It encourages the participating PO to accept initial claims work at its remote meeting halls – further subordinating the state to private institutions.
  - j. Is not beneficial to the state's veterans and may place timely and competent service in jeopardy.
2. Page 1, lines 41- "Grants shall be awarded first to those veteran service organizations currently participating in the grant program at levels equal to or greater than the fiscal year 2007 grant aware to the extent appropriation are available therefore. Thereafter new grants may be made to eligible veterans service organizations based on the availability of funds and number of applicants."
  - a. Strike this change. Why would we do this? Does this benefit veterans, the State, or private organizations?
  - b. This removes all incentives to compete and provide exceptional service.
  - c. Grant recipients have no compelling reason to improve or compete with other private organizations.
  - d. Awards should be based upon availability of funds, distributed to grant participants based upon objective and verifiable performance.
  - e. Should read: Each year's grant pool will be awarded to eligible applicant Veteran Service Organizations based on the availability of appropriated funds, the number of applicants, and objective and verifiable claims performance of the applicant organizations.
3. Page 2, lines 28.
  - a. Remove the words "...and necessary support and managerial staff."
  - b. We cannot define the degree and magnitude of this support and staff. If VSO's qualify under our least conditions such staff already exists and should require no additional augmentation.
4. Page 2, lines 35-37. This definition of Veteran Service Organizations differs from the same on Page 1, line 17-18.



**Michael Neer, Colonel, US Army (Retired)**  
Commissioner, KANSAS COMMISSION ON VETERANS' AFFAIRS

5. Page 2, lines 39-40. "...who are working in United States department of veterans affairs facilities and are performing services under the veterans claims assistance program...."
  - a. Change should read: ".....accredit the officers and employees of the Kansas Commission On Veterans Affairs throughout the State and veterans claims assistance representatives of other veterans....."
  - b. As currently presented HB2210 will relieve participating POs from accrediting state employees throughout the state not located in the Veteran Centers.
  - c. The State needs all it's VSR's accredited. Without accreditation, the work of state employees will be subordinated to and enhance the perceived contribution by grant VSO's to the detriment of non-participant organizations.
  - d. HB2210 creates a circumstance where even unwittingly prosecute self-originated claims before those provided by the state. Consequently veteran claimants may be compelled to travel great distances to eliminate local assistance in favor of the grant organization; or worse attempt unassisted claims submission.
  - e. The State proves favoritism to grant organizations under this circumstance.
  - f. The State needs all its VSR's throughout the state must be cross-accredited. Further, all participants in the one-stop centers must be cross-accredited with each other to make an effective one-stop operation.
  - g. Accreditation of field office VSR's is critical to efficiency and service to our veterans. If the VSR is accredited, he/she can enter the Federal Department of Veterans Affairs, Wichita server's program called SHARES. This enables the VSR to obtain details and status of a claim as well as the vet's claims history and give the veteran speedy, current and accurate information. The Wichita VA Center has a database of VSR's accreditation, therefore claims access is restricted to someone whose accreditation matches the Power of Attorney that the veteran selected. Without access to SHARES, the VSO must rely on telephonic inquiry. Without accreditation the VSR has to call the service organization's office in Wichita, find with the caseworker and then hand the phone to the veteran. Acquiring this status, an action that should take seconds may become minutes or hours, and frequently, if the VSR in Wichita isn't available, the veteran goes home without being helped.
6. Page 3, lines 7-22. Subparagraphs 6, through 10 These elements are additive to law established in 2006. They narrow the field of potential participants in the grant program.
  - a. There are 47 federally chartered and or DVA recognized veterans' organizations. We should be removing restrictive conditions thereby encouraging more participants.
  - b. We should work to enhance competition among participants so that veterans get better assistance and the State reaps the benefit of increased benefit income and increased efficiency from participants.
  - c. There are many great American institutions that can and should be encouraged to help our veterans. More participants in the grants program are better and ultimately provide greater service for less cost through competition.
7. Page 3, lines 18-22. Section 2. Subparagraph (f) (12) Strike this change. This is redundant and is fully covered in Section 2 (f) (2). See discussion above in paragraph 5.

Our veterans live at remote locations throughout the State. Some veterans who live in states other than Kansas come to our DVA Centers for assistance and care. The long-term consequence of this legislation may eliminate or impede assistance except at Medical Centers, or worse, place it in fully in the hands of private organizations over which we have at best limited authority and control. Veterans have long complained that they must travel great distances to get care. Under this legislation, taken to a consequential end-state, vets may be required to travel long distances, on multiple visits just to obtain claims assistance. Frustrated, many may abandon their use of VSR assistance and make their claims without help. Statistics show that a veteran who prosecutes his own case receives an average of \$6000 less than if assisted by a VSR, state or private.

HB2210 begins to change the axiomatic manner in which we serve the veterans in the State of Kansas. If such a fundamental change is necessary, it should come only after a thorough, comprehensive study that that gives complete and impartial consideration to veterans affairs and weighs the consequences of all action.

Michael Neer, Colonel, US Army (Retired)  
Commissioner



# KANSAS

ADJUTANT GENERAL'S DEPARTMENT  
Major General Tod M Bunting

KATHLEEN SEBELIUS, GOVERNOR

## Testimony on House Bill 2425

### To the House Committee on Veterans, Military and Homeland Security

#### Major General Tod Bunting

The Adjutant General of Kansas

Monday, February 12, 2007

Mr. Chairman and members of the committee:

I am Randy Mettner, the Executive officer for the Adjutant General's Department and speaking on MG Bunting's behalf. Thank you for allowing me to testify and support HB 2425 which clarifies the intent of previous legislation giving members of the Kansas National Guard in state or resident fees for tuition for state educational institutions.

Since the legislative changes to KSA Supp 76-729 there has been a dispute over the status of members of the Kansas National Guard and the definition of "military service" in the statute. The position of the National Guard was that if you are a member "actively" serving in the National Guard it was the intent of the prior legislation to allow the member to be considered as residents of Kansas for tuition purposes in Regents schools. The Regents interpreted the definition to mean that only active duty National Guard personnel such as Active Guard and Reserve who are a very small part of the force, about 750 out of 8,000, or state active duty status, which is a short term status used mostly for disasters, would receive this benefit.

This change would make the intent clear that if you join the Kansas National Guard, complete the rigorous training and all the requirements and then are required to respond to events, both in Kansas and overseas to secure this country and this state, that the least we can do is assist your education by granting in state or resident tuition.

Thank you and I would be glad to answer questions.

2800 SW Topeka Boulevard, Topeka, KS 66611-12  
(785) 274-1000

House Committee on Veterans, Military  
and Homeland Security  
2/12/07  
Attachment 9



# KANSAS BOARD OF REGENTS

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

TELEPHONE – 785-296-3421  
FAX – 785-296-0983  
www.kansasregents.org

**House Veterans, Military, and Homeland Security Committee**  
**February 12, 2007**

## *Testimony Regarding HB 2425*

**Robin Kempf**  
**Interim General Counsel**

Chairman Myers and Members of the Committee, thank you for the opportunity to appear before you this afternoon. I am here today on behalf of the Kansas Board of Regents to provide the Committee with information about in-state tuition at state universities, also known as residency for tuition and fee purposes. I am hoping this testimony, along with other information you may request, will provide the Committee with sufficient information to allow you to determine whether HB 2425 is necessary or whether the goal of the legislation could be better handled in other proposed legislation.

### **Background on Residency**

I want to provide a brief background about residency and how it is determined on state university campuses. For at least 12 months, a person must have a present and fixed place of habitation in Kansas, to which, whenever the person is absent, the person has the intention of returning. A person is not considered a resident unless that person is in continuous physical residence, except for brief temporary absences, and that person intends to make Kansas a permanent home, not only while in attendance at a state university, but indefinitely thereafter. Minors are judged according to their parents' intent, while students over 21 are judged on their own intent.

A state university's registrar has the duty of determining a student's residency status. To make this determination, the registrar may review various factors, such as:

- continuous presence in Kansas, except for brief temporary absences, during periods when not enrolled as a student
- employment in Kansas
- payment of Kansas state resident income taxes
- reliance on Kansas sources for financial support
- commitment to an education program the indicates an intent to remain permanently in Kansas
- acceptance of an offer of permanent employment in Kansas
- admission to a licensed practicing profession in Kansas
- ownership of a home in Kansas

If a student is classified as a non-resident and disagrees with the determination, the student may appeal that decision to a residence committee, which is a committee of at least three people appointed by the university's CEO, not including the registrar. If the student disagrees with the committee's decision, the residency issue may be appealed directly to a district court.

Current law has created some groups of individuals that are mandatorily eligible for in-state tuition even if they don't meet the 12-month definition of residency. Those groups include:

- a resident who leaves the state but returns within 12 months of departure
- Haskell University students who have official Native American tribal membership
- a graduate or GED recipient who has attended an accredited Kansas high school for at least 3 years, who may not claim residency in another state, and who, if the person does not have lawful immigration status, has filed an affidavit stating that the person or his or her parents have filed an application to legalize immigration status or will file when eligible to do so
- dependents or a spouse of a person in military service who is reassigned from Kansas, so long as the dependents or the spouse continue to reside in Kansas

Current law also authorizes the Board of Regents to allow certain groups of people residency through the rules and regulations process. Examples include:

- University personnel, their spouses and dependents
- Employees recruited or transferred to Kansas, their spouses and dependents
- Persons with "special domestic relations circumstances", which includes dependent students whose parents are divorced and one parent is a Kansas resident

Furthermore, the Board has adopted two regulations that apply specifically to military personnel.

- Active military personnel living in Kansas: In-state tuition is available to active US military personnel and active Kansas National Guard members, their spouses and children who live in Kansas, even if the duty station is outside of Kansas.
- Retired or discharge military personnel: A domiciliary resident of Kansas for less than 12 months who was present in the state for a period of not less than 2 years during active military service and whose current Kansas domiciliary residence was established within 30 days of the date of discharge or retirement with honorable conditions may be deemed a resident for tuition and fees purposes.

## **HB 2425**

This bill would add a new mandatory category of residency, that being for any person who is member of the Kansas National Guard. The change in practice that this amendment would make is fairly small. Current regulations already allow for active National Guard members to be considered residents. (The requirement that the service be *active* can be found in the statute that is the subject of this bill. Please see page 3, line 13.) This amendment would broaden residency to all National Guard members regardless if they have been called to active duty during their service.

The Board is supportive of extending residency to all National Guard members and has no objection to the intent of HB 2425; however, the Board would respectfully request the Committee consider the approach presented in HB 2352, a bill that has been introduced by Representative Tfanelli, which has the same intent but directly addresses the requirement of "active" service.

Mr. Chairman, thank you for the opportunity to provide this information. I'll be pleased to answer any questions you may have.