

## MINUTES OF THE HOUSE APPROPRIATIONS COMMITTEE

The meeting was called to order by Chair Sharon Schwartz at 9:00 A.M. on March 26, 2008, in Room 514-S of the Capitol.

All members were present except:

Representative Lee Tafanelli - excused

Committee staff present:

Alan Conroy, Legislative Research Department  
 J. G. Scott, Legislative Research Department  
 Cody Gorges, Legislative Research Department  
 Audrey Dunkel, Legislative Research Department  
 Amy Deckard, Legislative Research Department  
 Nobuko Folmsbee, Revisor of Statutes  
 Nikki Feuerborn, Chief of Staff  
 Gina Bowes, Acting Committee Assistant

Conferees appearing before the committee:

Corey Peterson, Executive Vice-President, Associated General Contractors of Kansas, Inc.  
 Mark Hutton, President, Hutton Construction Corporation  
 Dan Morgan, The Builders' Association and Kansas City Chapter, AGC  
 Bob Totten, Public Affairs Director, Kansas Contractors Association  
 Judy Moler, on behalf of Randall Allen, Executive Director, Kansas Association of Counties  
 Joe Waters, Director of Facilities, Johnson County Board of County Commissioners  
 Representative Dennis McKinney  
 Steve Weatherford, Kansas Housing Resources Corporation  
 Robert and Ann Dixson, Greensburg, Kansas  
 Gary and Erica Goodman, Greensburg, Kansas  
 Marvin George, Greensburg, Kansas  
 Gary Goodhart, City Council Member, Greensburg, Kansas  
 Mary Sweet, Greensburg, Kansas  
 Ashley Jones, Local Incentive Support Corporation  
 Representative Kenny Wilk  
 Diane Duffy, Kansas Board of Regents  
 Dan Mackley, Director of Investments, Pooled Management Investment Board (PMIB)  
 Kevin Robertson, Kansas Dental Association  
 Representative Tom Sloan  
 Tracy Streeter, Director, Kansas Water Office  
 Earl Lewis, Assistant Director, Kansas Water Office

- Attachment 1 Budget Committee Report on **HB 2685**
- Attachment 2 Testimony on **SB 485** by Corey Peterson
- Attachment 3 Proposed amendment on **SB 485**
- Attachment 4 Testimony on **SB 485** by Mark Hutton
- Attachment 5 Testimony on **SB 485** by Dan Morgan
- Attachment 6 Testimony on **SB 485** by Bob Totten
- Attachment 7 Testimony on **SB 485** by Judy Moler
- Attachment 8 Testimony on **SB 485** by Joe Waters
- Attachment 9 Testimony on **SB 417** by Representative McKinney
- Attachment 10 Testimony on **SB 417** by Steve Weatherford
- Attachment 11 Testimony on **SB 417** by Robert and Ann Dixson
- Attachment 12 Testimony on **SB 417** by Mary Sweet
- Attachment 13 Testimony on **SB 417** by Ashley Jones
- Attachment 14 Written Testimony on **SB 417** by Rod and Mitzi Hesser
- Attachment 15 Testimony on **HB 2987** by Diane Duffy
- Attachment 16 Testimony on **SB 597** by Kevin Robertson
- Attachment 17 Written Testimony on **SB 597** by Teresa R. Schwab

## CONTINUATION SHEET

MINUTES OF THE House Appropriations Committee at 9:00 A.M. on March 26, 2008, in Room 514-S of the Capitol.

- Attachment 18 Testimony on **HB 2986** by Representative Sloan
- Attachment 19 Testimony on **HB 2986** by Tracy Streeter
- Attachment 20 Proposed amendments to **HB 2958**

### Introduction of Legislation

Representative Joe McLeland made a motion to introduce legislation regarding KAN-Ed. The motion was seconded by Representative Watkins. Motion carried.

Representative Schwartz made a motion to introduce legislation regarding participation in Taiwan Rural Health Board. The motion was seconded by Representative Bethell. Motion carried.

### Budget Report on **HB 2685**

Discussion and on **HB 2685 - Geriatric medicine, approved postgraduate training program for KU Medical School and doctor of osteopathy loan programs.**

Representative Bethell, Chair of the Social Services Budget Committee, presented the Budget Committee Report on **HB 2685** and moved for the adoption of the Budget Committee recommendation on **HB 2685** (Attachment 1). The motion was seconded by Representative Kelsey. Motion carried.

Representative Bethell made a motion to recommend **HB 2685** favorable for passage. The motion was seconded by Representative Kelsey. Motion carried.

### Hearing on Substitute for SB 485

Julian Efir, Legislative Research Department, explained that **Sub for SB 485** would establish the Alternative Project Delivery Building Construction Procurement Act. The bill would permit counties to use an alternative project delivery program that allows either a construction management at-risk or a building design-build procurement process to be used for certain projects. The bill would also allow counties to award contracts for design and construction based on a best value approach to be used in the selection process. The bill would authorize counties to determine if the alternative procurement process is appropriate and to approve contracts for such projects.

Dr. Efir noted that the bill did pass in the Senate and was supported by a number of conferees.

Representative Watkins appeared before the Committee in support of **Sub for SB 485**. Representative Watkins stated that the bill allows for competition in the bidding process.

Corey Peterson, Executive Vice-President of the Associated General Contractors (AGC), presented testimony in support of **Sub for SB 485** (Attachment 2). Mr. Peterson presented a proposed amendment to **Sub for SB 485** to include schools (Attachment 3). Mr. Peterson provided background information on the reason for the legislation, noting that the bill establishes transparent and objective criteria for counties to use during the selection of a construction manager or design building. The guidelines will prevent political influence and favoritism toward one or more companies.

Mark Hutton, President, Hutton Construction Corporation, presented testimony in support of **Substitute for SB 485** and the amendment to add schools to the bill as offered by Corey Peterson (Attachment 4). Mr. Hutton noted that there are times when an alternative delivery is appropriate for a project and this legislation allows for the process.

Dan Morgan, The Builders' Association and Kansas City Chapter, AGC, presented testimony in support of **Substitute for SB 485** (Attachment 5).

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Bob Totten, Public Affairs Director, Kansas Contractors Association, presented testimony in support of **Substitute for SB 485** (Attachment 6).

Judy Moler, on behalf of Randall Allen, Executive Director, Kansas Association of counties, presented testimony in support of **Substitute for SB 485** (Attachment 7).

Joe Waters, Director of Facilities, Johnson County Board of County Commissioners, presented testimony in support of **Substitute for SB 485** (Attachment 8).

**The hearing on Substitute for SB 485 was closed.**

### Hearing on **SB 417**

**Hearing on SB 417 - Establishing a housing development grant program; waiving certain requirements for rural housing incentive district creation.**

Julian Efird, Legislative Research Department, explained that **SB 417**, as amended, would provide \$4.0 million annually for housing grants, initially targeting communities that suffered recent disasters, and later expanding eligibility in 2010 to include all rural cities. The bill would allow cities located in a disaster area to designate an area as a rural housing incentive district, without conducting a public hearing or receiving approval from the Secretary of Commerce, as is required by current law. In order for the city to be eligible to receive a grant, it would have to provide matching funds of at least 10.0 percent for construction or rehabilitation of infrastructure projects as defined in the bill, and at least 50.0 percent for any other type of projects. The funding in the bill would expire on June 30, 2015.

Representative Dennis McKinney appeared before the Committee in support of **SB 417** (Attachment 9). Representative McKinney stated that **SB 417** addresses a need brought forth by every community who has a disaster. The bill provides for a grant program allowing communities to address their particular needs. Responding to a question from the Committee, Representative McKinney noted that a number of the older homes in a disaster area are not insured.

Steve Weatherford, Kansas Housing Resources Corp. presented testimony in support of **SB 417** (Attachment 10). Mr. Weatherford noted that this piece of legislation would allow houses to be rebuilt on lots in Greensburg where the infrastructure already exists.

Testimony in support of **SB 417** was also received from:

- Robert and Ann Dixson, Greensburg, Kansas (Attachment 11).
- Gary and Erica Goodman, Greensburg, Kansas
- Marvin George, Greensburg, Kansas
- Gary Goodhart, City Council Member, Greensburg, Kansas
- Mary Sweet, Greensburg (Attachment 12).
- Ashley Jones, Local Incentive Support Corp (Attachment 13).
- Written testimony only was provided by Rod and Mitzi Hesser, Greensburg, Kansas (Attachment 14).

There were no other proponents or opponents on **SB 417**.

**The hearing on SB 417 was closed.**

### Hearing on **HB 2987**

**Hearing on HB 2987 - Deferred maintenance support, pilot investment program for investment of idle funds of a state educational institution.**

Audrey Dunkel, Legislative Research Department, explained that **HB 2987** authorizes a pilot

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program for idle funds at one of the universities. One institution would be selected by the Board of Regents to invest their idle funds, not to exceed \$40 million and be available for 12 months. The Board of Regents has the authority to implement the program.

Representative Wilk presented testimony in support of **HB 2987**. Representative Wilk noted that the Board of Regents has had considerable input into the legislation. The bill allows the Board of Regents to have oversight.

Responding to questions from the Committee, Representative Wilk stated that the total funds in the PMIB is approximately \$300 - \$360 million. The pilot programs would run until 2013 with the possibility of expansion by the Legislature.

Diane Duffy presented testimony on behalf of Dr. Reginald Robinson, President and CEO, Kansas Board of Regents, in support of **HB 2987 (Attachment 15)**. Ms. Duffy stated that the bill cannot be implemented until the Board of Regents approve a specific plan between the pilot university and the alternative investment agent.

Responding to questions from the Committee, Ms. Duffy indicated that the Board of Regents' plan could be in place by mid-year. The pilot university would need to have a reserve in place and provide details as to how it would be structured. Ms. Duffy noted that no specific university has been chosen at this time for the pilot project; however, Kansas State University has shown the most interest at this time.

Dan Mackley, Director of Investment, Pooled Management Investment Board (PMIB), responded to a question from the Committee stating that an administration fee of 10 basic points is charged on all funds invested by PMIB. Mr. Mackley noted that PMIB wishes to remain neutral on **HB 2987**. Ms. Mackley stated that safety of funds is their primary objective in investing funds.

There were no other proponents or opponents to appear before the Committee.

**The hearing on HB 2987 was closed.**

### Hearing on **SB 597**

Audrey Dunkel, Legislative Research Department, explained that **SB 597** would establish a Kansas Dentistry Bridging Loan program at the Kansas Dental Board. The program would provide incentives for dental students to locate their practices in rural areas upon completing their degrees. Rural areas are designated in the legislation. The program would offer loans to students who have completed the first year of a dental surgery program or a dental medicine program from a school approved by the Kansas Dental Board.

Kevin Robertson, Kansas Dental Association, presented testimony in support of **SB 597 (Attachment 16)**. Mr. Robertson noted that the Senate amended the bill to include five additional rural counties.

Responding to questions from the Committee, Mr. Robertson stated that the student has to commit to servicing in a rural area of Kansas for 3 years. Mr. Robertson indicated that the loan is for a period of 3 years with no interest paid if the student fulfills the 3-year commitment.

Written testimony was received from Teresa R. Schwab, LMSW, Oral Health Kansas, in support of **SB 597 (Attachment 17)**.

There were no other proponents or opponents to appear before the Committee.

**The Hearing on SB 597 was closed.**

## CONTINUATION SHEET

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### Hearing on HB 2986

#### Hearing on HB 2986 - Sustaining reservoirs and aquifers in Kansas; creating the Kansas drinking water protection fund.

Heather O'Hara, Legislative Research Department, explained that HB 2986 would create a new fund called the Kansas Drinking Water Protection Initiative Fund and funded by a new fee levied against industrial use pursuant to a permit and water sold at retail by a public water supply system. Revenues received in the fund would be transferred to the State Water Plan fund for line-item appropriations for projects as specified in the bill.

Representative Tom Sloan presented testimony in support of HB 2986 (Attachment 18). Representative Sloan stated that water is released from Corp of Engineers' reservoirs in Kansas to float barges on the Missouri River. Representative Sloan felt that Kansas should control the waters within the state and implement programs to address the issue, particularly at Milford and Perry Reservoir.

Responding to questions from the Committee, Representative Sloan noted that there has been no discussion with cities or customers who use the water from the reservoirs. With reference to why Tuttle Creek Reservoir was not included, Representative Sloan noted that he understood that Milford and Perry Reservoirs were the only two reservoirs releasing water under the Corp of Engineer's agreement.

Tracy Streeter, Director, Kansas Water Office, presented testimony in support of HB 2986 (Attachment 19). Mr. Streeter noted that there are several technical corrections necessary to the bill if it is advanced by the Committee.

Responding to questions from the Committee, Mr. Streeter noted that all three reservoirs on the Kansas River, Milford, Perry and Tuttle Creek, are in the navigation plan, however, surplus water in the storage area or flood pool, is being used by the Corp of Engineers to comply with the navigation plan requirements. Mr. Streeter indicated that is the intent of the Kansas Water Office to use water from Milford and Perry for navigation purposes and water from Tuttle Creek will no longer be needed to fulfill the requirements. Mr. Streeter stated that once the State calls the water into service, then Kansas would assume a greater percentage of the operation and maintenance responsibilities with greater cost to the State. The estimate of the total cost would be \$304,000 at Perry and \$194,000 at Milford, annually.

Earl Lewis, Assistant Director, Kansas Water Office, responded that neither Milford or Perry have water quality pools, noting that 100 percent of the conservation pool at Milford and Perry is dedicated to water supply purposes.

The hearing on HB 2986 was closed.

### Recess

The meeting was recessed at 11:00 a.m. and reconvened at 2:00 p.m.

### Discussion and Action on HB 2891

#### Discussion and Action on HB 2891- Limitation on outstanding principal of state general fund bonded debt.

Julian Efird, Legislative Research Department, provided an overview of HB 2891.

Representative Yoder made a motion to recommend HB 2891 favorable for passage. The motion was seconded by Representative Holmes. Motion carried.

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**Discussion and Action on HB 2983**

**Discussion and Action on HB 2983 - Physician work force and accreditation task force established, reports to legislature.**

Audrey Dunkel, Legislative Research Department, provided an overview of **HB 2983**.

Representative George made a motion to recommend **HB 2983** favorable for passage. The motion was seconded by Representative Wolf.

Representative George made a substitute motion to amend **HB 2983** by adding language to Section 1, line 17 (1), with reference to the two members, to designate one member to be from the Kansas City campus and one member to be from the Wichita campus. The motion was seconded by Representative Bethell. Motion carried.

Representative George renewed the motion to recommend **HB 2983** favorable for passage as amended. The motion was seconded by Representative Wolf. Motion carried.

**Discussion and Action on HB 2958**

**Discussion and Action on HB 2958 - State budget, state general fund ending balance requirements, adjustments to approved budget, economic impact statements for proposed legislation.**

Jim Wilson, Revisor of Statutes, provided an overview of **HB 2958**.

Representative Watkins made a motion to recommend **HB 2958** favorable for passage. The motion was seconded by Representative Wolf.

The Committee expressed some concern that legislators have not had time to evaluate the merits of the legislation. Jim Wilson explained amendments as proposed by Representative Colyer (Attachment 20).

Representative Watkins made a substitute motion to amend **HB 2958** by incorporating the proposed amendments. The motion was seconded by Representative Wolf. The motion failed.

Representative Watkins made a motion to "table" action on **HB 2958**. The motion was seconded by Representative George. Motion carried.

**Adjournment**


The meeting was adjourned at 2:30 p.m. The next meeting of the Committee will be held on March 27, 2008, "on first adjournment of the House".

  
Sharon Schwartz, Chair

SOCIAL SERVICES BUDGET COMMITTEE


HB 2685

  
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Representative Bob Bethell, Chair

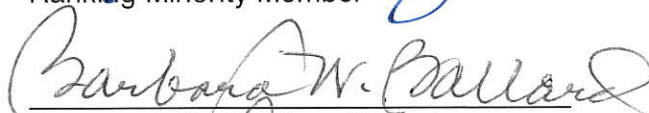
  
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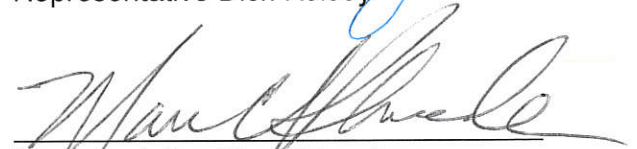
  
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Representative Peggy Mast, Vice-Chair

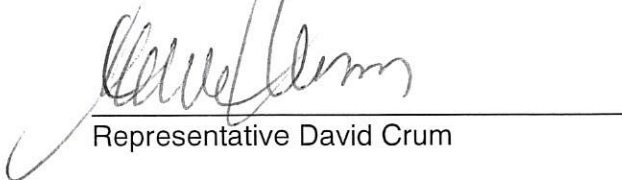
  
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Representative Tom Hawk

  
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Representative Jerry Henry,  
Ranking Minority Member

  
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Representative Dick Kelsey

  
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Representative Barbara Ballard

  
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Representative Marc Rhoades

  
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Representative David Crum

HOUSE APPROPRIATIONS

DATE 3-26-2008  
ATTACHMENT 1

# House Social Services Budget Committee

## Recommendation on House Bill 2685

### Brief

House Bill No. 2685 would allow fellowship training in geriatric medicine to be included in the list of approved postgraduate residency training programs required for participation in the Medical Student Loan Program or Osteopathic Medical Service Scholarship Program. Both programs require one year of service for each year of assistance provided through the programs, in a rural or medically underserved area, as defined by the enacting statutes.

### Background

A representative of the Kansas Association of Osteopathic Medicine and a representative of the Kansas Academy of Family Physicians provided testimony in support of the bill. Several students from the University of Kansas Medical Center spoke in support of the bill as well. There were no opponents.

The fiscal impact of HB 2685 would be determined by appropriations for the two programs. The Medical Student Loan Program is funded through State General Fund appropriations, repayment funds, and other special revenue funds and is currently fully funding 120 scholarships. The Osteopathic Medical Service Scholarship Program is funded through repayment funds and currently services 21 scholarships and has funding available to award additional scholarships.

### House Budget Committee Recommendation

The Social Services Budget Committee recommends HB 2685 be recommended favorably for passage.



**TESTIMONY OF  
ASSOCIATED GENERAL CONTRACTORS OF KANSAS  
BEFORE HOUSE APPROPRIATIONS**

**SB 485**

March 26, 2008

By Corey Peterson, Associated General Contractors of Kansas, Inc.

Madam Chairman and members of the committee, my name is Corey Peterson. I am Executive Vice President of the Associated General Contractors of Kansas, Inc. The AGC of Kansas is a trade association representing the commercial building construction industry, including general contractors, subcontractors and suppliers in Kansas (with the exception of Johnson and Wyandotte counties).

**AGC of Kansas supports Senate Bill 485 and respectfully asks that you report it favorably for passage.**

Two years ago, the legislature passed House Bill 2394, enacting the Kansas alternative project delivery building construction procurement act for state agencies. As with this new law, SB 485 provides the means for counties to utilize construction management at-risk and design build for buildings when deemed appropriate, utilizing clear guidelines and safeguards to protect the public trust.

Nationally, both public and private owners are now utilizing alternative project delivery methods for construction projects in lieu of the traditional "design-bid-build" method where the lowest responsible bidder is selected. AGC feels that if public dollars are used to finance a construction project, alternative project delivery methods should be used on an exception basis, only if it is shown that it is in the best interest of the public to use these alternative methods over the traditional "design-bid-build" method.

SB 485, like HB 2394 in 2006, establishes transparent and objective criteria for counties to use during the selection of a construction manager or design builder. These guidelines will prevent political influence and favoritism toward one or more companies, and just as importantly protect the counties from the perception of such.

As more public owners consider the use of alternative project delivery methods, AGC feels that all public owners should use a selection process that will maintain the public trust through an open and objective selection process.

Because alternative delivery is already being used by school districts, I respectfully ask that you consider an **amendment that would add language to SB 485 to include school districts in this legislation**. The amendment is very similar to SB 485, but was slightly altered to address minor issues brought up by school district interests.

The AGC of Kansas **respectfully requests that you recommend SB 485 for passage as amended**. Thank you for your consideration.

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ATTACHMENT 2

# Talking Points on SB 485

## POINTS WHY BILL IS NEEDED

- In recent years, the **public sector has increasingly employed alternative project delivery methods.**
- SB would **clearly** allow for the use of alternative delivery for public owners.
- SB 485 would **establish selection guidelines and safeguards for counties** considering alternative project delivery methods.
- These guidelines were jointly **set by public owners and industry.**
- Ensures a **fair and open selection process** that **maintains the public trust** when public owners choose to utilize alternative delivery methods.
- These guidelines are **similar to those in HB 2394** which passed the legislature in 2006, establishing alternative delivery method selection guidelines for **state agencies.**
- Notification requirements are included in SB 485 to keep this process **transparent** to ensure that everyone has a **fair opportunity** to participate.
- The **traditional project delivery method**, utilized by most public owners is **Design-Bid-Build**, where-by the owner retains the services of a design professional to fully design the project, bid the project, and build the project using the lowest responsible bidder. **Alternative project delivery methods in SB 485 include CM at-risk and Design Build.**
- This bill **protects** the process of selecting a CM at-risk **from encouraging favoritism** in the awarding of the public contract or **substantially diminishing competition** for the public contract.

## DEFINITIONS

The traditional procurement method used is Design-Bid-Build. This bill allows for an alternative to the lowest responsible bid system (Design-Bid-Build). Alternative Delivery methods included in SB 485 are Construction Manager at-risk (CM at-risk) and Design Build.

**Construction Management At-Risk**- CM is essentially a traditional General Contractor, the difference being the CM is hired before plans are completed. The general contractor, in addition to providing the preconstruction, budgeting, and scheduling services, procures through competitive bidding contracts with specialty contractors and suppliers to construct the project. The CM at-risk assumes the responsibility and the risk for construction delivery, usually within specified cost and schedule terms and often including a guaranteed maximum price (GMP).

**Design-Build (DB)**- One entity designs and builds a project. The design-builder assumes the responsibility and the risk for architectural/engineering **design and construction** delivery under a single contract with the owner. The fundamental difference in the types of design-build contracts is based on how the design-builder provides the design service. *In-house* means that the designers are in the direct employment of the design-builder and *consultancy* means that an external design firm functions as a subcontractor to the design-builder. The design-builder may be contractor or designer led or may be a joint venture where each shares mutual responsibility for the contract.

- Most significant **issue** with Alternative Delivery in public sector is **the selection of the CM or Design-Builder** because they **must be chosen by method other than lowest responsible bid** because they are hired or selected before the plans are even completed for the project.
- Because lowest bid cannot be utilized in alternative delivery, guidelines must be in place to **protect the public trust because of the potentially subjective nature of the selection process.**
- Construction companies are retained to provide **preconstruction and construction management services** that include, but are not necessarily limited to: design review, scheduling, cost control, value engineering, constructability evaluation, preparation and coordination of bid packages, and construction administration.

**AGC Proposed  
Amendment  
3/26/08**

AN ACT concerning the procurement of design and construction services for unified school district improvements contracts; enacting the Kansas unified school district alternative project delivery building construction procurement act.

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

Section 1. Sections 1 through 7, and amendments thereto, shall be known and may be cited as the Kansas unified school district alternative project delivery building construction procurement act.

Sec. 2. As used in the Kansas unified school district alternative project delivery construction procurement act, unless the context expressly provides otherwise:

(a) "Act" means the Kansas unified school district alternative project delivery building construction procurement act.

(b) "Board" means board of education of every unified school district in Kansas, as defined in K.S.A. 72-8201, and amendments thereto, with the authority to award public contracts for building design and construction.

(c) "Alternative project delivery" means an integrated comprehensive building design and construction process, including all procedures, actions, sequences of events, contractual relations, obligations, interrelations and various forms of agreement all aimed at the successful completion of the design and construction of buildings and other structures whereby a construction manager or general contractor or design build team is selected based on a qualifications and best value approach.

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

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

(f) "Best value selection" means a selection based upon objectives criteria related to price, features, functions, life-cycle costs and other factors.

(g) "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 highways, roads, bridges, dams, turnpikes or related structures or stand-alone parking lots.

(h) "Design-build" means a project for which the design and construction services are furnished under one contract.

(i) "Design-build contract" means a contract between the board and a design-builder to furnish the architecture or engineering and related design services required for a given public facilities construction project and to furnish the labor, materials and other construction services for such public project.

(j) "Construction services" means the process of planning, acquiring, building, equipping, altering, repairing, improving or demolishing any structure or appurtenance thereto, including facilities, utilities or other improvements to any real property, excluding stand-alone parking lots.

(k) "Construction management at-risk services" means the services provided by a firm which has entered into a contract with the board to be the construction manager or general contractor for the value and schedule of the contract for a project, which is to hold the trade contracts and execute the work for a project in a manner similar to a general contractor, and which is required to solicit competitive bids for the trade packages developed for the project and to enter into the trade contracts for a project with the lowest responsible bidder therefor. Construction management at-risk services may include, but are not limited to scheduling, value analysis, system analysis, constructability reviews, progress

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ATTACHMENT 3

document reviews, subcontractor involvement and prequalification, subcontractor bonding policy, budgeting and price guarantees and construction coordination.

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

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

(n) "Cost plus guaranteed maximum price contract" means a cost-plus-a-fee contract with a guaranteed maximum price. This includes the sum of the construction manager's fee, the construction manager's contingency, the construction manager's general conditions, all the subcontracts, plus an estimate for unbid subcontracts. The construction manager agrees to pay for costs that exceed the guaranteed maximum price and are not a result of changes in the contract documents.

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

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

(q) "Design criteria package" means performance-oriented specifications for the public construction project sufficient to permit a design-builder to prepare a response to the board's request for proposals for a design-build project.

(r) "Engineering services" means those services described by subsection (i) of K.S.A. 74-7003, and amendments thereto.

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

(t) "Selection recommendation committee" means school board or a committee comprised of school board members or a combination of school board members and school administrators.

(u) "Parking lot" means a designated area constructed on the ground surface for parking motor vehicles. A parking lot included as 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 subject to the provisions of this act.

(v) "Preconstruction services" means a series of services that can include, but are not necessarily limited to: Design review, scheduling, cost control, value engineering, constructability evaluation and preparation and coordination of bid packages.

(w) "Project services" means architectural, engineering services, land surveying, construction management at-risk services, ancillary technical services or other construction-related services determined by the board to be required by the project.

(x) "Public construction project" means the process of designing, constructing, reconstructing, altering or renovating a unified school district

building or other structure. Public construction project does not include the process of designing, constructing, altering or repairing a public highway, road, bridge, dam, turnpike or related structure.

(y) "Stipend" means an amount paid to the unsuccessful and responsive Proposers to defray the cost of submission of phase II of the design-build proposal.

Sec. 3. (a) Notwithstanding any other provision of the law to the contrary, the board is hereby authorized to institute an alternative project delivery program whereby construction management at-risk or design-build procurement processes may be utilized on public projects pursuant to this act. This authorization for construction management at-risk and design-build procurement shall be for the sole and exclusive use of planning, acquiring, designing, building, equipping, altering, repairing, improving or demolishing any structure or appurtenance thereto, including facilities, utilities or other improvements to any real property, but shall not include stand-alone parking lots.

(b) The board may only approve those projects or programs for which the use of the alternative project delivery procurement process is appropriate. In making such determination, the board shall consider the following factors:

(1) The likelihood that the alternative project delivery method of procurement selected will serve the public interest by providing substantial savings of time or money over the traditional design-bid-build delivery process.

(2) The ability to overlap design and construction phases is required to meet the needs of the end user.

(3) The use of an accelerated schedule is required to make repairs resulting from an emergency situation.

(4) The project presents significant phasing or technical complexities, or both, requiring the use of an integrated team of designers and constructors to solve project challenges during the design or preconstruction phase.

(5) The use of an alternative project delivery method will not encourage favoritism in awarding the public contract or substantially diminish competition for the public contract.

(c) When a board intends to utilize an alternative project delivery method, the board shall allow public comment on this intention at a school board meeting. Notice of this intention shall be clearly stated on the board agenda and in the official newspaper of the school district. Public comment on this intention at a board meeting shall occur before the selection process set forth in this statute may commence.

(d) Notwithstanding the provisions of K.S.A. 72-6760, and amendments thereto, if the board deems that the project does not qualify for the alternative project delivery methods included under this act, then the construction services for such project shall be obtained pursuant to competitive bids and all contracts for construction services shall be awarded to the lowest responsible bidder consistent with the provisions of K.S.A. 72-6760, and amendments thereto.

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

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

(b) Prior to completion of the construction documents, or as early as the initiation of the project, the construction manager or general contractor shall be selected. The project design professional may be employed or retained by the board to assist in the selection process.

(c) The board shall publish a notice of the request for qualifications and proposals for the required project services at least 15 days prior to

the commencement of such requests in the official newspaper of the school district and with a statewide school board or construction industry association website in accordance with K.S.A. 64-101, and amendments thereto, and in such other appropriate manner as may be determined by the board.

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

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

- (A) Similar project experience;
- (B) experience in this type of project delivery system;
- (C) references from design professionals and owners from previous projects;
- (D) description of the construction manager or general contractor's project management approach; and
- (E) bonding capacity. Firms submitting a statement of qualifications shall be capable of providing a public works bond in accordance with K.S.A. 60-1111, and amendments thereto, and shall present evidence of such bonding capacity to the board with their statement or qualifications. If a firm fails to present such evidence, such firm shall be deemed unqualified for selection under this subsection.

(2) The board shall evaluate the qualifications of all proposers in accordance with the instructions of the request for qualifications. The board shall prepare a short list containing a minimum of three and maximum of five qualified firms, which have the best and most relevant qualifications to perform the services required of the project, to participate in phase II of the selection process. If the board receives qualifications from less than four proposers, all proposers shall be invited to participate in phase II of the selection process. The board shall have discretion to disqualify any proposer that, in the board's opinion, lacks the minimal qualifications required to perform the work.

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

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

- (i) Company overview;
- (ii) experience or references, or both, relative to the project under question;
- (iii) resumes of proposed project personnel;
- (iv) overview of preconstruction services;
- (v) overview of construction planning;
- (vi) proposed safety plan;
- (vii) fees, including fees for preconstruction services, fees for general conditions, fees for overhead and profit.

(4) Phase III shall be conducted as follows:

(A) Once all proposals have been submitted, the selection recommendation committee shall interview all of the proposers, allowing the competing firms to present their proposed team members, qualifications, project plan and to answer questions.

(B) The selection recommendation committee shall select the firm providing the best value based on the proposal criteria and weighting factors utilized to emphasize important elements of each project for approval by the board. All scoring criteria and weighting factors shall be identified by the board in the request for proposal instructions to pro-

posers. Interview presentation scores shall not account for more than 50% of the total possible score. The selection recommendation committee shall proceed to negotiate with and attempt to enter into contract with the firm receiving the best total score to serve as the construction manager or general contractor for the project. Should the selection recommendation committee be unable to negotiate a satisfactory contract with the firm scoring the best total score, negotiations with that firm shall be terminated, and the committee shall undertake negotiations with the firm with the next best total score, in accordance with this act.

(C) If the selection recommendation committee determines, that it is not in the best interest of the board to proceed with the project pursuant to the proposals offered, the selection recommendation committee shall reject all proposals. If all proposals are rejected, the board may solicit new proposals using different design criteria, budget constraints or qualifications.

(D) The contract to perform construction management at-risk services will typically be awarded in phases; preconstruction followed by one or more amendments for construction. The contract will be a cost plus guaranteed maximum price contract. All savings under the guaranteed maximum price may return to the school district as defined in the request for proposal.

(E) The board or the construction manager at-risk, at the board's discretion shall publish a construction services bid notice in the official newspaper of the school district and website of a statewide school board association or construction industry association and in such other appropriate manner for the construction manager or general contractor as may be determined by the board. Each construction services bid notice shall include the request for bids and other bidding information prepared by the construction manager or general contractor and the board. The board may allow the construction manager or general contractor to self-perform construction services provided the construction manager or general contractor submits a sealed bid proposal under the same conditions as all other competing firms. At the time for opening the bids, the construction manager or general contractor shall evaluate the bids and shall determine the lowest responsible bidder except in the case of self-performed work for which the board shall determine the lowest responsible bidder. The construction manager or general contractor shall enter into a contract with each firm performing the construction services for the project and make a public announcement of each firm selected at the first school board meeting following the selection.

Sec. 5. Design-build project delivery procedures shall be conducted as follows:

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

(b) Notice of requests for proposals shall be published at least 15 days prior to the commencement of such requests in the official newspaper of the school district in accordance with K.S.A. 64-101, and amendments thereto, and a website of a statewide school board association or a construction industry association. The board shall publish a notice of a request for proposal with a description of the project, the procedures for submittal and the selection criteria to be used.

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

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

(1) The procedures to be followed for submitting proposals, the cri-

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teria for evaluation of proposals and their relative weight and the procedures for making awards.

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

(3) The design criteria package.

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

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

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

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

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

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

(1) The board shall review the submittals of the proposers and assign points to each proposal as prescribed in the instructions of the request for proposal.

(2) Phase I shall require all proposers to submit a statement of qualifications which shall include, but not be limited to, the following:

(A) Demonstrated ability to perform projects comparable in design, scope and complexity.

(B) References of owners for whom design-build projects have been performed.

(C) Qualifications of personnel who will manage the design and construction aspects of the project.

(D) The names and qualifications of the primary design consultants and contractors with whom the design-builder proposes to subcontract. The design-builder may not replace an identified subcontractor or subconsultant without the written approval of the board.

(E) Firms submitting a statement of qualifications shall be capable of providing a public works bond in accordance with K.S.A. 60-1111, and amendments thereto, and shall present evidence of such bonding capability to the board with their statement of qualifications. If a firm fails to present such evidence, such firm shall be deemed unqualified for selection under this subsection.

(3) The board shall evaluate the qualifications of all proposers in accordance with the instructions prescribed in the request for qualifications. Qualified proposers selected by the evaluation team may proceed to phase II of the selection process. Proposers lacking the necessary qualifications to perform the work shall be disqualified and shall not proceed to phase II of the process. Under no circumstances shall price or fees be considered as a part of the prequalification criteria. Points assigned in the phase I evaluation process shall not carry forward to phase II of the process. All qualified proposers shall be ranked on points given in phases II and III only. The two phase evaluation and scoring process shall be combined to determine the greatest value to the board.

(4) The board shall have discretion to disqualify any proposer, which in the board's opinion, lacks the minimal qualifications required to perform the work.

(5) The board shall prepare a short list containing a minimum of three, but no more than the top five qualified proposers to participate in

phase II of the process. If less than four proposers respond, all proposers shall be invited to participate in phase II of the selection process.

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

(A) Proposers shall submit their design for the project to the level of detail required in the request for proposal. The design proposal should demonstrate compliance with the requirements set out in request for proposal.

(B) Up to 20% of the points awarded to each proposer in phase II may be based on each proposer's qualifications and ability to design, construct and deliver the project on time and within budget.

(C) The design proposal shall not contain any reference to the cost of the proposal.

(D) The design submittals shall be evaluated and assigned points in accordance with the requirements of the request for proposal.

(7) Phase III shall be conducted as follows:

(A) The phase III proposal shall provide a firm fixed cost of design and construction. The proposal shall be accompanied by bid security and any other submittals as required by the request for proposal.

(B) The proposed contract time, in calendar days, for completing a project as designed by a proposer may be considered as an element of evaluation in phase III. The request proposal shall establish a user delay value for each proposed calendar day identified in the proposal.

(C) Cost and schedule proposals shall be submitted in accordance with the instructions of the request for proposal. Failure to submit a cost proposal on time shall be cause to reject the proposal.

(8) Proposals for phase II and III shall be submitted concurrently at the time and place specified in the request for proposal. The phase III cost proposals shall be opened only after the phase II design proposals have been evaluated and assigned points.

(9) Phase III proposals shall be opened and read aloud at the time and place specified in the request for proposal. At the same time and place, the evaluation team shall make public its scoring of phase II. Cost proposals shall be evaluated in accordance with the requirements of the request for proposal. In evaluating the proposals, each proposers' adjusted score shall be determined by adding the phase III cost proposal to the product of the proposed contract time and the user delay cost, and dividing that sum by the phase II score.

(10) The responsive proposer with the lowest total number of points shall be awarded the contract. If the board determines, that it is not in the best interest of the school district to proceed with the project pursuant to the proposal offered by the proposer with the lowest total number of points, the board shall reject all proposals. In such event, all qualified proposers with higher point totals shall receive a stipend pursuant to subsection (e)(12), and the proposer with the lowest total number of points shall receive an amount equal to two times such stipend.

(11) If all proposals are rejected, the board may solicit new proposals using different design criteria, budget constraints or qualifications.

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

Sec. 6. Every bid proposal conforming to the terms of the advertisement, together with the name of the proposer, shall be recorded, and all such records with the name of the successful proposer indicated thereon

shall, after award or letting of the contract, be subject to public inspection upon request. The board shall, within five days after award or letting of the contract, publish the name of the successful proposer. The notice on public display shall show the phase II and III scores and the adjusted final score. The board shall, within five days after award or letting of the contract, have the names of all proposers whose bid proposals were not selected, together with phase II and III scores and the final adjusted score for each, available for public review.

Sec. 7. The provisions of the Kansas unified school district alternative project delivery building construction procurement act shall not apply to the process of designing, constructing, altering or repairing stand-alone parking lots.

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

**TESTIMONY OF MARK HUTTON  
BEFORE HOUSE APPROPRIATIONS COMMITTEE  
SB 485**

March 26, 2008

Madame Chair and Members of the Committee my name is Mark Hutton. I am president of Hutton Construction Corporation, a mid-sized general contractor operating primarily in the State of Kansas.

I am speaking today in support of Senate Bill 485 that provides a prescriptive process for counties when they elect to use an alternative project delivery method other than the competitive lowest responsible bid process for construction projects. In addition I am requesting today that you seriously consider amending this bill to include the unified school districts.

Alternative project delivery methods such as Construction Management at Risk have been used throughout Kansas for well over 10 years. As the popularity of these methods increased the Associated General Contractors of Kansas was a leader in working with State officials in developing a white paper that eventually lead to HB 2394 that was passed 2 years ago. HB 2394 provided a uniform process for the Kansas Board of Regents to help insure that the selection of Construction Managers was a fair and open process that protected the public trust.

As this method has spread into the counties and school districts it was recognized that there was a need for the same clarification. That is the purpose of Senate Bill 485 as well as Senate Bill 642 for school districts. Both of these are essentially the same as the bill that was passed 2 years ago and was fully supported by the State of Kansas and its agencies, including the Kansas Board of Regents.

It is important to note that the AGC of Kansas is not advocating the use of alternative project delivery methods and this bill and the proposed amendment provided you by Corey Peterson does not in anyway require the counties or school districts to utilize this method. Nor should this be a debate about the merits of alternative delivery methods. That should be left up to the individual governmental groups to decide what is appropriate. The fact is that both the Construction Management at Risk and the Design-Build methods are being utilized by governmental authorities throughout our State as I speak. This bill is simply recognition of the fact that there is a growing trend by governmental owners to utilize these processes and we feel that it is important to provide clear guidance to those that choose to consider this alternative.

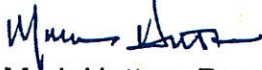
I would submit to you that even some of the organizations that opposed SB 642 in the Senate hearings, are advocating and involved in the use of the Construction Management delivery process on multiple school projects located throughout the State.



Mark Hutton  
HB 485 Testimony  
March 26, 2008  
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It has been suggested that we wait a year to pursue a bill for the school districts. I feel that this would be a mistake. There are many school districts that are considering alternative project delivery and they need the guidance and the protections that this bill provides.

Respectfully submitted,



Mark Hutton, President  
Hutton Construction Corporation



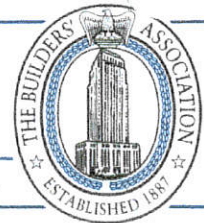
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## TESTIMONY BEFORE THE HOUSE APPROPRIATIONS COMMITTEE REGARDING SENATE BILL 485

By Dan Morgan

The Builders' Association and Kansas City Chapter, AGC

March 26, 2008

Thank you, Madam Chair, and members of the committee. My name is Dan Morgan. I am director of governmental affairs for the Builders' Association and the Kansas City Chapter of Associated General Contractors of America. The Builders' Association and KC Chapter, AGC represent more than 1,100 general contractors, subcontractors and suppliers engaged in the commercial and industrial building construction industry. Half of our members are located in the Kansas City area and are either domiciled in Kansas or perform work in the state. I appreciate the opportunity to appear in support of Senate Bill 485.

SB 485 is very similar to HB 2394 which was overwhelmingly approved by the Kansas Legislature in 2006. Like HB 2394 which authorized state agencies and the Board of Regents to procure building construction projects using alternative project delivery methods, SB 485 would allow county governments to select a construction manager or general contractor or a building design-build team based on a qualifications and best value approach rather than the traditional design-bid-build procurement method on appropriate projects.

When determining whether alternative delivery is appropriate for a project the board of commissioners would consider such factors as whether its use would result in substantial savings of time or money, whether there is a need to overlap the design and construction phases on the project and whether use of an accelerated schedule is needed to make repairs in an emergency situation. This authorization to use alternative delivery is not intended to replace the general practice of awarding public contracts to the lowest responsible bidder. Rather, it is meant to provide a good alternative in appropriate circumstances and only after a determination has been made that it is in the public interest to use an alternative method of delivery.

In an environment where more and more local governments are opting to use alternative delivery on certain projects, we like the fact that SB 485 conforms to current law affecting state agencies and establishes procedures for all counties to follow when a

HOUSE APPROPRIATIONS

respectfully ask that you recommend SB 485 favorably as amended.

DATE 3-26-2008  
ATTACHMENT 5

# THE KANSAS CONTRACTORS ASSOCIATION, INC.



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Kansas City, Kansas

## Testimony

By the Kansas Contractors Association

before the House Appropriations Committee

regarding Substitute for Senate Bill 485

March 26, 2008

Madame. Chairman and members of the House Appropriations Committee Committee, I am Bob Totten, Public Affairs Director for the Kansas Contractors Association. Our organization **represents over 350 companies** who are involved in the construction of highways and water treatment facilities in Kansas and the Midwest.

Today, I am here today to tell you the Kansas Contractors Association is still wary of a different way to procure bids by government entities. I testified several years ago about our concerns when it came to state work and our members were pleased that you and the legislature excluded the highway industry from using anything but the lowest and best bid when it comes to highway work.

We are pleased that this bill does the same in excluding counties from using anything but the lowest and best bid process for the construction of roads and bridges.

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ATTACHMENT 6

The Kansas Contractors Association recommends that owners select the delivery systems that best fit their particular needs but with due regard for their independent interest in an open and competitive construction industry. KCA maintains that alternative delivery systems are appropriate for the public sector if the selection process is as open, objective, cost effective and free of political influence as the competitive bid system.

This position regarding alternative bid procurement does not come lightly as we have debated and discussed alternative delivery methods within our organization off and on for the past ten years. The bottom line is that we as an organization want the bidding process **for transportation projects** to be open, objective, cost effective and free of political influence. We believe in the competitive bid process and that transportation projects should be awarded to the lowest and most responsible bidder.

This measure sufficiently exempts the bidding of roads, bridges, highways and stand alone parking lots from the alternative bid procurement selection process. Therefore, the highway construction industry supports this bill as it does not change the way counties will procure bids on roads and highways and stand alone parking

I appreciate the time you have heard on this important issue to our industry and stand for questions.





**KANSAS**  
ASSOCIATION OF  
**COUNTIES**

**WRITTEN TESTIMONY**  
concerning Senate Bill No. 485  
**DESIGN-BUILD OPTION and BIDDING THRESHOLD**  
Presented by Randall Allen, Executive Director  
Kansas Association of Counties  
March 26, 2008

Chairman Schwartz and members of the committee, thank you for the opportunity to submit written testimony in support of Substitute for SB 485. I regret that I am not available to testify in person. County commissioners and highway officials from northeast Kansas are meeting today in Marysville (Marshall County).

The Kansas Association of Counties is supportive of this bill because it gives counties permissive authority to institute an alternative design-build process for the design and construction of county facilities. This may be an appealing alternative to more conventional processes for constructing county facilities. This bill would grant authority to enter into such a process to any board of county commissioners.

We also want to go on record in support of the final section of the bill which raises the threshold over which all contracts for courthouse, jail or other county buildings, or other named infrastructure projects must be awarded, on a public letting to the lowest and best bid, from \$10,000 (current) to \$25,000.

The Kansas Association of Counties has consistently advised county counselors and county commissioners that the current \$10,000 threshold triggering the bidding requirement applies to remodeling projects on existing facilities as much as it does to new "construction" projects. While we have consistently taken a conservative approach in interpreting this statute (one that treats remodeling of existing facilities just like it does initial construction), counties across Kansas have long felt that the threshold is much too low, in that scarcely anything can be done within a county facility (e.g. Courthouse) for less than \$10,000. There is a cost to the county (taxpayers) for the bidding process, and particularly in the case of small projects, it is sometimes in the taxpayers' best interest to forego the bidding process and directly contract with an individual or firm with whom the board of county commissioners is confident can and will do a good job. As such, we support Substitute for SB 485, and urge the Committee to report the bill favorably for passage. Thank you for the opportunity to comment on this bill.

The Kansas Association of Counties, an instrumentality of member counties under K.S.A. 19-2690, provides legislative representation, educational and technical services and a wide range of informational services to its member counties. Inquiries concerning this testimony should be directed to Randall Allen or Judy Moler by calling (785) 272-2585.

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**HOUSE APPROPRIATIONS**

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**Testimony Before the  
House Appropriations Committee**

**In Support of Senate Substitute Bill 485**

**Presented on Behalf of  
The Board of County Commissioners  
of Johnson County, Kansas**

**By Joe Waters  
Director of Facilities**

**March 26, 2008**

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**HOUSE APPROPRIATIONS**



Good Morning, my name is Joe Waters. I am Director of Facilities for Johnson County Government and an Architect with over 25 years experience in public and private sector, primarily in the State of Kansas. I am pleased to appear before the Committee on behalf of the Board of County Commissioners of Johnson County in support of Senate Substitute Bill 485.

County Commissioners are limited today to the traditional Design/Bid/Build project delivery method, yet every construction project has unique challenges that are not always conducive to the traditional delivery method. This bill expands the options available to include Construction Management at Risk and Design/Build, giving the County Commissioners the opportunity to determine the delivery method best suited to meet the challenges of a given project.

Construction Management at Risk and Design/Build are not new project delivery methods, they have been tested and proven to be successful in both public and private sector for decades. The primary reason for their success is that both delivery methods bring all parties – designers, constructors and owners - together contractually much earlier, during design, where their respective insight and expertise can help expedite a project, improve the constructability, improve the quality and lower the cost.

We participated in sessions with the Senate Ways & Means Committee and have coordinated closely with interested parties, working at length to review and amend the language. Johnson County believes the substitute bill provides adequate detail to assure appropriate processes are utilized while still leaving room for County Commissioners to align those processes with their business practices and to match the unique challenges of each project.

The primary goals in capital projects are to deliver the highest quality projects, on time, within budget and meeting or exceeding the expectations of the public. The project delivery method chosen can be crucial to meeting quality and schedule challenges and can be the single most important decision in ultimately delivering a project within budget. We support Senate Substitute Bill 485 that would give County Commissioners this valuable tool.

Thank you for your time and I will be happy to answer any questions you may have.

\*\*\*\*\*

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STATE OF KANSAS  
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TOPEKA

MINORITY LEADER'S OFFICE

**Testimony to House Appropriations Committee  
on Senate Bill 417**

Thank you for the opportunity to testify today on the Housing Grant Program in SB 417.

As the Disaster Recovery Committee toured the communities affected by disasters this past summer I was struck by the fact that all of the communities identified housing as their number one priority need. That lead to our attention on solutions to help with housing development in disaster areas.

To me, the primary thrust of SB 417 is to allow communities to design programs that fit local situations. This is better than a top down prescription from the state. Under this bill, communities would be able to design housing solutions and apply in a competitive grant program for assistance from the state. One community may want to clear dilapidated structures and lay new utility lines to make lots available to new housing while another city may want to provide soft second mortgage subsidies.

The point is that cities can design what works to fit the wide range of needs that exist across the state and then we can help them meet those needs.

In Greensburg, we see a need to help working families get back into town and into our work force. Many wage earning families had nice homes that were lost in the tornado. Now, to rebuild a basic home new costs \$100,000 to \$125,000. Clearly this is a barrier to having them back in our work force.

Having lost 91% of its residential valuation and an estimated 96% of its commercial valuation, it will take several years for the City of Greensburg to recover. Helping us to rebuild our housing and our work force will jump start this recovery and, in the end, reduce the amount of assistance we will need from the State of Kansas.

We know we can not say thank you often enough for all of the help we have received from across the state. We do want you to know that we understand that the State of Kansas is our largest partner in our rebuilding effort and we are committed to building a community in which you will be proud to have been a partner.

Thank you again.

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**TESTIMONY BEFORE HOUSE APPROPRIATIONS COMMITTEE**  
**REGARDING SENATE BILL NO. 417**

**March 26, 2008**

Honorable Chairman Schwartz and Members of the Committee:

Thank you for this opportunity to address the Committee regarding Senate Bill No. 417. Prior to the tornadoes and flooding this past year, many rural Kansas communities faced housing problems, now for many of those communities the problems have turned into a crisis.. The Greensburg tornado destroyed or damaged nearly 1,000 homes. Over 2,300 more homes were affected by flooding in Southeast Kansas. I am sure the Committee will hear testimony from others detailing this need.

Kansas Housing Resources Corporation's (KHRC), mission is to provide housing opportunities across the state. KHRC relies primarily upon federal funding to help fund safe, decent, and affordable housing. KHRC has been active in rebuilding Greensburg and Southeast Kansas as part of our mission. While the State Finance Council approved a one-time allocation to begin the rebuilding, those dollars along with the programmed federal dollars can only be stretched so far and designated annual funding for both disasters and general housing needs are vitally important.

Senate Bill No. 417 would provide one additional tool for this purpose, initially in disaster areas, but later transitioning to rural areas throughout the State. The Bill creates a housing development grant initiative ("Initiative") administered by KHRC. Cities would apply for funds for constructing or rehabilitating badly needed infrastructure. The funds would jump start development initially in disaster areas and later in difficult to develop areas across the state.

KHRC supports the tenet of a permanent funding source for housing initiatives. Long term funding will allow for private enterprise to establish and maintain the capacity necessary for effective creation of housing and housing infrastructure. Limited term or inconsistent funding of this Fund may hinder the overall effectiveness.

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KHRC envisions holding competitive application rounds, beginning with cities in eligible disaster areas. To successfully compete, communities would need to demonstrate specific needs and identify projects to meet those needs. Communities would also demonstrate their commitment to the projects in the form of matching funds. In order to best leverage available funds and make the greatest impact, application and evaluation criteria would likely include preference for workforce, elderly and special needs housing. KHRC employs similar application/grant/compliance methods in several of our federal programs. Flexibility to respond to unique needs of communities is a hallmark of this program which sets this funding apart from the one-size-fits-all approach of the federal government.

KHRC commits to ensuring transparency in administration of the program and full reporting detailing the uses of these funds. KHRC will consult with communities, community groups, and housing advocates across the State in the development and operation of the Initiative. I offer the attached report detailing expenditures of the disaster funding provided by the State Finance Council only a few short months ago. This report illustrates the tremendous impact state dollars can have in leveraging private investment in these communities.

Once again, thank you for the opportunity to address the Committee and for considering one additional tool in achieving KHRC's housing mission. I am happy to entertain any questions from the Committee.

## State Disaster Funds Status Report – data as of March 25, 2008

You will recall that the State Finance Council this past October took an important step in helping Greensburg and Southeast Kansas communities begin the long and daunting task of rebuilding. The Council designated \$5 million to help spur housing redevelopment efforts in disaster declared counties around the state. \$3 million was allocated to help build affordable rental housing units, and the other \$2 million was provided to help homeowners repair storm-damaged homes, build new or purchase existing homes.

As of today, we have tremendous progress to report. KHRC has committed all \$3 million allocated for rental housing plus an additional \$500,000 from the State Housing Trust Fund. With our federal resources and private investment, a total of \$39.8 million in affordable rental housing development is committed and underway. We have approved nine rental developments, representing 302 rental units. Greensburg has four of these developments with a total of 98 units. Coffeyville has two developments with 108 units. Chanute, Iola, and Osawatomie each have one development with 42, 30 and 24 units respectively. The state funding, in the form of soft and hard loans, serves as critical gap financing which helps developers lower construction costs.

State funding is also helping homeowners in disaster areas get their lives back on track. \$2 million from the State Finance Council Funding was designated for homeowner loans providing resources for disaster area residents who plan to purchase an existing home, repair an existing home, or build a new home. An additional \$1.25 million was committed from the State Housing Trust Fund. Loans are limited to 20% of the home's value, up to a maximum of \$25,000. To date, 185 homeowner loans totaling over \$3.4 million have been committed to help residents repair, build new or purchase a home. 84 of the loans were for the purchase of existing homes, 19 for repair of a damaged home, and 82 for the construction of new homes. In all, 57 of the loans have been in Greensburg and 128 in the Southeast Kansas communities.

KHRC has committed all of State Finance Council appropriated the funds. Applications for our homeownership loans have been suspended due to lack of funding. With the upcoming spring home buying and new construction season soon upon us, we feel certain of a continuing strong demand for this program.

## FUNDING SUMMARY

### RENTAL

**Terminal Supply Apartments** – This is a historic rehab of two buildings in downtown Coffeyville with great access to a lot of services and stores. Although it is targeted to families it would be ideal for the elderly as the units will be mostly be one and two bedrooms. Garrison Development is the developer. It has great affordability and wouldn't require any state money if they get a decent pricing for the credits. It has high credit per unit because of the historic nature of the development. We could add state money and lower the credit or seek a greater deferred fee. The development cost per unit is very high. The city expressed a preference for this one. It is located in a NRA.  
Development Cost - \$6,684,000 – no soft loan

**Rolling Hills Apartments** – The City of Coffeyville had the highest priority for this proposal because it will ultimately result in a larger, more comprehensive development. Dalmark in KCMO is the developer and will use the USDA 538 program. There will be 72 units of family apartments in the middle of a growing residential neighborhood. The 6 one bedroom units have a rent of \$340/month, 48 two bedroom units will rent for \$395/month and 18 three bedroom units will rent for \$445/month.  
Development Cost - \$7,209,000 – \$367,000 soft loan

**Cornerstone Apartments** – This is a proposal for Chanute consisting of 42 units with two and three bedroom units for families. The rent will be \$345, \$450 and \$515 a month for 24 two bedroom units and \$420, \$520 and \$590 a month for 18 three bedroom units. The site is adjacent to the hospital and medical complex and a new school that is being built. An old rest home will need to be demolished on the site. Farnam Group in Omaha is the developer. Development Cost - \$7,209,000 – \$367,000 soft loan

**River Valley Homes** – Located in Iola this is a single family development consisting of 30 homes that will be sold to the tenants after the 15 year tax credit period. Carlson Gardner in Springfield, MO is the developer. Rent for the homes will be \$375 a month. The developer is deferring most of their fee.  
Development Cost - \$4,726,000 – \$650,000 soft loan

**Greensburg Homes** – Commercial Group, Inc. in Topeka is the developer of 30 single family homes in Greensburg. There will be 10 two bedroom homes and 20 three bedroom homes with monthly rent at \$350 and \$470. The homes will be sold to the tenants after the 15 year tax credit period. A green design will be used in the construction. Development Cost - \$4,761,000 – \$500,000 soft loan

**Greensburg Housing** – Commercial Group, Inc. is also developing a 36 unit apartment complex in Greensburg consisting of 4 one bedroom units with a rent of \$375/month, 20 two bedroom units with a rent of \$475/month and 12 three bedroom units with a rent of \$550/month. It is expected that USDA will provide rental assistance for the tenants. Development Cost - \$4,132,000 – no soft loan

**Prairie Pointe Townhomes** – This is 16 two bedroom units with an attached garage in Greensburg that is currently under construction. The rents are \$375 and \$400 a month. Manske & Associates in Wichita are the developers. The site was the location of the high school and was donated by the school district to the developer. The construction is using green design and will be LEED certified.  
Development Cost - \$2,250,000 – \$250,000 soft loan



**Oakview Townhomes** – This is 16 two and three bedroom units for families with an attached garage on the same site as Prairie Pointe Townhomes in Greensburg. Rents will be \$375/month for 4 two bedroom units, \$400/month for 4 two bedroom units and \$450/month for 8 three bedroom units. Manske & Associates are the developers. It is currently under construction using green design and it will be LEED certified. Development Cost - \$1,855,000 – \$250,000 soft loan

**Woodland Hills Estates** – Located on the west side of Osawatomie in a new development area, this will be 24 units of elderly housing consisting of two bedroom units that will rent for \$525 a month. Dean & Associates in Overland Park are the developers. Development Cost - \$3,500,000 – \$517,000 soft loan

**TOTAL**  
**302 Units    Development Cost \$39,876,000 - \$3,505,400 Soft Loans**

**HOMEOWNERSHIP**

**Overall**

Total Loan Amount .... \$3,468,475  
Average Loan ..... \$18,748  
Number of loans  
    Total .....185  
    New Construction ..... 82  
    Existing Purchase..... 84  
    Repair / Reconstruction .... 19

**Greensburg**

Total Loan Amount .... \$1,315,833  
Average Loan ..... \$23,085  
Number of loans  
    Total ..... 57  
    New Construction ..... 54  
    Existing Purchase..... 2  
    Repair / Reconstruction ..... 1

**Southeast Kansas**

Total Loan Amount .... \$2,152,642  
Average Loan ..... \$16,818  
Number of loans  
    Total ..... 128  
    New Construction ..... 28  
    Existing Purchase..... 82  
    Repair / Reconstruction ... 18

Robert and Ann Dixson, Greensburg, Kansas

Testimony before House Appropriations Committee

Thank you for this opportunity to testify before you in support of SB 417 for housing resource funding in the disaster areas of the state.

Prior to May 4, 2007 the residents of Greensburg led quiet lives in comfortable homes surrounded by beautiful tree-lined streets. They worked hard at their low to moderate income jobs and dreamed of the day they would have their mortgages paid off and have their own little piece of paradise. Today, those who are rebuilding their homes and lives in our community are facing the hard realities that with the high costs of reconstruction they now have brand new thirty year mortgages and the hope they will live long enough to pay them off.

The rebuilding of the community is progressing at a good pace. Many new homes are being built and most that could be repaired have been. Our community has come together in unity with a common vision for the future. However, there are several myths that I wish to dispel today.

Many home owners had good "replacement cost" insurance but in actuality, replacement costs for insurance companies are figured at the local value of homes. A beautiful old historic home in Greensburg prior to the tornado would have sold for around \$100,000-125,000 in a good market. Replacement costs are figured at 120% of the LOCAL market value. With no local comparisons after the tornado, most residents found that \$150,000 would not begin to rebuild the square footage they had before. Additionally, many property owners had to pay off their prior mortgage after the insurance settlement.

The actual costs of construction have been running about triple of what their prior homes were valued at. Today, most home owners involved in rebuilding face costs higher than those in Wichita and Kansas City because of the high cost of building materials and the lack of construction labor in our rural area. Most construction crews are traveling up to one hundred miles and are working twelve hour days for three or four days each week.

The construction crisis is especially rough for landlords considering rebuilding rental property. Property they once rented for \$300-400 per month will now cost at least \$600-\$700 per month just to break even. Many landlords can't cash flow

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this effort without some assistance and most renters in rural communities can't afford to pay these high rents.

Though we have an elder housing complex under construction, there are many persons under 55 that don't qualify and those whose income doesn't fall within the guidelines.

Two stories I am aware of are that of the county attorney's secretary who is a single person who previously rented a 3 bedroom home with fenced yard for \$350 per month. She has a moderate salary, but she doesn't know if she will be able to rent anything for less than \$700 per month or if she will even qualify for any of the income based housing available.

We also have a Sheriff's deputy with a young family of four children. His wife is a nurse and they rented a home prior to the tornado. They lost everything they had May 4 except their family. They have hopes of building a home, but the \$20,000 incentive funding that was previously available has been exhausted and now they don't know how they will get started. This is a man and woman who responded to the needs of their community and state following the disaster and were on duty for several days without rest. It is tragic that they may not have any resources after they move out of the FEMA trailer to rebuild their lives.

The world is watching to see how we rebuild and how the state of Kansas helps their own. As Kansans, we ARE THE HEART of the heartland. We don't like handouts, but the community of Greensburg needs a hand-up to continue the rebuilding effort and to make affordable housing available to the middle-class working community. They have paid their taxes and been dedicated citizens. Please support SB 417 and allow the residents of the disaster areas of the state to rebuild their lives, maintain their dignity, and continue to be taxpayers and good citizens.

Thank you for your time and this opportunity to speak to you.



## ***FOR SENATE BILL 417***

March 25, 2008

RE: Senate Bill 417

As a resident of Greensburg since 1978, I am writing to voice my support for Senate Bill 417. Housing continues to be a severe deterrent in rebuilding our community.

As Kansans, our community has always tried to be self sufficient. It has not been easy to ask for assistance, but I believe that our community is vital to Southwest Kansas. We have made progress since 5-4-07, but we cannot complete our rebuilding without the assistance that you can make possible with Senate Bill 417.

On a professional level, as administrator of the 25 bed critical access county hospital and rural health clinic in Greensburg, I am especially concerned about recruiting and retaining professional staffing when there is no housing available. I have already lost one of my mid-level providers because of housing and would have lost the Medical Doctor that we have, if we had not found private funding to purchase a home for him to rent. Since the tornado, I have had to recruit 2 lab technicians and for 4 months, they have been living in 5<sup>th</sup> wheel trailers. Before moving in a FEMA trailer, I lived in one for 8 weeks myself and I can guarantee you, it's not fun. New workers are not eligible for FEMA housing. We not only need housing for residents, but also for those who are rebuilding our town. Since contractors and workers have no place to stay and that increases the cost of building and limits their availability.

On a personal level, I am a single mom with 4 children (2 are still living at home) and I lost my home. I had a nice home that in Greensburg would have sold for \$90,000 - \$95,000 pre-tornado. I had good insurance and after the tornado, I received \$203,000 in house insurance and \$111,000 in property insurance. Before "sticker shock" set in, I felt I would be able to rebuild and have money for my children's college. That is before, I began replacing 2 vehicles, all my furniture, all belongings and rebuilding in Greensburg. Builders have told us that building a house in Greensburg today is more expensive than in Johnson County and it has created hardships for anyone committed to remaining in our community. We are not asking for a free hand-out. We are only asking for a chance to continue to rebuild our community - and housing is an integral part of that process.

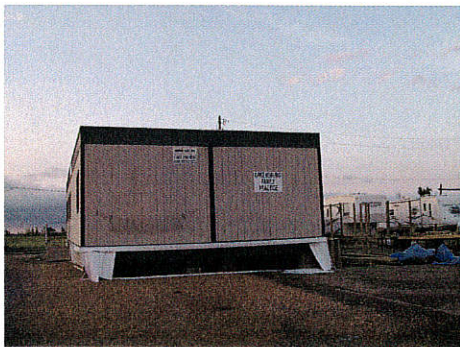
I have been asked why not just move. This is our home. We did not ask for this disaster and we are not asking for a "hand-out". I have always considered taxes to be a type of insurance. It builds a state and community resource that is available to help those that need it - whether it be in supporting roads that I don't drive on, schools that I don't have children in or medical programs that I don't use. I considered it my moral responsibility to help others. Never did I think

But I am!! My community and my hospital are essential to Western Kansas. **HOUSE APPROPRIATIONS**

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We have a major highway that goes thru our community. Yes, we are just 30 miles from another hospital but in a medical emergency (accident or illness) that equates to 60 miles – 30 miles here and 30 miles back. For local citizens or people driving thru (this could be you), we are essential to prevent needless deaths. AND for me, this is my home. I have chosen to live here and raise my children. My neighbors are my family. I deserve the right to have your vote for Senate Bill 417 and therefore I am asking you for your support.

This is my story and I know that our loss is not unique in Kansas in 2007. Many communities have these same issues, so in asking for your support for Senate Bill 417, I not only asking for Greensburg, but also to support those other individuals who are facing the same hardships incurred with housing shortages. Help us make our communities strong again.



The first picture is where we were on 5-4-07. The second is in August 07 and now we are in temporary modulars (picture #3) Where we go from here is dependent on Senate Bill 417. Please vote yes in support of Senate Bill 417. Thank you.

Mary Sweet  
603 S. Spruce  
Greensburg, KS 67054  
Cell number (620) 546-6037

*Mary Sweet*

12-2



Greater Kansas City  
*Helping neighbors  
build communities*

**Written Testimony on Senate Bill No. 417  
March 26, 2008  
Ashley Jones  
Local Initiatives Support Corporation**

Chairwoman Schwartz and Members of the Appropriations Committee,

I want to thank you for the opportunity to submit written testimony. My name is Ashley Jones and I am Assistant Program Officer at Greater Kansas City LISC. Greater Kansas City LISC is a program area of the Local Initiatives Support Corporation, the nation's largest community development organization, dedicated to revitalizing urban core and rural neighborhoods.

Greater Kansas City LISC started the Kansas Housing Policy Network about a year and a half ago. Although it began with only a hand-full of individuals from across the state interested in the creation of community development tools, it has grown to include over 300 members to date. The Kansas Housing Policy Network includes representations from the Homebuilders, Realtors, Homeless Providers and Advocates, Community Development Corporations, and many other interested entities.

In 2006, LISC sponsored a Kansas Statewide Housing Conference to begin the discussion on housing issues throughout the state. This past September, when LISC held the second annual conference in Hutchinson, the number of participants far exceeded our expectations. Over 350 individuals from across the state took part in the conference, including many members of the Kansas Legislature. We heard from legislators, including Senate President Steve Morris and House Minority Leader Dennis McKinney, that because of the recent disasters in Coffeyville and Greensburg, housing was going to be at the forefront of the legislature this session. In hearing this, the Policy Network decided to hold six regional meetings during the month of November in an effort to identify the housing needs across the state. In doing so, we heard a vast variety of personal testimonials of the housing problem throughout Kansas. For example - in SE Kansas we heard about the struggles in Montgomery County, where currently individuals are being bussed in from Oklahoma to work at Cessna and Amazon.com because of the lack of workforce housing. In NW Kansas, we heard about the need for gap financing. Right now, there is little construction being done because the cost to build a home is significantly more than what the home will appraise for. It was apparent that housing was a problem in Kansas before the disasters, but now has been elevated to a crisis level.

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Senate Bill 417 does an excellent job of addressing the parts of Kansas affected by the 2007 disasters. However, the bill's scope does not cover the housing needs that were present before the tornado and floods. The established Housing Trust Fund could be the catalyst to focus on these housing needs. By creating an ongoing revenue source for the Housing Trust Fund, there will be funds readily available when and if another disaster occurs. In years that disasters do not occur, or occur on a smaller scale, funds will be available to be applied for on a statewide basis to address each areas specific housing concerns. This will allow communities to engage in long term planning to address their housing needs. Builders, developers, investors and lenders are more likely to engage in addressing the housing needs throughout our state if the state's Housing Trust Fund is funded to acceptable levels. Reliability of the funding source will encourage builders and developers to gear up business operations where the state focuses the money.

The disasters shed light on the fact that Kansas is lacking in community development tools. In fact, the only community development tools or funding available in Kansas are for federal programs. As most of you know, a major problem with federal programs is that they adapt the mantra that one-size-fits-all. Kansas has a unique mixture of urban, suburban, and rural communities, so a one-size-fits-all solution will not work here. A funded Housing Trust Fund would allow us to tackle the many issues that are specific to each community. Many of Kansas's finest including teachers, police officers and firefighters are not able to find or afford housing in the communities in which they live and work, as they are just above the threshold for qualifying for federal programs. If we don't attack our housing issues now, our state has the potential of losing families and jobs.

One solution to the diverse housing needs across Kansas is to identify a permanent revenue source for the Kansas State Housing Trust Fund – which exists in statute but has no revenue stream. This funding source would assist in ensuring that safe, quality and affordable housing is accessible for all Kansans -- not just in times of disaster.

Populations/Kinds of Programs HTF would serve:

- Homeless
- Very low income
- Low income
- Workforce
- Special needs (accessible)
- New construction and rehab of existing homes

#### Components

- Concentrated in housing - acquisition/new construction/rehab/special needs
- mixed income
- 100-120% area median income
- flexible but within specific guidelines
- in urban environment, connected to overall revitalization strategies
- low income
- workforce
- manufactured housing
- homeless
- address green and universal design

By expanding and enhancing the current State Housing Trust Fund to meet the needs of Kansans not eligible for federal programs, we will help improve the available housing options for all Kansans; and in turn, contribute to the economic vitality of our communities and leverage available resources.

Greater Kansas City LISC strongly encourages you to support SB 417 for the purpose of ensuring that safe, quality and affordable housing is accessible for all Kansans during all times of need. We also hope that as you discuss Senate Bill No. 417, you also consider a consistent and permanent funding source for the Housing Trust Fund.

Thank you for your time.

Ashley Jones  
Local Initiatives Support Corporation  
913.375.7264  
[www.lisc.org/KansasCity](http://www.lisc.org/KansasCity)



Testimony before House Appropriations Committee  
Rod & Mitzi Hesser, Greensburg, KS

HOW do you heal from a major tragedy in your life? The WHOLE community of Greensburg has had to face and ask themselves this question, over and over. As the public health nurse, who had been involved in disaster preparedness, I ask myself, how we could have ever been prepared for this. I can say that you can't ever be prepared for this kind of destruction.

My husband and I did have some saving put back for a rainy day, just not a total wash-out. We had adequate insurance for our home etc. Then May 4 came along and took all our worldly possessions, our cars, our home, our yard and everything was gone. We were faced to start over; it's difficult to know where to start. Not only did we have to ask that question, but we had to look around us and know that we would also have to help build back schools for our children, churches for worship, business so we would have jobs. If we wanted to build a home here, we had to have the rest also.

No amount of insurance would give us the ability to build ALL THIS BACK. We personally had good insurance, but what insurance company is going to insure you for 4x what your home is worth. We had to buy new property, because your lots are no longer going to residual property. Hopefully we can re-sell it, but when and for how much, we don't know. We are going to have to use all our insurance money for our contents to put into the building of our home. Then as we have to move in, we can only be thankful for a few folding chairs and a bed, because we are not going to have money left to do anything else.

We are committed to our community. We loved living in a small community and want to stay and that's our chose, but what wasn't our chose was to loose everything personally, as well as our whole community. We are so very thankful for all that the Federal, State and volunteer groups have done for us, but there is a long road ahead of us and we can only hope that 5-10 years from now we can call our new place and community, HOME.

Rod & Mitzi Hesser

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# KANSAS BOARD OF REGENTS

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

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**House Appropriations Committee**  
**March 26, 2008**

*In Support of HB 2987 – Authorizing a Pilot Program for the Investment of Idle Funds*

**Reginald L. Robinson**  
**President and CEO**

Chairwoman Schwartz, Ranking Member Feuerborn, and members of the Committee, thank you for the opportunity to appear before you this morning to testify in support of HB 2987, legislation that would authorize the Board of Regents to undertake a pilot investment program with one of the state universities whereby the core balances of the university's idle funds (excluding the State General Fund) would be invested by an independent investment entity created for the purpose of implementing this pilot investment program.

Currently, idle funds of the state universities are invested through the Kansas Pooled Money Investment Board in the Pooled Money Investment Fund (PMIF). As of July 1, 2007, the state universities receive the average rate of return of the PMIF on certain funds, i.e. tuition and fees, restricted fees, sponsored research overhead, etc. In accordance with the deferred maintenance legislation you passed last session, these earnings are credited to the deferred maintenance support fund of the state university and must be expended only for deferred maintenance projects.

You will recall that Representative Wilk came before this Committee earlier this session to share his thoughts about this concept of an expanded public/private partnership and the potential for utilizing university foundations/endowments as an alternative method for investing university idle funds. As a follow up, Representatives Schwartz, Taffanelli, and Wilk met with the Board's Fiscal Affairs and Audit Committee, along with university officials and representatives from university foundation/endowment organizations to discuss the concept and how it could work.

Although there remain many questions and details to be resolved, the Board is comfortable moving forward with the bill that is before you today, permissive legislation which authorizes the Board to work with one of the universities to pursue the development of a detailed implementation plan. Only if such a plan is approved by the Board, will the selected university move forward with a limited pilot program. A critical provision of the bill requires the pilot university and the independent investment entity to enter into an agreement that must be approved by the Board before the program is implemented.

Furthermore, we recognize that the bill provides that the pilot investment program approved by the Board shall be subject to the following requirements:

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1. The funds may only be invested according to the terms and limitations established and approved by the Board.
2. The maximum invested under the pilot program shall not exceed \$40 million and no moneys from the State General Fund shall be invested.
3. The core balance of money to be invested shall be selected and identified by the state university and shall be approved by the Board and transferred to the independent investment entity.
4. The investment of the funds under the pilot investment program shall be managed by an independent investment entity that is designated and established by the state university for the purpose of implementing and carrying out the pilot investment program.
5. A report on the investment portfolio for the pilot investment program and other pertinent details shall be provided to the Board by the state university and the independent investment entity on a quarterly basis, or whenever the Board requests such a report or other information about the investment program.
6. The program is limited to five years, although the Board may terminate at any time for any reason.
7. Net interest earnings shall be credited to the deferred maintenance support fund of the state university and shall only be expended for deferred maintenance projects.
8. If the pilot program ends, the total amount of funds invested at the time, shall be returned and deposited and accounted for as required by law.
9. Annually, in January, the Board shall provide a report to the Legislature on the details and results of the pilot investment program.

The Board very much appreciates the leadership and initiative of Representatives Schwartz, Taffanelli, and Wilk regarding this proposal, and stands ready to more fully explore the details of this concept as the Board moves toward implementation. Thank you for your time this morning. I would be pleased to respond to any questions that you may have.



KANSAS DENTAL ASSOCIATION

Date: March 26, 2008

To: House Committee on Appropriations

From: Kevin J. Robertson, CAE  
Executive Director

Re: **Hearing on SB 597**

Representative Schwartz and members of the Committee I am Kevin Robertson, executive director of the Kansas Dental Association which represents about 80% of Kansas' 1,300 practicing dentists. I am here today to testify in support of SB 597 which creates the "**dentistry bridging loan program**" patterned largely after the existing medical bridging loan program.

The loan program is quite simple. It creates an incentive for new dental school graduates to practice in the more rural counties of our state by providing dental students who agree to practice dentistry upon graduation in any county other than the ten largest Kansas counties of Butler, Douglas, Johnson, Leavenworth, Reno, Riley, Saline, Sedgwick, Shawnee or Wyandotte, with a three-year loan of \$8,000/per year. The student repays the loan by practicing dentistry for three years in the lower population county. SB 597 also calls for a match from the community that would result in a total \$48,000 loan to the dental student.

The KDA envisions four loans would be awarded per year with an appropriation of \$32,000, \$64,000 and \$96,000 phasing in over the next three years. Twelve students will ultimately receive a loan payment during any given year. As amended the program would be administered by the Kansas Dental Board with the intent that the KDA would actually administer the program. This change was made in the Senate as a result of a high fiscal note from the KU Medical Center Office of Rural Health. The KDA is willing and excited to administer the program for the cost of actual expenses anticipated to be \$8,000.

Students who fail to complete their obligation to practice in the counties described would be required to repay the administer within 90 days with 15% interest. That money would then be used to provide loans to other students. According to the KUMC Office of Rural Heath, the similar physician program has an 11% default rate of physicians who do not fulfill their rural practice obligation and a 74% retention rate of physicians who stay in rural Kansas after their obligation is completed.

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The KDA suspects that both the default rate and retention rate would be even better for dentists as there are not the large dental group practices that might be interested in buying out a new graduate's obligation to lure them to the big city. Also, dentists generally have more equipment and infrastructure expenditures making it more difficult to move practices once the dental practice is established and the obligation is completed.

Communities from Atwood to Elwood struggle to recruit dentists into their communities. Many have dental office facilities that a previous dentist simply abandoned after unsuccessful attempts to sell the practice at any price. New dental school graduates seem to be less willing to locate in rural areas. Though the reasons vary from student to student, we commonly hear concerns about dental school debt that now averages \$130,000 and the financial viability of rural practices.

Financial factors and dental school loans force new dental school graduates to seek opportunities within busy metropolitan practices as an associate because it provides an opportunity to practice without bearing additional debt or overhead. Because of the indebtedness, purchasing or starting practices directly out of school has become less common. Depending upon infinite variables, a dentist starting a new practice would need a minimum of \$250,000 in capital to purchase equipment, hire staff, lease office space, etc.

SB 597 will help reduce some of the financial stresses of a dental student and put them in a better financial position when they graduate. The Administrator will work closely with both the student and Kansas communities to find a practice location for the dentist that satisfies the practice obligation of the loan agreement.

Currently, there is loan funding available to students through the National Health Service Corps (NHSC), however, this funding is not well utilized as the requirements for the dental practices are not desirable for a new dentists trying to establish a successful practice in a rural area. For example, the NHSC loan requires that the recipient provide care to all patients on a sliding fee schedule based on income. Though this appears to be a fair expectation of a loan recipient, in actuality it is a barrier by creating an environment by which a new dentist cannot produce the appropriate income to pay the 60-65% overhead, and others loans needed to purchase and begin a new business venture.

During the 1980's and 1990s the number of dentists being trained across the United States decreased dramatically from a high of 5,336 in 1976 to 3,810 in 1996. The large number of dental school graduates during the 1960s and 1970s was largely the result of federal money provided to dental schools to increase the dentist population, as many dental school closed while others decreased their class sizes. In the past five years, however, there has been an uptick in dental education as new schools are beginning to open and others are now increasing the size of their classes. This trend was also true at the University of Missouri Kansas City (UMKC) (Kansas' Dental School). Class sizes reached a high of 160 in the 1970s before being reduced throughout the 1980s and eventually settling at around 60 throughout the 1990s. In

2002 UMKC increased its class size to 100, and is currently considering an additional increase to 120.

As recently as 2004, Kansas had only **NINE** dental students graduate from UMKC! I'm pleased to report that the current four dental classes at UMKC contain 20, 22, 27 and 24 Kansas students respectively. In addition, the new Advanced Education in General Dentistry residency program starting in Fall 2009 at Wichita State University will house around ten dental students in each class of a two-year residency program that will include a rural rotation during the second year.

These are positive steps to helping dental access in Kansas. However, if we do nothing to encourage these new dentists to practice in rural Kansas, the dentist to population ratios in rural counties versus the more populous Kansas counties will continue to grow apart. An unscientific study by the KDA of Kansas dentists shows **the dentists to population ratio in the ten largest counties is 1:1,467 while the ratio in the rest of the state is 1:2,672.**

The KDA believes that the creation of the "dentistry bridging loan program" specifically designed to encourage dental school graduates to locate in the less populous areas of the state would be a positive step toward increasing access to oral health care in rural Kansas.

Thank you for your time. I'll be happy to answer any questions you may have.



## KANSAS DENTAL ASSOCIATION

### SB 597 – Dental Student Bridging Loan Bill

- SB 597 will create more dental practice opportunities for dental students in the rural areas of Kansas by creating an incentive for new dental school graduates to practice in the more rural counties of our state by providing dental students who agree to practice dentistry upon graduation in any county other than Butler, Douglas, Johnson, Leavenworth, Reno, Riley, Saline, Sedgwick, Shawnee or Wyandotte with a three-year loan of \$8,000/per year. The student repays the loan by practicing dentistry for **three years** in the lower population county. SB 597 also calls for a **match from the community** that would result in a total \$48,000 loan to the dental student
- The KDA envisions four loans would be awarded per year with an appropriation of \$32,000, \$64,000 and \$96,000 phasing in over the next three years. Twelve students will ultimately receive a loan payment during any given year.
- A similar physician loan program has an 11% default rate of physicians who do not fulfill their rural practice obligation.
- The number of dental students educated over the past 30 years has fluctuated significantly. At the University of Missouri Kansas City (UMKC) (Kansas' Dental School). Class sizes reached a high of 160 in the 1970s before being reduced throughout the 1980s and eventually settling at around 60 throughout the 1990s. In 2002 UMKC increased its class size to 100, and is currently considering an additional increase to 120.
- As recently as 2004, Kansas had only **NINE** dental students graduate from UMKC!
- The current four dental classes at UMKC contain **20, 22, 27 and 24 Kansas students** respectively. In addition, the new Advanced Education in General Dentistry residency program starting in Fall 2009 at Wichita State University will house around ten dental students in each class of a two-year residency program that will include a rural rotation during the second year.
- These students need to locate in areas other than metropolitan counties. An unscientific study by the KDA of Kansas dentists shows that the **dentists to population ratio in the ten largest counties is 1:1,467 while the ratio in the rest of the state is 1:2,672**. The KDA believes there is a need to provide greater incentives for dental students to locate in rural areas.
- The KDA is committed to this program and is willing to administer the dentistry bridging loan program for the cost of actual expenses estimated at \$8,000...making the total FY 2009 appropriation **\$40,000**.

16-4



**Testimony for the House Appropriations Committee**  
***In support of SB 597, a bill creating the dentistry bridging loan program***

**March 26, 2008**

**Board of Directors**

Andrew Allison, PhD  
KS Health Policy Authority

Mary Baskett, MPA  
KS Head Start Assn.

Barry Daneman  
UMKC School of Dentistry

Karen Finstad  
Delta Dental of KS Foundation

Ron Gaches, JD  
KS Dental Hygienists' Assn.

Cathy Harding, MA  
KS Assn. for the  
Medically Underserved

Mark Herzog, DDS

Denise Maseman, RDH, MS  
WSU School of  
Dental Hygiene

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Kim Moore, JD  
United Methodist Health  
Ministry Fund

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Loretta J. Seidl, RDH, MHS  
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KS Hospital Assn.

Douglas Stuckey  
Community Health Center of SEK

Sharon Tidwell  
Jones Foundation

Marlou Wegener  
Blue Cross and  
Blue Shield of KS

Katherine Weno, DDS, JD  
KDHE, Office of Oral Health

Chairperson Schwartz and Members of the Committee:

I am the Executive Director of Oral Health Kansas, the statewide oral health coalition. The coalition was established just over four years ago to respond to critical oral health issues in the state. In that time, the coalition has been built to over 200 members representing a wide array of stakeholders, including Head Start, elder care and disability organizations, safety net clinics, educational institutions, advocacy organizations, professional associations, health foundations, dental insurers as well as private dentists, dental hygienists and other medical clinicians.

As you are all well aware, access to dental care presents a major challenge to many Kansans, especially those living in rural areas of our state. In January 2005, Kansas Health Institute (KHI) released a report entitled *The Declining Supply of Dental Services: Implications for Access and Options for Reform*. The report clearly showed that many poor and rural Kansans lag significantly behind an accepted standard for dental care and oral health—the gaps in services caused in part by a limited supply of dentists, especially in rural areas of the state.

It is clear that rural areas face significant challenges to providing dental care to their residents, including recruiting dentists to practice in rural Kansas. In fact, according to a recent Office of Oral Health workforce survey, there are currently 14 counties in Kansas that do not have a full-time practicing dentist, including the following: Barber, Chase, Clark, Comanche (an Oklahoma dentist provides care one day per week in Coldwater), Elk, Greeley, Haskell, Hodgeman, Kiowa, Lane, Ness, Rawlins, Trego and Wabaunsee.

In a report recently released by Rural Health Education and Services of the University of Kansas Medical Center, they indicated that 92% of dental students surveyed reported having student loan debt, and of that number, 58% indicated having debt of more than \$100,000. In that same report, nearly 70% of students indicated that their decision regarding where to practice would be influenced by the availability of loans to help pay debt accumulated from dental school.

With the creation of a bridging loan program, the state could impact access to dental care for underserved Kansans by financially supporting dentists willing to practice in some of the more rural areas of the state.

Respectfully submitted,  
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STATE OF KANSAS



TOPEKA

HOUSE OF

REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
VICE CHAIRMAN: GOVERNMENT EFFICIENCY  
AND TECHNOLOGY

MEMBER: ENERGY AND UTILITIES  
TRANSPORTATION

TOM SLOAN  
REPRESENTATIVE, 45TH DISTRICT  
DOUGLAS COUNTY  
  
STATE CAPITOL BUILDING  
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Testimony on HB 2986 - Calling Reservoirs into Service, Funding Aquifer Re-Charge, and Funding Research on Non-Potable Water and Reservoir Protection

House Appropriations Committee

March 26, 2008

Madam Chairman, Members of the Committee: There are three things that will determine our state's future: educational opportunities, energy availability and cost, and water availability. HB 2986 addresses some significant aspects of our state's water policies.

1) Policy: The bill "calls into service" the storage capacity of Perry and Milford Reservoirs. Veteran members of this Committee will recall that the state has contractual obligations to purchase water storage capacity in the Corps of Engineer constructed reservoirs. Historically, as demand for water increased, the Kansas Water Office has "called into service" the waters in the appropriate reservoirs. Clinton Lake, for example, is fully appropriated and the users of those waters are paying to purchase the storage capacity and for the on-going operations and maintenance costs.

Perry and Milford Reservoirs have not been fully called into service because the demand for those waters has not warranted such action. However, storage in both reservoirs must be paid for by 2032 under the existing contract with the Corps of Engineers.

Veteran legislators will also recall that the Corps of Engineers has released water from those two reservoirs each year to float barges on the Missouri River. The Governor and legislative leaders have protested to the Corps about releases during periods of severe drought in Kansas - to no avail. While the Kansas Congressional delegation has tried to pass legislation to prohibit such releases, the Missouri delegation has successfully blocked the attempt. The only way that I know to prevent the releases is for Kansas to call those waters into service.

I believe that Kansas should control the waters within the state and therefore HB 2986 calls the Milford and Perry Reservoir storage capacity into service.

2) Policy: Wichita's aquifer recharge project is an innovative program to provide for the long

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term water needs of that community. HB 2986 provides a 10 year funding commitment.

3) Policy: Water policies for western Kansas frequently focus on the withdrawal and recharge rates of the Ogallala Aquifer. What is too frequently ignored are the strata (e.g., Dakota) with non-potable water. HB 2986 provides for studies to identify potential amounts of water that can be productively treated for beneficial uses and to identify waters discharged from municipal and industrial processes that can be treated for reuse.

4) Policy: Kansas has the opportunity, in cooperation with the Corps of Engineers, to identify opportunities to reallocate water storage within reservoirs and address loss of storage capacity. HB 2986 provides funds to work with the Corps on such studies.

HB 2986 calls for the Kansas Water Office, KSU Cooperative Extension, the Kansas Biological Survey, and Ft. Hays State University to collaboratively work on the above projects.

Policy Summary: I believe that it is preferable to address problems earlier, rather than later; when the costs are less onerous, than when a crisis exists. HB 2986 seeks to address independent water needs of Kansans: protecting the reservoirs, recharging the Wichita aquifer, identifying ways to use non-potable waters, in a comprehensive manner.

Funding: To accomplish the above objectives, HB 2986 creates the drinking water protection initiative fee of 2 cents per 1,000 gallons of treated water sold by public water supply systems and appropriated for industrial use pursuant to a permit. In addition, an additional 1 cent per 1,000 gallons is assessed against Kansas River Assurance Districts. This charge is a recognition that the reservoir waters benefit the residents along the Kansas River and ultimately would be called into service to serve those persons. This 1 cent fee recognizes that it is less expensive to call the water into service today, than to wait until we are closer to 2032 under the terms of our contract with the Corps.

Madam Chairman, I appreciate the Committee Members' attention and will respond to questions at the appropriate time.

House Bill 2986  
House Appropriations Committee

Tracy Streeeter, Director  
March 26, 2008

Chairperson Schwartz and members of the committee, it is my pleasure to appear before you today to discuss House Bill 2986. House Bill 2986 focuses on two interrelated issues involving reservoirs, navigation releases from Milford and Perry reservoirs and the effects of sedimentation, which reduces Kansas' water supply capacity in reservoirs.

Current United States Army Corps of Engineers operating rules can result in significant releases of water from Milford and Perry reservoirs to support Missouri River navigation. These navigation releases have been a recurring and significant economic issue for our state. The State of Kansas has tried numerous ways to deal with this ranging from annual requests to the Corps of Engineers to deviate from the established rules to litigation in U.S. district court. None of these attempts to address navigation releases has been completely successful.

Two options remain to deal with the navigation release issue; either de-authorize these reservoirs for navigation support or purchase the remaining storage in Milford and Perry reservoirs. Both options are being pursued at the national as well as the state level.

De-authorization requires Congressional action. Ultimately, a desire by Kansas to de-authorization navigation releases may become tied with a movement of multiple Missouri River Basin states to have the Corps of Engineers complete a study of the entire Missouri River basin and all of the uses of the reservoirs. At the state level, HCR 5032 requests Congress de-authorize navigation from Kansas reservoirs. Purchase of storage, as is contained in this bill, is the only immediate and direct way to insure that navigation releases from these reservoirs is eliminated. I do suggest that as this bill is discussed some thought to flexibility be considered to insure that in the event Congress de-authorizes navigation support from these reservoirs, funding provided through this bill is authorized for use in projects and programs to sustain the reservoir storage rather than to secure it.

A second option to eliminate the impact of navigation releases is to purchase the water supply available in the reservoirs. If the State of Kansas purchases the remaining available water storage in Milford and Perry reservoirs, navigation releases cannot be made by the Corps of Engineers. There is a growing recognition that water supply, which has until recently been taken for granted, may not meet our citizens' demands in the near future. Meeting increasing demand will take more financial resources than the State of Kansas currently provides. This bill provides at least a portion of that funding by assessing fees on two of the users impacted by potential future shortages. Funding from this bill will not only make sure that Kansas can control the storage needed to meet Kansas River needs but improves our understanding of sedimentation so that we may appropriately target efforts aimed at reducing the silt load entering the reservoirs.

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If this bill is considered favorable for passage, there are a few suggested technical changes that I believe will make the bill more efficient and insure that we meet our financial obligations. I will be glad to discuss those suggested changes at your discretion.

Thank you, Madam Chair, for the opportunity to appear before this committee today. I will stand for questions at the appropriate time.

Proposed Amendments  
26 March 2008

Session of 2008

**HOUSE BILL No. 2958**

By Committee on Appropriations

3-7

9 AN ACT concerning the state budget; state general fund and special  
10 revenue fund expenditures, transfers and ending balance require-  
11 ments; reduction and allotment procedures; economic impact state-  
12 ments and fiscal note updates for certain legislation; amending K.S.A.  
13 75-3722 and 75-6704 and repealing the existing sections.

14  
15 *Be it enacted by the Legislature of the State of Kansas:*

16 New Section 1. (a) The director of legislative research shall prepare  
17 an economic impact statement in accordance with this section for a bill  
18 or other matter under consideration by the legislature upon request of:

- 19 (1) The president of the senate;  
20 (2) the majority leader of the senate;  
21 (3) the minority leader of the senate;  
22 (4) the chairperson of the committee on ways and means of the senate  
23 or the successor committee;  
24 (5) the chairperson of the assessment and taxation committee of the  
25 senate or the successor committee;  
26 (6) the speaker of the house of representatives;  
27 (7) the majority leader of the house of representatives;  
28 (8) the minority leader of the house of representatives;  
29 (9) the chairperson of the committee on appropriations of the house  
30 of representatives or the successor committee; or  
31 (10) the chairperson of the committee on taxation of the house of  
32 representatives or the successor committee.

33 (b) The director of legislative research shall prepare a statement of  
34 [the economic impact] of the bill or other matter specified in the request  
35 upon the Kansas economy, all state or local governmental agencies or  
36 units and all persons which will be subject thereto and upon the general  
37 public. The economic impact statement shall include:

- 38 (1) A brief description of the bill or other matter;  
39 (2) whether the bill or other matter is mandated by federal law as a  
40 requirement for participating in or implementing a federally subsidized  
41 or assisted program and whether the bill or other matter meets or exceeds  
42 the requirements of applicable federal law;  
43 (3) a description of the cost estimate of the bill or other matter, the

significant  
economic  
impacts

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*and state agencies that*

1 persons who will bear the costs and those who will be affected by the bill  
2 or other matter, including the agency that will administer or will be most  
3 directly affected by the bill, other state or local governmental agencies or  
4 units, private citizens and consumers of any products or services which  
5 would be affected by the bill or other matter, or the administration or  
6 enforcement thereof; and

7 (4) economic analyses of the effects of the bill or other matter under  
8 consideration on significant economic indicators, including, but not limited  
9 to, projected growth or decline in the number and kinds of jobs,  
10 general economic growth and inflation factors in the short-term and long-  
11 term, in conjunction with the characteristics of current economic factors  
12 that are significant in the Kansas economy, and the impact of selected  
13 economic indicators that are specified in the request. *may*

14 (c) The director of legislative research shall exercise informed, independent  
15 professional judgment and shall have the assistance of qualified  
16 professional staff in the legislative research department to prepare  
17 economic impact statements. The director of legislative research may use  
18 dynamic scoring techniques to assist in the preparation of economic impact  
19 statements. The director of legislative research may consult with  
20 other state agencies, cities, counties, school districts or other local gov-  
21 ernmental entities, as appropriate, when preparing the economic impact  
22 statement of a bill or other matter which increases or decreases revenues  
23 of state government, cities, counties, school districts or other local gov-  
24 ernmental entities or which imposes functions or responsibilities on state  
25 government, cities, counties, school districts or other local governmental  
26 entities which may increase expenditures or fiscal liability. A copy of the  
27 current economic impact statement on a bill or other matter shall be  
28 available from the Kansas legislative research department upon request.

29 (d) Upon request of the director of legislative research, the director  
30 of the budget, the secretary of revenue and each other state agency shall  
31 provide assistance in the preparation of an economic impact statement  
32 for a bill, including any supplemental or revised statement. The economic  
33 impact statement and each supplement thereto or revision thereof shall  
34 include a reliable estimate of the anticipated changes in the Kansas econ-  
35 omy and the revenues and expenditures of the state. It also shall include  
36 a statement, if determinable or reasonably foreseeable, of the immediate  
37 and long-range economic impact of the bill or other matter upon persons  
38 subject thereto and the general public. If, after careful investigation and  
39 analysis, it is determined that a reliable monetary cost estimate is not  
40 possible, the statement shall set forth the reasons why no monetary cost  
41 estimate can be prepared. Every state agency shall cooperate with the  
42 director of legislative research in the preparation of any statement pur-  
43 suant to this section when, and to the extent, requested by the director

*which may include, but which are*

*and of Kansas, Inc. or other state agencies, as determined appropriate*

*may review and may*

1 of legislative research.  
2 New Sec. 2. (a) In accordance with this section, the director of leg-  
3 islative research ~~shall review and shall~~ prepare an update for each fiscal  
4 note prepared by the division of the budget under K.S.A. 75-3715a, and  
5 amendments thereto, for a bill or other matter under consideration by  
6 the legislature, which has changes recommended or adopted by a com-  
7 mittee or by the senate or the house of representatives, upon request of:

- 8 (1) The president of the senate;
- 9 (2) the majority leader of the senate;
- 10 (3) the minority leader of the senate;
- 11 (4) the chairperson of the committee on ways and means of the senate  
12 or the successor committee;
- 13 (5) the chairperson of the assessment and taxation committee of the  
14 senate or the successor committee;
- 15 (6) the speaker of the house of representatives;
- 16 (7) the majority leader of the house of representatives;
- 17 (8) the minority leader of the house of representatives;
- 18 (9) the chairperson of the committee on appropriations of the house  
19 of representatives or the successor committee; or
- 20 (10) the chairperson of the committee on taxation of the house of  
21 representatives or the successor committee.

22 (b) The director of legislative research shall prepare, in accordance  
23 with the provisions and procedures and subject to the guidelines pre-  
24 scribed by K.S.A. 75-3715a, and amendments thereto.

25 (c) The director of legislative research shall exercise informed, in-  
26 dependent professional judgment and shall have the assistance of quali-  
27 fied professional staff in the legislative research department to prepare  
28 the updates to fiscal notes in accordance with this section. ~~The director~~  
29 of legislative research may consult with other state agencies, cities, coun-  
30 ties, school districts or other local governmental entities, as appropriate,  
31 in preparing updates to fiscal notes. A copy of the current updated fiscal  
32 note on a bill or other matter shall be available from the Kansas legislative  
33 research department upon request.

34 (d) Upon request of the director of legislative research, the director  
35 of the budget, the secretary of revenue and each other state agency shall  
36 provide assistance in preparing updates to fiscal notes under this section.  
37 Every state agency shall cooperate with the director of legislative research  
38 in the preparation of any statement pursuant to this section when, and to  
39 the extent, requested by the director of legislative research.

40 Sec. 3. K.S.A. 75-3722 is hereby amended to read as follows: 75-  
41 3722. (a) An allotment system will be applicable to the expenditure of  
42 the resources of any state agency, under rules and regulations established  
43 as provided in K.S.A. 75-3706, and amendments thereto, only if, in the

*each updated  
fiscal note*

*\* may use  
dynamic  
scoring  
techniques*

1 opinion of the secretary of administration on the advice of the director  
2 of the budget, the use of an allotment plan is necessary or beneficial to  
3 the state. In making this determination the secretary of administration  
4 shall take into consideration all pertinent factors including (1) available  
5 resources, (2) current spending rates, (3) work loads, (4) new activities,  
6 especially any proposed activities not covered in the agency's request to  
7 the governor and the legislature for appropriations, (5) the minimum  
8 current needs of each agency, (6) requests for deficiency appropriations  
9 in prior fiscal years, (7) unexpended and unencumbered balances, and (8)  
10 revenue collection rates and prospects.

11 (b) Whenever for any fiscal year it appears that the resources of ~~the~~  
12 ~~general fund or any special revenue fund~~ are likely to be insufficient to  
13 cover the appropriations made against such ~~general fund or special~~  
14 revenue fund, the secretary of administration, on the advice of the director  
15 of the budget, shall, in such manner as ~~he or she~~ *the secretary of admin-*  
16 *istration* may determine, inaugurate the allotment system so as to assure  
17 that expenditures for any particular fiscal year will not exceed the available  
18 resources of ~~the general fund or any such~~ special revenue fund for that  
19 fiscal year.

20 (c) The allotment system shall not apply to the ~~legislature or to the~~  
21 ~~courts or their state general fund or to any appropriations for the legis-~~  
22 ~~lative or judicial branches of state government or to any agencies or of-~~  
23 ~~ficers and employees of such branches.~~

24 (d) Agencies affected by decisions of the secretary of administration  
25 under this section shall be notified in writing at least ~~thirty (30)~~ 30 days  
26 before such decisions may become effective and any affected agency may,  
27 by written request addressed to the governor within ~~ten (10)~~ 10 days after  
28 such notice, ask for a review of the decision by the ~~finance council gov-~~  
29 ~~ernor.~~ The ~~finance council~~ governor shall hear appeals and render a deci-  
30 sion within ~~twenty (20)~~ 20 days after the governor receives requests for  
31 such hearings.

32 Sec. 4. K.S.A. 75-6704 is hereby amended to read as follows: 75-  
33 6704. (a) The director of the budget shall continuously monitor the status  
34 of the state general fund with regard to estimated and actual revenues  
35 and approved and actual expenditures and demand transfers. Periodically,  
36 the director of the budget shall estimate the amount of the unencum-  
37 bered ending balance of moneys in the state general fund for the current  
38 fiscal year and the total amount of anticipated expenditures, demand  
39 transfers and encumbrances of moneys in the state general fund for the  
40 current fiscal year.

41 (b) (1) If the amount of such unencumbered ending balance in the  
42 state general fund is less than ~~\$100,000,000~~ *the amount equal to 3.5% or*  
43 *less of the total amount authorized to be expended or transferred by de-*



1 *mand transfer from the state general fund in such fiscal year, as jointly*  
2 *estimated by the director of the budget and the director of legislative*  
3 *research under K.S.A. 75-6702, and amendments thereto, the director of*  
4 *the budget shall certify to the governor the difference between*  
5 *~~\$100,000,000~~ the amount equal to 3.5% or less of the total amount au-*  
6 *thorized to be expended or transferred by demand transfer from the state*  
7 *general fund in such fiscal year, as jointly estimated by the director of the*  
8 *budget and the director of legislative research under K.S.A. 75-6702, and*  
9 *amendments thereto, and the amount of such unencumbered ending bal-*  
10 *ance in the state general fund, after adjusting the estimates of the*  
11 *amounts of such demand transfers with regard to new estimates of rev-*  
12 *enues to the state general fund, where appropriate.*

13 ~~(b)~~ (2) Upon receipt of any such certification and subject to approval  
14 of the state finance council acting on this matter which is hereby declared  
15 to be a matter of legislative delegation and subject to the guidelines pre-  
16 scribed by subsection (c) of K.S.A. 75-3711c, and amendments thereto,  
17 the governor may issue an executive order reducing, by applying a per-  
18 centage reduction determined by the governor in accordance with this  
19 section, ~~(A)~~ (A) the amount authorized to be expended from each appro-  
20 priation from the state general fund for the current fiscal year, other than  
21 any item of appropriation for debt service for payments pursuant to con-  
22 tractual bond obligations or any item of appropriation for employer con-  
23 tributions for the employers who are eligible employers as specified in  
24 subsections (1), (2) and (3) of K.S.A. 74-4931, and amendments thereto,  
25 under the Kansas public employees retirement system pursuant to K.S.A.  
26 74-4939, and amendments thereto, and ~~(B)~~ (B) the amount of each de-  
27 mand transfer from the state general fund for the current fiscal year, other  
28 than any demand transfer to the school district capital improvements fund  
29 for distribution to school districts pursuant to K.S.A. 75-2319, and amend-  
30 ments thereto.

31 ~~(e)~~ (3) The reduction imposed by an executive order issued under  
32 this ~~section~~ subsection (b) shall be determined by the governor and may  
33 be equal to or less than the amount certified under ~~this~~ subsection ~~(a)~~  
34 (b). Except as otherwise specifically provided by this section, the per-  
35 centage reduction applied under *this* subsection (b) shall be the same for  
36 each item of appropriation and each demand transfer and shall be im-  
37 posed equally on all such items of appropriation and demand transfers  
38 without exception.

39 (4) *The provisions of this subsection (b) shall not apply if the amount*  
40 *of the unencumbered ending balance in the state general fund for the fiscal*  
41 *year ending June 30, 2009, or any fiscal year thereafter, is determined to*  
42 *be insufficient to cover the remaining amount authorized to be expended*  
43 *or transferred by demand transfer from the state general fund in such*

1 *fiscal year, as jointly estimated by the director of the budget and the*  
2 *director of legislative research under K.S.A. 75-6702, and amendments*  
3 *thereto. In any such case, the provisions of subsection (c) shall apply.*

4 (5) (A) *During any fiscal year, if there is projected to be a loss of tax*  
5 *revenues caused by temporary, one-time federal tax changes, the effect of*  
6 *such federal tax changes shall be estimated by the director of the budget*  
7 *and the director of the legislative research department who shall prepare*  
8 *a joint estimate of such loss of revenue to the state general fund for the*  
9 *current fiscal year in the same manner as provided by K.S.A. 75-6701,*  
10 *and amendments thereto. The amount of any such loss of revenue to the*  
11 *state general fund estimated pursuant to this subsection shall be excluded*  
12 *from any determination of whether the ending balance in the state general*  
13 *fund is equal to 3.5% or less of the total amount authorized to be expended*  
14 *or transferred by demand transfer from the state general fund in such*  
15 *fiscal year, shall not reduce the estimated unencumbered ending balance*  
16 *in the state general fund for such determination, and shall not be the basis*  
17 *for any certification to the governor by the director of the budget under*  
18 *subsection (b) or any percentage reduction in any appropriation or de-*  
19 *mand transfer from the state general fund under subsection (b).*

20 (B) *During any fiscal year, any expenditures from the state general*  
21 *fund for disasters or emergencies that receive a federal disaster declara-*  
22 *tion designation shall be excluded from any determination of whether the*  
23 *ending balance in the state general fund is equal to 3.5% or less of the*  
24 *total amount authorized to be expended or transferred by demand transfer*  
25 *from the state general fund in such fiscal year, shall not reduce the esti-*  
26 *mated unencumbered ending balance in the state general fund for such*  
27 *determination, and shall not be the basis for any certification to the gov-*  
28 *ernor by the director of the budget under subsection (b) or any percentage*  
29 *reduction in any appropriation or demand transfer from the state general*  
30 *fund under subsection (b).*

31 (6) *No such percentage reduction and no provisions of any such exe-*  
32 *cutive order under this ~~section~~ subsection (b) shall apply or be construed*  
33 *to reduce: (A) Any item of appropriation for debt service for payments*  
34 *pursuant to contractual bond obligations or, (B) any item of appropriation*  
35 *for employer contributions for the employers who are eligible employers*  
36 *as specified in subsections (1), (2) and (3) of K.S.A. 74-4931, and amend-*  
37 *ments thereto, under the Kansas public employees retirement system*  
38 *pursuant to K.S.A. 74-4939, and amendments thereto, or (C) any demand*  
39 *transfer to the school district capital improvements fund for distribution*  
40 *to school districts pursuant to K.S.A. 75-2319, and amendments thereto.*  
41 *The provisions of such executive order shall be effective for all state agen-*  
42 *cies of the executive, legislative and judicial branches of state government.*

43 (c) *Whenever the amount of the unencumbered ending balance in the*

1 state general fund for the fiscal year ending June 30, 2009, or any fiscal  
2 year thereafter, is determined to be insufficient to cover the remaining  
3 amount authorized to be expended or transferred by demand transfer  
4 from the state general fund in such fiscal year, as jointly estimated by the  
5 director of the budget and the director of legislative research under K.S.A.  
6 75-6702, and amendments thereto, the director of the budget shall certify  
7 that determination to the governor and recommend an allotment system  
8 so as to assure that expenditures for such fiscal year will not exceed the  
9 amount of the unencumbered ending balance in the state general fund for  
10 such fiscal year. Upon receipt of such certification and recommendation,  
11 and upon approval by the state finance council acting on this matter  
12 which is hereby characterized as a matter of legislative delegation and  
13 subject to the guidelines prescribed by subsection (c) of K.S.A. 75-3711c,  
14 and amendments thereto, the governor may issue an executive order im-  
15 plementing an allotment system. Any allotment system implemented for a  
16 fiscal year on appropriations and demand transfers from the state general  
17 fund shall be implemented by the governor, in such manner as the gov-  
18 ernor determines, so as to assure that expenditures and demand transfers  
19 from the state general fund for the fiscal year do not exceed the available  
20 resources of the state general fund for the fiscal year. In accordance with  
21 the executive order issued under this subsection, the provisions of K.S.A.  
22 75-3723, 75-3724 and 75-3725, and amendments thereto, shall apply to  
23 any allotment system imposed under this subsection (c).

24 (d) If the governor issues an executive order under this section, the  
25 director of accounts and reports shall not issue any warrant for the pay-  
26 ment of moneys in the state general fund or make any demand transfer  
27 of moneys in the state general fund for any state agency unless such  
28 warrant or demand transfer is in accordance with such executive order  
29 and such warrant or demand transfer does not exceed the amount of  
30 money permitted to be expended or transferred from the state general  
31 fund.

32 (e) Nothing in this section shall be construed to (1) require the gov-  
33 ernor to issue an executive order under this section upon receipt of any  
34 such certification by the director of the budget; or (2) restrict the number  
35 of times that the director of the budget may make a certification under  
36 this section or that the governor may issue an executive order under this  
37 section.

38 Sec. 5. K.S.A. 75-3722 and 75-6704 are hereby repealed.

39 Sec. 6. This act shall take effect and be in force from and after its  
40 publication in the statute book.