

MINUTES OF THE SENATE WAYS AND MEANS COMMITTEE

The meeting was called to order by Chairman Dwayne Umbarger at 10:30 A.M. on April 1, 2008, in Room 123-S of the Capitol.

All members were present.

Committee staff present:

Jill Wolters, Senior Assistant, Revisor of Statutes  
Kristen Clarke Kellems, Assistant Revisor of Statutes  
Audrey Dunkel, Kansas Legislative Research Department  
Julian Efird, Kansas Legislative Research Department  
Jarod Waltner, Kansas Legislative Research Department  
Melinda Gaul, Chief of Staff, Senate Ways & Means  
Mary Shaw, Committee Assistant

Conferees appearing before the committee:

Senator John Vratil  
Major Mark Bruce, Kansas Highway Patrol  
Jeff Russell, Director, Kansas Legislative Administrative Services  
Eric King, Director of Facilities, Kansas Board of Regents  
Gary Hibbs, Manager of Facilities Planning, Kansas Department of Administration  
Trudy Aron, Executive Director, American Institute of Architects  
Representative Virgil Peck  
Terry Heidner, Legislative Liaison, Kansas Department of Transportation  
Duane Goossen, Secretary, Kansas Department of Administration  
Representative Kasha Kelley  
Representative Jim Morrison  
Alan Cobb, State Director, Americans for Posterity

Others attending:

See attached list.

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

**SCR 1620--Requesting Capitol Area Plaza Authority to develop plan for improving area surrounding Capitol**

The Chairman acknowledged Whitney Damron who presented a letter to the Committee regarding the City of Topeka and its agreement to appropriate up to \$50,000 to assist in the cost of the study (Attachment 1).

Senator Teichman moved, with a second by Senator Morris, to bring SCR 1620 off the table. Motion carried on a voice vote.

Senator Morris moved, with a second by Senator Kelly, to recommend SCR 1620 favorable for passage. Motion carried on a roll call vote.

**HB 2968--Increase docket fees by \$9 to fund nonjudicial salary increases**

Senator V. Schmidt moved, with a second by Senator Goodwin, to amend HB 2968 to conceptually amend the bill to do a \$9 docket fees across the board regularly and to a 90 percent actual collection rate and the remainder come from State General Fund. Following discussion, the motion failed on a voice vote.

Senator Emler moved, with a second by Senator Goodwin, to recommend HB 2968 favorable for passage. Motion carried on a roll call vote.

CONTINUATION SHEET

MINUTES OF THE Senate Ways and Means Committee at 10:30 A.M. on April 1, 2008, in Room 123-S of the Capitol.

The Chairman opened the public hearing on:

**SB 700--Tort Claims Act; University of Kansas medical students**

Kristen Kellems, Assistant Revisor of Statutes, presented a briefing on the bill (Attachment 2).

Chairman Umbarger welcomed Senator John Vratil who presented testimony in support of **SB 700** and **SB 699**. (No written testimony was submitted.) Senator Vratil explained that the bill contains provisions that have been included as substantiative law provisos in appropriations bills and this bill puts these provisions into a regular bill, so they can be included in substantiative law.

Written testimony was submitted by:

Barbara Atkinson, Executive Vice Chancellor, University of Kansas Medical Center and Executive Dean, University of Kansas School of Medicine (Attachment 3).

The Chairman closed the public hearing on **SB 700**.

Senator Teichman moved to recommend SB 700 favorable for passage. Following discussion, Senator Teichman withdrew her motion.

Chairman Umbarger opened the public hearing on:

**SB 699--State surplus property; disposition of computers and firearms**

Jill Wolters, Senior Assistant Revisor of Statutes, presented a briefing on the bill (Attachment 4).

Senator John Vratil testified on **SB 699** earlier in the meeting as a conferee on **SB 700**.

Major Mark Bruce, Kansas Highway Patrol, testified in support of **SB 699** (Attachment 5). Major Bruce explained that the bill concerns codifying the purchase of side arms by retiring and resigning Kansas Highway Patrol Law enforcement officers and recommended an amendment to the bill which is found on page 2 of the written testimony. The Highway Patrol suggests two issues should be separate as follows:

1. Troopers and sworn officers who are retiring, regardless of whether they are seeking employment with another law enforcement agency; and,
2. Troopers and sworn officers who are resigning to work for another law enforcement agency.

Jeff Russell, Director, Legislative Administrative Services, spoke in support of **SB 699** (Attachment 6). Mr. Russell explained that the bill provides the necessary guidance concerning legislators and legislative staff purchasing computer equipment coming off lease and administer the program, while still allowing the flexibility to manage unusual situations.

The Chairman closed the public hearing on **SB 699**.

Senator Teichman moved, with a second by Senator Emler, to adopt the amendment offered by the Kansas Highway Patrol on SB 699. Motion carried on a voice vote.

Senator Teichman moved, with a second by Senator Emler, to remove the contents of HB 2133, amend the contents of SB 699 as amended into Senate Substitute for HB 2133 and recommend Substitute for HB 2133 favorable for passage. Motion carried on a roll call vote.

Senator Teichman moved, with a second by Senator Wysong, to remove the contents of HB 2421, amend the contents of SB 700 into Senate Substitute for HB 2421 and recommend Senate Substitute for HB 2421 favorable for passage. Motion carried on a roll call vote.

CONTINUATION SHEET

MINUTES OF THE Senate Ways and Means Committee at 10:30 A.M. on April 1, 2008, in Room 123-S of the Capitol.

Chairman Umbarger opened the public hearing on:

**HB 2744--Procedures for state agencies to acquire architectural, engineering and land surveying services for certain projects for state agencies and setting fees for such services**

Staff briefed committee on the bill. Copies of the Report of the Joint Committee on State Building Construction to the 2008 Kansas Legislature, were distributed to the Committee (Attachment 7).

The Chairman welcomed the following conferees:

Eric King, Director of Facilities, Kansas Board of Regents, who testified in support of **HB 2744** (Attachment 8). Mr. King addressed two items in his testimony concerning the bill:

- aligns statutes pertaining to all design professionals related to building construction.
- eliminates statutory maximum fee requirements and replaces them with published guidelines

Gary Hibbs, Manager of Facilities Planning, Design Construction for the Division of Facilities, Kansas Department of Administration, who testified in support of **HB 2744** (Attachment 9). Mr. Hibbs explained that an evaluation has been on-going for 18 months by state agencies who contract for building construction projects as part of their self-directed charge. Mr. Hibbs presented their evaluation and recommendations regarding architect/engineer design services (detailed in the written testimony).

Trudy Aron, Executive Director, American Institute of Architects, spoke in support of **HB 2744** (Attachment 10). Ms. Aron explained that the bill consolidates various statutory requirements for architectural, engineering and land surveying building design services for state agency projects into one common statute. She noted that this was building for the future.

Senator Emler referenced the "A/E Fee Guidelines, Based on Cost and Building Type (Complexity)" Table in Gary Hibb's testimony. Senator Emler noted that this table sets forth examples, but the table is not all inclusive, and the intent is that these are examples.

The Chairman closed the public hearing on **HB 2744**.

Chairman Umbarger opened the hearing on:

**HB 2926--Agreements between cities and KDOT for demolition of abandoned homes in flood areas**

Staff briefed the committee on the bill.

The Chairman welcomed the following conferees;

Representative Virgil Peck testified in support of **HB 2926** (Attachment 11). Representative Peck explained that the bill allows the Kansas Department of Transportation to assist in the removal of houses. He noted that with the loss of roughly 400 homes and 39 businesses, Coffeyville will see a decrease in its tax base as well as a decrease in utility revenues. Representative Peck also mentioned that **HB 2926** would authorize cities that have received a Federal Disaster Declaration to request assistance from the Kansas Department of Transportation with demolished, flood-damaged structures and would be a substantial savings to Coffeyville.

Terry Heidner, Legislative Liaison, Kansas Department of Transportation, spoke in support of **HB 2926** (Attachment 12). Mr. Heidner explained that the Kansas Department remains committed to supporting communities in times of emergency and disaster as they have done historically without such legislation. Mr. Heidner mentioned that the Kansas Department of Transportation respectfully requests that the bill be amended to limit the agency's involvement to debris removal outside of that zone. Additional information regarding this amendment is detailed in Mr. Heidner's written testimony.

CONTINUATION SHEET

MINUTES OF THE Senate Ways and Means Committee at 10:30 A.M. on April 1, 2008, in Room 123-S of the Capitol.

Written testimony was submitted by:

Larry Baer, Assistant General Counsel, Kansas League of Municipalities ([Attachment 13](#))

Bret Glendening, Osawatomie City Manager (from Rep Gene Vickrey), ([Attachment 14](#))

The Chairman closed the public hearing on **HB 2926**.

Chairman Umbarger opened the public hearing on:

**HB 2730**--Kansas taxpayer transparency act

Jill Wolters, Senior Assistant Revisor of Statutes, briefed the committee on the bill ([Attachment 15](#)).

The Chairman welcomed the following conferees:

Duane Goossen, Secretary, Kansas Department of Administration, testified in support of **HB 2730** ([Attachment 16](#)). Mr. Goossen explained that the Department of Administration has been implementing the terms of the proviso last year. The Public Finance Transparency Board has been formed and the website was launched around March 1, 2008, and is called KAN-VIEW and can be accessed through the Kansas.gov website. Mr. Goossen mentioned that there have been approximately 5,000 visits to the website since it was implemented.

Representative Kasha Kelley spoke in support of **HB 2730** ([Attachment 17](#)). Representative Kelly presented information as a quick summary that **HB 2730** provides that, by March 1, 2008, a specified plan be developed. The site compiles comprehensive revenues and expenditures of funds established within the state treasury, compensation paid to public employees employed by state agencies, and bond debt (specificity of each laid out in **HB 2730**). The information is presented in a easily searchable website that allows the public to search and aggregate such information.

Representative Jim Morrison testified in support of **HB 2730** ([Attachment 18](#)). Representative Morrison publically thanked Duane Goossen, Secretary, Kansas Department of Administration, for implementation of the system. He also noted that many people are complementing Kansas on its quick direct and decisive action to "open the book" to the public.

Alan Cobb, State Director, Americans for Prosperity, spoke as a proponent on **HB 2730** ([Attachment 19](#)). Mr. Cobb noted that they are in full support of transparency. He explained that Kansas has received national recognition for this achievement. Mr. Cobb mentioned that the website is up and operational and is a job well done.

Written testimony was submitted by:

Rich Gannon, Director of Governmental Affairs, Kansas Press Association ([Attachment 20](#))

Grover G. Norquist, President, Americans for Taxpayer Reform ([Attachment 21](#))

Karl Peterjohn, Executive Director, Kansas Taxpayers Network ([Attachment 22](#))

The Chairman closed the public hearing on **HB 2730**.

The meeting adjourned at 12:35 p.m. The next meeting was scheduled for April 3, 2008.



SENATE WAYS AND MEANS  
GUEST LIST

Date April 1, 2008

NAME	REPRESENTING
<del>Walt Johnson</del>	<del>KS Voluntary Performance</del>
Jalia Thomas	DOB
Kent Olson	D of A
Meister Eckhart	D of A
ERIC KING	KDOR
David Young	DOA
Carol Fox	DOA
<del>Jeffrey</del>	LAS
<del>John</del>	KV
John Kratil	Senate
Terry Heider	KDOT
Mark Krentz	KDOT
MARK BRUCE	KHP
MARK BOZAN YAK	Capitol Strategies
Whitney Damron	City of Topeka
Jim Conant	KDOR
Karenth	Kay Kay
Doug Smith	KCA - KCAA
Kim Fowler	Judicial Branch
Austin Hayden	Hill Law Firm
Kathy Pater	Judicial Branch
Jerry Sloan	Judicial Branch
Kathy Green	Amer Inst of Architects



**MEMORANDUM**

**TO:** The Honorable Dwayne Umbarger, Chair  
Senate Committee on Ways and Means

**FROM:** Whitney Damron  
On behalf of the City of Topeka

**RE:** SCR 1620 – Capitol Area Plaza Authority; Master Plan

**DATE:** March 26, 2008

Chairman Umbarger and Members of the Senate Committee on Ways and Means:

On Thursday, March 20, the Senate Committee on Ways and Means tabled SCR 1620 due in part, I believe, to concerns expressed by several committee members that the City of Topeka had not formally endorsed the resolution nor had they made a commitment to participate in the funding of the master plan authorized under the resolution.

At March 25 meeting of the Topeka City Council, the Council adopted the enclosed resolution in support of SCR 1620 and also agreed to appropriate up to Fifty Thousand Dollars (\$50,000.00) to assist in the costs of this study.

Accordingly, on behalf of the City of Topeka, we would respectfully request the Senate Committee on Ways and Means reconsider SCR 1620 and advance this measure to the floor for its consideration by the full Senate.

On behalf of the City of Topeka, I thank you and your Committee for your consideration of this resolution and the information contained in this memorandum. If you have any questions, please do not hesitate to contact either Kathy or me.

WBD  
Enclosures  
CC: Shawnee County Delegation

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION introduced by Mayor Bunten expressing support for a partnership with the Kansas Legislature to develop and implement a plan to improve the area around the State Capitol and downtown Topeka.

WHEREAS, the Senate Ways and Means Committee is considering SCR 1620, a resolution which would authorize the Capitol Area Plaza Authority to develop a plan to improve the appearance and enhance the safety of the area around the State Capitol and downtown Topeka through a city/state cooperative effort; and

WHEREAS, the Governing Body of the City of Topeka agrees to join with the State of Kansas in the funding of the development of such a plan by contributing fifty thousand dollars (\$50,000.00) to accomplish the purposes of SCR 1620.

NOW, THEREFORE, BE IT RESOLVED, BY THE GOVERNING BODY OF THE CITY OF TOPEKA, KANSAS that it strongly supports the development of such plan and intends to budget and appropriate a sum not to exceed fifty thousand dollars (\$50,000.00) within the 2009 annual budget.

ADOPTED and APPROVED by the City Council \_\_\_\_\_.

CITY OF TOPEKA, KANSAS

\_\_\_\_\_  
William W. Bunten, Mayor

ATTEST:

\_\_\_\_\_  
Brenda Younger, City Clerk

## Senate Concurrent Resolution No. 1620

By Senator Morris

3-4

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9 A CONCURRENT RESOLUTION requesting the Capitol Area Plaza  
10 Authority to develop a master plan for improving appearance and se-  
11 curity of areas surrounding the Capitol.

12  
13 WHEREAS, The State of Kansas is committed to the restoration and  
14 preservation of the Capitol and is spending a great deal of time and money  
15 to accomplish that end; and

16 WHEREAS, The restored Capitol will be a beautiful and stately re-  
17 flection of the State and the affection and esteem of the citizens who own  
18 it; and

19 WHEREAS, It is important that the area surrounding the Capitol be  
20 a setting which is both fitting aesthetically and safe and secure for the  
21 State's citizens and guests who are visiting the Capitol: Now, therefore,

22 *Be it resolved by the Senate of the State of Kansas, the House of Rep-*  
23 *resentatives concurring therein:* That the Legislature requests the Capitol  
24 Area Plaza Authority, pursuant to the authority of subsection (c) of K.S.A.  
25 75-2240a, and amendments thereto, and in cooperation with the City of  
26 Topeka, to develop a master plan for improving the appearance and se-  
27 curity of the Capitol area and surrounding neighborhoods; and

28 *Be it further resolved:* That the Secretary of State is directed to send  
29 an enrolled copy of this resolution to each of the following: The Capitol  
30 Area Plaza Authority, c/o Department of Administration, 1000 S.W. Jack-  
31 son, Suite 500, Topeka, KS 66612; Bill Bunten, Mayor, City of Topeka,  
32 City Hall, Room 352, 215 SE 7th Street, Topeka, KS 66603-3914; Topeka  
33 City Council, City Hall, Room 255, 215 SE 7th Street, Topeka, KS 66603-  
34 3914; and Norton N. Bonaparte, Jr., City Manager, City of Topeka, City  
35 Hall, Room 355, 215 SE 7th Street, Topeka, KS 66603-3914.



# Council approves joint effort for improvements

## City intends to pay \$50,000 in planning for improvements around Statehouse



**By Tim Hrenchir**  
*The Capital-Journal*

Published Wednesday, March 26, 2008

The city plans to commit up to \$50,000 to help pay planning costs for a joint city-state effort to improve the area around the Statehouse.

Council members voted 6-2-1 Tuesday evening to approve a resolution sponsored by Mayor Bil Bunten that states the city's intent to budget and appropriate the money in 2009.

The resolution also expresses support for a proposal before the Kansas Senate's Ways and Means Committee targeted at crafting a new plan for redeveloping the area around the Statehouse. The plan would seek to improve the safety and aesthetic attractiveness of the area between S.W. Polk, S.E. Monroe and S. 4th and 17th streets.

The Ways and Means Committee tabled the measure last week, with members saying the city needed to express a financial commitment to the project before they seek to move it forward.

Council members John Alcalá, Sylvia Ortiz, Bill Haynes, Deborah Swank, Jeff Preisner and Richard Harmon voted in favor of the resolution Tuesday, while Councilman Brett Blackburn abstained. Lana Kennedy and Jack Woelfel dissented, with both saying they were unwilling to make the financial commitment.

MARY ANN TORRENCE, ATTORNEY  
REVISOR OF STATUTES

JAMES A. WILSON III, ATTORNEY  
FIRST ASSISTANT REVISOR

GORDON L. SELF, ATTORNEY  
FIRST ASSISTANT REVISOR



OFFICE OF REVISOR OF STATUTES  
KANSAS LEGISLATURE

Legal Consultation—  
Legislative Committees and Legislators  
Legislative Bill Drafting  
Legislative Committee Staff  
Secretary—  
Legislative Coordinating Council  
Kansas Commission on  
Interstate Cooperation  
Kansas Statutes Annotated  
Editing and Publication  
Legislative Information System

MEMORANDUM

To: Senator Umbarger, Chairman, and Members of the Senate Ways and Means Committee

From: Kristen Kellems, Assistant Revisor

Date: April 1, 2008

Subject: SB 700, Amendments to the Tort Claims Act

Under the Kansas Tort Claims Act, a government entity can be held liable for damages caused by employee's acts or omissions. K.S.A. 75-6103 states that each governmental entity shall be liable for damages caused by the negligent or wrongful act or omission of any of its employees while acting within the scope of their employment. K.S.A. 75-6102 defines "government entity" and "employee."

Senate Bill 700 amends the definition of employee found in K.S.A. 75-6102, to include medical students enrolled at the University of Kansas Medical Center that are in clinical training at the University of Kansas Medical Center or at other health care institutions. Including University of Kansas Medical students involved in clinical work in the definition of employee means that the State of Kansas can be held liable for that student's act or failure to act, if that student was acting within the scope of his or her employment. The State of Kansas will provide a defense and indemnification for any claims arising out of these students' clinical training.

This language has been in a proviso in appropriation acts for over twenty years. It can be found in SB 685, as amended by the Senate Committee of the Whole, on page 134 in line 36 where it appears as stricken.

**Senate Committee on Ways and Means**  
**Tuesday April 1, 2008**  
**Testimony in Support of SB 700**  
**by Barbara Atkinson, MD**  
**Executive Vice Chancellor, University of Kansas Medical Center**  
**Executive Dean, University of Kansas School of Medicine**

On behalf of the University of Kansas Medical Center, thank you for allowing me to submit written testimony in support of S.B. 700.

For some time by proviso medical students at KU have been among those classes of persons defined as state employees under the state's tort claims act. By doing so the state has appropriately extended the protection of the state's tort claims law to a very deserving group. I support any effort to permanently codify these protections into the statutes of Kansas. By enacting SB 700 we will no longer need to rely on the inclusion of provisos in appropriations bills to be assured these protections for our students.

In general, inserting medical students into the statutory definition of "employees" helps these students because it gives them the same protections given to those who render services on behalf of a state agency. Medical students are not yet licensed health care providers and do not yet qualify for coverage under the Health Care Stabilization Fund, as do the faculty members of the University of Kansas School of Medicine. At the same time, however, medical students must receive clinical training during years three and four of medical school, and this definition will allow them to participate in the clinical experience without being personally exposed to undue claims and liabilities. This training is paramount to their education.

Making this protection permanent rather than inserting it as a proviso in the annual appropriations bill gives us and our students the assurance that this issue will not need to be addressed annually. Providing greater stability in the law is most welcomed.

We are always striving to find ways to deliver quality medical education and exceptional clinical care in the most cost effective manner possible. This bill will enhance our efforts to achieve this goal.


The University of Kansas Medical Center believes enactment of SB 700 is a positive step and will help allow medical students to continue to receive a quality educational experience with the sustained protections afforded under the Kansas Tort Claims Act. This is good for medical education and this is good for Kansans.

Respectfully submitted,  
*Barbara Atkinson, M.D.*

Office of Revisor of Statutes  
300 S.W. 10th Avenue  
Suite 010-E, Statehouse  
Topeka, Kansas 66612-1592  
Telephone (785) 296-2321 FAX (785) 296-6668

MEMORANDUM

To: Senator Umbarger, Chairman, and Members of the Senate Ways and Means Committee

From: Jill Ann Wolters, Senior Assistant Revisor 

Date: March 31, 2008

Subject: SB 699, state surplus property

Senate Bill No. 699, amends K.S.A. 75-6606, to exempt legislative computer equipment and personal sidearms of retiring Kansas highway patrol troopers from the state surplus property act.

In regard to the legislative computer equipment, the director of legislative administrative services is allowed to sell the equipment to the legislator or legislative staff for the fair market value of such equipment. The moneys received would be credited to the legislative special revenue fund of the state treasury.

In regard to the personal sidearms, the superintendent of the Kansas highway patrol is allowed to sell such sidearm to the trooper who was using it for replacement costs plus the cost of a trigger lock. The moneys received would be credited to the highway patrol general fee fund of the state treasury.

The sidearm sale provision of this bill were originally in a proviso in SB 658, as am. by SCW, page 162, lines 32 through 43, and page 163, lines 1 through 15. The legislative computer equipment sale provision of this bill are not in a proviso in SB 658, but are in HB 2946, as am. by HCW, page 6, lines 31 through 43, and page 7, lines 1 through 31.



**Testimony on Senate Bill 699**  
**Senate Ways and Means Committee**

**Presented by**  
**Major Mark A. Bruce**  
**Kansas Highway Patrol**

**April 1, 2008**

Good morning Mr. Chairman and members of the committee. My name is Mark Bruce and I appreciate the opportunity to appear before you today regarding Senate Bill 699. This bill concerns codifying the purchase of side arms by retiring and resigning KHP law enforcement officers.

Historically, this has been addressed via proviso in our agency's approved budget. We appreciate the fact that this body is taking the steps to provide permanence to this issue.

It is our assumption that the proposed language in Senate Bill 699 was intended to mirror that which has been included in provisos from previous years. Those provisos allowed for two types of purchases. Retiring KHP law enforcement officers were allowed to purchase their side arm. And, officers resigning to accept employment with another local, state, or federal law enforcement agency were likewise authorized to make such a purchase.

As written, Senate Bill 699 (see lines 5-9, page 2) only allows retirees who are seeking employment with another agency to purchase their firearm. The Kansas Highway Patrol believes these two issues should be separate: (1) troopers and sworn officers who are retiring, regardless of whether they are seeking employment with another law enforcement agency; and (2) troopers and sworn officers who are resigning to work for another law enforcement agency. We agree that both those who are retiring and those who are resigning must be in satisfactory standing with the agency to purchase the firearm and that each weapon should be sold with a trigger lock.

The Kansas Highway Patrol supports the intent of Senate Bill 699 to provide its retirees and law enforcement officers resigning in good standing with an opportunity to purchase their firearm. However, the agency is concerned with the drafted language. On page 2 of this testimony, we have provided some language that we believe is consistent with provisos promulgated in years past.

I would be happy to address any questions or provide follow-up information should the committee deem necessary.

###

The agency recommends the following changes in New Section 2(b):

(b) The superintendent of the Kansas highway patrol is hereby authorized to sell personal side arms to retiring or resigning troopers and other retiring or resigning sworn officers of the Kansas highway patrol subject to the following:

(1) A retiring trooper or retiring sworn officer with the Kansas highway patrol ~~who resigns from the Kansas highway patrol to accept employment with a local, state or federal law enforcement agency,~~ is hereby authorized to purchase, upon ~~resignation~~ retirement, such trooper or other officer's personal sidearm with a trigger lock;

(2) A trooper or sworn officer with the Kansas highway patrol who resigns from the Kansas highway patrol to accept employment with a local, state or federal law enforcement agency, is hereby authorized to purchase, upon resignation, such trooper or other officer's personal sidearm with a trigger lock;

(3) (2) each sale of such personal sidearm shall be for the amount equal to the total of the replacement cost of the sidearm plus the cost of the trigger lock; and

(4) (3) no sale of a personal sidearm shall be made to any retiring or resigning trooper or sworn officer of the Kansas highway patrol unless the superintendent of the Kansas highway patrol determines that the employment record and performance evaluations of each such trooper or sworn officer ~~is~~ are satisfactory.



State of Kansas

# Legislative Administrative Services

300 SW 10th Avenue, Suite 511-S Topeka, Kansas 66612 Telephone: (785) 296-2391 Fax (785) 296-1153 TTY: (785) 296-8430

Jeffrey M. Russell  
Director

Good Morning, Mr. Chairman and Members of the Senate Ways and Means Committee.

I am Jeff Russell with Legislative Administrative Services. Thank you for the opportunity to testify in favor of **SB 699**.

The bill puts into statute procedures formerly contained in provisos pertaining to legislators and legislative staff purchasing computer equipment coming off lease.

The bill provides the necessary guidance to administer the program while still allowing the flexibility to manage those unusual situations that arise.

Thank you for your attention, and I will try to answer any questions you may have.

A handwritten signature in black ink, appearing to read "Jeff Russell".

Jeffrey M. Russell  
4-1-2008

Senate Ways and Means  
4-1-08  
Attachment 6

# Report of the Joint Committee on State Building Construction to the 2008 Kansas Legislature

**CHAIRPERSON:** Representative Joe Humerickhouse

**VICE-CHAIRPERSON:** Senator Dwayne Umbarger

**OTHER MEMBERS:** Senators Pat Apple, Greta Goodwin, Laura Kelly, and Stephen Morris;  
and Representatives Steve Brunk, Bill Feuerborn, Bob Grant, and Jo Ann Pottorff

## STUDY TOPICS

The Committee is directed to study and make recommendations regarding the five-year capital improvement and facilities plans and capital improvement budget estimates submitted by State agencies and monitor the progress and results of all capital improvement projects for construction of buildings or for major repairs or improvements to buildings for State agencies.

## LCC REFERRED TOPICS

- State Process for Estimates and Bids for Building Renovations, Including the Regents Deferred Maintenance and Repair Program
- Architectural Fees in State Contracts



# Joint Committee on State Building Construction

REPORT TO THE 2008 LEGISLATURE, REVISED 2-1-08

## CONCLUSIONS AND RECOMMENDATIONS

The Joint Committee recommends that:

- The current state process for estimates and bids for building renovations is appropriate, and recommends review of this topic during the 2008 Interim for the Regents deferred maintenance projects.
- The statutes regarding architectural fees in state contracts should be amended as recommended by the Joint Facilities Team.
- The review process set forth in 2007 HB 2237 for Regents deferred maintenance should continue, with the elimination of duplicate reporting by the universities, before funds from the Infrastructure Maintenance Fund of each institution can be spent; recognizing that the Board of Regents must report on the same projects before the funds can be distributed to the institutions.
- The technical schools should be included in the bonding and tax credit programs created by 2007 HB 2237, after their plan to either merge or affiliate with a degree granting institution or become an independent degree granting institution, by July 1, 2009, has been approved by the Board of Regents.

**Proposed Legislation:** The Joint Committee recommends introduction of two bills.

## BACKGROUND

The Joint Committee was established during the 1978 Session. The bill creating the Joint Committee (1978 HB 2722) was recommended by the Special Committee on Ways and Means - B as a result of its interim study of state building construction procedures.

The Joint Committee was expanded from six members to 10 members by 1999 HB 2065. It is composed of five members of the Senate and five members of the House of Representatives. Two members each are appointed by the Senate President, the Senate Minority Leader, the Speaker of the House of Representatives and

the House Minority Leader. The Chairperson of the Senate Committee on Ways and Means and the Chairperson of the House Committee on Appropriations serve on the Joint Committee or, in lieu of a Chairperson serving, a member of such committee is to be appointed by that Chairperson to serve (KSA 46-1701).

Terms of office are until the first day of the regular legislative session in odd-numbered years. A quorum of the Joint Committee is six members. The Chairperson and Vice-Chairperson are elected by the members of the Joint Committee at the beginning of each regular session of the Legislature and serve until the first day of the next regular session. In odd-numbered

years, the Chairperson is to be a Representative and the Vice-Chairperson is to be a Senator. In even-numbered years, the Chairperson is to be a Senator and the Vice-Chairperson is to be a Representative (KSA 46-1701).

The Joint Committee may meet at any location in Kansas on call of the Chairperson and is authorized to introduce legislation. Members receive the normal per diem compensation and expense reimbursements for attending meetings during periods when the Legislature is not in session (KSA 46-1701).

The primary responsibilities of the Joint Committee are set forth in KSA 46-1702. These are to review and make recommendations on all agency capital improvement budget estimates and five-year capital improvement plans, including all project program statements that are presented in support of the appropriation requests, and to continually review and monitor the progress and results of all state capital construction projects. The Joint Committee also studies the reports on such capital improvement budget estimates that are submitted by the State Building Advisory Commission. The Joint Committee makes annual reports to the Legislature through the Legislative Coordinating Council and such other special reports to committees of the House of Representatives and Senate as are appropriate (KSA 46-1702).

Each state agency budget estimate for a capital improvement project is to be submitted to the Joint Committee by July 1 in addition to the Division of the Budget and the State Building Advisory Commission. Each such estimate is to include a written program statement describing the project in detail (KSA 75-3717b).

This budget estimate requirement does not apply to federally-funded projects of the Adjutant General or to projects for buildings or facilities for Kansas Correctional Industries of the Department of Corrections that are funded from the Correctional Industries Fund. In such

cases, the Adjutant General reports to the Joint Committee each January regarding such federally-funded projects and the Director of Kansas Correctional Industries advises and consults with the Joint Committee prior to commencing such projects for Kansas Correctional Industries (KSA 75-3717b and 75-5282).

The Secretary of Administration is to issue monthly reports of progress on capital improvement projects, including all actions relating to change orders or changes in plans. The Secretary of Administration is required to first advise and consult with the Joint Committee on each change order or change in plans for a project having an increase in project cost of \$75,000 or more prior to approving the change order or change in plans (KSA 75-1264). This threshold amount was increased from \$25,000 to \$75,000 in 2000 HB 2017. Similar requirements were prescribed in 2002 for projects undertaken by the State Board of Regents for research and development facilities for state educational facilities, (KSA 76-786) and in 2004 for projects undertaken by the Kansas Bioscience Authority (KSA 74-99b16).

HB 2017 also enacted the alternative procedure in cases when the Joint Committee will not be meeting within 10 business days and the Secretary of Administration determines that it is in the best interest of the state for a change order or change in plans having an increase in project costs of \$75,000 or more to be approved prior to being presented to the Joint Committee. In each such case, a summary description of the proposed change order or change in plans is mailed to each member of the Joint Committee who may request a presentation and review of the proposal at a meeting of the Joint Committee. If, within seven business days of the date the notice was mailed, two or more members notify the Director of Legislative Research of a request to have a meeting on the matter, the Director notifies the Chairperson of the Joint Committee who will call a meeting as soon as practicable. The Secretary of Administration is not to approve the proposed

action prior to a presentation of the matter at a meeting of the Joint Committee. If the proposed matter is not requested to be heard by two or more members of the Joint Committee, then the Secretary of Administration is deemed to have advised and consulted with the Joint Committee and may approve the proposed change order, change in plans or change in proposed use.

## COMMITTEE ACTIVITIES

### State Process for Estimates and Bids

At its October meeting, the Joint Facilities Team presented an overview of the state estimating and bidding process. The Joint Facilities Team is a shared-services group of agency facilities representatives, consisting of the Board of Regents, the Department of Corrections, the Department of Social and Rehabilitation Services, the Juvenile Justice Authority, the Adjutant General's Department, the Department of Transportation, the Highway Patrol, and all other agencies who contract for building construction projects as part of their self-directed charge. The Manager of Facilities Planning, Design, and Construction for the Division of Facilities Management and the Department of Administration gave an introductory summary of current statutes and guidelines. (KSA 75-3717b) establishes the process that state agencies use when proposing a capital improvement project for construction, major repairs, or improvements to a building. The project budget estimates, along with a written program statement describing the project, is submitted to the Division of the Budget. The format required for submissions is established by the Director of Budget and consists of various components and requirements such as: detailed justification including an analysis of the programs, activities, and intended uses; funding requested by the project phases; detailed phase description; and cost estimates for land, surveys, soil investigation, equipment, building costs, and other items necessary for the project.

Agencies are required to submit by July 1 of each year the capital improvement requests to the Division of Budget, the State Building Advisory Commission (SBAC), and the Joint Committee for State Building Construction (JCSBC). The SBAC reviews the requests and reports any recommendations by November 15 to the Division of Budget, the JCSBC, and the Legislative Research Department.

Agencies also are required to submit by July 1 of each year a five-year capital improvement program and facilities plan to set forth the current and future space needs and utilization plans for the next five fiscal years in such form and containing such information as prescribed by the Secretary of Administration to the Division of Budget, the SBAC, and the JCSBC. (Note: exceptions are the Adjutant General Department (AGD) federally-funded projects and Kansas Correctional Industries projects; AGD provides a list of federally-funded projects).

The Department of Administration also has a series of directives in the DFM Building Design and Construction Manual Guidelines. That information also is available from a website. Agencies can go to the site and review any specific information. It applies not only to estimates, but bidding and agencies as well.

Cost estimating is basically the same whether it is for the private or public sector, or whether it is for an agency or the state as a whole, with one specific difference. In the private sector, the documents and the bidding process are almost exclusively part of what the architect and engineer do. For the state, it is done by the Division of Facilities Management. Architects and engineers are not involved directly with that distribution cost.

It is important to recognize that estimates are just that - estimates. Individuals that prepare estimates use their best knowledge available and their best experience and expertise at putting estimates together. There are basic rules for

applying contingencies, but sometimes those estimates only broadly include specific line items. In general, cost estimates can be expressed as “Cost = Size x Quality.” Project size can also be expressed as area or quality. Quality can also be expressed as building type.

Buildings that are similar to recently constructed buildings will have a higher probability of an accurate cost estimate than a unique building. New construction will have a higher probability of an accurate cost estimate than a remodeled building. The DOA typically asks and requires agencies to include a project contingency on any cost estimate before they go out for bids. This typically ranges from 5.0 percent for new construction to 10.0 percent for remodeled construction. These contingencies are for unknown conditions, not for incomplete plans or specifications. It is important to note with cost estimates and bids that when a full set of plans and specifications are completed, the Department of Administration assumes that everyone can theoretically give an equal cost bid. However, that does not occur. It is typical to receive bids that have a spread from high to low of 20 - 25 percent. This makes it easy to understand how preliminary estimates at the early stages of a project can be off by 20-25 percent.

During budget requests, basically there are five broad topics:

- Construction costs (including site work and fixed equipment), Architectural/Engineering (A/E) fees, moveable equipment, contingency and miscellaneous costs;
- Under the final design of a project, it is broken down into such items as general construction, structural, mechanical, electrical and plumbing, and special construction—demolition and abatement;
- Site work;
- Site utilities; and

- Major speciality systems - automated building control, fire alarm/security, data communications.

Other project costs consist of A/E and other fees, survey and testing, printing and reimbursables, contingency, furnishings and equipment. Once all of these items are taken into account, the total is adjusted for inflation.

Although it appears the final design would be more accurate due to the detail of the information, the accuracy can be jeopardized if the cost data used is generalized or summarized and not project specific. Project cost estimating accuracy depends on the accuracy of the data and the value assigned to the data. Software programs can identify data categories and cost estimating guides can provide costs. It is the user's ability of combining the information for the specific project that will provide an accurate cost estimate.

The Joint Committee members had several concerns. First, they were interested in the procedure when the cost of all of the bids exceeds the funding available. When that occurs, projects can be revised and rebid, or all bids rejected. The second concern was the pre qualification of bidders. One thing that the State of Kansas does that may be different from other states is that, per statute, the Department of Administration is responsible for establishing responsible bidders. The process that is in place today is a pre qualification process. This process is not intended to exclude contractors, but rather to identify contractors where there have been problems in the past, notify them of the problems, have them correct the problems, and get them to be responsible bidders. This information is on the DOA website.

It was noted that a contractor still has the ability to bid on one project even if they have not been pre qualified. If they are awarded a project and complete it, they will become pre qualified. If they are not awarded the contract, they can



continue to bid. The process doesn't exclude anyone from bidding. There are evaluation forms that are available for the contractor listing what the State is looking for. It has little to do with the kind of projects they have done but instead how they do business as a contractor.

### **Architectural Fees in State Contracts**

At its October meeting, the Joint Committee heard testimony from the Joint Facilities Team on architectural fees in state contracts. The criteria for calculating fees paid by the agencies to the design team for the architectural and engineering design services on capital improvement projects consists of a graduated scale based on the following criteria:

- Maximum 7% below \$2,250,000 estimated construction cost. (Graduated scale is based on steps of 0.75% reduction for each increase of \$2,250,000 cost);
- Minimum 5.0 percent (above \$6,750,000);
- Maximum 4.0 percent additional, for complexity of a project, can be added to calculated base percentage;
- Contract with A/E is converted to a lump sum amount;
- Fee can be increased due to increased project scope or program, or construction circumstances beyond control of the A/E of the State.

The DFM Building Design and Construction Manual Guidelines define the negotiating committee and the negotiation process. Currently, the fees are negotiated with a member of the agency, the department the agency is under, and the Department of Administration. They negotiate the percentage fee with the architect which is then converted to a lump sum contract amount. That contract amount does not change unless there is a change in the project scope or if there

is an unforeseen or uncontrolled construction circumstance that the architectural engineer and the State of Kansas does not control. An example would be an issue with the foundation and the structural engineer has to modify the structure. The goal is to develop for approval a revised fee structure that acknowledges the services required from the A/E, and to establish an equitable fee that is less dependent on the negotiating abilities of the parties. The specific concepts that are used to develop and evaluate the fee structure are:

- Define "complexity" by identifying project types and categorizing their degree of difficulty ranging from lowest to highest in five increments;
- Establish three kinds of construction projects - new, combined (new and remodel), and remodel;
- Evaluate fee percentages in matrix using the five complexity factors and three kinds of projects, adjusted by construction cost and range of fees (minimum to maximum);
- Evaluate results with other states using similar models to assess validity of examples.

The Joint Committee had a specific question regarding architectural fees on change orders. If there is a change that the State is not responsible for, but it is an actual change where the architect is providing additional services, then the architect can charge an additional fee. That information then goes back to the negotiating committee and that is evaluated and voted upon, as it is not automatic. In addition, the Joint Committee was interested in the impact of higher material costs, like the price of steel, on architectural fees. That cost would be born by the contractor, not the state.

At the Joint Committee's December meeting, the Joint Facilities Team returned with their recommendations regarding changes to the

State's architectural fee guidelines. The Team has been evaluating the existing fees for the past 18 months, applying the following concepts and objectives:

- Compare the process used by other states to determine architectural and engineering fees;
- Create consistent and equitable fee negotiations among all agencies and design firms;
- Establish fee ranges to reflect the current level of service required by the State of Kansas;
- Eliminate the current practice of design firms to characterize all projects as "the most complex"; and
- Define the criteria of cost of construction, complexity factor, construction type, and services required using schedules and guidelines as tools to use in negotiations.

These concepts and objectives were used to evaluate nine states with approaches similar to Kansas' and were readily available via the internet. The evaluation addressed four criteria and listed solutions for the identified issues. The first is cost of construction. The Team determined that the current cost limits used in KSA 75-1263 are out-of-date and recommends adjustment to the set points of the construction costs. The second is complexity factor. The team determined there is currently no standard for complexity factor. It is currently informally based on prior projects, and there is no consistency between agencies. The Team's solution is the establishment of a list of building types based on typical components used by agencies, with five levels of complexity assigned. The third criterion is construction type. Currently, there is no set standard. It is informally based on prior projects, and there is no consistency between agencies. The Team's

solution is the establishment of three specific types - new, remodel, and combination. The fourth criterion is services required. The Team noted that currently an informal process is used and it is inconsistent. The solution is the development of a list of services typically required by state agencies and a checklist to identify what is required or not required for a specific project.

### **CONCLUSIONS AND RECOMMENDATIONS**

The Joint Committee concurs with the Joint Facilities Team recommendations and recommends legislation to implement the proposed changes.

#### **Regents Deferred Maintenance**

The 2007 Legislature passed Senate Substitute for HB 2237, establishing the State Educational Institution Long-Term Infrastructure Maintenance Program. The Program has three components - direct funding, bond funding, and tax credits - to fund deferred maintenance at Regents governed institutions and Regents coordinated institutions. The direct funding, which is provided only for the state universities, totals \$90.0 million, including \$47.0 million from the State General Fund, over five years. The legislation makes \$100.0 million in bond funding available to Washburn University, the community colleges and the technical colleges, over a five-year period. The bond principal payments will be made by the institutions, while the bond interest payments will be made by the state, for a total state investment of \$38.1 million. The bill further authorized new tax credits effective for tax years 2008-2012 for contributions earmarked for deferred maintenance at postsecondary educational institutions; certain capital improvements at community colleges (excluding new construction and real property acquisition); and deferred maintenance and certain technology or equipment at technical

colleges which represent a five-year total state investment of \$62.5 million.

The Joint Committee on State Building Construction was given specific responsibilities in the bill. The Joint Committee is required to develop a long-term management and oversight plan for the Regents deferred maintenance projects to be presented to the 2008 Legislature. In addition, the State Board of Regents shall advise and consult with the Joint Committee regarding each project and shall not approve a project to be financed by moneys from the infrastructure maintenance fund unless the State Board of Regents has first advised and consulted with the Joint Committee. A state educational institution shall advise and consult with the Joint Committee before expenditure of any moneys from the infrastructure maintenance fund, or from any account or accounts of the infrastructure maintenance fund of such institution, for each project. No moneys received by a state educational institution as a contribution which qualifies as an income tax credit pursuant to law to finance the cost of a project may be expended unless the institution first has advised and consulted with the Joint Committee.

During the Joint Committee's July meeting, the Board of Regents Director of Facilities presented the listing of the distribution of the \$30.0 million from the Statewide Maintenance and Disaster Relief Fund for university deferred maintenance projects in FY 2008 as follows:

<u>University</u>	<u>Allocation</u>
University of Kansas	\$8,601,000
University of Kansas Medical Center	3,285,000
Kansas State University	9,066,000
Wichita State University	3,093,000
Emporia State University	1,812,000
Pittsburg State University	2,070,000
Fort Hays State University	<u>2,073,000</u>
TOTAL	<u><u>\$30,000,000</u></u>

During the Joint Committee's August meeting, the universities appeared individually to present their deferred maintenance projects, which allowed them to begin their work under 2007 HB 2237.

The Joint Committee noted that in addition to the requirements under the Infrastructure Maintenance Program, the Board of Regents has implemented new principles and guidelines to address maintenance of buildings at each institution. Those principles include focusing infrastructure maintenance on "mission critical" buildings which include 429 buildings systemwide. The Board has also developed guidelines for the infrastructure maintenance projects. The first guideline involves the allocation of funding based on factors of gross square footage, building age, and complexity of the physical plant. Projects are limited to rehabilitation and repair projects, not major capital improvements, and shall not provide for additional space requirements, reflect new program requirements or include exceptional levels of finish, equipment, or similar items. The Board continues to be committed to Building Accountability Principles that include the requirement that requests for any future new privately-funded building projects include plans to cover annual maintenance and operation costs of the new facilities, subject to Board approval. In addition, the Board will review space standards and utilization of facilities when new construction is proposed to maximize the use of space on university campuses and adopt benchmarks for each campus establishing goals to actively work toward.

The first quarterly report on university deferred maintenance was presented at the Joint Committee's October meeting by the Board of Regents Director of Facilities for the quarter ending September 30, 2007. As of the end of the quarter, three of the campuses have expended a total of \$91,032. The campuses have been hiring consultants and some small in-house projects have been started, although most of the \$91,000 at this

point is for fees for some of the larger projects. The level of activity reflects the time it takes to get started as architectural programs are being developed, advertised, and interviewed. Firms are selected for larger projects, and relatively small in-house projects are started. The campuses with on-staff architects try to do as much as they can, but essentially, the infrastructure projects are engineering related and typically they do not have engineers on staff.

The Director of Facilities continued his report with an update on the bonds authorized in 2007 HB 2237. The legislation authorized \$100.0 million in bonds (\$20.0 million each fiscal year) beginning in FY 2008, to be requested by the Board of Regents from the Kansas Development Finance Authority (KDFA) for Washburn University, the 19 community colleges and five technical colleges. The principal and interest for the bonds will be paid from the State General Fund (SGF) with the institutions reimbursing the SGF for the principal portion of the payments each year. The bonds will be let as 8-year bonds, with a cap of \$15.0 million in bonds per institution over the five-year period. Bond payments begin after July 1, 2008. Before requesting the bonds from KDFA, the legislation requires the Board to review the requests to determine both need and capacity of the institution to repay the bonds. The capacity to repay the bonds will be further reviewed by the KDFA.

The KDFA has been working with the Board staff and the 25 public postsecondary institutions eligible to participate in the implementation of this new program. Since the close of the session, the following steps have been taken:

- The KDFA prepared a summary of the loan provisions of the legislation and shared it with all eligible institutions;
- Board staff and KDFA convened a meeting on July 25, 2007, of all 25 postsecondary institutions to discuss the program and gather

input on the implementation, including a survey;

- KDFA and Board staff developed and distributed a Postsecondary Education Institution (PEI) Loan Survey that was distributed to all eligible institutions for completion. The purpose of the survey was to gather data from the eligible institutions under the program to get a sense of the demand for the PEI loan program in its current form, and also to gather information about the demand implications of expanding the 8-year amortization to a longer duration. The survey results contained 470 projects identified by 22 institutions. At this point, no attempt has been made to screen the identified projects and their associated descriptions for compliance with the program's authorization;
- Current activities include finalizing the loan application, working with the 25 institutions to develop an approach to the allocation of the bonding authority, and working on "clean up" amendments for consideration by the 2008 Legislature, *i.e.*, increasing the loan amortization from 8 years to 20 years.

Although the tax credits do not become available until July 1, 2008, the Board office has been working with Secretary Joan Wagnon and the Department of Revenue (DOR), along with the 31 public postsecondary participating institutions, to implement this new program. Since the close of the Session, the following steps have been taken to prepare for the July 1, 2008, date when taxpayers can make contributions:

- On May 21, 2007, the DOR sent a summary of tax credit provisions of the legislation along with the Q & A fact sheet to all eligible institutions;
- On July 25, 2007, the DOR convened a meeting inviting the participation

of all 31 postsecondary institutions to discuss the program and gather input on the implementation regulations. Draft regulations are currently moving through the review process;

- Representatives from the state universities and the Board office met with Secretary Wagon to agree upon a methodology for the tax credit allocation formula. Based upon the language and intent of the statute, it was determined that the allocation take into consideration the square footage, age, and complexity of the buildings and infrastructure at each state education institution. This will be known as the “adjusted square footage.” The percentage of adjusted square footage each institution represents of the total will be applied to the total available project funds from private sources resulting from the tax credit.

At its November meeting, the Joint Committee concluded its discussion of the Long-Term Infrastructure Maintenance Program with testimony from the Board of Regents, Kansas Association of Technical Schools and Colleges (KATSC), Kansas Development Finance Authority (KDFA), and Department of Revenue about possible changes to the existing legislation to address concerns that have been identified during the implementation process.

KDFA recommended two policy changes. The first was to remove the \$20.0 million annual cap on the bond authority, based on the concern that the result would be less economically efficient transactions. Typically, larger pooled transactions save money through both economies of scale in spreading out issuance costs, as well as garnering more market competition for the securities, resulting in lower interest rates. The second was to extend the limitation on maturity of the bonds from 8 years to 15 to 20 years, based on the assumption that the useful life of capital improvements is 25 to 30 years or more.

The KATSC noted that 2007 HB 2237 excluded technical schools from the bond and tax credit provisions and asked that consideration be given to including them, without decreasing the current allocation of resources in the legislation. The four technical schools and Northeast Kansas Technical College are required by 2007 HB 2556 to submit a plan to merge, affiliate, or become a free-standing degree granting institution by July 1, 2008, to the Kansas Board of Regents. The KATSC argued that while this change in status was the reason these institutions were excluded from the legislation, it does change their need for repair, renovation, and equipment.

#### CONCLUSIONS AND RECOMMENDATIONS

The Joint Committee had three conclusions regarding postsecondary education infrastructure maintenance.

- The Joint Committee concluded that an independent oversight body is not necessary to monitor the Regents governed and coordinated institutions’ deferred maintenance. The reporting requirements set forth in 2007 HB 2237 will provide sufficient oversight through the Joint Committee. However, the Joint Committee recommended legislation to eliminate the requirement that the universities present their deferred maintenance projects before funds can be expended. The report from the Board of Regents before the funds are distributed, as well as the Joint Committee’s review of both the university five-year capital improvements plan and annual capital improvements budget request should provide appropriate oversight.
- The Joint Committee believes that provisions of the legislation on the bonds for Washburn University, the community colleges, and the technical colleges are appropriate, but has recommended the introduction of legislation



for further discussion by the 2008 Legislature to:

- Remove the \$20.0 million annual cap on bonds;
  - Extend the bond term from 8 to 20 years; and
  - Allow the 4 technical schools and Northeast Kansas Technical College to participate in the bonds once they have submitted their plan to merge, affiliate, or become a free-standing, degree-granting institution to the Board of Regents and the Board has approved the plan. In addition, as each institution fulfills this requirement, the total bond authority of \$100.0 million will be increased by \$4.0 million, with the newly added institutions having first priority at accessing the additional bond funds.
- The Joint Committee believes that provisions of the legislation on the tax credits for all of the institutions are appropriate, but has recommended the introduction of legislation for further discussion by the 2008 Legislature to include the 4 technical schools and Northeast Kansas Technical College to participate in the tax credit once they have submitted their plan to merge, affiliate, or become a free-standing degree granting institution to the Board of Regents and the Board has approved the plan. In addition, as each institution fulfills this requirement, the total tax credit for that year will be increased by the amount prorated to the technical colleges for that tax year.

### **Department of Administration Utility Tunnels**

During its review of the Department of Administration five-year capital improvements plan in October, the Joint Committee heard

testimony about the Capitol Complex maintenance tunnel replacement, which the Department of Administration estimates will cost \$3.0 million, all from the State General Fund. According to the Department of Administration, there have been areas of the tunnel that have caved in and have water standing on the dirt floor of the tunnel. This area becomes hazardous for employees to enter and work in the tunnel.

The tunnel provides service to the Landon Building, Memorial Hall, Curtis Building, and the Judicial Center. With this tunnel containing steam piping, electrical service, and communication conduit, a collapse of this tunnel could sever service to these buildings for an extended period of time while repairs are made. From inside the tunnel, one can look up and actually see the shadow of the overhead vehicle tires as they travel down 10th Street. There are other areas of the tunnel that have caved in.

The Joint Committee expressed several concerns about the condition of the tunnel. First, the area is hazardous for employees to enter and work because areas of the tunnel have caved in and there is water standing on the dirt floor of the tunnel. The second is that a potential collapse of the tunnel could disrupt utility service to Capitol Complex buildings and parts of downtown Topeka. The third is that a collapse of the tunnel could cause harm to not only state employees but also the general public.

It was noted that this project has been on the agency capital improvement list for the last five years, but has not been funded. The agency was asked to return in November with alternatives for addressing the utility tunnel repairs.

At the Joint Committee's November meeting the Department of Administration reported that emergency repairs to the tunnel would cost \$370,170. The repairs would be as follows:



- Stop the water infiltration of the tunnel south of 10th Street which serves the Judicial Center;
- Installation of a new sump pump to drain the tunnel from the Statehouse to Memorial Hall;
- Fix the public utility penetrations of the tunnel walls;
- Repair and seal some of the major joints and fractures in the tunnel walls and roof;
- Installation of strut pipes and bearing plates to slow down wall displacement; and
- Repairs to the existing pipe and conduit support frame.

When asked, the agency indicated that they did not have funding available to make the necessary emergency repairs. The Joint Committee sent a letter to the Governor, asking her to consider funding the emergency repairs from the State Emergency Fund, at the December 5, 2007, State Finance Council meeting. The project was considered, and the Department of Administration pledged to begin making the repairs from existing funds, if the Legislature would support supplemental funding for the project in the Department of Administration budget in the current year.

#### **CONCLUSIONS AND RECOMMENDATIONS**

The Joint Committee recommends an additional \$370,170, all from the State General Fund, for the Department of Administration in FY 2008 to fund the Capitol Complex Utility Tunnel Repairs.

#### **The Dillon House**

The Dillon House was completed in 1913, as a private residence for the Hiram Price Dillon

Family. In 1942, after the death of Hiram Price Dillon and his wife, Susie Finley Brown Dillon, the property was purchased by the American Home Life Insurance Company and used as its corporate office. In 1970, the property changed hands again. It was purchased by the First Presbyterian Church of Topeka for use as a community house, Sunday school, and day care. In 1998, it was purchased by the State from the First Presbyterian Church and is currently used for meetings, hearings, receptions, and other functions.

As a property of the State, the three-story Dillon House has a unique position. While it is owned by the State and maintained by the Department of Administration, it is the Legislature that controls the use and assignment of space in the building, much like the Capitol. While the building has three stories and a basement, the initial renovation of the building in 1998 included only the first floor. Maintenance on the upper floors and exterior was deferred. The Department of Administration has evaluated the building and considers it to be in poor condition. The roof has significant leaks that are causing deterioration to the building structure and present a potential for mold.

The current President of the Friends of Cedar Crest Association, Inc. and advocate for the rehabilitation and reuse of the Dillon House spoke to the Joint Committee about the potential availability of private funds to rehabilitate the Dillon House. She noted that funding could come from a single private entity or group, the creation of a Friends of Dillon Association as a 501(c)(3) organization by Kansas statute to raise and collect funds, the addition of the Dillon House to the scope of an existing related fund-raising entity, like the Capitol Foundation and the conditional sale or lease of the Dillon House to a private entity or group requiring their commitment, capacity, and approved plan to rehabilitate the Dillon House according to the Secretary of the Interior's Standards for Rehabilitation.

## **CONCLUSIONS AND RECOMMENDATIONS**

The Joint Committee recommends that the State Historical Society, Kansas Insurance Department, Department of Administration, the Chairmen of both the Senate Ways and Means Committee and the House Appropriations Committee, the Chairperson and the Vice-

Chairperson of the Joint Committee on State Building Construction Senator Laura Kelly, and Carol Duffy McDowell work together to develop a recommendation for the Dillon House and present it to the Joint Committee on State Building Construction during the 2008 Session.



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## Senate Ways & Means Committee Hearing on HB 2744

**Eric King, Director of Facilities**  
**April 1, 2008**

Good morning Chairman Umbarger and Members of the Committee. Thank you for this opportunity to testify in support of HB 2744.

HB 2744 will provide consistency and clarity to statutes related to various building design professionals. I would like to focus my brief remarks on two key provisions of the bill:

**1. Aligns statutes pertaining to all design professionals related to building construction.** Current statutes contain differences between requirements for architects and requirements for engineers, surveyors, etc. that perform similar work for the State. For example, architects are required to maintain a Kansas office - engineers and surveyors are not. We believe that the requirement for a Kansas office adds costs to certain state projects where a firm from an adjoining state is in closer proximity to a project, or where special expertise requires a firm from an adjoining state to joint venture with a firm with a Kansas office. Another example of statutory differences is that architects are subject to the maximum fee requirements in K.S.A. 75-1263, engineers, surveyors, and landscape architects are not.

**2. Eliminates statutory maximum fee requirements and replaces them with published guidelines.** A significant provision of the bill, is the elimination of the maximum fee requirements for architects. This has become a target for architects regardless of the size or complexity of the project. Too, a considerable amount of subjectivity has been encountered in arriving at a negotiated fee, and there has been a lack of consistency among agencies. Guidelines would take the place of a maximum fee. The guidelines include a matrix based on the building type (complexity), amount of the project, and the type of construction (new, remodeling or combination). We believe that this process will provide consistency among the agencies, protect the state's interests, and provide fair and reasonable fees for the services the state expects to be rendered. We are further supportive of the language that requires regular reviews of the guidelines to be conducted by the department of administration, and that the Joint committee on State Building Construction would be advised and consulted on any proposed updates.

Thank you for your time. I would be pleased to respond to any questions.

Senate Ways and Means  
4-1-08  
Attachment 8

**EVALUATION OF ARCHITECT / ENGINEER FEES  
for BUILDING CONSTRUCTION PROJECTS**

**HB 2744**

**Senate Ways and Means Committee**

April 1, 2008

Chairman Umbarger and members of the committee, I am Gary Hibbs, Manager of Facilities Planning, Design and Construction for the Division of Facilities Management and the Department of Administration. Thank you for the opportunity to present to you today regarding architect and engineer fees for building construction projects.

The Joint Facilities Team, a shared-services group of agency facilities representatives, consisting of the Board of Regents, the Department of Corrections, the Department of Social Rehabilitation Services, the Juvenile Justice Authority, the Adjutant General Department, the Department of Transportation, the Highway Patrol, and all other agencies who contract for building construction projects, as part of their self-directed charge, have been evaluating the fees structure used by the State of Kansas and agencies to pay for architect/engineer (A/E) design services. This evaluation has been on-going for the past 18 months. We are pleased to present to you today our evaluation and recommendations.

K.S.A. 75-1263 – Fees for Project Architects; Determination and Payment, establishes the criteria for calculating fees paid to the design team for A/E services. The current criterion is a defined maximum fee percentage, which is adjusted downward on an incremental scale of  $\frac{3}{4}\%$  per \$2,250,000 of construction cost increase, to a defined minimum fee percentage. Currently those limits are 7% and 5%. An additional maximum 4% can be added to the base fee for project complexity. If the design team is not required to provide the normal level of services, the fee is reduced by negotiation for the value of services not to be provided. The original statute was created in 1974; revised in 1978, 1979, 1986, and 1990. The 1990 revision adjusted the incremental ranges of the construction costs from \$1,000,000 to \$2,250,000. One unusual aspect of the Kansas calculation method is the incremental fee percentages are applied to the corresponding incremental construction cost ranges. Most states use a set percentage applied to the total construction cost.

The concept and objective of the Joint Facilities Team evaluation was to:

- Compare the process used by other states to determine A/E fees;
- Create consistent and equitable fee negotiations between all agencies and all design firms;
- Establish fee ranges to reflect the current level of services required by the State of Kansas;
- Eliminate the current practice of design firms to characterize all projects as "the most complex";
- Define the following criteria using schedules and guidelines as tools to use in all negotiations:

- Cost of Construction
- Complexity Factor
- Construction Type
- Services Required

EVALUATION OF ARCHITECT / ENGINEER FEES  
For BUILDING CONSTRUCTION PROJECTS

The team evaluated nine states that use an approach similar to Kansas and that were readily available on the internet. We examined 12 examples using various adjustments to the following four factors:

- Percentage of increase for small to large cost of construction;
- Percentage of increase for less to more project complexity;
- Compared averages of fee amount of other states to the State of Kansas;
- Compared overall process of other states to the State of Kansas.

We selected an example that appeared to be the most balanced of the 12 examples examined.

The concept and objective evaluation addressed the following issues and the listed solutions of the four identified criteria.

- Cost of Construction
  - Issue: Recognize that current costs limits used in KSA 75-1263 are out-of-date.
  - Solution: **Adjusted the set points of the construction costs**
- Complexity Factor
  - Issues: Currently no standard  
Informally based on prior projects  
No consistency between agencies
  - Solution: **Established a list of building types based on typical components used by agencies. Assigned 5 levels of complexity.**
- Construction Type
  - Issues: Currently no set standard  
Informally based on prior projects  
No consistency between agencies
  - Solution: **Established 3 specific types – new, remodel, and combination**
- Services Required
  - Issues: Currently an informal process is used  
Not consistent
  - Solutions: **Developed a list of services typically required by state agencies.  
Developed a checklist to identify what is required or not required for a specific project.**

The recommendation developed from the evaluation, and after review and discussion with the architectural and engineering professions, is a matrix of fees based on the four criteria of construction cost, project complexity, construction type, and services required. The negotiated fee percentage is multiplied as a simple calculation to the estimated cost of construction to establish the A/E services fee for the project.

Examples of the lists and guidelines prepared as tools and a comparative example of new versus existing fees are attached.

EVALUATION OF ARCHITECT / ENGINEER FEES  
For BUILDING CONSTRUCTION PROJECTS

The team evaluated nine states that use an approach similar to Kansas and that were readily available on the internet. We examined 12 examples using various adjustments to the following four factors:

- Percentage of increase for small to large cost of construction;
- Percentage of increase for less to more project complexity;
- Compared averages of fee amount of other states to the State of Kansas;
- Compared overall process of other states to the State of Kansas.

We selected an example that appeared to be the most balanced of the 12 examples examined.

The concept and objective evaluation addressed the following issues and the listed solutions of the four identified criteria.

- Cost of Construction
  - Issue: Recognize that current costs limits used in KSA 75-1263 are out-of-date.
  - Solution: **Adjusted the set points of the construction costs**
- Complexity Factor
  - Issues: Currently no standard  
Informally based on prior projects  
No consistency between agencies
  - Solution: **Established a list of building types based on typical components used by agencies. Assigned 5 levels of complexity.**
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  - Issues: Currently no set standard  
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No consistency between agencies
  - Solution: **Established 3 specific types – new, remodel, and combination**
- Services Required
  - Issues: Currently an informal process is used  
Not consistent
  - Solutions: **Developed a list of services typically required by state agencies.  
Developed a checklist to identify what is required or not required for a specific project.**

The recommendation developed from the evaluation, and after review and discussion with the architectural and engineering professions, is a matrix of fees based on the four criteria of construction cost, project complexity, construction type, and services required. The negotiated fee percentage is multiplied as a simple calculation to the estimated cost of construction to establish the A/E services fee for the project.

Examples of the lists and guidelines prepared as tools and a comparative example of new versus existing fees are attached.



**A/E FEE GUIDELINES**  
Based On  
**COST and BUILDING TYPE (COMPLEXITY)**

Project Design Fee Range																		
Construction Cost	\$750,000			\$1,500,000			\$2,500,000			\$5,000,000			\$7,500,000			\$10,000,000		
Complexity / Construction Type	New	Combined	Remodel	New	Combined	Remodel	New	Combined	Remodel	New	Combined	Remodel	New	Combined	Remodel	New	Combined	Remodel
<b>Utilitarian</b> (Considerably Less Than Average)	7.00%	8.00%	9.00%	6.75%	7.75%	8.75%	6.50%	7.50%	8.50%	6.25%	7.25%	8.25%	6.00%	7.00%	8.00%	5.75%	6.75%	7.75%
<b>Conventional</b> (Less Than Average)	7.75%	8.75%	9.75%	7.50%	8.50%	9.50%	7.25%	8.25%	9.25%	7.00%	8.00%	9.00%	6.75%	7.75%	8.75%	6.50%	7.50%	8.50%
<b>Moderately Complex</b> (Average)	8.50%	9.50%	10.50%	8.25%	9.25%	10.25%	8.00%	9.00%	10.00%	7.75%	8.75%	9.75%	7.50%	8.50%	9.50%	7.25%	8.25%	9.25%
<b>Comparatively Complex</b> (More Than Average)	9.25%	10.25%	11.25%	9.00%	10.00%	11.00%	8.75%	9.75%	10.75%	8.50%	9.50%	10.50%	8.25%	9.25%	10.25%	8.00%	9.00%	10.00%
<b>Complex</b> (Considerably More Than Average)	10.00%	11.00%	12.00%	9.75%	10.75%	11.75%	9.50%	10.50%	11.50%	9.25%	10.25%	11.25%	9.00%	10.00%	11.00%	8.75%	9.75%	10.75%

**Notes:** Each complexity factor and each construction type are established at a normal or typical level of difficulty. Individual projects complexity and construction levels may be evaluated compared to the presumed levels. Combined projects include both new construction, such as an addition, and remodeling construction.  
 Projects with a Construction Cost between the listed cost values shall have fee values interpolated within the corresponding Fee Ranges.  
 Projects with a Construction Cost less than \$750,000 shall be negotiated as if the A/E delivery is "On-Call".  
 Projects with a Construction Cost greater than \$10,000,000 shall be evaluated by extending multiples of a \$2,500,000 Construction Cost increase with a 0.25% reduction in Fee Range.  
 Reference the separate list of Building Types and their assignment to the categories of Complexity.

**A/E FEE GUIDELINES**  
Based On  
**COST and BUILDING TYPE (COMPLEXITY)**

<b>Building Type (Complexity)</b>				
<b>Utilitarian</b> (Considerably Less Than Ave.)	<b>Conventional</b> (Less Than Average)	<b>Moderately Complex</b> (Average)	<b>Comparatively Complex</b> (More Than Average)	<b>Complex</b> (Considerably More Than Ave.)
Projects of simple, utilitarian character without complication or detail and with a high degree of repetition.	Projects of simple character requiring normal attention to design, detail, and with moderate repetition.	Projects of conventional character requiring normal attention to design and detail, complete mechanical and electrical systems.	Projects of specialized character requiring a high degree of skill in design, containing large amounts of complex scientific mechanical and electrical equipment.	Projects of detail character requiring elaborate planning and execution and devoid of repetition.
Agricultural Dam (Earthen) Construction Dam (Earthen) Renovation Grandstand Hangar Industrial Buildings Maintenance Shops Parking Structures Perimeter Security Towers Pre-engineered Structure Prototype Facilities (replication of previously designed facilities) Site Adaptations of Existing Designs Storage Facilities Warehouses	Apartments Armories Bakery Basic Building Structure without interior layout design Boat Ramps Bowling Alley Dining Facilities Dormitories Food Service Greenhouses Gymnasium Historical Facilities requiring only repairs Historical Monuments Laundry Detention / Correctional Facilities - Minimum Natatorium Offices Buildings without partitions Park Shelters Printing Plant Shop & Maintenance Facilities Site Work: Water, Sewers, Streets, Fences, Walks, Parking Lots, Park Trails, Landscaping, Signage, Site Lighting Stadium	Archive Building Auditorium Cellhouse Central Utility Plants Chapel Child Care Classrooms - General Day Care Facilities Detention / Correctional Facilities - Medium Dietary Facilities / Kitchens / Cafeterias Fire & Police Stations Fish Hatchery Floating Docks Recreational Facilities Heating Plant High Voltage Electrical Service / Distribution Laboratory (Dry) Lagoon Library Marinas Medical Office Facilities & Clinics Mental Hospitals - Non-secure Museum Offices Office Buildings with tenant improvements Power Plant Recreation Facility Restroom & Shower Buildings Schools: Sight / Hearing / Physically Impaired Shooting Range - Outdoor Shower Buildings Student Center Student Union / Center Swimming Pool - Natatorium Visitors / Interpretive Centers	Broadcast Studio Classroom - Specialized Computer Center Control Centers Detention / Correctional Facilities - Maximum Fish Hatcheries Food Service Facilities Historical Facilities requiring complete restoration Laboratory - Teaching (Wet) Medical Clinic Mental Hospitals - Secure Museums Observatories Residences Theaters Veterinary Hospital	Computing Center Hospitals Laboratory - Research (Wet) Medical Hospital Science & Medical Research Buildings

### Services Provided by the Project Architect/Engineer

Description	Program	Additional
Project Administration	X	
Document Existing Facility		X
Review of Existing Building Systems (MEP Structural, Fire alarm, Sprinkler etc)	X	
Extensive Review / Evaluation of Existing Building Systems		X
Coordination of Owner Supplied Data	X	
Review of Program	X	
Programming		X
Masterplanning		X
Establish Project Time Schedule	X	
Design Review Meetings	X	
Facility Study to determine project scope		X
Concept and Schematic Design	X	
Design Development	X	
Detailed Code Analysis / Code Footprint	X	
Code Analysis outside project scope		X
Compliance with ADAAG	X	
Visit Like Facilities		X
On-site Utilities Design	X	
Off-site Utilities Design		X
Construction Phasing		X
Coordination with Local Jurisdictions outside code compliance issues		X
Public Information Meetings / Presentations		X
Regulatory Reviews (EPA, FAA, KDHE, etc)		X
Energy Code Compliance	X	
Renderings	X	
Presentation models and/or Fundraising materials		X
Life Cycle Cost Analysis		X
Specialty Consultants		X
Building Security Systems	X	
Office/Classroom Telecommunications System design and Construction Documents	X	
Specialty Telecommunications System design and Construction Documents		X
Energy Studies		X
Environmental Studies		X
Way finding design (Signage)	X	
LEED Certification		X
Architectural Design and Construction Documents	X	
Structural Design and Construction Documents	X	
Mechanical Design Construction Documents	X	
Electrical Design Construction Documents	X	
Fire Alarm and Life Safety Systems Design and Construction Documents	X	
Fire Suppression Evaluation and Preliminary Design	X	
Fire Suppression system Final Design and Construction Documents		X
Civil Design Construction Documents	X	
Landscape Design Construction Documents	X	
Food Service Design and Construction Documents	X	





Agency \_\_\_\_\_ Construction Budget \$0.00  
Project Title \_\_\_\_\_  
Project Number \_\_\_\_\_

Specialty Consultant(s) Required (Food Service, Acoustical, Detention etc.)

Yes  No List consultants \_\_\_\_\_

**Construction Documents**

Frequency of Reviews

Per Manual (30%, 60%, Final)  
 Other than Prescribed in Manual

Explain \_\_\_\_\_

Review Documents (Plans and Specifications)

Per Manual (5 sets 2-DFM, 3 to agency / user agency)  
 Other than Prescribed in Manual

Explain \_\_\_\_\_

Number of Bid Packages Required

One (1)  More than one (1) How many? \_\_\_\_\_

Additional Reviews required by the funding or Certification agency.

Yes  No How many? \_\_\_\_\_

**Bidding**

Is a Pre-Bid Conference required for this project

Yes  No If yes, architect/engineer attendance is mandatory

**Construction Administration**

Attend Pre-construction Conference

Yes  No

Provide Project Meetings and Site Visits

Yes  No

Weekly  Twice a month  Other \_\_\_\_\_

Travel Distance from architect/engineer office to project site

Local  60 Miles  More than 60 miles \_\_\_\_\_

Travel Time from architect/engineer office to project site

< 2 Hrs  2-4 Hrs  > 4 Hrs \_\_\_\_\_

Construction Duration

< 6 months  6 to 12 Mo.  12-24 Mo.  >24 Mo. \_\_\_\_\_

Special Testing

List Systems \_\_\_\_\_

**Project Close Out**

As-Builts

Per Manual (1 vellum copy to DFM, 1 CD/DVD to DFM, 2 CD/DVD to agency)  
 Other than Prescribed in Manual

Explain \_\_\_\_\_

Commissioning of HVAC systems

Yes  No



## EVALUATION OF ARCHIECT/ENGINEER FEES For BUILDING CONSTRUCTION PROJECTS

General Government Budget Committee

March 17, 2008

### FEE COMPARISONS

Example Proposed schedule, based on the proposed **Moderately Complex** (average) complexity compared to existing schedule, based on the minimum and maximum percentages.

<u>Proposed Schedule</u>				<u>Existing Schedule</u>			
Construction Cost	Type	% Fee	A/E Fee	Construction Cost	% Fee	Effective %	A/E Fee
\$750K	New	8.50%	\$ 63,750	Under \$2.25M	7.00%	(7.00)	\$ 52,500
	Remodel	10.50%	\$ 78,750		+4.0%*	(11.0)	\$ 82,500
\$1.5M	New	8.25%	\$123,750	Under \$2.25M	7.00%	(7.00)	\$105,000
	Remodel	10.25%	\$153,750		+4.0%*	(11.00)	\$165,000
\$2.5M	New	8.00%	\$200,000	\$2.25M to \$4.5M	6.25%	(6.93)	\$173,125
	Remodel	10.0%	\$250,000		+4.0%*	(10.93)	\$273,125
\$5.0M	New	7.75%	\$387,500	\$4.5M to \$6.75M	5.50%	(6.51)	\$325,625
	Remodel	10.75%	\$537,500		+4.0%*	(10.51)	\$525,625
\$7.5M	New	7.50%	\$562,500	Over \$6.75M	5.00%	(6.13)	\$459,375
	Remodel	10.50%	\$787,500		+4.0%*	(10.13)	\$759,375
\$10.0M	New	7.25%	\$725,000	Over \$6.75M	5.00%	(5.84)	\$584,375
	Remodel	10.25%	\$1,025,000		+4.0%*	(9.84)	\$984,375

\*Note: Remodel % is negotiated under Existing Schedule; 4% increase is the maximum.

April 1, 2008

TO: Senate Ways and Means Committee

FROM: Trudy Aron, Executive Director

RE: Support of HB 2744



Senator Umbarger and Members of the Committee I am Trudy Aron, Executive Director of the American Institute of Architects in Kansas. Thank you for allowing us to testify in support of HB 2744.

AIA Kansas is a statewide association of architects and intern architects. Our 700 members are currently designing the facilities we will use into the future. We are committed to designing these facilities to leave a lighter carbon footprint on our environment.

HB 2744 consolidates various statutory requirements for architectural, engineering, and land surveying building design services for state agency projects into one common statute.

AIA Kansas has worked with the members of the Joint Facilities Team on this bill and supports it entirely. This bill provides a common set of requirements for the various design professions. Additionally, it removes from current statutes the fee schedule for architectural services for state agency projects. Kansas is the only state that has a fee schedule in statute.

Once the bill is passed, the Secretary of Administration will use published guidelines to negotiate fees based on the cost, the complexity, the type of construction, and the level of services needed for each specific project.

The current fee schedule in statute is inflexible. The State of Kansas is a sophisticated client and as such, will be able to better meet their needs by using a fee guideline that allows the State to determine the services needed for a particular project and a reasonable fee to be paid for those design services.

AIA Kansas urges you to pass HB 2744 out of committee favorably. Thank you.

I'll stand for questions.

President  
C. Stan Peterson, FAIA  
Topeka  
President Elect  
David S. Heit, AIA  
Topeka  
Secretary  
J. Michael Vieux, AIA  
Leavenworth  
Treasurer  
Nadia Zhiri, AIA  
Lawrence

Douglas R. Cook, AIA  
Olathe  
Corey L. Dehn, AIA  
Topeka  
Dale R. Duncan, AIA  
Olathe  
S. L. Ferguson-Bohm, AIA  
Wichita  
John Gaunt, FAIA  
Lawrence  
David Livingood, AIA  
Lawrence  
Peter Magyar, Assoc AIA  
Manhattan  
Bruce E. McMillan, AIA  
Manhattan  
Hans Nettelblad, AIA  
Overland Park  
Gary Nevius, AIA  
Overland Park  
Wendy Ornelas, FAIA  
Manhattan  
Daniel Sabatini, AIA  
Lawrence  
Zach Snethen, Assoc AIA  
Topeka  
Daniel (Terry) Tevis, AIA  
Lenexa  
Jerry E. Volesky, AIA  
Topeka  
Eric Wittman, Assoc AIA  
Wichita

Executive Director  
Trudy Aron, Hon. AIA, CAE

700 SW Jackson, Suite 503  
Topeka, Kansas 66603-3758  
Telephone: 785-357-5308  
800-444-9853  
Facsimile: 785-357-6450

Senate Ways and Means  
4-1-08  
Attachment 10

STATE OF KANSAS

**VIRGIL PECK, JR.**

REPRESENTATIVE, DISTRICT 11

BOX 277

TYRO, KANSAS 67364

STATE CAPITOL - RM 411-S

TOPEKA, KANSAS 66612

(785) 296-7641



COMMITTEE ASSIGNMENTS:

VICE-CHAIRMAN: TRANSPORTATION  
VICE-CHAIRMAN: LEGISLATIVE POST AUDIT

MEMBER: INSURANCE AND FINANCIAL  
INSTITUTIONS  
TAXATION

HOUSE OF REPRESENTATIVES

**Testimony Regarding HB 2926**

April 1, 2008

Mr. Chairman and members of the Senate Ways and Means Committee. Thank you for the opportunity to provide testimony on HB 2926.

On June 30<sup>th</sup> of 2007 Coffeyville experienced a major flood event unlike any other in its 139 year existence. Verdigris River flood waters exceeded the height of the levee that was built to protect our city by nearly four (4) feet. The flood waters covered approximately 25% of our community. To make matters worse, the flood waters also carried 90,000 gallons of oil into our community.

The damage left behind as the waters receded was devastating. Water entered 549 residential and commercial structures in our community damaging over 400 homes and affecting over 70 business and non-profit entities including 6 hotels, 5 restaurants, 4 convenience stores/gas stations, 2 mobile home parks, a grocery store and 3 churches. Due to the period of time the water stood in our community, the majority of the structures impacted by the flood will be demolished. To date, 39 businesses remain closed with only a few of that group still working to reopen.

With the loss of roughly 400 homes and 39 businesses, Coffeyville will see a decrease in its tax base as well as a decrease in utility revenues. The city must fund its share of repairs to its own facilities and the levee which are estimated at a total of \$5.8 million. Therefore, the city of Coffeyville is not in a good financial position.

HB 2926 would authorize cities that have received a Federal Disaster Declaration to request assistance from KDOT with demolished, flood-damaged structures. This is necessary because the actual demolition of many flood-damaged structures will occur months or years from now, long after emergency authority for state assistance has expired. The authority would sunset in five years.

Although this would be a great savings to cities in Kansas that have endured a flood. There would be little cost to the State since KDOT is to provide this assistance as they have personnel and equipment available.

Senate Ways and Means  
4-1-08  
Attachment 11

**TESTIMONY BEFORE  
SENATE WAYS AND MEANS COMMITTEE**

**REGARDING HOUSE BILL (HB) 2926  
Concerning demolition of flood-damaged private property**

**April 1, 2008**

Mr. Chairman and Committee Members:

I am Terry Heidner, Kansas Department of Transportation's (KDOT) Legislative Liaison and I am here to provide testimony on HB 2926, concerning the removal of debris from demolished flood-damaged private property in southeast Kansas.

HB 2926 would require KDOT to provide the equipment and personnel necessary to remove, haul or transport any debris from demolished flood-damaged residential structures when requested by any city in any county declared eligible to receive federal assistance by the Federal Emergency Management Agency (FEMA) disaster declaration FEMA-1711-DR. KDOT personnel and equipment would be provided at no cost to the city as the Secretary of Transportation deems appropriate and as work schedules allow. The provisions of this bill would expire on July 1, 2013.

KDOT's current emergency mission is to maintain the integrity and usefulness of the transportation system and to provide other support activities to restore traffic movement and protect citizens' health and safety. KDOT emergency activities do periodically include debris removal; however, KDOT employees are neither trained nor equipped to deal with debris that could contain petrochemical plant effluent, molds, and sewage-spawned bacteria, as well as other, non-flood-related hazardous materials. It is important to note that during the aftermath of the Greensburg tornado in 2007, there were (non-KDOT) trained personnel on-site identifying hazardous materials before KDOT moved the debris to the appropriate dumping locations.

It should also be noted that the demolition of houses inside the 100 year flood plain qualify for funding assistance from several sources, such as federal and state, with only a small portion from the city. This is in contrast to those structures outside the 100 year flood plain, which places the financial burden directly upon the cities. Therefore, KDOT respectfully requests that the bill be amended to limit the agency's involvement to debris removal outside of that zone.

KDOT remains committed to supporting communities in times of emergency and disaster as we have historically without such legislation.

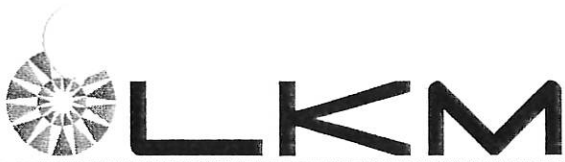
Thank you for your time, I will gladly stand for questions.

OFFICE OF THE SECRETARY OF TRANSPORTATION  
Dwight D. Eisenhower State Office Building

700 S.W. Harrison Street; Topeka, KS 66603-3745 • (785) 296-3461 • Fax: (785) 296-1095

TTY (Hearing Impaired): (785) 296-3585 • e-mail: [publicinfo@ksdot.org](mailto:publicinfo@ksdot.org) • Public Access at North Entrance of Building

*Senate ways and means  
4-1-08  
Attachment 12*



League of Kansas Municipalities

Date: April 1, 2008  
To: Senate Ways and Means Committee  
From: Larry R. Baer  
Assistant General Counsel  
Re: HB 2926  
Written Testimony in Support

Thank you for allowing me to submit written testimony in support of HB 2926 on behalf of the League of Kansas Municipalities and its member cities. The League appeared before the House Transportation Committee in support of HB 2926. The League continues its support of HB 2926 following the amendments made by House Transportation.

HB 2926 is one of a series of bills introduced this session to assist the citizens of Kansas in their recovery from the large losses sustained in the many natural disasters that befell Kansas last year. HB 2926 specifically assists cities and, if adopted, it would help defray expenses of local governments in removal of certain structures damaged by flood water.

HB 2926 would allow cities to request equipment and personnel from the Kansas Department of Transportation to remove and haul debris from demolished residential structures located within the city that were damaged by certain floods occurring in 2007. The structures to be removed would have to have been found unsafe, dangerous or abandoned under K.S.A. 12-1750 *et seq.* KDOT would furnish such equipment and manpower as deemed appropriate and as their particular work loads permit. The personnel and equipment would be furnished at no cost to the requesting city.

K.S.A. 12-1750 *et seq.* permits cities to make a finding, following notice to the owner and other interested parties and an opportunity for hearing, that a property is dangerous or unsafe and require that the owner either repair or remove the structure. If the owner is ordered to remove the structure and either fails, neglects or refuses to do so, it is then the city's decision to either demolish the structure or take no further action. Two key elements to be considered when a city is called upon to make this decision are cost and the probability of recovering the cost from the property owner. All too often the cost of demolition is a deterrent to the city to take further action even though the property presents a significant hazard to public safety and welfare.

Thus, if a city feels that it cannot take action to demolish one dangerous structure because of the cost, it can certainly be understood that when faced with many structures needing to be demolished because of widespread flood damage the task will not be undertaken. Or, perhaps it will be undertaken in a piecemeal fashion that requires years to rid the city of the blight and health and safety hazards presented by the damaged structures. Whether the damaged structures are left standing, or removed over many years is not good for the city or its residents.



HB 2926 gives cities an alternative when faced with the question of “can we afford to undertake the demolition of this property (or these properties).” It would allow the city to seek help from KDOT to remedy a citywide problem caused by natural disaster without expense to the city. More importantly, HB 2926 would allow a city to proceed with cleanup and rehabilitation of a flooded district in a more expedient manner. It must be remembered that the cities eligible for this type of assistance have suffered losses, also. These losses include damaged infrastructure, loss of businesses, loss of residential structures and loss of residents. All of this means the potential loss of revenue whether through a decreased property tax base or loss in city provided services.

For these reasons the League of Kansas Municipalities stands in support of HB 2926.

Again, thank you for allowing me to present this testimony today.





To: Representative Jene Vickrey

From: Bret Glendening; Osawatomie City Manager

Re: **HB 2926**

Date: March 31, 2008

Thank you for providing this written testimony regarding **HB 2926** to the Kansas Senate Committee on Ways and Means. The City of Osawatomie, while it is much farther ahead in its recuperation process than many cities affected by the floods in 2007, still has a fair amount of work to do in terms of homes that were damaged, yet remain incomplete in their reconstruction process.

Earlier this year, we sent letters to 26 property owners in the flood area who appeared to have ceased reconstruction and/or demolition of their properties. We provided these homeowners with 30 days to file with the city their plan for rehabilitation/reoccupation. Many owners responded, a handful were cited for zoning and/or nuisance violations, and 10 of those 26 either responded that their property had been taken over by the financing company, or their certified letters were returned unclaimed.


It is the city's position that we will be faced with condemning these structures. On average, a demolition bill from a contractor runs between \$5,000 and \$7,000, depending on the size of the structure. If the City of Osawatomie has to condemn and demolish these structures ourselves, we are looking at spending a minimum of \$50,000. This figure does not take into consideration publication expenses, certified mailing requirements, staff time, etc. While I certainly understand the concern from the state of competing with private contractors, we also must face reality. Most cities (Osawatomie included) do not have the funds at this point in time, to start mass condemnation proceedings and most individuals affected by this flood do not have sufficient resources available either. Therefore, the condemnation of these structures will be prolonged or delayed over the course of several months, if not a few years. Money will be spent by the city, which will go uncollected, and ultimately, after 3 years, the vacant lot upon which an old flood house once sat, will end up on the tax sale. Having state resources available to assist in the demolition of these structures would be greatly appreciated.

Senate Ways and Means  
4-1-08  
Attachment 14

Office of Revisor of Statutes  
300 S.W. 10<sup>th</sup> Avenue  
Suite 010-E, Statehouse  
Topeka, Kansas 66612-1592  
Telephone (785) 296 -2321 FAX (785) 296-6668

MEMORANDUM

To: Chairman Umbarger and members of the Committee on Ways and Means

From: Jill Wolters, Senior Assistant Revisor and Renae Jefferies, Assistant Revisor 

Date: March 26, 2008

Subject: Kansas Taxpayer Transparency Act, HB 2730, as am. by House Committee of the Whole

HB 2730 is similar to 2007 House Substitute for HB 2457 as passed out of House Committee on Government Efficiency and Technology and enacted in subsections (c), (d), (e) and (f) of section 163 of House Bill No. 2368.

The act and mandates that no later than March 1, 2008, the Secretary of Administration (Secretary) shall develop and operate a searchable website accessible by the public at that provides information on annual expenditures, annual revenues, annual bonded indebtedness and any other information specified by the Secretary after consulting with and seeking the advice of the Public Finance Transparency Board (Board) established in section 3.

The website shall include data for fiscal year 2002 and each subsequent year and such data shall be retained on the website for at least 10 years. Each fiscal year's data in the central accounting and the state payroll system would have to be available on the website within 45 days after the end of the fiscal year. The Secretary would be authorized to develop policies and procedures for making available data from sources other than the central accounting and state payroll systems. However, the Secretary would not be required to make available information that is not contained in the central accounting and state payroll system at the time of initial implementation of the website.

Any state agency, at the request of the Secretary shall provide such information as is necessary to accomplish the purposes of the act.

Nothing in the act shall permit or require the disclosure of information that is considered confidential by state or federal law.

Section 3 establishes the 15 member public finance transparency board and provides that the Secretary or the Secretary's designee shall serve as chairperson of the board. Other board members include the director of accounts and reports or the director's designee; two members who are chief executive officers of agencies of the executive branch or such officer's designees, appointed by the governor, who shall serve at the pleasure of the governor; four members of the general public, two appointed by the governor, one appointed by the president of the senate and one appointed by the speaker of the house; four members of the legislature, one appointed by the president of the senate, one appointed by the minority leader of the senate, one appointed by the speaker of the house, and one appointed by the minority leader of the house, all of whom shall serve at the pleasure of the appointing official; the legislative post auditor or such auditor's designee; the state archivist or such archivist's designee; and the director of legislative research or such director's designee.

The board shall:

- (1) Advise the Secretary on incorporating additional information described in this act from any other source of information available to the Secretary, including information submitted by state agencies as requested by the Secretary;
- (2) serve in an advisory capacity to the Secretary on matters related to further development of the website, expansion of the content of the information for the website and new reports to be generated on the website to assist the public in accessing public information;
- (3) seek advice from the general public, professional associations, academic groups and institutions and individuals with knowledge of and interest in areas of public information access, gateway services, add-on services and electronic information; and
- (4) meet at least twice during each fiscal year on the call of the Secretary who shall set the agenda for the meetings, to include a report on the progress in implementing the website, proposed enhancements to the website and other matters as deemed appropriate by the Secretary.

All state agencies shall cooperate with the board in providing assistance as may be requested for the achievement of the boards purpose.

The House Committee amendment sunset the act on June 30, 2013.

The House Committee of the whole amendments require the website to include:

1. All campaign finance reports and ethics reports required by the governmental ethics commission.
2. A counter on the website which will show the number of times the website has been accessed.
3. The amount of money spent on implementing the provisions of the Kansas taxpayer transparency act shown on an annual basis.

MEMORANDUM

TO: Senate Ways and Means Committee

FROM: Duane A. Goossen, Director of the Budget

DATE: March 26, 2008

SUBJECT: HB 2730

Thank you for the opportunity to offer comments and answer questions pertaining to HB 2730.

During the 2007 Session, a bill was introduced in the House to make Kansas financial data more accessible. The Dept. of Administration worked extensively with the House Government Efficiency Committee to amend the bill so that it would be workable for Kansas. The bill was eventually passed as a proviso to the FY 2008 appropriations bill. HB 2730 would place the proviso from the FY 2008 appropriations bill in statute.

The Department of Administration has been implementing the terms of the proviso and will continue to do so with or without HB 2730. The proviso requires the formation of a Public Finance Transparency Board and the launch of a website that allows the public to search through state financial transactions. The Public Finance Transparency Board has been appointed. (A list of board members is attached.) The first meeting of the board was held November 14, 2007 at which time the board previewed and discussed the website being developed. The website, named KanView, opened March 1 and can be accessed through the Kansas.gov website.

# Public Finance Transparency Board

## Members

Secretary of Administration (or designee)..... Duane Goossen  
Director of Accounts and Reports (or designee)..... Kent Olson  
2 executive branch CEOs appointed by the Governor..... Denise Moore, Joan Wagon  
2 members of the public appointed by the Governor..... Charles Jones, Doug Anstaett  
1 member of the public appointed by the President of the Senate..... Edward Sexe  
1 member of the public appointed by the Speaker of the House ..... Alan Cobb  
1 member of the Legislature appointed by the  
President of the Senate..... Sen. Dwayne Umbarger  
1 member of the Legislature appointed by the  
Senate Minority Leader..... Sen. Greta Goodwin  
1 member of the Legislature appointed by the  
Speaker of the House ..... Rep. Kasha Kelley  
1 member of the Legislature appointed by the  
House Minority Leader ..... Rep. Raj Goyle  
Legislative Post Auditor (or designee) ..... Barbara Hinton  
State Archivist (or designee)..... Matthew Veatch  
Director of Legislative Research (or designee) ..... Alan Conroy

STATE OF KANSAS

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MEMBER: GOVERNMENT EFFICIENCY AND  
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SPEECH/HEARING IMPAIRED: (785) 296-8430

KASHA KELLEY  
REPRESENTATIVE, 79TH DISTRICT  
HOME ADDRESS: P.O. BOX 1111  
ARKANSAS CITY, KANSAS 67005  
(316) 772-0513



TOPEKA

HOUSE OF  
REPRESENTATIVES

OFFICE ADDRESS: STATE CAPITOL, SUITE 110-S  
TOPEKA, KANSAS 66612  
(785) 296-7644

Testimony presented to the Senate Ways and Means Committee  
Representative Kasha Kelley

March 26, 2008  
House Bill 2730 – Kansas Taxpayer Transparency Act

Chairman Umbarger and Members of the Committee:

House Bill 2730 is the “continuation” of our previously-passed Substitute for HB 2457 from the 2007 Session. The House Government Efficiency and Technology committee favorably passed the substitute bill out, which in turn, passed the House 102-20. The bill before us today, HB 2730, co-sponsored by members of the “GET” committee, is a near duplicate of the legislation already passed by the House last session, with a few amendments added by the COW. As HB 2730 was enacted into law by proviso in the Senate last year, we now have the opportunity to pass this legislation through the normal channels.

It is important to note the content and directive of our 2007 substitute bill are already fulfilled. KanView (accessible by going to [www.kansas.gov](http://www.kansas.gov) and clicking on KanView) was unveiled earlier this month on March 1, 2008, and is currently in operation.

By means of quick summary, HB 2730 provides that, by March 1, 2008, a specified website be developed. Such site compiles comprehensive revenues and expenditures of funds established within the state treasury, compensation paid to public employees employed by state agencies, and bond debt (specificity of each laid out in HB 2730). Said information is presented in an easily searchable website that allows the public to search and aggregate such information.

As a result of our action taken last year, Kansas became the first state in the nation to sign into law comprehensive legislation creating a website of this nature. Since, other states have followed or are following – and in some cases, our Kansas legislation is being used as the model transparency language. Late in 2007, I was invited to attend the unveiling of the federal spending website: [www.usaspending.gov](http://www.usaspending.gov). Kansas was also given recognition at that time for our leadership in this area. In short, together we have made Kansas the leader on this issue.

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This bill has twice been worked through the committee process extensively, and with the input of the Dept. of Administration. It has twice passed out of the House (in 2007, with a vote of 102-20, and this year 119-3).

Previous committee concerns allayed included tax returns and whether they constituted part of the information made available on this site. The answer was and is, only in aggregate form as is currently available by the Secretary of Revenue. The private tax return information of persons and businesses is protected by statute. The Kansas Taxpayer Transparency Act does not seek to divulge any currently protected information.

Concerns also centered around whether this information was already available on the internet. While it is true that some information is already present in disparate form, it is not always quick or easy to retrieve, nor is it always locatable within one site. Although some information may technically be available, it often exists in what is called the “deep web” – where indexing and retrieving can be difficult or impossible by search engine crawlers. Statistics show that a majority of those looking for government information on government sites are doing so via these search engines, which are unable to retrieve or index this deep web data. KanView is doing what it is designed to do: culminating all information in one easy-to-search site.

Finally, cost was previously raised as a concern in constructing this site. Although the price tag of \$40-\$50 million was thrown out, as I’d previously stated would be the goal, this site was constructed at no cost to the taxpayer, and within the D of A’s existing resources. The price tag often cited is that attached to the construction of the new Financial Management Software System requested by the D of A. The transparency site was simply folded into the design of the FMS, with no additional cost added for the site. It should be noted that the D of A and Lisa Counts have done wonderful work on this site, and should be commended for delivering it at no cost, and within existing resources.

As to the issue of cost, it is good to note comparisons. The federal transparency site, initially carried a total price tag of about \$15 million for construction. However, the site was finished and is up and running for just about \$1 million. Our neighboring state of Oklahoma has constructed their site for roughly \$300,000. Missouri’s was erected via Executive Order, with no funding allocated. And there are several other states that have since begun construction on their sites with very few, if any, new dollars involved. Again, our Department and Ms. Counts are to be commended for their work.

In closing, members of this committee last year made possible an historical event with the creation of the Kansas Taxpayer Transparency Website – an accomplishment of which each should be proud. As transparency sites continue to spread across the nation, and ask Kansas continues to be the model lifted high for all to see, I would appreciate your vote of support for HB 2730 to ensure that Kansas stays the leader on this critical issue of our time.

Thank you, Mr. Chairman and committee members, for the opportunity to appear before you. At this time, I would stand for any questions.

STATE OF KANSAS

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TOPEKA

HOUSE OF REPRESENTATIVES

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**Chairman:**

*Governmental Efficiency and  
Technology*

**Member**

*Health*

**Member**

*Joint Committee on Information  
Technology*

**Member**

*Health Care Stabilization  
Committee*

March 26, 2008

**RE: Testimony on Transparency legislation**

Good morning Chairman Umbarger and members of the Ways and Means Committee. Substitute for HB 2730 passed the House on a 119-3 vote February 22, 2008. It passed last year as HB 2457 without a sunset on about the same vote. However, the Senate did not get around to working the bill so it was placed *verbatim* as a proviso into the Omnibus bill (subsections (c), (d), (e) and (f) of section 163 of HB 2638).

After Governor Sebelius signed the bill the Department of Administration began implementing the provisions of the proviso and establishing the advisory board which helps drive the system.

Budget Director Duane Goossen commented that even without the legislation he was going to implement this very worthwhile piece of "openness in Government" legislation. However he would not have help from the advisory board which he would like to have.

The current legislation is the product of work by our Department of Administration, Department of Revenue, Kansans for Prosperity, the Kansas Press Association and others interested in "open" Government or "Government Transparency."

Kansas is the FIRST state to have led in passage of legislation making public records public via an Internet interface that is simple to understand, operate and apply. The Web address for this transparency legislation work by the board, INK, DISC, Department of Administration and others is available at <http://www.kansas.gov/kanview/>. Take a look at its simplicity and ease of understanding.

Please remember that this is a continual work in progress as it cannot be fully implemented until all the data are made available as we upgrade the Department of Administration computing systems scheduled for completion in 2013.

Many people are complementing Kansas on its quick, direct and decisive action to "open the books" to the public. It will save hours of time for agencies to compile simple open

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requests for already openly available information but difficult to access by the public without occupying a great deal of agency time in bringing the information together for the public requests.

I ask you to support this important legislation and pass it unanimously to the Governor who had a hand in its creation as well and supports the bill. Thank you for your time. I will stand for questions at the appropriate point.

Representative Jim Morrison 121<sup>st</sup> District

**10:30 a.m. Ways and Means Room 123-S**

Umbarger, Chairperson; Emler, Vice Chairperson; McGinn, Morris, V. Schmidt, Schodorf, Taddiken, Teichman, Wysong. Kelly, Ranking Minority Member; Betts, Goodwin, Steineger.



# AMERICANS FOR PROSPERITY

## KANSAS

March 26, 2008

Chairman Umbarger and members of the committee,

I am Alan Cobb, Kansas State Director of Americans for Prosperity, a free market grassroots public policy group with more than 15,000 members in Kansas.

We are here in full support of transparency.

Taxpayers deserve to know how their money is being spent. Traditional budget publications are not only very difficult for ordinary taxpayers to understand; they are also often inaccessible and contain incomplete information.

The creation of a modern, searchable, on-line database will leverage technology that most Kansans already use and understand to make information about state spending widely accessible.

This proviso passed into law last year was nation's first transparency law. Kansas' has received national recognition for this achievement.

The website is up and operational. All involved deserve much credit for the work they've done.

Giving taxpayers this tool to understand where and how their money is being spent will make state government more accountable and reduce waste, fraud, and abuse. An opaque spending process creates the perception, or possible reality, of legislators or bureaucrats use the state budget to fund unnecessary, wasteful, or even corrupt programs, confident that most Kansans will never know about it.

This database will help eliminate any perception of impropriety by ensuring that all awards of state funds are subject to public scrutiny. It will also, even when there is no perceived wrongdoing, allow taxpayers to hold the government to higher standards, reviewing exactly how money is being spent and proposing more effective or efficient uses of state dollars. By making the details of spending available to the public, the state can leverage the expertise and ideas of engaged citizens who can, at their own convenience, evaluate the data and provide feedback to legislators and grassroots groups, such as ours, that work on fiscal issues.

Transparent government is good government. Good government has nothing to hide from the taxpayers that fund it and is open to input from those taxpayers on how to constantly improve as stewards of their hard-earned tax dollars.



## **Kansas Press Association, Inc.**

*Dedicated to serving and advancing the interests of Kansas newspapers*

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March 26, 2008

To: Dwayne Umbarger, chairman, Senate Ways and Means Committee

From: Rich Gannon, director of governmental affairs, Kansas Press Association

Re: HB 2730

Mr. Chairman and members of the Ways and Means Committee, my name is Richard Gannon and I am the Director of Governmental Affairs for the Kansas Press Association.

We rise in support of H.B. 2730.

H.B. 2730 is a very simple bill with strong public support. The Kansas Taxpayer Transparency Act simply provides Kansas taxpayers a method to observe how their tax dollars are spent.

Frankly I have difficulty comprehending how anyone could oppose the public's "right to know" something so basic?

However, Mr. Chairman and members of the committee, as you know there has been opposition to HB 2730 — opposition strong enough to require a multi-session effort for bill passage.

Unfortunately, this is the typical opposition encountered at any attempt to provide the Kansas citizen better access to their government.

It is traditionally those who speak for or work closely with OUR OWN GOVERNMENT that raise the strongest objection to the public's "right to know."

The Kansas Press Association believes that open government is a prerequisite, but certainly not a guarantee, of "good government." However, we do know what happens when government is conducted in the dark, in secret, behind closed doors, without benefit of the public's participation. What we get is not representative of what citizens want; we get what a select few have determined is "best" for the rest of us.

We support governmental transparency and H.B. 2730 and offer our special thanks to those legislators that work so hard for open government.

I stand for questions.

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# AMERICANS for TAX REFORM

Grover G. Norquist  
President

Testimony

By Sandra Fabry  
State Government Affairs Manager  
Americans for Tax Reform

submitted to the

Senate Ways and Means Committee

regarding

House Bill 2730, the Kansas Taxpayer Transparency Act

March 26, 2008

Thank you, Chairman Umbarger and members of the committee,

While I cannot be with you in person today, I would like to take the opportunity to offer testimony in support of H.B. 2730, the Kansas Taxpayer Transparency Act.

In 2007, Kansas was the first of five states to pass and sign into law as part of the budget this piece of comprehensive legislation, which allows taxpayers to track their tax dollars at a mouse click. The website KanView has since been launched, and now provides taxpayers with a tool to hold their government more accountable.

Thanks to the Taxpayer Transparency Act, KanView allows taxpayers to search and view comprehensive information in a single online database on both state revenues and expenditures, including agency disbursements, bond debt payments, salary and wages, contractual services, commodities, capital outlay, debt service, aid to local units of government, assistance and benefits, and capital improvements. On the revenue side, the information on annual revenues includes data on taxes, agency earnings, revenue from the use of money and property, gifts, donations and federal grants and other revenues. Furthermore, information on annual bonded indebtedness is also included.

The Taxpayer Transparency Act helped set off a nationwide effort that has grown into a movement.

Kansas was joined by Texas, Oklahoma, Minnesota and Hawaii. Realizing the powerful argument behind greater fiscal transparency, several governors have also taken the issue into their own hands. Gov. Matt Blunt of Missouri launched the Missouri Accountability Portal via executive order in July of 2007. Gov. Sanford issued an executive order mandating the creation of a searchable online database for government expenditures in August, and the site launched on March 3<sup>rd</sup>, 2008. Gov. Sarah Palin of Alaska posted the state's expenditures over the amount of \$100 on the Internet, and legislation looking to codify this effort into law is underway.

At least 17 states have similar legislation pending this year, and several have looked to Kansas as the model when drafting their legislation.

So far, reception of the online databases for state expenditures that have gone live since last year has been great. The Missouri Accountability Portal has had over 4 million visitors. And the Texas website often experiences delays due to heavy traffic on the site a clear indication that people do care where their tax dollars are going.

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Polls confirm taxpayers' interest in these spending portals: A survey commissioned prior to the passage of the Oklahoma legislation found that 72% of respondents supported the creation of the website. In Maryland, where similar efforts are currently underway, over 80 percent of respondents support the creation of a similar web portal.

Opening the state's books will make it easier for taxpayers to get involved in the political discourse, and taxpayers truly appreciate this opportunity to track their tax dollars.

HB 2730 is part of a sensible effort that will help eliminate the potential for fraud, waste, and abuse, and can bring about real and tangible savings.

Here is just one example: Using information from the spending portal hosted by her agency, Texas Comptroller Susan Comb has identified \$2.3 million in savings in her agency alone. Among these was the discovery that the agency had five contracts for toner. Those contracts have since been consolidated into one contract at a cost saving of about \$73,000. Additional savings of \$250,000 were realized by not printing a study that was already being printed by another agency.

This movement to increase transparency in government spending rests on the notion that transparency begets accountability - a principle that was understood by the Founding Fathers. Thomas Jefferson once said: *"We might hope to see the finances of the Union as clear and intelligible as a merchant's books, so that every member of Congress and every man of any mind in the Union should be able to comprehend them, to investigate abuses, and consequently to control them."*

Obviously the Founding Fathers lived in a time in which information traveled much slower than today. But they certainly understood that accountability is one of the cornerstones of the Republic in which we live, and that transparency is the prerequisite for accountable government. After all, the "consent of the governed" from which government is to derive its just powers is much more meaningful if it is informed consent.

Because it goes back to one of the most fundamental principles - accountability - this movement has broad bipartisan support. It brings together unlikely allies: Sens. Tom Coburn of Oklahoma and Barack Obama of Illinois who sponsored the federal legislation. Consumer advocate Ralph Nader and taxpayer advocate Grover Norquist, who co-signed a letter to governors around the country urging them to emulate and go beyond the Coburn-Obama bill. Democrats and Republicans. This is not a Right-Left issue, it is a Right-Wrong issue. There may not be agreement on how the money should be spent, but there is agreement that taxpayers should be able to scrutinize government expenditures. In today's digital age, there is no justification for keeping taxpayers in the dark as to how their tax dollars are being spent.

A little over 200 years ago, the Founding Fathers had the vision -with the technological advances at hand, we have the tools at our disposal to make it a reality.

I want to commend you for passing this legislation in 2007, and urge you to pass H.B. 2730, which would enact the Taxpayer Transparency Act for future years. I would urge you to remove the sunset that has been placed on this legislation.

KanView is not a program that will grow and develop a life of its own, like many government programs. It is a website that empowers taxpayers, and makes government more accountable in the process.

From here, there should be no going back for Kansas, there should only be going forward.

**KANSAS TAXPAYERS NETWORK**

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25 March 2008

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Testimony Supporting HB 2730

By Karl Peterjohn, Exec. Dir.

H.B. 2730 would place in statute what is currently taking place today under a proviso enacted in the appropriations process. Kansans are now able to get detailed information concerning state expenditures on the state's web site. This ability recently came on line for Kansans interested in seeing how their tax funds are specifically being spent earlier this year. As amended, this bill also contains other open government provisions within Kansas law.

Kansas has been one of the national leaders in taking this step to open up the appropriations process for citizen scrutiny and examination when the transparency commission and the new software capability were implemented. The state deserves credit for being a leader among all 50 states in this area when this came on line at the beginning of March.

H.B. 2730 would make this provision part of state law with a sunset provision on June 30, 2013. This bill would remove this transparency provision from the annual appropriation legislation.

The Kansas Taxpayers Network hopes that fiscal transparency along with additional accountability will help make sure that public funds are spent efficiently and effectively that is consistent within the boundaries of state law. We believe that this should be a permanent part of state law and that the sunset provision is unnecessary.

The utilization of the internet as well as related communication technology is an important advance contained within this proposed statute. The Kansas Taxpayers Network urges the Ways and Means Committee to approve H.B 2730 and recommend its approval by the Kansas Senate.

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