

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairman David Wysong at 8:30 a.m. on January 28, 2009, in Room 545-N of the Capitol.

All members were present except:

Senator Susan Wagle- excused

Committee staff present:

Mr. Margaret Cianciarulo, Administrative Assistant
Mr. Norm Furse, Office of the Revisor of Statutes
Mr. Ken Wilke, Office of the Revisor of Statutes
Mr. Reed Holwegner, Kansas Legislative Research Department

Conferees appearing before the Committee:

Mr. Gary Anderson, Bond Counsel, Gilmore & Bell
Mr. Don Moler, Executive Director, League of Kansas Municipalities
Mr. Matt Fletcher, Associate Director, InterHab and Chair, State Use Committee

Others attending:

See attached list.

Hearing on SB36 - An act concerning cities and counties, relating to the transportation development district act and special assessments and citing SB78 - an act concerning transportation development districts

Before the meeting was called to order, Chairman Wysong announced that because **SB36** has basically been worked out with **SB78**, he would be pulling **SB36** today and **SB78** would be heard and worked next week (Wednesday, February 4, 2009), mentioning that the reason they cannot do that today is that they did not announce it publicly.

Hearing on SB35 - An act concerning municipal bonds and interest rates

The Chair then opened the meeting by announcing they would be hearing **SB35** and called upon Mr. Norm Furse, Office of the Revisor of Statutes, to interpret the bill. Mr. Furse stated the bill, introduced in this Committee, related to interest rates on municipal bonds and amends the current section 10-009. He went on to say that the only change in this bill occurs at the bottom of page one and top of page 2 with the current law sections in (a), (b), and © setting maximum interest rates on different types of municipal bond financing with:

- sub (a) is on fixed rate bonds
- sub (b) is on variable rate bonds
- sub © relates to bonds issued prior to 2002
- with the new language in sub (d).

The effective date of this bill would be the Kansas register, which means when it passes the Legislature and is signed by the Governor, it is then published by the Kansas register and on that publication date the effective date of the bill occurs.

The new language in sub (d) basically says that the provisions of this section are going to be suspended for a period of time from its publication in the Kansas register until and including June 30, 2010. This section is referenced in the 108 statutes with 105 of them basically saying our regulated sector has created a particular bond issue and that the interest rates shall not be greater than that fixed under this statute 10-1009. He mentioned they will need to make sure this bill does not unduly create confusion with the municipalities of all these other sections referring to them, but that language could be added if there was some confusion

The Chair thanked Mr. Furse and asked the Committee for questions or comments which came from Senator Holland asking with the impetus and the driving behind this type of legislation, what is your take on that?

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The Chair then called upon the first of two proponents of the bill, Mr. Gary Anderson, Bond Counsel, Gilmore and Bell, who stated this bill would temporarily remove the interest rate cap on municipal bonds until June 30, 2010. The reasons for this temporary change, he said, are:

- (1) The current interest rate environment for municipal bonds
- (2) Certain provisions relating to taxable bonds that are contained in the current House and Senate version of the proposed federal stimulus bill.

He offered information on: the current law in Kansas that provides the interest rate ceiling for municipal bonds in Kansas, the municipal bond interest rate environment, and the federal stimulus bill. A copy of his testimony is ([Attachment 1](#)) attached hereto and incorporated into the Minutes as referenced.

He stood for questions which came from Mr. Furse who asked with regard to all of the other statutes sitting out there, as a bond attorney do you see any problem not amending those in some way?

The Chair thanked Mr. Anderson and called on Mr. Don Moler, Executive Director, League of Kansas Municipalities, who stated this legislation was brought to the League's attention by a number of city officials prior to the beginning of the legislature session, who voiced concern that given the current statutory requirements regarding interest rates on municipal bonds, it was likely that it would create a situation in which it was difficult to sell municipal bonds in Kansas. He is in favor of passage so that there will be no additional burden placed on local governments in the issuance on municipal bonds over the coming year. A copy of his testimony is ([Attachment 2](#)) attached hereto and incorporated into the Minutes as referenced.

Mr. Moler then stood for questions which came from Senator Holland who said that the concern is because with a 10-year Treasury their interest rates are tanking and so when these federal stimulus programs come down with credit subsidies or whatever, the ceiling you can issue on your bonds, this would not be attractive?

As there were no more questions, Chairman Wysong thanked Mr. Moler and offered four written testimonies for the bill from the following:

- 1) Ms. Melissa Wangemann, General Counsel, Kansas Association of Counties.
- 2) Mr. Michael Dever, Mayor, The City of Lawrence, Kansas.
- 3) Mr. Colin Hansen, Executive Director, Kansas Municipal Utilities.
- 4) Mr. Erik Sartorius, Assistant City Manager, The City of Overland Park.

Copies of the written testimonies above are ([Attachment 3](#)) attached hereto and incorporated into the Minutes as referenced.

As there were no opponents of the bill, the Chair closed the hearing.

Hearing on SB77 -an act concerning transportation development districts

The Chair again stated, for those who arrived a little late, the Committee was bypassing **SB36** because **SB78**, which was introduced by Senator Lynn is basically the same bill, so we will be hearing and working **SB78** next Wednesday and that **SB36** will no longer exist. He stated he would now like to open the hearing on **SB77** and again, Chairman Wysong called upon Mr. Furse to give an overview of the bill. Mr. Furse began by saying this bill was also introduced by this Committee and deals with the state use law committee section of statutes with the only change being the date of expiration. He went on to say that this is an amendatory section with the new changes reflected using the strike out and italics shown on page 2, line 39. The current expiration date of 2009 is being stricken and the new date of 2014 would be inserted. On page 1 in lines 15 thru 19 basically tells us what the state use law committee is, which is to advise the director of purchases on issues surrounding the purchase of products and services provided by blind or disabled persons. Sub (b) sets out the membership of the committee, sub © relates to the terms of the committee, and sub (d) refers to the

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compensation of the committee members with sub (e) relating to the duties of this advisory committee. He concluded by stating that the bill would become effective upon publication in the Kansas register.

As there were no questions of Mr. Furse, the Chair called upon the only proponent conferee for the bill, Mr. Matt Fletcher, Associate Director, InterHab and Chair, of the State Use Committee who stated this is one of the oldest such laws in the United States, established more than 55 years ago to provide work opportunities to Kansans who have significant disabilities. He spoke of:

1) Their developing a “pricing Matrix’ that will guide future pricing of State Use products that are fair to both customer and vendor.

2) The implementation of the annual reporting of the usage State Use Program. And,

3) Defining a process for school districts to pursue a “substantial use waiver” from the State Use Program. (Form included);

A copy of his testimony and attachments are (Attachment 4) attached hereto and incorporated into the Minutes as referenced.

Mr. Fletcher stood for questions which came from Senators Lynn, Wysong, Faust-Goudeau, and Holland including: . How much do you get back in return to go back into the disabilities system and do you have a dollar figure? (As the annual fiscal report was bit available, the Chair asked that a copy be provided to Senator Lynn.) After sitting in on the initial hearings in 2005 he mentioned, and the difference between now and then is astounding. What is the one school district mentioned who requested the use waiver guidelines now that they have been adopted? And, asked for examples of the three categories of the substantial use waiver (ex. #two substantial use of a single vendor’s approved state use offerings) what is the school requesting and is it the school districts that fight you the most?

The Chair thanked Mr. Fletcher and referred the Committee to written proponent testimony from he had just received and offered from Ms. Natalie Bright, on behalf of the Coalition for Opportunity, in support of **SB77** and is attached (Attachment 5) and incorporated into the Minutes as referenced. As there were no opponents and no further discussion on the bill, the Chair closed the hearing.

Action on Bills

Chairman Wysong asked for the will of the Committee to work **SB35**. A motion was made by Senator Emler and seconded by Senator Lynn to work the bill and pass favorably. The motion carried.

He again asked for the will of the Committee to work **SB77**. A motion was made by Senator Schodorf and seconded by Senator Lynn to work this bill and pass favorably. The motion carried

Handout

The Chair let the Committee know that Mr. Michael Beckloff’s testimony from yesterday’s Committee meeting is in front of them and they can take it at their leisure. A copy of his testimony is attached (Attachment 6) and incorporated into the Minutes as referenced. Mr. Beckloff also provided a copy of the “National Drug Development Accelerator” binder dated November 20, 2008 and can be found filed in Chairman Wysong’s office. A copy of his testimony is (Attachment 6) attached and incorporated into the minutes as referenced.

Adjournment

As there was no further business, the Chair adjourned the meeting. The time was 9:30 a.m. The next meeting will be a joint meeting with the House Eco Devo-Tourism Committee and is scheduled for 11:30 a.m. today, Wednesday, January 28, 2009.

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

GUEST LIST

DATE: Wednesday, January 28, 2009

8:30

NAME	REPRESENTING
ERIK SARTORIUS	City of Overland Park
Matt Shatto	City of Lenexa
ANNA ANCIL	City of Lenexa
RON PASMORE	KETCH
Eric Hansen	K M U
John Peterson	Capital Strategies
Joe Mosiman	Hein Law Firm
Bob Rezek	City of Ottawa
CHRIS HOWE	DEPT KS ADMINISTRATION - PURCHASES
Jim Edwards	KASB
Dave Holtwick	Overland Park Chamber
Mart Boranycat	CAPITOL STRATEGIES
Natalie Buglis	Coalition for Opportunity
Stuart Little	Little Govt. Relations
Andy Sanchez	KS AFL-CIO
Matt Casey	GBA
Chris Gigstad	Federico Consulting

GILMORE & BELL

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
2405 GRAND BOULEVARD, SUITE 1100
KANSAS CITY, MISSOURI 64108-2521

816-221-1000
FAX: 816-221-1018
WWW.GILMOREBELL.COM

ST. LOUIS, MISSOURI
WICHITA, KANSAS
LINCOLN, NEBRASKA

January 28, 2009

The Honorable David Wysong, Chairperson
Honorable Julia Lynn, Vice Chairperson
And Members of the Senate Commerce Committee
Statehouse, Room 545-N
Topeka, Kansas

Re: SB 35

Ladies and Gentlemen:

As bond counsel to many cities, counties and school districts in the State, we urge your prompt approval of SB 35. This bill would temporarily remove the interest rate cap on municipal bonds until June 30, 2010.

The reasons for this temporary change are: (1) the current interest rate environment for municipal bonds and (2) certain provisions relating to taxable bonds that are contained in the current House and Senate versions of the proposed federal stimulus bill.

Current Law

Current law (K.S.A. 10-1009) in Kansas provides that the interest rate ceiling for municipal bonds in Kansas are:

Tax-exempt bonds = interest rate of 10 year US Treasury + 3.00%
Taxable bonds = interest rate of 10 year US Treasury + 4.00%

Municipal Bond Interest Rate Environment:

Historically, the interest rate on tax-exempt municipal bonds has averaged between 70-100% of a similar US Treasury bond. For example a 10 year municipal bond would have an interest rate that would generally be between 70-100% of a 10 year US Treasury (currently 2.614%). In the last several months during the current economic and credit market environment, municipal bonds have been trading with interest rates between 100-200% of interest rates on similar US Treasury (See attached chart).

In addition, the Kansas interest cap is tied to the 10 year US Treasury regardless of the maturity of the municipal bonds. This change became effective April 25, 2002 in Kansas and was prompted by the US Treasury no longer issuing 30 year US Treasury bonds back when the federal government was running a surplus.

Senate Commerce Committee

Date: January 28, 2009

Attachment 1

Many municipal bonds have maturities of 20-25 years. So you can see that there is a mismatch between using the interest rate of a 10 year US Treasury Bond to set the interest rate on a 25 year municipal bond.

We are aware of one school district that had a failed sale as a result of the interest rate limitation and many competitive sales have only had 1 or 2 bidders.

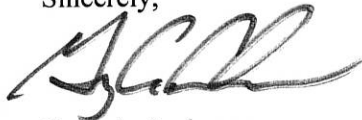
Federal Stimulus Bill:

Its also appears likely that the federal stimulus bill will contain provisions that provide for the issuance of taxable bonds that may include either a subsidy from the federal government and/or a federal tax credit. Given the uncertain times in the credit markets, its possible that the current Kansas interest rate limitation might restrict the ability of Kansas issuers to participate in this taxable bond program if approved by Congress.

Your assistance in removing the cap for a temporary period will assist Kansas issuers so that they can efficiently issue their municipal bonds in this challenging economic environment and if the federal stimulus bill passes Congress, allow Kansas issuers to participate in that program without interest rate concerns.

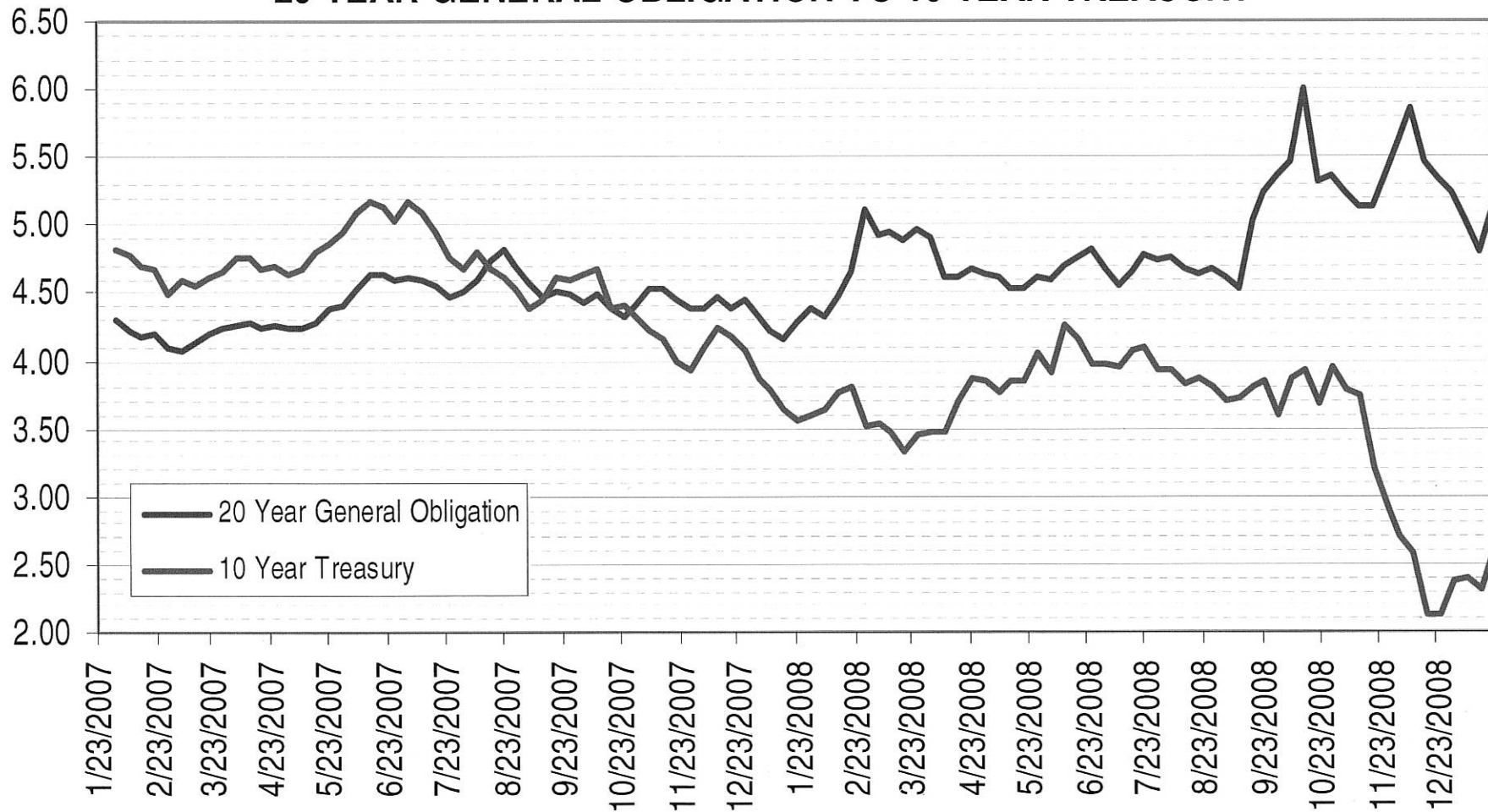
I would be happy to assist or answer questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'G. Anderson', written in a cursive style.

Gary A. Anderson

BOND BUYER US WEEKLY YIELDS 20 YEAR GENERAL OBLIGATION VS 10 YEAR TREASURY



Source: Bloomberg



300 SW 8th Avenue, S.
Topeka, Kansas 66603-3951
Phone: (785) 354-9565
Fax: (785) 354-4186

League of Kansas Municipalities

To: Senate Commerce Committee
From: Don Moler, Executive Director
Re: Support for SB 35
Date: January 28, 2009

First I would like to thank the Committee for allowing the League to testify today in favor of Senate Bill 35 concerning municipal bonds and the interest rates which can be offered for these bonds. This legislation was brought to the League's attention by a number of city officials prior to the beginning of the legislative session who voiced concern that given the current statutory requirements regarding interest rates on municipal bonds, that it was very likely that it would create a situation in which it was difficult, if not impossible, to sell municipal bonds in Kansas. As a result, we felt that it was important that legislation of this type be passed to give some flexibility to local governments in the issuance of municipal bonds. As you can see from the legislation, there is a sunset on its provisions, and we hope that will be an adequate time period for the economic difficulties to work themselves out. It is therefore our hope that this committee, and the Kansas legislature, will see fit to pass this legislation so that there will be no additional burden placed on local governments in the issuance on municipal bonds over the coming year. I will be happy to answer any questions the committee may have concerning this legislation or the League's position on it.

Senate Commerce Committee

Date: January 28, 2009

Attachment 2



Testimony concerning SB 35
Senate Commerce Committee
January 28, 2009
Presented by Melissa Wangemann, General Counsel
Kansas Association of Counties

Chairman Wysong and members of the committee, my name is Melissa Wangemann, General Counsel for the Kansas Association of Counties. Thank you for the opportunity to present testimony in support of SB 35, which temporarily lifts the maximum interest rate cap that can be paid on fixed and variable rate bonds – both taxable and non-taxable – issued by municipalities, including county governments in Kansas.

Counties depend on the issuance of long-term debt to finance various capital improvements, including roads, bridges, jail facilities, and other infrastructure. The practical effect of current law (K.S.A. 10-1009), assuming a daily yield for 10-year treasury bonds published by the *Bond Buyer* of about 2.65%, as published one week ago, is that the maximum interest rates that can be currently paid on bonds are about 5.65% (tax-exempt) or 6.65% (taxable). In this time of nervous borrowing and borrowers, even counties and other municipalities with extremely favorable credit ratings are experiencing difficulty securing bids that can be accepted within the current statutory limitation.

A county's ability to issue long-term debt is very important to the economic viability of a community, as well as the State of Kansas. The current market conditions are extremely unusual and, as such, present extraordinary financial challenges to counties and potential borrowers. By temporarily lifting the statutory cap during this period of extreme uncertainty in the markets, the Legislature could remove a significant barrier to the issuance of long-term debt by counties and other municipalities. In some situations, temporarily lifting the cap, pursuant to SB 35, will mean the difference as to whether a project can proceed, or not.

We strongly urge the committee to report SB 35 favorably to the full Senate, and appreciate the current language which makes it effective upon publication in the *Kansas Register*.

Thank you for the opportunity to present written testimony on this bill.

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

300 SW 8th Avenue
3rd Floor
Topeka, KS 66603-3912
785•272•2585
Fax 785•272•3585

Senate Commerce Committee
Date: January 28, 2009
Attachment 3



DAVID L. CORLISS
CITY MANAGER

City of Lawrence KANSAS

City Offices
Box 708 66044-0708
TDD 785-832-3205
www.lawrenceks.org

6 East 6th
785-832-3000
FAX 785-832-3405

CITY COMMISSION
MAYOR
MICHAEL DEVER
COMMISSIONERS
ROBERT CHESTNUT
DENNIS "BOOG" HIGHBERGER
MIKE AMYX
SUE HACK

January 20, 2009

Representative Ann Mah
300 SW 10th Avenue
Topeka, Kansas 66612-1504

Re: Senate Bill 35

Dear Representative Mah,

The City of Lawrence recommends quick passage of Senate Bill 35 which suspends the application of KSA 10-1009 on a temporary basis. The City anticipates the need to issue \$17 million in water and sewer bonds this spring or early summer. The bonds would have a maximum maturity of 25 years. The financing is an important component of our water and sewer capital improvement plan. Because of the size and need for the projects to be funded, it is not possible to entirely fund them through available cash nor is it advisable to defer the improvements to a later date due to the need to maintain our system.

The events occurring in the financial markets have made it more difficult to issue municipal debt. At times it has been difficult to find bidders; at other times it was not possible to insure our issues. While most of these events are beyond our control, the State legislature can control the amount of spread allowed between the interest rate on the debt we issue and the interest rate on ten year U.S. Treasury obligations. Passage of the amendment would not have a negative fiscal impact upon the State of Kansas. However, failure to pass the amendment could have a substantial negative impact on the economic development of cities and counties due to our inability to fund needed infrastructure improvements.

If you have any questions concerning Lawrence's support for this amendment, please contact me.

Sincerely,

Michael Dever, Mayor

cc: City Commission
David L. Corliss, City Manager



We are committed to providing excellent city services that enhance the quality of life for the Lawrence community

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kansasmunicipal**utilities**

*Submitted testimony provided the
Senate Commerce Committee
January 28, 2009*

*Colin Hansen, Executive Director
Kansas Municipal Utilities*

Senate Bill 35

On behalf of Kansas Municipal Utilities (KMU), we would like to thank the Senate Commerce Committee for the opportunity to submit written testimony on Senate Bill 35 regarding interest rates for municipal bonds.

Formed in 1928, Kansas Municipal Utilities (KMU) is the statewide association that represents the interests of 170 municipal electric, natural gas, water and wastewater utilities. Our organization works directly with municipalities that depend on access to capital through the municipal bond markets to finance much needed infrastructure improvements. Many of these projects need to move forward even in uncertain economic times.

We understand that the bill would temporarily suspend the maximum interest rate for municipal bonds as imposed in K.S.A. 10-1009. Such suspension would be temporary until June 20, 2010. At which time, the maximum interest rate provisions shall return to effect.

As we have seen with the recent upheaval of the financial markets, it appears that the limitation on municipal interest rates as outlined is statute is no longer reasonable given the unprecedented spreads between municipal bond interest rates and those of the 10-year treasury rates which is used as the basis for determining the maximum interest rate. We would encourage the Committee to recommend approval of Senate Bill 35 to suspend the maximum interest rates for municipal bonds at least on a temporary basis so that the municipal bond markets can continue to work effectively for local government in Kansas without an undue market and interest cost burden.

We believe that your approval of Senate Bill 35 is a prudent approach to assisting local governments in obtaining necessary project financing in difficult times through the municipal bond market.

Thank you for your consideration and support.

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8500 Santa Fe Drive
Overland Park, Kansas 66212
913-895-6100 • Fax: 913-895-5003
www.opkansas.org

Testimony before the Senate Commerce Committee
Regarding Senate Bill 35
By Erik Sartorius

January 28, 2009

The City of Overland Park appreciates the opportunity to appear before the committee and present testimony in support of Senate Bill 35. This legislation would provide cities a temporary increase in the rates they pay for bonds they issue.

Current law limits the interest that may be paid on municipal bonds. This limit is three percent for tax exempt interest and four percent for taxable interest, plus the daily yield for ten-year Treasury bonds at the time of the bond sale.

Senate Bill 35 proposes to allow a maximum rate of five percent for tax exempt bonds and six percent for taxable bonds, plus the daily yield for ten-year Treasury bonds at the time of the bond sale. The authority for these increased rates would expire on June 30, 2010.

The economic situation in the country has caused uncertainty in all markets, and the municipal bond market has not been exempt from this. The low yield on ten-year Treasury bonds, coupled with increased interest that has been needed in order to attract buyers to municipal bonds, raises the concern that Kansas municipalities could be placed in the position of being unable to sell bonds. While the City of Overland Park would carefully consider whether to enter such a market, the temporary flexibility resulting from the passage of Senate Bill 35 would be a welcome option.

Again, the City appreciates the opportunity to offer testimony before this committee. We respectfully ask that you recommend Senate Bill 35 favorably for passage.



700 SW Jackson, Suite 803, Topeka, KS 66603-3737 phone 785/235-5103 fax 785/235-0020 interhab@interhab.org www.interhab.org

January 28, 2009

TO: Senator David Wysong, Senator Julia Lynn
and members of the Senate Commerce Committee
FR: Matt Fletcher, Associate Director, InterHab and Chair, State Use Committee
RE: SB 77 – Extending the sunset for the State Use Law Committee

Chairpersons Wysong and Lynn, and members of the Committee, thank you for the opportunity to speak in support of Senate Bill 77, and extending the sunset of the State Use Law Committee. Chris Howe, Kansas Director of Purchases is also present this morning to assist the committee with any questions it might have.

Kansas' State Use Law (KSA 75-3317-3322) is one of the oldest such laws in the United States. Established more than 55 years ago, the purpose of the law has been to provide work opportunities to Kansans who have significant disabilities.

The law mandates that State agencies, school districts and regents universities purchase products and services manufactured by Kansans with disabilities.

Adherence to the State Use Law in Kansas has been a slow, incremental process, with customers learning, over time, how the program works and vendors learning how better to meet customer needs.

Despite these advances, school districts had lagged far behind the law's other mandated users in purchasing State Use products.

In 2005, after several years in which State Use vendors and school districts had aired their grievances in the legislative arena, a compromise was struck and the State Use Law was amended.

The Kansas State Use Law Committee was founded as part of those changes made to the Kansas State Use Law. The Committee was created to provide a forum for State Use vendors and customers to discuss their differences and work together on improving the program. The Committee is also charged with assisting the Director of Purchases in improving the system, not only for the benefit of customers and vendors, but most importantly to ensure growth in this vital system of work training for persons with disabilities.

Since that time, the Committee has worked diligently in fulfilling its obligation to improve the program. I won't deny that our initial meetings were intense and highlighted by conflict. In fact, they often times still are. However, the Committee has provided the avenue by which grievances can be aired and potential solutions can be explored. **Progress has been achieved.**

The Committee has explored vital issues together, such as quality, pricing, marketing of the program and the statute's now infamous 'substantial use' language. Without the Committee, very little of this progress would have occurred.

The Committee still has much to do. We remain committed to seeing that the work will be done.

Senate Commerce Committee

Date: January 28, 2009

Attachment 4

Pricing and Quality:

The Committee has given great consideration to how to improve the program in these two areas. We are currently in the process of developing a "pricing matrix" which will provide a tool with specific price data that will be used to ensure prices are within a range of competitiveness. However, it's important to remember the context of the State Use law. The point of the program is to provide work training opportunities for persons with disabilities. The reality is that providers who support persons with disabilities and offer these types of work training programs aren't going to be able to compete with cheap foreign imports. Simply creating a pricing structure that pits these vendors against the lowest rock-bottom price available globally will not serve the statute's intent of providing work opportunities to our state's disabled. The Committee is committed to creating a pricing matrix that will guide future pricing of State Use products that is fair to both customer and vendor.

The Committee has also provided a valuable avenue for vendor and customer discussions on quality issues. The Committee regularly receives updates from the Director of Purchases on quality-related issues, and has given a great deal of guidance on how to market the State Use program in a more proactive manner in order to combat misconceptions about the products and services.

Substantial Use:

Without a doubt, the greatest area of contention in the Committee's deliberations has been in finding a way to define a process for school districts to pursue a waiver from the State Use program for 'substantial use'. The term 'substantial use', contained within the statute, is not defined. Included as part of the compromise language in 2005, only school district customers are allowed to pursue a waiver from purchasing State Use products based upon 'substantial use'. It is no surprise that both schools and State Use vendors have very different ideas of what 'substantial use' means. The Committee's solution, after much deliberation, was to put a process in place for not one type of substantial use waiver, but *three*. A school district can apply for a substantial use waiver under the following three categories:

1. *Substantial use of a specific product category*
2. *Substantial use of a single vendor's approved state use offerings*
3. *Substantial use of approved state use products with the State Use Program as a whole.*

The Committee determined that school districts submitting substantial use waiver requests would need to provide supporting information. The more global the waiver request, the more detailed information would be required from the customer submitting the request. The Committee also felt strongly that these waiver requests should be dealt with in as timely a manner as possible, and established a timeline framework for reviewing and taking actions on substantial use waiver requests.

Since the substantial use waiver guidelines were adopted by the Committee in February of 2008, the Committee has received substantial use waiver requests from only one school district. I am happy to report that the Committee has met all of its self-imposed deadlines in reviewing this request and will take action on the requests on February 6th – less than 30 days after receipt of the revised final waiver requests.

Collection of Data Regarding State Use:

A great example of the symbiosis created through the Committee's presence, is the annual reporting of usage of the State Use Program. This annual report is prepared and compiled by the vendors within the State Use Program, and customers are given an opportunity to review the report in draft form and provide feedback. This type of data collection and dissemination regarding the State Use Program did not exist until a forum for collaboration was created via the Committee. Vendors distribute their annual report to the Legislature every year. Be sure to look for it in your inboxes this spring.

Promotion of the State Use Program:

As mentioned above, the Committee has provided guidance on how to better market the State Use program to the customer base defined within the statute. Initial surveys indicated that an awareness gap existed for many who are required to participate in the State Use Program. Through the Committee's efforts, face-to-face promotional opportunities have been expanded across the state and the marketing tools used by the State Use Program have been refined.

The Future of State Use:

The Committee has also deliberated on future progress for the State Use Program and Kansas, and has identified objectives to achieve that progress. Chief among them would be to someday have a person within State government who would serve as an advocate and ambassador for the program, and would actively look for matches between government needs and work opportunities for persons with disabilities.

The Committee has much work left to do including implementation of a new pricing matrix to guide pricing of State Use products and the continued refinement of the waiver process as additional substantial use waivers are submitted.

We ask for your support of Senate Bill 77 so that we can continue our work.

Thank you.

REQUEST FOR STATE USE WAIVER

INSTRUCTIONS: Submit form to: Kansas Division of Purchases
900 S.W. Jackson, Room 102N
Landon State Office Building
Topeka, Kansas 66612-1286

The Kansas State Use Program is governed by statutes (K.S.A. 75-3317 through 75-3322).
<http://www.da.ks.gov/purch/StateUseStatutes.doc>

On behalf of my Unified School District (USD) / State Agency, I am requesting a State Use Waiver, for the following reason:

- "...Qualified vendor is unable to supply the products or services needed or is unable to meet delivery requirements on the order or requisition..."
- OR**
- Substantial Use of a specific product category (available to USDs only)
- Substantial Use of a single vendor's approved state use product offerings (available to USDs only)
- Substantial Use of approved state use product offerings within the State Use Program as a whole (available to USDs only)

USDs: If you are making a waiver request based upon statutory "substantial use" language, please submit this form and appropriate documentation to the Director of Purchases at least 30 days in advance of the next State Use Committee meeting (typically held quarterly, in March, June, September, December). The committee may convene a special meeting as they deem necessary.

State Use Vendor(s): _____

In developing the documentation that will be necessary to substantiate a Substantial Use Waiver Request, USDs are asked to include (at a minimum) the following information:

- Description of how the USD achieved "Substantial Use", with supporting documentation.
- Was substantial use achieved in quantity of items purchased? Dollar value of items purchased?
- What attempt has been made by the USD to be in compliance with the State Use Laws?
- How / Where will the USD purchase these items, if not from a Qualified Vendor?

SCHOOL DISTRICT / AGENCY USE ONLY

USD / Agency Name: _____
Contact Person: _____
Telephone: _____
Fax No: _____

Agency / USD Approval: _____ Date: _____
(Signature and Title)

DIVISION OF PURCHASES USE ONLY

Committee Consideration Date: _____
Committee Approval Date: _____

Approved by: _____ Date: _____
(Director of Purchases Signature)

(Revised 06/2008)

75-3322

Chapter 75.--STATE DEPARTMENTS; PUBLIC OFFICERS AND EMPLOYEES

Article 33.--SOCIAL AND REHABILITATION SERVICES

75-3322. Same; waiver of mandatory purchase requirements by director of purchases, when. (a) Whenever the qualified vendors are unable to supply the products or services needed or are unable to meet delivery requirements on any order or requisition, a written waiver shall immediately be forwarded to the director of purchases by the state agency procurement officer or purchasing officer of the unified school district. If approved by the director of purchases, such waiver shall relieve and exempt the state or unified school district purchasing authority from the mandatory provisions of K.S.A. 75-3317 to 75-3322, inclusive, and amendments thereto, in the case of the specific order, request or requisition.

(b) Whenever a **unified school district** has purchased or has entered into contracts for purchase for a substantial amount of a product or products, as described in K.S.A. 75-3320, and amendments thereto, from a qualified vendor or vendors during a unified school district fiscal year, the unified school district may petition the director of purchases for a waiver. A waiver may be granted to a unified school district from any further compliance with the state use law for the remainder of such unified school district fiscal year if the director of purchases, with the recommendation and approval of the committee, finds that purchases have been made or contracts for purchase have been entered into for a substantial amount of such product or products from a qualified vendor or vendors during such unified school district fiscal year. In determining whether a unified school district has purchased or has entered into contracts for purchase for a substantial amount of such product or products, the director of purchases and the committee shall consider the overall need for such product or products by such unified school district.

Senate Committee on Commerce
Written testimony in favor of
SB 77—SUL Abolished by July 1, 2014
Submitted by Natalie Bright

January 28, 2009

Chairman Wysong and honorable committee members:

Thank you for the opportunity to submit testimony to you in favor of SB 77, which proposes to extend the sunset date for the Kansas State Use Law (SUL) from June 30th 2009 to June 30th 2014. I am submitting written testimony on behalf of the members of the Coalition for Opportunity, which is comprised of seven companies who employ over 400 blind and disabled Kansans and in turn participate as vendors in the Kansas SUL program.

During the 2005 Legislative Session, efforts were made to update and modernize the Kansas State Use Law, whose purpose is to create employment opportunities for blind and disabled Kansans. Part of the 2005 reform efforts was the creation of a SUL committee designed to bring required purchasers and state use law vendors together to advise the Director of Purchases on several contentious issues that arise as vendors, state agencies, regents and school districts attempt to comply with the state use law.

The SUL vendors believe the creation of the SUL committee has created a venue for communication between the parties where the facts can be sorted out and compromises can be reached. Over the past 5 years, the SUL Committee has been successful in accomplishing such achievements as streamlining the purchasing process for required purchasers through electronic ordering mechanisms, establishing criteria for new vendors to be accepted into the program, and converting a paper SUL catalog to a real time electronic catalog.

The members of the Coalition for Opportunity respectfully request you support the passage of SB 77 and allow the SUL Committee the ability to continue their effort to streamline and improve the Kansas SUL, a program essential to creating workplace opportunities for Kansas' most vulnerable citizens.

Senate Commerce Committee
Date: January 28, 2009
Attachment 5

Michael C. Beckloff
Chair, KansasBio
Bioscience Day
January 27, 2009

Thank you, Senator Wysong--and to your entire committee--for this opportunity to present to you today.

I am proud to say that when it comes to Kansas Bio-Innovation – I have the good fortune and honor to wear many hats.

I am the head of Beckloff Associates--a bioscience company specializing in scientific and regulatory pharmaceutical and biopharmaceutical development with a 32 year history here in Kansas. We sold our business to Cardinal Health 5 years ago and we continue to run and operate our company here in Kansas – I should add that the views I express here today are my own and are not necessarily the views of Cardinal Health.

In addition to my private sector hat, I am an avid fan and active supporter of Kansas Innovation – as an angel investor, a KTEC Pipeline mentor and as a board member of a number of not for profit organizations--all of which are growing our economy and improving the quality of lives across the globe.

Today, I would like to put on one of my favorite hats – the hat I have the privilege of wearing today is as the Chair of KansasBio.

As Chair of KansasBio, I bring you “good tidings and very good news” from our entire membership. While the news of late is frequently a bit overwhelming, there are areas that we can hold onto--areas that have hope for growth and opportunity in Kansas.

I would like to share with you a new movement afoot that has great hope for both of these goals – improving our economy while addressing my key passion – improving the quality of healthcare and bringing new and important medications to the patients that need them most. And most of us one day or another will be one of these patients, or be married to one of these patients, will be the father or mother to one these patients or in some way will be impacted by one of these patients--this movement is about all of us and all of our loved-ones.

Senate Commerce Committee
Date: January 28, 2009
Attachment 6

The New Drug Development Accelerator -- “the Accelerator”

Today I would like to share good news about growth in the Kansas bioscience industry in human health. With support of the Kansas bioscience industry, the KBA, and KTEC, KansasBio has formed the National Drug Development Accelerator (the Accelerator). The goal of the Accelerator is to position Kansas as the ideal international locale for conducting clinical research and drug development--and, in turn, attracting the new businesses, jobs and the talent necessary to properly execute on this growing industry.

More than 2 years ago KansasBio and our 120+ bioscience industry members recognized this opportunity and set about to develop a cluster activation strategy to maximize our Kansas drug development assets.

By bringing more clinical research to this region, Kansans will have better access to state-of-the-art, cutting-edge treatments and resources. I would like to emphasize that our Accelerator will cross the entire State of Kansas.

I would like to share a few of the LITTLE KNOWN, YET EXTREMELY IMPORTANT AND SIGNIFICANT FACTS about what we have accomplished in Kansas:

- Kansans have helped develop and have been involved in more than 50 of the world’s top drugs and all of the top 30 drugs on the market.
- We have been involved with every SSRI drug on the market today--drugs such as Prozac and Zoloft.
- The number of clinical trials in Kansas has more than doubled in the last 4 years to nearly 2,000 active clinical trials--conservatively estimated to be in the range of \$50MM.
- Our region is in the top 5 per capita for concentration of clinical research.
- We have nearly twice as many physicians involved in clinical trials as compared to anywhere in the country.

- More than 100 businesses provide clinical research services and support, growing jobs faster than any other bioscience sector.

The Accelerator represents a consortium of experienced pharmaceutical development, clinical research and bioscience companies that together represent a comprehensive cluster of companies located in the center of the United States—right here in Kansas.

These companies are offering expert services in every stage of drug development:

- Preclinical & nonclinical research
- Clinical research
- Drug substance manufacturing
- Drug Product and formulation development
- Analytical testing
- Bioanalytical testing
- Safety, efficacy & esoteric testing
- Regulatory & scientific consultation
- The list goes on and on and all of this is right here in Kansas

You may be asking why this is important and how does this mesh with the legislature's efforts to expand the bioscience industry and grow jobs.

With the ability to meet all the needs of pharmaceutical companies, Kansas has one of the nation's and, in fact, the globe's, few superclusters that take new drugs from the chemistry bench to the pharmacy shelf, and finally to the patient bedside.

The legislature's keen insight in establishing a focus on the biosciences has allowed us to gain momentum, reframing the national and international perception of Kansas.

Big Pharma, the world's largest pharmaceutical development companies, have known about our supercluster for decades. Our efforts with the Accelerator are to expand awareness, grow market share among these companies, and to secure a global appreciation for our highly skilled expertise in this area.

Historically, we can trace our roots back to Marion Laboratories. Marion Laboratories was established and flourished in this region because of our

leadership in pharmacology, primarily as a result of the School of Pharmacy at KU.

Marion Labs grew into a powerhouse and created numerous jobs and ultimately lead to numerous industry entrepreneurs. You would be amazed at how richly this legacy has impacted our industry, with literally hundreds of leading bioscience industry executives tracing their roots back to Marion.

Much of this expertise still resides here in Kansas with more finding its way back each year due to our growth opportunities—Come Home to Kansas.

The legacy goes beyond Marion Labs.

Dr. Tak Higuchi. Dr. Higuchi set up his lab, focused on commercialization of basic research and became world renowned as the father of physical pharmacy.

Following in those footsteps is our own Distinguished Professor of Pharmaceutical Chemistry Dr. Valentino Stella, Dr. Roger Rajewski, Dr. Jeff Aube, and our newest addition, Dr. Blake Peterson, a KBA Eminent Scholar.

I would also like to call your attention to the KU Cancer Center--which is developing a cancer treatment center like no other in the country and will soon receive NCI designation. This effort, coupled with the Midwest Cancer Alliance, will bring new and promising cancer treatments to Kansans everywhere—across the entire state.

Today, this team of KU researchers, as well as their service providers, regularly work with companies like Pfizer, Johnson & Johnson, Merck, Eli Lilly, Novartis, Wyeth, AstraZeneca, and Glaxo Smith Kline. Virtually every major pharmaceutical company around the world looks to Kansas to access our researchers and our expertise.

Kansas has built world class leadership in pharmacology, drug discovery, drug delivery, and drug development.

The State of Kansas now has an opportunity to leverage this expertise through our ACCELERATOR effort.

The Accelerator will continue to establish Kansas as the leading region for clinical treatments. The influx of new clinical trials will certainly result in job growth, new business development and world-class health care for all Kansans.

Our business case is strong. The ACCELERATOR will save time and money, and will help new drugs gain approval more rapidly and—ultimately--it will save lives. This is what makes it all worthwhile.

ON BEHALF OF OUR INDUSTRY AND OUR MEMBERSHIP--on Bioscience Day here at the State Capitol--I am here today to thank you for your investment in the bioscience and technology innovation in Kansas.

Several examples of these investments are represented among the 20 bioscience executives who have come to the statehouse today. I will highlight a few of their stories:

- Dr. Stan McDermott, a fellow KansasBio member, was involved with the relocation of Quintiles (the largest global clinical research organization -CRO) to Kansas, which brought 750 new jobs to Kansas. Your KBA worked to bring those jobs here.
- Jeff Southard, another KansasBio member from VasoGenix, started a bioscience company here and could have taken it anywhere, but he stayed here thanks to Kansas' investment in his company through KTEC and Angel Investor Tax Credits.
- Gene Malcom with IBT Labs, another KansasBio member, is another example of a company who has experienced significant growth and partnered to bring a new international bioscience company, OncImmune, to Kansas and create jobs in the cancer therapeutics area.
- Rex Wiggins, with KansasBio member TVAX, has been working to commercialize an important new cancer treatment technology with the help of the state's investment in KU, and the help of KTEC and the KBA.
- Alfred Botchway, with KansasBio member Xenometrics, is working in the pre-clinical and nonclinical areas in Stilwell.

These companies, large and small, represent the diversity of impact from your funding allocations.

I am here today:

To share with you that Kansas' competitive advantage comes from its commitment to innovation and the companies that take that innovation to market – tangible results that Kansas can be proud of;

To let you know that those who work in these fields are passionate about both growing business and improving lives – and that the ACCELERATOR will be beneficial in both of these ways, and;

To clearly state that we need your continued diligence and support – keeping your eyes on what is working well in our State – to foster and grow in this industry and in these very challenging economic times. Now more than ever we need to focus on what is working – the KBA and KTEC are working. Please protect and nurture these investments and protect their private sector business models. They do work.

Thank you again for taking the time for all of us here today and for your dedication to Kansas. As a private citizen of Kansas, I thank you for all that you do—it is greatly appreciated.

I am happy to answer any questions you might have.