

MINUTES OF THE HOUSE APPROPRIATIONS COMMITTEE

The meeting was called to order by Chairman Kevin Yoder at 9:14 a.m. on January 27, 2010, in Room 346-S of the Capitol.

All members were present except:

Representative Owen Donohoe- excused

Committee staff present:

Nobuko Folmsbee, Office of the Revisor of Statutes

Jason Long, Office of the Revisor of Statutes

Heather O'Hara, Kansas Legislative Research Department

Jonathan Tang, Kansas Legislative Research Department

Kathy Holscher, Committee Assistant, Appropriations Committee

Conferees appearing before the Committee:

See attached list

Others attending:

See attached list.

- Attachment 1 Overland Park, Kansas Testimony
- Attachment 2 Wyandotte County/Kansas City, Kansas Testimony
- Attachment 3 Wichita, Kansas Testimony
- Attachment 4 Office of the Revisor of Statutes Overview of **HB 2403**
- Attachment 5 **Substitute for HB 2403**
- Attachment 6 **HB 2403** Testimony - Representative Kleeb
- Attachment 7 **HB 2403** Testimony - Leonard Gilroy, Reason Foundation
- Attachment 8 Kansas Water Authority FY 2010 Annual Report

Carl Gerlach, Mayor, Overland Park, Kansas, provided testimony for review by committee members. (Attachment 1). He emphasized the importance of partnering in an effort move the Kansas economy forward. Mayor Gerlach discussed the impact of the recession and changes in the workforce. He noted that adjusted expenditures have been reduced by approximately \$140 million over the next five years, and 13% of non-public safety workforce has been eliminated. Mayor Gerlach stated that two companies will be bringing approximately 1,900 new jobs to Overland Park, Kansas.

Joe Reardon, Mayor, Kansas City, Kansas, provided testimony for review by committee members, (Attachment 2). He stated that working together to address common needs will support each community's goal as well as benefit the State of Kansas. Mayor Reardon discussed the landmark developments experienced in Wyandotte County which created new jobs. However, he stated that the economic crisis has resulted in a 15% reduction in the local government workforce, employees have been furloughed for 15 days and their wages frozen for two years. By working together with the Legislature we can turn the economic crises in to an opportunity for Kansans, he added.

Carl Brewer, Mayor, Wichita, Kansas, provided testimony for review by committee members, (Attachment 3). Mayor Brewer, stated that each community may have different challenges, but by working together we will have success and the quality of life improved.

Discussion followed by committee members and their questions were directed to the three respective mayors. Mayor Brewer reviewed proposed legislation that deals with delinquent property taxes that would bundle these taxes as lien receivables in order to capture untaxed dollars, and the agreements with various businesses and hotels in regards to tax credits was discussed. The need to retain historic homes and buildings, encourage restoration to place these structures back on the tax rolls and eventually increasing property values was discussed and projects are underway in some areas, it was noted. Members of the committee acknowledged the cooperative spirit to address community and state-wide issues expressed by Mayor Brewer, Mayor Gerlach and Mayor Joe Reardon.

CONTINUATION SHEET

Minutes of the House Appropriations Committee at 9:14 a.m. on January 27, 2010, in Room 346-S of the Capitol.

HB 2403 - Sub. For H 2403 by Committee on Appropriations - Creating the council on efficient government.

Jason Long, Assistant Revisor, Office of Revisor of Statutes, presented an overview of **HB 2403**, (Attachment 4), and an overview of **Substitute for HB 2403**, (Attachment 5).

Mr. Long responded to questions from committee members. He stated that state agencies procure bids and are required to provide a written explanation when selecting a non-Kansas vendor or the lowest bidder to the State Department of Purchasing. Mr. Long discussed the councils' composition, and stated that there is a provision requiring an annual report by the council to the Legislature regarding outsourced projects and written explanations of vendor contracts. He reviewed the changes reflected in **Substitute for HB 2403**.

Representative Kleeb discussed the goal of **HB 2403**, (Attachment 6). He stated that this bill provides the framework for the formation of the Council on Efficient Government and for the council to look at opportunities that may exist. Representative Kleeb stated that this bill would not require a fiscal note and that the costs incurred would involve travel reimbursement for outsourcing. He responded that there was no language in the bill concerning a legislator that is connected to company or private ownership and who could benefit from a state contract. However, they could not serve in the evaluation or analysis of that business case, he stated. Discussion followed concerning outsourcing and the risk involved with privatization. A committee member suggested incorporating a bi-partisanship position in order to collectively address some of the areas of concern. This bill allows the private sector to initiate business cases, he noted.

Leonard Gilroy, Director of Government Reform, Reason Foundation, presented an overview of the Reason Foundation and discussed government privatization (Attachment 7). He stated that the Council on Efficient Government is a pre-budgetary analysis for potential privatization initiatives. Mr. Gilroy referred to the Florida's Council on Efficient Government, which the bill is modeled after. The cost savings of over \$550 million was realized over privatization and managed competition initiatives, he stated. He discussed the components of a business case which involves risks, costs, performance and service quality, and reviewed other states' privatization efforts. The council would help the state regain its fiscal health, deliver higher quality services at a lower cost and revive the state's economy, Mr. Gilroy added.

Mr. Gilroy responded to questions from committee members questions as related to developing a business case and request for proposal. He discussed the impact on public employees and competition within the bidding process between the public and private sector.

Chairman Yoder stated that written testimony from the Wichita Independent Business Association and the Kansas Chamber of Commerce has been distributed. The hearing on HB 2403 was closed and will be back on the agenda for Friday, January 29, he stated.

Steve Irsik, Chair, Kansas Water Authority, provided an overview on the FY 2010 Kansas Water Authority's report, (Attachment 8). He stressed the need for a dedicated funding source to address the growing demand on water sources.

Terry Streeter, Director, Kansas Water Office, highlighted the accomplishments within the last two years. He discussed water rights and compliance issues relating to Colorado and Nebraska. Mr. Streeter reviewed new technology which involves light image detection, and projects funded by federal stimulus dollars. He stated that approximately \$4 million has been cut from the Governor's proposed FY 2011 budget. The Vision 2020 legislative committee will be presenting a report for recommendations on securing the future of our reservoir.

Mr. Streeter responded to questions from committee members. He stated that additional information would be forthcoming regarding the University of Kansas Geological Survey. He stated that the money projected from ELARF was based on revenues received in 2010, of which \$3.2 would be used to purchase reservoir storage at Perry, Milford and Hillsdale.

Chairman Yoder stated that hearing on **HB 2442** is scheduled for tomorrow's committee meeting.

CONTINUATION SHEET

Minutes of the House Appropriations Committee at 9:14 a.m. on January 27, 2010, in Room 346-S of the Capitol.

The next meeting is scheduled for January 28, 2010.

The meeting was adjourned at 11:00 a.m.



Kevin Yoder, Chair

APPROPRIATIONS COMMITTEE GUEST LIST

DATE: January 27, 2010

NAME	REPRESENTING
Juni Rora	KCSL
Mary Jane Stankiewicz	KARH
Hatti Deigo	TFE
John Maxwell	KDFE/Water Auth.
Jan Boyle	Sen. Terrie Huntington
Karl Mieldener	KDFE
Woody Moses	KAPA
RS Wilson	KOSF
Don Moler	KCM
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Matt Casey	GBA
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Christy Caldwell	Topeka Chamber of Comm.
Muddy Aron	Am Inst of Architects
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Testimony before the House Appropriations Committee
Mayor Carl Gerlach
January 27, 2010

Thank you for the opportunity to be here this morning. We mayors feel it important to share with you our efforts to achieve the same goal as you – building a better and stronger Kansas.

We value what all communities – large and small – bring to the state's rich history and promising future. Our coming together before you is not done to separate ourselves from the rest of the state, particularly other cities. There are strong bonds between Kansans all across the state – the vast majority of us have relatives or friends elsewhere in Kansas.

We have come to believe there is value in working to understand each others' communities better, build trust, and develop an appreciation for what each community contributes to Kansas. We have met in the middle – literally, in Emporia – in December to talk about these efforts.

Today, we have no grand agenda, nor any legislation to seek. Simply, we are asking of you – and of ourselves – to broaden the mind when considering the path of the State of Kansas. While we are all elected to represent a narrow slice of the state, we cannot afford to be narrow-minded or parochial when addressing problems and seeking opportunities.

In this vein, we are asking to be seen as partners in the effort to get the Kansas economy moving again. This will take a combination of righting structural imbalances and making Kansas an even more attractive location for businesses.

We are doing both in Overland Park. The recession has translated into lower revenues, and we've adjusted our five-year fiscal plan to reduce planned expenditures by nearly \$140 million over this period. Over the last year we have eliminated nearly 90 positions in the City, half of which involve real people losing real jobs. Since the beginning of 2009, Overland Park will have eliminated close to 13% of its non-public safety workforce.

On the plus side, we have seen positive actions in the past month. First, J.P. Morgan Retirement Plan Services will be bringing 800 jobs to Overland Park in early 2011. Second, U.S. Bank will be bringing 1,100 new jobs to the City beginning the second quarter of this year. This doesn't balance out the jobs we've seen lost, but it is a needed and much-welcomed beginning.

As you wrestle with difficult funding decisions, please include us in the conversation, so that you have a perspective of how your decisions will affect local governments. We look forward to working with you as Kansas rebounds from this difficult recession.

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Attachment 1



Unified Government of Wyandotte County/Kansas City, Kansas

Joseph F. Reardon, Mayor/CEO

701 North 7th Street, Suite 926
Kansas City, Kansas 66101
Phone: (913) 573-5010
Fax: (913) 573-5020

Joint Mayoral Presentation to the Kansas Legislature

January 27, 2010

House Appropriations Committee
9am

Senate Ways and Means Committee
10:30am

Mr Chairman and members of the Committee... We appreciate this opportunity to meet with you today on behalf of our three cities.

Our message is one of partnership and cooperation. Wichita, Overland Park and Kansas City are all very different places. Different geographically, different economically, with different needs for our citizens. However, our three cities also have many things in common. Our common bonds are far stronger than our differences. The same can be said of all cities in the State and of the diversity of the State itself.

When our respective cities are successful the State of Kansas is successful. The hard work that we undertake to make our cities stronger places to raise a family, create better neighborhoods, and foster a business climate that creates more jobs, leads to a positive dynamic for our state. Wichita, Overland Park and Kansas City are top contributors to the State of Kansas economy. Our cities like so many others in Kansas, large and small, are proud contributors to the State through the tax revenues generated. Mayor Brewer, Mayor Gerlach and myself realize that focusing on our common needs and working together to support each other's goals, will benefit each of our communities and in turn benefit the entire State of Kansas.

We bring this message of cooperation to the Legislature because it applies here as well. State and Local Governments are all partners in the effort to make Kansas and its communities great places for

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people to live, work and play. The partnership between my community and the State of Kansas has produced landmark developments such as the Kansas Speedway, Village West and The Legends tourism district, the Schlitterbahn Vacation Village and soon a major league stadium for the Kansas City Wizards Soccer team and office campus for the Cerner Corporation. These projects are creating thousands of new jobs; both permanent and construction jobs. Working together does produce positive results.

The economic crisis hitting us all has made it difficult at times to meet the requirements of an effective partnership. Our cities have managed to survive by reducing or even eliminating services, programs and in some cases employees. At the Unified Government, our workforce has been cut 15%. We have effectively eliminated over 200 positions. Most of our employees are furloughed 15 days and pay has been frozen for two years. We understand that you too are struggling to address the economic crisis on the state level and that difficult choices have to be made to continue to operate effective government. Our focus remains one in which we are making those tough decisions while seeking opportunities to move our communities forward.

Just as our three cities are joining forces to work together on goals and projects where we can, we come today to ask the Kansas Legislature to work with us. We understand budget cuts and the need to make tough decisions in these most challenging economic times but if there are ways we can meet those ends by working together to perhaps find ways of minimizing the negative impacts to our cities, and our citizens, we would like to have those conversations with you.

It might mean the Governor and Legislature encouraging local governments to implement new, innovative, cost effective ways of conducting business that currently aren't allowed under State law. It might mean allowing alternative revenue sources. For example, restoring the LAVTR funding by using the new revenues which will be generated by the casino developments. If we all work together, I believe we can attain economic success and build quality communities.

In these economic times, our three cities are pledging to work together to bring success to each of our communities and in turn the State of Kansas as a whole. We believe it is in the best interest of our cities to forge this path. I believe our citizens expect it. And we are certain that by working with you we can move from economic crisis to opportunity for the citizens of our State. We look forward to working with you.

Thank you again for this opportunity.

Mayor Brewer
Tri-Mayor Legislative presentation
Jan. 27 Kansas Statehouse
Senate Way and Means, 10:30 a.m. Rm 548S
House Appropriations 9 a.m. Rm 346S

9 a.m. Good morning, Chairman Yoder and members of the House Appropriations Committee.

Thank you for this opportunity to begin an important dialog between the Kansas legislature and a unified voice from its major urban areas.

In recent weeks, the three mayors from Wichita, Overland Park and Kansas City, Kansas, took a major first step towards creating a new strategy to address our common problems.

Instead of constantly looking over our shoulder to see if anybody was sneaking up on us, we've decided to look each

other in the eye and recognize the challenges we face together.

Each of our communities has a unique role in sustaining our state's economy. Together, our citizens make up one-fourth of the state's population. Our collective impact on the state's economy is equally noteworthy.

As the largest city in the state, Wichita is the regional economic hub of south-central Kansas. We have a workforce that meets the business and personal needs of more than half a million people.

With its strong aerospace history and the second highest concentration of manufacturing jobs in the nation, the area alone contributes nearly half of the state's manufacturing employment earnings.

The diversity of our state is reflected in the diverse populations

that reside in the three largest cities in the state. That diversity means we have different problems, requiring different solutions.

The significance of our joint appearance today is that it symbolizes our commitment to working in support of each other, even though our respective agendas are different.

We want to bring the same perspective to our relationship with our neighbors elsewhere across the state of Kansas, and, most importantly, with the Kansas Legislature.

We know that we'll get a lot more done if we work together than if we work against each other.

Each of the three mayors you see today has played a major leadership role with the Kansas League of Municipalities. We also participate in other metropolitan and regional organizations.

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We hope to use those platforms to improve our communication with the state, and to build confidence and trust among us.

We want you to have all the information you need to fully appreciate the challenges we face at the local level. And, in turn, we need to understand and appreciate the huge challenge you face in these tough economic times.

If an issue is important to one of our communities, it is important to all of our communities. A great example is the Historic Tax Credit issue, which is a priority for the Wichita City Council's 2010 legislative agenda. Although it is of great importance to Wichita, it also has an impact throughout the state. For that reason, we're thankful for the support from my fellow mayors in gaining legislative approval of this issue.

On a similar note, the City of Wichita is supportive of the legislative agendas of Overland Park and Kansas City.

We're confident that if we all work together, we will succeed together. If the quality of life is improved in those two cities, the quality of life is improved for all of us.

Thank you for taking the time in your busy schedule to listen to us, and I would be happy to answer any questions at the appropriate time.

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

Overview of House Bill 2403
Transparency and Accountability in Purchasing and State Spending Act

Jason B. Long
Assistant Revisor
Office of Revisor of Statutes

January 27, 2010

HB 2403 is the Transparency and Accountability in Purchasing and State Spending Act. The purpose of this act, according to section 1 of the bill, is to ensure that the state recognizes the importance of fairness and the need to minimize expenditures when procuring vendor goods and services, and to review and evaluate the current methods used in procuring vendor goods and service, and to investigate different methods for the procurement and delivery of those goods and services.

Section 2 of the bill requires that when a contract for the purchase of goods or services by a state agency is awarded to a vendor that did not submit the lowest bid, the director of the division of purchasing must prepare a written explanation detailing why the contract was not awarded to the lowest bidder and why the deficiencies in the lowest bid could not be cured to the satisfaction of the state.

Section 3 of the bill requires that when a contract for the purchase of goods or services by a state agency is not awarded to a Kansas vendor the director of the division of purchasing must prepare a written explanation detailing why the contract was not awarded to a Kansas vendor and why the deficiencies in such vendor's bid could not be cured to the satisfaction of the state. A Kansas vendor is: (1) domiciled in Kansas; (2) proposing to have the work in question performed

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by employees who are subject to Kansas income withholding tax; and (3) subject to Kansas income tax.

Section 4 of the bill requires that when a contract for the purchase of goods or services by a state agency contains a provision allowing for the automatic renewal or extension of such contract, the head of the state agency that entered into the contract must review and evaluate whether the renewal or extension of the contract is in the best interests of the state agency. If it is determined that such a provision is in the agency's best interests, then the head of the agency must prepare a written explanation detailing why the contract should be allowed to be renewed or extended.

The provisions of sections 2 through 4 of the bill apply to all contracts for the purchase of goods and services by any state agency. Under the bill the term "state agency" includes any state office, officer, department, board, commission, institution, bureau, or any agency, division or unit within any office, department, board, commission, or other state authority or any person requesting a state appropriation. This includes every state office authorized to spend state funds on the procurement of goods or services. Under sections 2 through 4, if a state agency other than the department of administration awards, renews or extends the contract, then that state agency must prepare the written explanation and submit it to the director of the division of purchasing. On January 12th of each year the director of the division of purchasing is required to submit all such written explanations prepared in the preceding year to the House Appropriations Committee and the Senate Committee on Ways and Means.

Section 5 of the bill establishes a special committee on the cost effectiveness of governmental operations and programs. The special committee investigates the outsourcing and privatization of government operations. In carrying out this function the committee is to consider any relevant audits and conduct a public hearing to receive testimony on these matters. The special committee also is to review and evaluate government operations and programs that: (1) compete with services being provided by private organizations; (2) duplicate services provided by the federal government; and (3) duplicate services provided by private not-for-profit organizations. The committee is to consider any relevant audits and conduct a public hearing to receive testimony on these matters.

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Overview of Substitute for HB 2403
Council on Efficient Government

Jason B. Long
Assistant Revisor
Office of Revisor of Statutes

January 27, 2010

Substitute for HB 2403 creates the Council on Efficient Government (Council) and establishes a process for the review of proposals to privatize or outsource activities conducted by state agencies. This general purpose of the bill is set forth in section 2, which states the public policies of the state regarding the provision of goods and services by state agencies, and the purpose of the Council.

Section 3 contains relevant definitions. “Activity” is defined as the provision of goods or services or the performance of any function or operation by a state agency. “State agency” is defined to exclude local units of government, such as counties, cities and schools. Thus, the requirements of the bill are only applicable to state-level departments, authorities, offices and agencies.

Section 4 establishes the council, which consists of 11 members. Three members are appointed by the Governor, four members are appointed by the President of the Senate and four members are appointed by the Speaker of the House of Representatives. Members are subject to confirmation by the Senate and serve for a term of two years.

Section 5 provides the general duties of the Council. The primary duty of the Council is to review and evaluate business proposals and other possibilities for the outsourcing of activities

of state agencies, and instances where state agency activities compete with, duplicate or replicate activities currently being conducted by private entities. The Council is required to report annually to the legislature on the activities of the Council and the outsourcing efforts of state agencies over the previous year. Section 6 of the bill provides that the legislative research department is to provide staff assistance to the Council as requested by the Council.

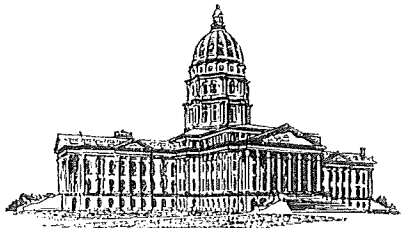
Section 7 provides procedures for the review of a business case. A “business case” is a proposal to outsource a state agency activity or eliminate the replication or duplication of a state agency activity that is currently provided by a private entity. This section describes what is to be included in a business case that is submitted to the Council for review and evaluation. Business cases may be submitted by any state agency, or by a private entity. In conducting its review the Council must consider any information provided by the state agency in question, and may conduct public hearings on the proposal. The Council is required to issue a final report on its findings at the conclusion of its review and evaluation. This report is to be sent to the entity submitting the business case and the state agency in question.

Section 8 contains requirements for contracts outsourcing state agency activities. The bill requires that those requirements set forth in this section be addressed in any contract to outsource a state agency activity.

Sections 9 through 11 are essentially the same provisions contained in sections 2 through 4 of HB 2403 as introduced. These sections require written explanations when a procurement contract is not awarded to the lowest bidder, or an out-of-state vendor, or when a contract is renewed or extended. Each section contains a subsection (c) that is not in the introduced version of HB 2403. This new subsection (c) exempts procurement contracts for engineering and architectural services from the provisions of sections 9 through 11. Additionally, section 12 of the bill exempts procurement contracts by the department of transportation from the entire act.

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APPROPRIATIONS COMMITTEE

HB 2403

Council On Efficient Government

Purpose:

The goal of the HB 2403, The Council on Efficient Government, is two-fold:

To ensure that the taxpayers' hard-earned money is utilized in the most cost-effective and productive manner possible.

To ensure that state governmental services are efficiently provided so the limited resources can serve the greatest number of constituents needing those services.

The Proposed Solution:

The intent of HB 2403 is to establish a special committee with a systematic, rigorous process to review and evaluate the cost effectiveness of governmental operations and programs.

The committee would have the sole purpose, authority and mandate to comprehensively review and evaluate:

1. Opportunities to improve the quality and/or cost effectiveness of certain governmental services through the creation of private-public partnerships by outsourcing or privatizing governmental operations or programs to private sector companies and non-profit organizations.
2. Governmental services or programs that:
 - Compete with the private organizations
 - Duplicate services provided by the federal government
 - Duplicate services provided by local government
 - Duplicate services provided by non-profit organizations

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It is well recognized that these are not necessarily new concepts for Kansas state government. In fact, a previous Legislative Post Audit and a Council on Privatization have researched and documented opportunities, challenges and successes surrounding outsourcing and privatization.

HB 2403 addresses the key recommendations that have been made by these two groups. This legislation would:

1. Establish a systematic process for evaluating privatization options and for getting private-sector input into the efficiency of government operations.
2. Create a focused, empowered committee to investigate issues, problems and recommend solutions that may provide long-term opportunities for cost savings and enhancements in the delivery of services to our citizens.

Support and Cost of the Council

The support that would be required for the Council on Efficient Government would be provided by the Legislative Research Department. After consulting with the department, it has been determined there would be no additional manpower cost or fiscal note associated with their support.

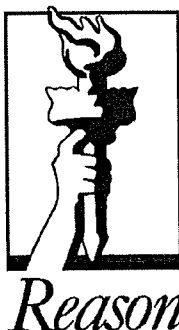
The legislation, HB 2403, also is asking for the Division of Purchasing to assist with the review and evaluation of private contracts and purchasing decisions when the lowest cost bid or option is not chosen or when a Kansas business is not selected as the vendor for a particular contract. After discussions with the Director, Chris Howe, it has been determined that his department has most of the needed information and it would be available through current reporting methods so there would not be a material fiscal note for their support.

Summary

I realize that the proposed Council on Efficient Government, privatization, outsourcing, the elimination of redundant services or selecting the lowest cost vendor will not independently solve the state's dire budget problems. However, we owe it to the taxpayers and those we serve to seek every opportunity to employ our limited resources in the most efficient, cost-effective and productive ways possible.

TESTIMONY ON HOUSE BILL 2403

Testimony of Leonard C. Gilroy, AICP
Director of Government Reform
Reason Foundation



Written Testimony Submitted to the
Kansas House Appropriations Committee

January 27, 2010

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Appropriations Committee
Date 1-27-10
Attachment 7-1

Thank you for the opportunity to address the committee this morning. My name is Leonard Gilroy, and I am the director of government reform at Reason Foundation, a public policy research and education institute based in Los Angeles. Reason first began researching privatization and government reform in the late 1970s, and we published the first book on government privatization—*Cutting Back City Hall*—in 1979. Our experts have advised numerous presidents and state and local governments on how competition and privatization efforts can improve government services and reduce costs.

Kansas, like most other states, is in the midst of a fiscal crisis that demands immediate attention. And with organizations like the National Governors Association and the National Association of State Budget Officers predicting a fiscal “lost decade” for the states, fiscal pressures in Kansas are likely to linger for some time.

Though there are many causes of the current fiscal woes, one contributing factor is that over the years governments at all levels have expanded into hundreds of activities that are commercial in nature. Many of these are support functions that service the bureaucracy. However, most of these functions are not inherent or unique to government; in fact, they can be found in the Yellow Pages in towns all over America. This trend should concern those of us who believe that government should be focused on performing its core functions well and should not be in competition with its own citizens to perform non-core functions. From servicing vehicles to running print shops, and from building convention centers to providing IT services, Kansas's state and local governments are literally cutting into the business of business.

In fact, if the experience of other states holds true in Kansas, then policymakers can reasonably assume that thousands of Kansas state employees are engaged in activities that are commercial in nature and could be delivered by private sector firms at a lower cost and higher level of quality. Identifying areas where the private sector can perform government functions more efficiently and at a lower cost can be an important part of the budget solution. A wealth of studies by government agencies, academics and think tanks like Reason Foundation have consistently shown that privatization can lower the costs of government service delivery between 10 to 25 percent, on average.

However, individual privatization proposals tend to become quickly politicized, as they often lack a functional bureaucratic support structure to separate myths from facts, to conduct due diligence on agency privatization proposals and to develop business cases outlining the rationale for potential outsourcing projects. Without such support, it becomes difficult to engage in an informed policy discussion on whether privatization makes sense or not in any given case.

A central lesson learned from global experience in privatization is that it **works best when governments develop a centralized, independent decision-making body to manage privatization and government efficiency initiatives**—a state “center of excellence” in procurement. HB 2403, which would create a new Council on Efficient Government along these lines, represents a critical step in this direction for the state of Kansas.

Experience from other states that have implemented versions of this state competition and efficiency council concept has demonstrated that having a standardized method for procuring and managing contracts will result in more accountability, transparency and competition. Further, having a dedicated unit manage the process on an enterprise-wide scale ensures that the benefits of lessons learned and best practices are shared among agencies. Altogether, a sound privatization policy framework is essential for de-politicizing outsourcing and maximizing cost savings and value for money in the delivery of state services.

Florida's Council on Efficient Government, for example, was developed during former Governor Jeb Bush's tenure and was a key component of a strategy that ultimately helped his administration realize over \$550 million in cost savings through over 130 privatization and managed competition initiatives. Virginia's Commonwealth Competition Council has put forth privatization recommendations that are estimated to be saving state taxpayers at least \$40 million per year. And as reported in Reason Foundation's *Annual Privatization Report 2008*, Utah passed legislation in the spring of 2008 to strengthen that state's Privatization Policy Board and give it more tools to advance sound privatization policy.

With widespread state fiscal crises deepening across the country, other state policymakers are increasingly looking to the example set by Florida and the other states that have pioneered this concept as they struggle to close large budget deficits. For example, Louisiana policymakers established a Commission on Streamlining Government to review and evaluate government activities, functions, programs and services to eliminate, streamline, consolidate, privatize or outsource them, and in December 2009 the Commission released a set of 238 government downsizing recommendations—including a recommendation for a “center of excellence” in privatization, as well as over a dozen specific privatization proposals—that would be estimated to save over \$1 billion. Policymakers in Arizona, Virginia and Oklahoma also advanced major privatization board proposals that passed one or both legislative houses in 2009.

A. Rationale for State Competitive Government Commission

To help keep state budgets in check and promote efficiency in government, it is critical to eliminate wasteful, non-essential government functions by continually challenging state entities to identify and focus on their core functions and competencies. Competitive sourcing is a vital tool in this process and involves looking at everything government agencies do and determining whether private firms could do the same things more efficiently and effectively. Additionally, minimizing government competition with businesses will help states retain (and grow) private sector jobs and increase state revenue by shifting tax-exempt properties and activities to the taxable sector.

A sound process is essential to fostering competitive service delivery and to ensuring a transparent, accountable, ethical, performance-based and competitive environment.

Competitive sourcing works best when governments *develop a centralized, independent decision-making body* designed to manage competitive sourcing/efficiency initiatives (i.e., a state “center of excellence in procurement”). This center of excellence should:

- Develop a standardized, enterprise-wide process for identifying and implementing competitive sourcing;
- Develop rules instituting performance-based contracting and business case development as requirements for state procurements;
- Disseminate lessons learned and best practices in competitive sourcing across state government;
- Assist agencies in developing business cases for any proposed privatization initiative—*before* any RFP/RFQ is issued—that clearly outline the rationale for the initiative (cost savings, service quality improvements, changing antiquated business practices, etc.);
- Conduct an annual or biannual inventory of all functions and activities performed by state government, distinguishing between inherently governmental activities (e.g., those that only a government body can or should perform) and commercial activities (e.g., those that are routinely performed in the private sector);
- Create a uniform cost accounting model to facilitate “apples-to-apples” cost comparisons between public and private sector service provision (critical to ensuring a level public-private playing field), and
- Review and take action on complaints regarding inappropriate government competition with the private sector.

Having a standardized method for procuring and managing contracts will result in more accountability, transparency and competition. Further, experience from Florida and Virginia—which have both implemented versions of the privatization “center of excellence” concept—suggests that this approach has increased the public's confidence and has mitigated perceptions of impropriety (a common public concern with any privatization initiative).

HB 2403 would create a new Council on Efficient Government—modeled after Florida's—that would perform many of the above functions and offer public officials in Kansas a powerful, new tool to prioritize limited resources and identify opportunities to seek more efficient and effective means of service delivery through outsourcing and privatization.

Applying similar thinking, Congress passed the Federal Activities Inventory Reform (FAIR) Act in 1998. Its purpose was to identify which activities within the federal government are “inherently governmental” (i.e., it is a job only government can do?) and which are commercial in nature. A “commercial activity” is a service or good that can normally be obtained from private enterprise. In the federal law, agencies perform inventories annually and identify both commercial and inherently governmental positions. With this information agencies can identify services that can be competed or privatized.

As a result of the FAIR Act, agencies have identified more than 800,000 federal employees engaged in activities—such as data collection, administrative support, and payroll services—that could be provided by the private sector.

The Commonwealth of Virginia has adopted a similar process at the state level. Under the direction of the Commonwealth Competition Council (CCC), a survey of state agencies was conducted in 1999 to determine what commercial activities were being conducted by state personnel. In the 1999 survey alone, the CCC identified 205 commercial activities that were being performed by nearly 38,000 state employees. According to the CCC's first director, actions taken at the Council's recommendation (based on the inventory results) currently are estimated to be saving Virginia taxpayers at least \$40 million per year.

B. Case Studies

1. Florida's Council on Efficient Government

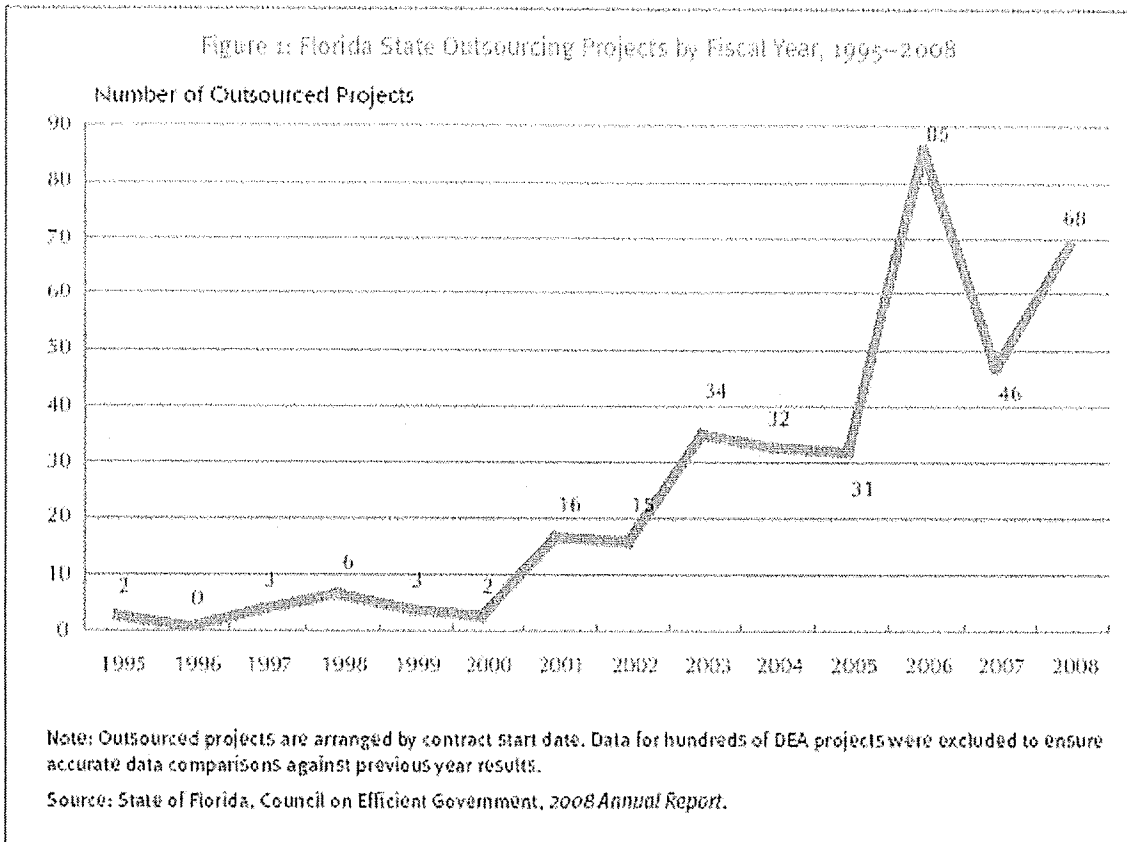
During former Florida Governor Jeb Bush's term (1999-2007), Florida engaged in over 130 privatization/managed competition initiatives saving taxpayers over \$550 million in aggregate. When many other states were raising taxes, these initiatives helped Florida shed almost \$20 billion in taxes during Bush's term.

Midway through his term, some of Bush's major privatization successes became overshadowed by the media spotlight on a few major outsourcing projects that experienced difficulties in implementation. Recognizing the need to improve (a) state procurement and (b) the state's ability to monitor the procurements, Gov. Bush signed an executive order in March 2004 directing the Department of Management Services to create a "center of excellence" authorized to conduct a statewide evaluation of Florida's competitive sourcing efforts. The new Center for Efficient Government (CEG, subsequently codified by the legislature as the Council on Efficient Government) was empowered to "identify opportunities for additional [competition] initiatives, and oversee execution of future [competition] projects."

The CEG's mission is "to promote fair and transparent best business practices in government in order to foster accountability, competition, efficiency and innovation in the way state agencies serve Florida's citizens." It serves as the enterprise-wide gateway for best business practices in competitive sourcing and standardizes how the state identifies opportunities, conducts competitions, and awards and manages contracts for government services.

Prior to 2001, Florida had a total of 16 outsourced projects reported by state agencies. From 2001 to 2006, the state initiated an average of 37 projects annually (see figure below). For FY2008, state agencies identified 551 projects currently being outsourced with a lifetime value of over \$8 billion. Notably, the CEG was initially created in 2004, which coincides with the tremendous ramp-up in state privatization.

Since Bush's departure, the CEG is still humming along. In 2008 alone, it reviewed a total of 21 business cases valued at more than \$94 million, identifying more than \$29 million in potential savings to the state. The value that CEG is delivering for taxpayers is so evident that even Bill Cotterell, a *Tallahassee Democrat* editorialist and frequent critic of state privatization initiatives, recently wrote, "For return on investment, no Agency can beat the Council on Efficient Government. Each of the council's four employees saved the taxpayers about \$7.25 million last year."



2. Utah Privatization Policy Board

Nearly two decades ago, the Utah state legislature established the Privatization Policy Board (PPB) to evaluate and make recommendations to state agencies concerning effective privatization of government services and to address concerns regarding unfair government competition with the private sector. But with its membership heavily tilted toward public sector representation, the lack of clearly defined duties in its statutory mandate and no dedicated staff, the PPB's efforts prior to 2008 have been piecemeal at best. Only two successful privatization initiatives have been completed to date: contracting with Staples for procurement of the state's office supplies and contracting with Xerox to provide state printing services.

However, two bills passed the 2008 legislative session to give the Privatization Policy Board powerful new tools for advancing privatization and in the process elevate Utah to the upper echelon of state privatization leaders. Both bills passed overwhelmingly in both houses and were signed into law by Governor Jon Huntsman, Jr. in May 2008.

House Bill 75 expanded the membership of the PPB to include more private sector members and requires the PPB to develop a biannual inventory of “inherently governmental” and “commercial” activities and services performed by state agencies, develop an accounting method to facilitate accurate cost comparisons between public sector and private sector service providers, and investigate citizen complaints of unfair government competition with a private enterprise. HB75 also requires the governor’s office to recommend at least three potential services or activities for potential privatization every two fiscal years.

Senate Bill 45 went even further by requiring Utah cities and counties of the first and second class—which includes the majority of Utah’s local governments—to submit biannual commercial activity inventories to the PPB, similar to those that will be prepared at the state level. Also, the bills created a new, full-time staff position to serve the PPB.

One year later, the state’s first commercial activities inventory is in development and nearing completion, and the newly revamped PPB is planning to resume its regular meetings in the fall of 2009.

C. Conclusion

There are no easy solutions for Kansas’ current budget deficits, and policymakers need the sharpest tools in the toolbox at their disposal. Implementing a state competition and efficiency council would help the state regain its fiscal health, deliver higher quality services at a lower cost, and revive the state's economy.

The declining fiscal situation in Kansas demands that policymakers take a deep look for opportunities to shop around. Most Kansans, like people everywhere, want their tax dollars spent in the most effective and efficient manner possible. If there is one thing to learn, it’s that competition works to promote efficiency and restrain costs. Governments at every level have embraced it and will continue to do so.

Just because government is tasked with providing Service X doesn't mean the public sector offers the cheapest means of delivering it—it often does not. If taxpayers would get a better deal by contracting with a nonprofit firm or private company, it should behoove policymakers to use similar opportunities before resorting to tax hikes or service cuts. In challenging economic times, families routinely become “smarter shoppers,” shopping around for the best deal in order to stretch their family’s dollars to achieve the maximum benefit. Kansas state government should do the same, and HB 2403 would help achieve that.

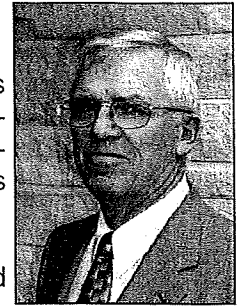
Under HB 2403, policymakers and agency managers would have a powerful new tool to allow them to concentrate on their core functions of providing “inherently governmental” services while partnering with the private sector for commercial activities. Applying competition to non-core activities would free up valuable resources for agencies to complete their missions and provide the greatest value to taxpayers.

Thomas Jefferson’s words from 1808 ring as true, if not more so, today as they did then: “It is better for the public to procure at the market whatever the market can supply; because there it is by competition kept up in its quality, and reduced to its minimum price.” HB 2403 would honor Jefferson’s words and represent an important step towards more effective, efficient, transparent, and accountable government.

As the think tank that has done the most research on privatization and government reform, Reason Foundation welcomes the opportunity to be of further assistance to this committee. Please feel free to call upon us.

Dear Governor Parkinson and Members of the 2010 Kansas Legislature:

It is my pleasure to present to you this report of the Kansas Water Authority's recommendations for the upcoming legislative session. The Kansas Water Authority's role is to provide recommendations for the coming year, as well as to plan for the future needs for water and funding of projects. This report includes relevant accomplishments achieved over the past few years and plans for the future to better serve our citizens.



This past year has brought a great deal of uncertainty and concern for our state's economy and our state government's budget. I, and the rest of the Authority, share in these concerns and understand the difficult choices that have to be made during these times. Limited financial resources led to elimination of the State General Fund demand transfer to the State Water Plan Fund in fiscal year 2010. While the State General Fund as a whole took a 15 percent reduction, the elimination of the SGF transfer amounted to a 30% reduction in available water project funds. Our ability to provide funds for our most precious natural resource should not be taken lightly, or reduced at a disproportionate level.

The Authority's State Water Plan Fund recommendations for fiscal year 2011 are contained on pages 22 and 23. These include the full \$6 million State General Fund demand transfer. We believe these recommendations are necessary to meet our current needs and maintain progress on key water issues.

A few years ago, the Kansas Water Authority began a strategic planning process to identify the most significant issues that need to be addressed. As we look to the future, we see a growing population that is more dependent on a reservoir system filling with sediment. We see declining ground water aquifers that support a significant portion of our state's agriculture. We must address these issues if we want our future population to have water to drink, a robust economy, and a high quality of life.

The response to the strategic planning effort has been extremely positive. Our state's water research community and local leaders in ground water and watershed management are bringing ideas and projects to the table to try and meet these growing problems. This positive effort must be met with support at the state level to insure their efforts are successful.

As we move into an era of maintenance of our infrastructure and development of additional projects, increased funding will be needed to meet the growing demands on our water resources. The Expanded Lottery Act Revenues Fund (ELARF) provides a unique opportunity to assist in addressing a portion of our key infrastructure issues. The Authority recommends that 10% of the revenue into this fund be dedicated to reducing debt and implementing water infrastructure projects.

Dedication of ten percent of ELARF will provide only a portion of the funding needed for water resource projects. For years our revenue source has remained stagnant as our need for projects, and the cost to complete them, have grown. The reservoir roadmap (pages 8 & 9) identifies a need of \$3.9 Billion over the next forty years to insure that two-thirds of our population continues to have a reliable water supply. The overall need for funding statewide will prove to be larger yet as our local partners identify long needed projects. A stable and significant source of funding must be secured to meet this need.

This year has been an exceptional one for water resource projects in Kansas. We've witnessed the completion of HorseThief Reservoir near Jetmore; the start of the pilot dredging project at Mission Lake at Horton; and the continuation of the nationally recognized Wichita aquifer storage and recovery project. The work of local leaders on these three projects is to be commended. Wichita's vision and bold steps for securing their water supply future should serve as a model for state decision makers to address Kansas' water supply future.

On behalf of the Kansas Water Authority and the state's water resource agencies, we look forward to working with you on actions that will benefit the state's water resources and Kansas citizens.

Steve Irsik, Chair
Kansas Water Authority

Appropriations Committee
Date 1-27-10
Attachment 8