

MINUTES OF THE HOUSE ENERGY AND UTILITIES COMMITTEE

The meeting was called to order by Chairman Carl Holmes at 9: 14 a.m. on February 10, 2010, in Room 785 of the Docking State Office Building.

All members were present except:

Representative Dan Johnson- excused
Representative Joe Seiwert - excused

Committee staff present:

Matt Sterling, Office of the Revisor of Statutes
Cindy Lash, Kansas Legislative Research Department
Iraida Orr, Kansas Legislative Research Department
Artur Bagyants, Kansas Legislative Research Department
Renaë Hansen, Committee Assistant

Conferees appearing before the Committee:

Chad Althous, Trane Company
Kevin Ward, Trane Commercial Systems
Joe Ryan, Smokey Hill Educational Service Center
Ryan Freed, KCC
Eric Stafford, Associated General Contractors

Others attending:

Twenty three including the attached list.

Chairman Holmes asked all members to sign the sheet if they wish to tour the Wolfcreek Energy facility.

Hearing on:

HB 2625 - Concerning energy conservation measures.

Matt Sterling, (Attachment 1), presented a brief explainer of **HB 2625**.

Proponents:

Representative Milack Talia, (Attachment 2) , spoke to the committee on **HB 2625** and gave an explanation of why he feels this legislation is important. He noted that this bill adds clarity and certainty to the KSA 75-37,125. He offered some suggested amendments to the bill.

Chad Althous, Trane Company (Attachment 3), offered testimony in support of **HB 2625** to the committee.

Kevin Ward, Trane Commercial Systems (Attachment 4) presented testimony in support of **HB 2625**.

Joe Ryan, Smokey Hill Educational Service Center (Attachment 5) gave testimony in support of **HB 2625**.

Written Proponents:

Trudy Arons, AIA (Attachment 6), offered written testimony in support of **HB 2625**.

Several school districts in the state of Kansas presented testimony in support of **HB 2625**.

- Beth Reust, Plainville Public Schools USD # 270, (Attachment 7)
- Dr. Justin B. Henry Superintendent of USD #306, (Attachment 8)
- Kelly Arnberger, USD # 269, (Attachment 9)
- Brian Pekarek, USD #224, (Attachment 10)

Joseph Glassman, Glassman Corporation, (Attachment 11), gave the committee written testimony in support of **HB 2625**.

CONTINUATION SHEET

Minutes of the House Energy and Utilities Committee at 9:00 a.m. on February 10, 2010, in Room 785 of the Docking State Office Building.

Opponents:

Ryan Freed, KCC (Attachment 12), presented a number of items in **HB 2625** that the KCC is opposed to. Additionally, Mr. Freed talked to how this bill would change the current way that the Facility Conservation Improvement Program is operated.

Eric Stafford, Associated General Contractors (Attachment 13), spoke to the committee in opposition to **HB 2625**.

Questions were asked and comments made by Representatives: Vern Swanson, Carl Holmes, Milack Talia, and Forrest Knox.

The hearing on **HB 2625** was closed.

The next meeting is scheduled for February 11, 2010.

The meeting was adjourned at 9:40 a.m.

HOUSE ENERGY AND UTILITIES COMMITTEE GUEST LIST

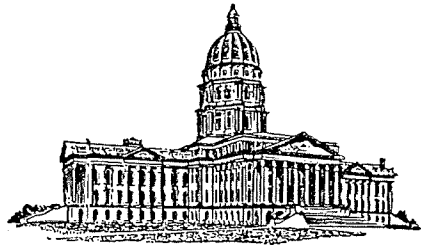
DATE: February 10, 2010

NAME	REPRESENTING
Tom DAY	KCC
LARRY BERG	MIDWEST ENERGY
Phil WAGES	KEPCO
DAVE HOLTHAUS	KEC
Ray Hammarlund	KCC
Dave Holthaus	KEC
Mark Schreiber	Westar
Ryan Freed	KCC
Liz Brosias	KCC
Chad Althaus	Trane
Kevin Wood	Trane
Scott Jones	KCP&L
Joe Ryan	Smoky Hill ESC
Chris Gligstad	Federico Consulting
Mari Tucker	Commerce
Michelle Peterson	Capitol Strategies

MARY ANN TORRENCE, ATTORNEY
REVISOR OF STATUTES

JAMES A. WILSON III, ATTORNEY
FIRST ASSISTANT REVISOR

GORDON L. SELF, ATTORNEY
FIRST ASSISTANT REVISOR



OFFICE OF REVISOR OF STATUTES
KANSAS LEGISLATURE

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

MEMORANDUM

To: Chairman Holmes and members of the House Committee on Energy and Utilities
From: Matt Sterling, Assistant Revisor of Statutes
Date: February 9, 2010
Subject: House Bill No. 2625

HB 2625 would amend K.S.A. 2009 Supp. 75-37,125 to add a definition of capital cost avoidance and would allow state agencies to contract for capital cost avoidances as well as energy conservation measures. To receive approval for a capital cost avoidance, an agency would have to comply with the same requirements that already exist for approval of an energy conservation measure. The bill would define "capital cost avoidance" as savings that are generated when appropriated expenditures are avoided because the improvements or items of equipment provide energy and operational cost savings. The bill also lists some of the improvements and equipment that would be considered capital cost avoidances.

HOUSE ENERGY AND UTILITIES

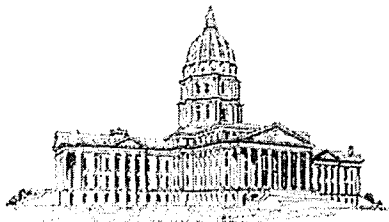
300 SW TENTH AVE - STE 010-E, Statehouse—TOPEKA, KANSAS
PHONE (785) 296-2321 FAX (785) 296-6668 E-mail: Revisor's

DATE: 2/10/2010

ATTACHMENT 1

MILACK TALIA
HOUSE OF REPRESENTATIVES

STATE CAPITOL
300 SW TENTH STREET
TOPEKA, KANSAS 66612
(785) 296-7646
MILACK.TALIA@HOUSE.KS.GOV



COMMITTEE ASSIGNMENTS
ENERGY & UTILITIES
GEN. GOVERNMENT BUDGET
JUDICIARY
ENGINEERING SUCCESS

STATE OF KANSAS | 23RD DISTRICT

February 10, 2010

Chairman Holmes, Vice-Chair Knox, Rep. Kuether, and Members of the Energy Committee,

The Facility Conservation Improvement Program (FCIP) is a streamlined program enabling public agencies to use a tool known as energy savings performance contracting (ESPC) to access financing for implementing “energy conservation measures” quickly, easily and affordable. How it works:

- You enter into an agreement with a private energy service company (ESCO).
- The ESCO will identify and evaluate energy conservation measures and then recommend a package of improvements to be paid for through savings.
- The ESCO will guarantee that savings meet or exceed annual payments to cover all project costs—usually over a contract term between ten and fifteen years.
- If savings don’t materialize, the ESCO pays the difference.
- To ensure savings, the ESCO offers training and long-term maintenance services.
- In addition, all energy savings performance contracts are developed and implemented with the assistance of the FCIP administrator within the Kansas Corporation Commission (KCC).

The reason why I introduced HB 2625, with amendments, was to expand the scope of FCIP, increase its utilization to reduce energy costs, and ensure its success for the future. FCIP is governed by KSA 75-37,125 and within the statute there is room to give clarity and certainty as to which projects can result in energy or operational cost savings.

Before August 2009, the KCC allowed plans to include “capital cost avoidance” projects. KCC decided to tighten regulation, with good reason, to avoid the misuse and abuse of FCIP. However in doing so, it placed restrictions on what projects qualified as “energy conservation measures,” even if the projects result in energy or operational cost savings.

This bill adds clarity and certainty to the statute by defining “capital cost avoidance” (a term of art used by the industry) and codifies examples of certain projects that fall under “capital cost avoidance,” which result in energy or operational cost savings. By adding a new definition that is narrow in scope, the original intent of the statute is intact. The bill works with the KCC, gives it guidance as to what projects to consider and enables it to better manage FCIP. Thank you for your consideration of this bill.

HOUSE BILL No. 2625

By Committee on Energy and Utilities

2-3

9 AN ACT concerning energy conservation measures; amending K.S.A.
10 2009 Supp. 75-37,125 and repealing the existing section.

11
12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. K.S.A. 2009 Supp. 75-37,125 is hereby amended to read
14 as follows: 75-37,125. (a) As used in this act:

that result in energy
or operational cost
savings

15 (1) "Capital cost avoidance" means savings generated when expend-
16 itures of appropriated capital construction funds or appropriated capital
17 outlay funds are avoided because the budgeted capital improvements or
18 items of equipment ~~are energy conservation measures~~. The improvements
19 or equipment may include one or more of the following:

building envelope
items, such as:

20 (A) Insulation of the building structure or systems within the
21 building;

, roofing, masonry,
foundation

22 (B) ~~storm windows or doors, caulking or weather stripping, multig-~~
23 ~~lazed windows or doors, heat absorbing or heat reflective glazed and~~
24 ~~coated windows or door systems, additional glazing reductions in glass~~
25 ~~area or other windows and door system modifications that reduce energy~~
26 consumption;

geothermal
heating/cooling
pumps,

27 (C) automated or computerized energy control system;
28 (D) ~~heating, ventilating or air conditioning system modifications or~~
29 replacements;

30 (E) replacement or modification of lighting fixtures to increase the
31 energy efficiency of the lighting system without increasing the overall
32 illumination of a facility, unless an increase in illumination is necessary
33 to conform to any applicable building code for the lighting system after
34 the proposed modifications are made;

35 (F) indoor air quality improvements to increase air quality that con-
36 forms to any applicable building code requirements;

37 (G) energy recovery systems;

38 (H) cogeneration systems that produce steam or forms of energy such
39 as heat, as well as electricity, for use primarily within a building or com-
40 plex of buildings;

41 (I) tankless hot water systems and solar hot water systems;

42 (J) any life safety measures that provide long-term operating cost re-
43 ductions and are in compliance with state and local codes;

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HOUSE OF REPRESENTATIVES

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STATE OF KANSAS | 23RD DISTRICT

February 10, 2010

Proposed Amendments and Rationale for HB 2625

- Section 1, Subsection (1)
 - Adds: that results in energy or operational cost savings
 - Deletes: are energy conservation measures
 - Rationale: tightens up the definition
- Section 1, Subsection (1)(B)
 - Adds: building envelope items, such as
 - Rationale: adds a term of art used by the industry
 - Adds: roofing, masonry, foundation
 - Rationale: includes projects inadvertently overlooked
 - Changes: and to or
 - Rationale: technical
- Section 1, Subsection (1)(D)
 - Adds: geothermal heating/cooling pumps
 - Rationale: includes projects inadvertently overlooked



To: House Energy and Utilities Committee
From: Chad Althouse, chad.althouse@trane.com, (913) 269-8955
Date: February 9th, 2010
Re: Support for HB2625

Chairman Holmes and Committee members,

I've worked in the construction industry in Kansas for the past 15 years in various capacities both for contracting and design firms. As a Project Developer with Trane I assist school districts and city/county governments in identifying energy saving opportunities in their facilities and help them use those savings to fund capital improvement projects. I also serve as the Chairperson of the Green School Advocacy Committee for the Central Plains Chapter of the US Green Building Council.

I am here today to offer testimony as an industry expert in support of HB2625. K-12 schools have been a focus for me and I have experience working with school districts large and small across the state of Kansas. It is through this experience that I have come to realize the importance of the capital cost avoidance component in helping Kansas school districts, higher education providers, cities and county governments in completing comprehensive facility improvement projects that help them achieve their mission.

I would like to call attention to the written testimony that has been submitted today by school superintendents from across the state that have completed, are in the process of completing or are considering projects through the Kansas Facility Conservation Improvement Program (FCIP). Some of these projects include capital cost avoidance component. Specifically, I point to the Plainville USD 270 project and how they were able to improve their facilities through this program using capital cost avoidance as part of the formula when they were not able to address their facility needs through traditional measures.

I look forward to collaborating with the Kansas Corporation Commission, this committee and end users of the program to provide clarity and certainty to the capital cost avoidance language so that the FCIP program can be fully utilized as a tool to help the end users complete comprehensive facility conservation improvement projects that transform their facilities into energy efficient, healthy, high performance environments that will serve their needs for years to come.

I thank Representative Talia and this committee for seeing the importance in addressing this issue as it can be an important piece in solving the current issues facing our state.

Respectfully,

Chad Althouse

HOUSE ENERGY AND UTILITIES
DATE: 2/10/2016
ATTACHMENT 3

To: House Energy and Utilities Committee
From: Keven Ward, Public Sector Consultant, Keven.Ward@trane.com , (913) 633-8925
Date: February 9th, 2010
Re: Support for HB2625

Dear Chairman Holmes and Committee members,

Thank you for the opportunity to provide testimony as a proponent of HB2625.

As a Public Sector Consultant with Trane, an Energy Services Company on the Kansas ESCO Master Contract, I have experience providing comprehensive solutions optimally aligned with the fiscal, infrastructure upgrade, energy efficiency, and local economic development needs in the Kansas and Missouri municipal and education sectors that utilize KSA 75-37,125 in Kansas and RSMO 8.231 and 640.651 in Missouri. With this experience comes an awareness of the historical precedence of including capital cost avoidance in the payback formulas in Energy Performance Contracts in Kansas, Missouri, most other states, and the Federal Government's Energy Savings Performance Contract. As a result, I'm in favor of HB2625 that provides clarity and certainty for retaining a calculated component of capital cost avoidance in the 30 year payback formula for KSA 75-37,125.

As a proactive proponent of the *KCC's Facility Conservation Improvement Program (FCIP)* I have conducted dozens of workshops with the advocacy of *KASB, USA Kansas, the Kansas State Historical Society, Mid-America Regional Counsel, KSDE Education Service Centers, Kansas Green Schools, League of Kansas Municipalities, Green School Summits, Energy and Sustainability Groups*, and a host of other Kansas organizations. In collaborative workshops with local school boards, superintendents, State Historical Preservation Officers, city and county managers and commissioners, legislators, and other community stakeholders I have learned first hand of the needs facing them and can verify it merits your thorough consideration of HB2625.

The record in Kansas will verify that capital cost avoidance has been included in Energy Performance Contract projects administered by the Facility Conservation Improvement Program (FCIP). The specific language has been in the existing Kansas Energy Performance Contract for many years under Schedule N, Section 2.2: Allowable Savings:

- 2.2.1 Customer allows savings to include
- (a) Energy and water savings
 - (b) Customer material /commodity savings, including scheduled replacement of parts
 - (c) Outside labor cost savings, including maintenance contracts
 - (d) Customer in house labor costs
 - (e) Customer deferred maintenance costs
 - (f) Offset of future customer capital cost**

The Federal Energy Savings Performance Contract (ESPC) can be found directly at http://www1.eere.energy.gov/femp/pdfs/generic_idiq_espc_contract.pdf on the *U.S. Dept of Energy* website <http://www1.eere.energy.gov/femp/financing/espcs.html> . This contract is used by Federal agencies for ESPCs, such as the recent \$80 billion in ESPCs that were awarded in December 2008 to 16 ESCOs, *Trane* included. On page 73 of the federal ESPC contract the specific reference to "Energy-Related Cost Savings" can be found which include "One-time energy-related cost savings can result from **avoided** expenditures of operations and maintenance, repair or replacement, or **capital expenditures** for projects, (e.g. equipment replacement) that, because of the energy savings performance contract project, will not be necessary". I've copied it here for easy viewing:

Energy-Related Cost Savings - Energy-related cost savings are generally recurring reductions in expenses (other than energy costs) related to energy-consuming equipment, generally affecting operations, maintenance, renewal, or repair expenses of equipment. One-time energy-related cost savings can result from avoided expenditures of operations and maintenance, repair and replacement, or capital expenditures funds for projects (e.g., equipment replacement) that, because of the energy savings performance contract project, will not be necessary.

HOUSE ENERGY AND UTILITIES

DATE: 2/10/2010

ATTACHMENT 4-1

Even a quick review of the Federal ESPC case studies at http://www1.eere.energy.gov/femp/financing/espcs_casestudies.html discloses Energy Conservation Measures (ECMs) for building envelope improvements such as "upgrade of exterior brick" and "retrofit of windows" that reinforce the precedence that comprehensive ECMs that are encouraged in the Federal and municipal, university, school, and healthcare market sectors.

For further investigation and closer to home, the \$36.1MM *University of Central Missouri (UCM) Energy Performance Contracting* project underway in the community of Warrensburg is the largest project of its kind in the nation and has even attracted international attention. The project was selected from 850 abstracts submitted from 56 countries on 6 continents to present at the upcoming "Clima 2010 – 10th REHVA World Congress" in Antalya, Turkey.

The UCM ESPC program was not only monitored by the *State of Missouri* utilizing the Missouri Performance Contracting legislation RSMO 8.231 and 640.651, but the UCM ESPC contract was also developed in collaboration with the *Clinton Climate Initiative Organization* which assists state agencies across the country with Performance Contracting Legislation, financing, marketing and consulting. View UCM's internal press release at <http://www.ucmo.edu/news/esco.cfm>

With more time, I can provide you with even more information that irrefutably documents the established ESCO programs, practices, and performance in the state and Federal MUSH market sectors that routinely incorporate a capital cost avoidance component in the payback formulas for financial justification for capital intensive ECMs, e.g. building envelope and major HVAC infrastructure improvements, et al.

The importance of including a calculated component of capital cost avoidance in the payback formulas is to enable comprehensive projects that address the fullest spectrum of facility infrastructure improvement needs that could otherwise leave building envelope and other capital intensive needs unaddressed. This can lead to the undesired situation where fast payback improvements, e.g. new lights and/or HVAC improvements are installed in buildings with decades old roofs and/or windows needing upgrades but have a payback period longer than 30 years due to their capital intensive nature.

With KCC, legislative and end-user collaboration, HB2625 can be worked to provide the clarity and certainty required to retain a calculated component of capital cost avoidance in the 30 year payback formula of KSA 75-37,125. This is essential to address the well known and growing backlog of capital intensive improvements needed to update and modernize aging facilities and infrastructure across Kansas.

At a time when Kansas finds itself at crossroads on multiple fronts, HB2625 enables local municipalities, boards of education, and other Kansas authorities to make informed decisions that they have determined are best for them.

Respectfully,


Keven R. Ward

Public Sector Consultant

Smoky Hill

Education
Service Center

Central Region Office
605 East Crawford
Salina, KS 67401
(785) 825-9185 phone
(785) 825-9195 fax

North Central Region Office
219 West Seventh
Concordia, KS 66901
(785) 243-4417 phone
(785) 243-4457 fax

Hays Region Office
1401 B Main Street
Hays, KS 67601
(785) 621-4414 phone
(785) 621-4415 fax

House Energy and Utilities Committee:

Testifying in support of HB 2625

Dear Committee members,

My name is Joe Ryan. I am employed by Smoky Hill Education Service Center and work with around 70 school districts in North Central and West Central Kansas. I am also a school board member for USD 306, Southeast of Saline. My school district, USD 306, has participated in the State's FCIP Program completing work in the summer of 2009.

I am in favor of HB 2625 because it adds the clarity and certainty of including Capital Cost Avoidance as a component in the 30 year payback formula. I feel this is critical when it comes to making as efficient as possible the aging school buildings that most of rural Kansas is faced with. It makes no sense to include only the fast payback items in the formula such as lighting and HVAC systems when we know how critical it is to address building envelope and mechanical structure issues. Bad roofs and leaky windows and doors that are energy wasters need to be addressed also.

I understand that including these more complicated components to the 30 year payback formula makes the calculations more difficult but let's not be short sighted in our approach to energy conservation and efficiency. Times are difficult enough for school districts right now to take away another tool that they had to make their districts more efficient and cost effective. I am only asking that clarity and certainty of including Capital Cost Avoidance be placed back into the formula to retain its utilization where it has been for over 7 years prior in Kansas.

Thank you for taking time to consider this action.

Sincerely,

Joe Ryan



Joe Ryan
Career and Technical Education Coordinator
Smoky Hill Education Service Center
605 East Crawford
Salina, KS 67401
Office...785-825-9185
Cell.....785-819-2050
Fax.....785-493-0770

HOUSE ENERGY AND UTILITIES

DATE: 2/10/2010

ATTACHMENT 5



AIA Kansas
A Chapter of the American
Institute of Architects

February 10, 2010

TO: House Energy Committee Committee
FROM: Trudy Aron, Executive Director
RE: Support of HB 2625

President
J. Michael Vieux, AIA
Leavenworth
President Elect
Nadia Zhiri, AIA
Lawrence
Secretary
Gary Nevius, AIA
Overland Park
Treasurer
Hans Nettelblad, AIA
Overland Park

Christie Carl, AIA
Abilene
Randle L. Clark, AIA
McPherson
Tim de Noble, AIA
Manhattan
Keith Diaz-Moore, AIA
Lawrence
Dale R. Duncan, AIA
Olathe
Gwenda S. Gigous, AIA
Topeka
David S. Heit, AIA
Topeka
Joshua Herrman, AIA
Wichita
Anthony Jacobs, AIA
Wichita
Alan Johnson, AIA
Overland Park
David Livingood, AIA
Lawrence
Craig Lofton, AIA
Lindsborg
Katherine Nichols, Assoc. AIA
Lawrence
Donald Norton, P.E.
Wichita
Charles Smith, AIA
Topeka
Daniel (Terry) Tevis, AIA
Lenexa
Jason VanHecke, AIA
Wichita

Good Morning Chair Holmes and Members of the Committee. I am Trudy Aron, Executive Director of the American Institute of Architects in Kansas. We are providing written testimony today in support of HB2625.

AIA Kansas is a statewide association of architects and intern architects. Most of our 700 members work in over 120 private practice architectural firms designing a variety of project types for both public and private clients. Our members are designing tomorrow's buildings today, aiming to meet the "triple bottom line": buildings that are affordable, protect the health of the building occupants, and respect our environment.

HB2625 provides options for governmental entities to contract for the energy conservation measures they so greatly need without paying the total cost up front. While this will necessitate more total cost for the replacements and repairs it may be the only affordable way the cost can be added to the budgets of these entities.

AIA Kansas encourages governmental entities to contract for energy conservation measures in the traditional way when budgets allow. When that is not possible, HB 2625 provides a way to spread the cost while reaping the benefits.

Thank you for allowing us to provide testimony on HB 2625.

Executive Director
Trudy Aron, Hon. AIA, CAE
info@aiaks.org

700 SW Jackson, Suite 209 · Topeka, KS 66603 · 800-444-9853 or 785-357-5308 · www.aiaks.org

HOUSE ENERGY AND UTILITIES

DATE: 2/10/2010

ATTACHMENT 4

Plainville Public Schools

...where students walk through the doors of opportunity every day.

USD 270



Member of the House Energy and Utilities Committee,

Thank you for the opportunity to address you regarding HB 2625 submitted by Representative Milak Talia. I am in support of including "capital cost avoidance" when calculating the 30 year payback formula in **KSA 75-37,125** by the *KCC State Energy Office's Facility Conservation Improvement Program (FCIP)* created in 2002 to administer the *FCIP*.

I would like to give you a little background to explain why this is critical for districts such as ours who truly do want to conserve energy and be fiscally responsible.

In March of 2006 the citizens of our district voted to support a bond issue to finish a gymnasium project started in the late 1980s, to replace the windows and doors at the high school and to renovate the field house. When the bids came in, we had one bidder and the overall price was more than the amount of the bond. The board decided to re-bid after downgrading many of the positive aspects of the project. This time when the bids came in, there was again only one bid and it was substantially higher than the one that had been bid originally. The board had to remove the project for the windows and doors. In 2008 they rebid the windows and doors project by itself intending to pay for it out of capital outlay even if they had to do it in pieces...one side at a time. We did not get a single bid.

Meanwhile, the roof inspector from the insurance company came out and recommended replacement of three different roof sections on the campus. We were experiencing increasing leaks in all of our buildings. At the same time our HVAC system at the grade and middle school began to go out. We had invested many hours and much money in the repairs. The steam pipes in the old middle school (which are housed in a tunnel that is about 4 foot by 4 foot) began springing leaks. The rooftop units all had a variety of motors that went out. On top of all of that, we had 13 identified students with asthma related problems and one teacher who complained of headaches after a couple of hours in her classroom. These headaches were new...she had been teaching here for a few years.

In pursuit of the answer to all of these issues, I attended an Indoor Air Quality meeting of like sized districts which was sponsored by the EPA in conjunction with the national superintendent's organization AASA. I learned about the value of fresh air, adequate lighting, energy conservation, chemical restricted cleaning practices, etc. The board began to visit about what we could do to help the students and staff and found that environment plays a significant role (research-based) in not only the health of students but also in their academic success. We decided

Beth Reust

Superintendent of Schools

111 West Mill, Plainville KS 67663

Phone 785.434.4678

Troy Keiswetter

High School Principal

202 SE Cardinal, Plainville KS 67663

Phone 785.434.4547

Karen Crowe

Grade School Principal

203 SE Cardinal, Plainville KS 67663

Phone 785 434 4508

BOARD MEMBERS - JOHN CRAWFORD - JESSI HRABE - DONNA BROWN - LOREN HEMPHILL -

HOUSE ENERGY AND UTILITIES

DATE: 2/10/2010

ATTACHMENT 7-1

Plainville Public Schools

...where students walk through the doors of opportunity every day.

USD 270



that we needed to do something.

At a Council of Superintendent's meeting in Topeka, I found out about the State Plan for Performance Contracting. I researched that program and met with one of the companies that provided this service. At the same time I looked into the ability to apply for Qualified Zone Academy Bonds to complete projects of renovation. Because we have a free and reduced lunch rate of 40% we would qualify for these interest free bonds provided that sufficient funds were available. I applied and, after a short wait on the list, we were approved.

By working with the Performance Contract, utilizing QZAB funds and capital outlay funds for the initial outlay, we would be able to address all of the issues that we had...and continue to help students to be successful both with their health issues and with their academic issues. The only way that we would be able to do this is with the inclusion of the Performance Contract which included the capital cost avoidance as part of the calculation.

I would be delighted to visit with any of the members of the committee at their convenience and I apologize that I could not be here in person today.

Beth Reust
Superintendent of Schools
Plainville, Kansas

Beth Reust
Superintendent of Schools
111 West Mill, Plainville KS 67663
Phone 785.434.4678

Troy Keiswetter
High School Principal
202 SE Cardinal, Plainville KS 67663
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Karen Crowe
Grade School Principal
203 SE Cardinal, Plainville KS 67663
Phone 785.434.4508

BOARD MEMBERS – JOHN CRAWFORD – JESSI HRABE – DONNA BROWN – LOREN HEMPHILL – JAY FRIEND – TOM NUCKOLS – KEVIN RENK

***USD 306 Southeast of Saline
District Office
5056 E. K-4 Highway
Gypsum, KS 67448***

785-536-4291

<http://www.usd306.k12.ks.us>

fax 785-536-4247

To: House Energy and Utilities Committee

From: Dr. Justin B. Henry, Superintendent of Schools USD 306

As a district that has been able to cut energy bills by almost 30% during this school year and save our district thousands of dollars we definitely see the benefits of supporting HB 2625. Our recently completed project included improvements in the following areas:

- ❖ Thermal, visual, and acoustic comfort
- ❖ Indoor Air Quality
- ❖ Aging infrastructure upgrades and replacements; HVAC heat pumps, lighting, Building Controls, water system VFD, pump, and wireless controls
- ❖ Building envelope improvements; interior and exterior vestibules
- ❖ Student and staff safety and security; IP cameras, DVRs, monitors
- ❖ Energy, operations, and maintenance expenditure reductions

It would appear HB 2625 would allow other Kansas school districts to move forward with similar projects. In addition, it gives a local board of education the authority to make the decisions that they feel are best for their students and staff.

Thank you for your time. If I can be of additional assistance please do not hesitate to contact me at jhenry@usd306.org.

To Better Education,
Justin

Excellence in Education...Preparing Future Leaders

HOUSE ENERGY AND UTILITIES

DATE: 2/10/2010

ATTACHMENT 8

UNIFIED SCHOOL DISTRICT 269

602 Ash, Drawer B

Palco, KS 67657-0057

Phone# (785) 737-4635 Fax# (785) 737-4636

Dr. Kelly Arnberger - Superintendent

Lisa Gehring, Principal
Palco Grade School
(785) 737-4625

Kelly Arnberger, Principal
Palco High School
(785) 737-4645

Lisa Gehring, Principal
Damar Junior High
(785) 839-4265

To: House Energy and Utilities Committee
From: Kelly Arnberger, Superintendent USD 269 Palco
Re: HB2625

Committee Members:

It is a privilege to provide brief testimony in favor of HB2625. I am the new superintendent at Palco USD 269. In order to promote the highest quality education, USD 269 has begun strategic planning for academic, personnel, and facility greatness. Our three buildings are over 50 years old and require a systematic approach to their renovation. It is the intent of the board of education to investigate the needs of each building and then plan for the necessary improvements. However, failure to pass HB2625 will likely curtail our best planning.

Our district stands in favor of HB2625 as it is focused on providing clarity and certainty in order to include capital cost avoidance as a component in the 30 year payback formula that enables comprehensive projects to be developed and implemented that truly meet the needs of aging schools and infrastructure in Kansas. Our district is looking to develop a major project that will guarantee the viability of our schools for the next several decades.

The net benefit of preserving capital cost avoidance for inclusion in the statutory 30-year payback formula administered by *FCIP* provides districts the means to implement comprehensive high performance learning environment improvements. These include; building envelope, lighting, mechanical infrastructure, water conservation, renewable energy generation, et al, that reduce energy, operational, and maintenance expenditures that can be utilized most optimally in district budgets to offset the financing costs of the project. Without including capital cost inclusion in the formula, many districts will only be able to include the fast payback items such as lighting and HVAC while leaving the district's longer payback building envelope and capital intensive HVAC infrastructure needs unaddressed. Our district will have the means necessary to implement a 30-year plan but need the authority for such an endeavor. HB2625 provides our district the opportunity to provide our children quality facilities for generations.

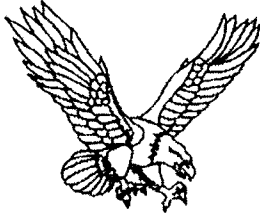
Thank you for taking the time to read my comments.
Respectfully,

Kelly Arnberger, USD 269

HOUSE ENERGY AND UTILITIES

DATE: 2/10/2010

ATTACHMENT 9



Clifton-Clyde Unified School District 224

P.O. Box A, 405 West Parallel, Clifton, KS 66937

1-800-288-6587 - 785-455-3313

Fax: 785-455-3314

Superintendent
Brian Pekarek

Board Clerk
Janet Tremblay

District Secretary
Susan Bouley

High School
616 North High
Clyde, KS 66938
1-866-840-6704
785-446-3444
Fax: 785-446-3458
Principal
Cheryl Keim

Middle School
405 West Parallel
Clifton, KS 66937
1-866-840-6516
785-455-3323
Fax: 785-455-3524
Principal
Brian Pekarek

Grade School
120 North Cloud
Clifton, KS 66937
785-455-3319
Fax: 785-455-3572
Principal
Brian Pekarek

Board of Education

Renay Branfort

Frank Brownell

Debra Carlson-Ohlde

Steve Feight

Paula Kieffer

Dean Michaud

Scott Seifert

Feb. 8th, 2010

Dear House Utilities Committee:

My name is Brian Pekarek, and I am the Superintendent at USD 224 Clifton-Clyde in Northern Kansas. Recently, my district started the process of looking how we could use energy differently by allowing an FCIP Energy Audit of our school district. Trane Energy came to our district in the fall, and they gave many presentations to my board about how we can think about, and use energy differently in order to offset some of our long range costs. Having the energy audit through Trane was the first step in positive environmental education for our district. The use of clean and renewable energy in the forms of many environmental education projects followed (a wind turbine, multiple solar panels, two large biomass energy projects, and a variety of recycling projects).

I am writing this letter in support of HB 2625 because I believe that school districts and school boards need all the information possible in order to make decisions about long term costs in regards to energy efficiency and building envelope costs. Through more correct information, I can more effectively guide my school board in issues of energy efficiency and long-term energy costs to the district. In order to accomplish this, my board and I need all the relevant information that HB2625 would provide.

If you have any questions regarding my stance, please contact me anytime.

Sincerely,

Brian Pekarek

USD 224 Superintendent

HOUSE ENERGY AND UTILITIES
DATE: 2/10/2010
ATTACHMENT 10



Human comfort on demand™

February 9, 2010

House Energy and Utilities Committee
State of Kansas
300 SW 10th
Topeka, KS 66612

Ref: HB2625

Dear Chairman Holmes and Committee members,

As a business entrepreneur operating a substantial mechanical construction company in Kansas, I feel compelled to elaborate my feelings on the above referenced bill. My company has been in business for over 63 years and has built structures including energy development comfort systems throughout that time frame in most areas of Kansas. I favor HB2625 so that we may further understand providing clarity to include in its verbage capital cost avoidance as a component in the 30 year pay back formula. Kansas public facilities are at a crossroads where upon the need to average capital intensity over specific capital lines can make a huge difference in the improvements of weak and broken infrastructures in their buildings.

Implementing high performance improvements which are comprehensive in nature especially with an already growing backlog of deferred maintenance is crucial at this time in respect to not only allowing entities to keep up with past expenses but future increases. I hope you will move forward in support of the above referenced bill especially understanding the proper way to analyze building energy conservation is to ascertain the entire building envelope not just specific cause and effect. Finally, these types of movements create progress, innovation, and jobs in the Kansas market. Should you have any questions please do not hesitate to inquire.

Respectfully submitted,

Joseph Glassman
President & CEO
Glassman Corporation

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Systems

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Hays, Kansas 67601
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**Before the House Energy and Utilities Committee
Comments by the
Staff of the Kansas Corporation Commission
February 10, 2010**

House Bill 2625

Thank you, Mr. Chairman, and members of the Committee. I am Ryan Freed, Energy Efficiency Programs Manager for the State Energy Office. I oversee the Facility Conservation Improvement Program (FCIP) which operates under the authority in KSA 75-37,125.

This statute provides state agencies and political subdivisions the opportunity to utilize energy performance contracting as a method of making facility improvements. State agencies and political subdivisions are able to make facility improvements by working with an Energy Service Company (ESCO). The ESCO provides an audit of the facility that identifies energy conservation measures, and the savings associated with the improvements. The ESCO then oversees the installation of the improvements selected by the customer.

The statute allows state agencies and political subdivisions to forgo the traditional low-bid contracting process, and exempts projects from the cash-basis law. However, it wisely requires that the improvements pay for themselves within a 30-year period, maintaining a commitment to fiscal responsibility. The 30-year payback period is calculated by dividing the total cost of the project by the annual energy and operational savings.

House Bill 2625 amends the statute to include capital cost avoidance in this payback calculation. The Kansas Corporation Commission (KCC) opposes this inclusion.

Allowing capital cost avoidance will allow virtually any project to be considered in an energy performance contract, even those with negligible energy savings. This bill would allow a customer to claim they have saved money by simply purchasing an item. While purchasing an item today does avoid the need to purchase it tomorrow, this is not a savings.

Below you will find an example of some calculations that illustrate this bill's impact.

Under current statute:

Example 1 – Project Passes

Cooling System Upgrade - \$150,000
Annual savings - \$5,500
Payback (Cost / savings) – 27 years

Example 2 – Project Fails

Boiler Upgrade - \$100,000
Annual Savings - \$3,000
Payback (Cost / Savings) – 33 years

With changes proposed in HB 2625:

Example 1 – Project Passes

Cooling System Upgrade - \$150,000
Annual savings - \$5,500
Avoided Capital Cost – Up to \$150,000
Payback (Cost / savings) – 0 - 27 years

Example 2 – Project Passes

Boiler Upgrade - \$100,000
Annual Savings - \$3,000
Avoided Capital Cost – Up to \$100,000
Payback (Cost / Savings) – 0 - 33 years

Because the full purchase of the items could be considered an avoided cost, the project in example two could show a payback anywhere between zero and thirty-three years. It is unlikely that contractors will show an immediate payback. Instead, they will show a quick enough payback to meet the statutory requirements, and make the customer comfortable with the investment.

It is our belief that House Bill 2625 would allow energy performance contracts to include nearly any construction item, regardless of energy savings. The built-in fiscal responsibility would be eliminated by any project being able to claim enough avoided costs to fit within the 30-year payback requirement.

The Kansas Corporation Commission is committed to improving the FCIP whenever possible and we believe HB 2625 was offered with this same intention. To better address possible changes to the program, the State Energy Office staff, with approval from the Commissioners, will form a working group to address potential changes to the FCIP.

We will work with Energy Service Companies and customer representatives to find the best ways to enhance the FCIP. This will ensure that state agencies and political subdivisions can take the greatest advantage of performance contracting and that taxpayers are getting the greatest value from each tax dollar spent in the program.

**TESTIMONY OF
ASSOCIATED GENERAL CONTRACTORS OF KANSAS
BEFORE HOUSE COMMITTEE ON ENERGY & UTILITIES
HB 2625**

February 10, 2010

By Eric Stafford, Associated General Contractors of Kansas, Inc.

Mister Chairman and members of the committee, my name is Eric Stafford. I am the Director of Government Affairs for the Associated General Contractors of Kansas, Inc. The AGC of Kansas is a trade association representing the commercial building construction industry, including general contractors, subcontractors and suppliers throughout Kansas (with the exception of Johnson and Wyandotte counties).

The AGC of Kansas opposes House Bill 2625 and asks that you do not recommend it favorably for passage.

HB 2625 would significantly expand and alter the intent of K.S.A. 75-37,125 which currently allows for the use of a negotiating committee to enter into a contract through a negotiating committee for “energy conservation measures” which include an energy studies, audits, improvements or equipment designed to provide cost savings.

HB 2625 would allow political subdivisions and state agencies to circumvent the bidding process through the use of a negotiating committee which exists in K.S.A. 75-37,102. AGC feels the improvements listed under the definition of “capital cost avoidance” do not qualify as services or technical products as required in 75-37,102 and that these improvements are significant in nature and should be procured through the low-bid method.

AGC maintains its position that the low-bid procurement method for original construction or repair and maintenance offers the best value for the owner while offering protection for the taxpayer. To allow flexibility for the owner when necessary, AGC has proactively worked with public owners (state agencies, counties and school districts) and the legislature over the past several years to pass legislation authorizing the use of alternative delivery methods in instances where a project is unique in nature or faces a tight schedule.

Again, the AGC of Kansas respectfully requests that you do not recommend HB 2625 favorably for passage. Thank you for your consideration.

HOUSE ENERGY AND UTILITIES
DATE: 2/10/2010
ATTACHMENT 13