Approved: 3/09/2011
Date

MINUTES OF THE HOUSE GOVERNMENT EFFICIENCY COMMITTEE

The meeting was called to order by Representative Mike Burgess, Chair, at 3:30 p.m., February 16, 2011 in Room 546-S of the Capitol.

All members were present except:
Representative Rocky Fund - Excused
Representative John Grange - Excused
Representative Kay Wolf - Excused

Committee staff present:
Julian Efird, Legislative Research
Iraida Orr, Legislative Research
Katherine McBride, Revisor of Statutes
Renae Jefferies, Revisor of Statutes
Linda Herrick, Committee Assistant

Conferees appearing before the Committee:
Jane Carter, Executive Director, Kansas Organization of State Employees
Leonard Gilroy (via Skype), Reason Foundation, CA
Ron Hein, Kansas Restaurant and Hospitality Association
Representative Marvin Kleeb
Jim Mullins, Americans for Prosperity-Kansas
Bill Sneed, University of Kansas Hospital Authority
Written Testimony Only:
Dave Trabert, Kansas Policy Institute, Wichita, KS

Others attending:
(see attached list)

Chair Burgess opened the hearing on **HB 2194 - Creating the council on efficient government; requirements concerning state contractors**, and asked for proponents of the bill. Representative Kleeb was the first proponent giving testimony (Attachment 1) in order to get to another meeting. Renae Jefferies then provided a briefing on the bill.

Mr. Leonard Gilroy, Director of Government Reform, Reason Foundation, California, provided testimony (Attachment 2) via Skype. He referred to government efficiency in Florida, Virginia, and Louisiana. The Chair asked that Mr. Gilroy furnish this information for distribution to the Government Efficiency Committee. Mr. Ron Hein, Hein Law Firm, presented proponent testimony (Attachment 3) on behalf of the Kansas Restaurant and Hospitality Association. Written proponent testimony was furnished by Dave Trabert, Kansas Policy Institute (Attachment 4). Mr. Jim Mullins, Americans for Prosperity-Kansas, suggested some clarifications to the bill, including using full cost accounting (Attachment 5).

Ms. Jane Carter, Kansas Organization of State Employees, provided verbal testimony opposing the bill, noting that privatization will jeopardize the jobs for state employees. Ms. Carter promised to furnish written testimony later (Attachment 6) and at that time, to also provide the committee "The Pew Center on the States Government Performance Project, Grading the States 2008 – Kansas."

Mr. Bill Sneed, representing the University of Kansas Hospital Authority, provided neutral testimony (Attachment 7) and requested the committee to add language to the bill to exempt the University of Kansas Hospital Authority due to the definition of state agency. Chair Burgess thanked all conferees for their testimony.

The hearing on **HB 2158 - State agencies: performance measures** was held yesterday. Chair Burgess asked Renae Jefferies to provide a briefing on the two amendments to the bill. After this, it was moved by Representative Ruiz for favorable passage of the bill with the two amendments. There was a second by Representative DeGraaf, and the committee voted unanimously for favorably passage as amended.

The Chair noted that as there seems to be some confusion between **HB 2120 - Kansas government effectiveness and efficiency commission act** and the bill being heard today, **HB 2194**, it may be that a new title will be needed to differentiate the bills, so action on both will be delayed.

The next meeting is scheduled for February 17, 2011. The meeting was adjourned at 4:50 p.m.

HOUSE GOVERNMENT EFFICIENCY AND FISCAL OVERSIGHT COMMITTEE

GUEST LIST

DATE: 2-16-11

NAME	REPRESENTING
[illegible]	Public Solutions
[illegible]	Capitol Strategies
Melissa Ward	Hein Law Firm
Tara Mays	KDOT
Bill Sneed	UKHA
CHRIS HOWE	ADMIN / PURCHASES
Ivan Williams	Leg. Post Audit
Jane Carter	KOSE

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MARVIN G. KLEEB
48TH DISTRICT

HB2194

Creating the Council on Efficient Government; Requirements Concerning State Contractors.

The goal of the **HB 2194**, The Council on Efficient Government and is two-fold:

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

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

WHAT THE COUNCIL ON EFFICIENT GOVERNMENT DOES NOT DO:

The intent of **HB 2194** through the establishment of the Council on Efficient Government is not to review or recommend divisional or departmental:

1. Restructuring
2. Consolidation
3. Elimination
4. Mergers

WHAT THE COUNCIL IS INTENDED TO DO:

The intent of **HB 2194** is to establish a Council on Efficient Government to:

1. Develop and execute a rigorous systematic process to initiate and review business cases for opportunities to privatize and outsource activities and/or functions that may produce or enhance efficiencies, cost savings and quality outcomes

2. Encourage and enable the private sector to provide "outside" expertise, experience and a fresh consultative approach to the evaluation of opportunities to privatize or outsource

3. Review opportunities for state government to create or enhance further partnerships with non-profit organizations and local governments in the delivery of services.

4. Provide a transparent and easy process for the Executive and Legislative branches of government to review, but not require, the use of Kansas based and most cost effective providers in the vendor selection process

HB 2194 ENACTS PRIOR RECOMMENDATIONS

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 2194 addresses the key recommendations that have been made by these two groups to create a focused special committee to:

1. Establish a systematic process for evaluating privatization opportunities
2. Enable and encourage private-sector involvement, input and expertise in the process

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 2194, also is asking for the Division of Purchasing to assist with the review and evaluation of private contracts and purchasing decisions: a) when the lowest cost bid or option is not chosen; b) when a Kansas business is not selected as the vendor for a particular contract. Last year, it has been determined that the Division of Purchases would have 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.

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 2194

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

Reason

Written Testimony Submitted to the
Kansas House Government Efficiency Committee

February 16, 2011

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Thank you for the opportunity to address the committee this afternoon. 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 become quickly politicized, as they often a 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 2194, 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. The Texas Council on Competitive Government has been a pioneer at taking numerous "shared services outsourcing" concepts—blending consolidation and privatization together, in essence—from concept to contract since its establishment in 1993. 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, and the recently reconstituted board is now back at work.

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, and recent privatization task forces established by New Jersey Gov. Chris Christie and Arizona Gov. Jan Brewer both recommended the adoption of state privatization boards.

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 2194 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.

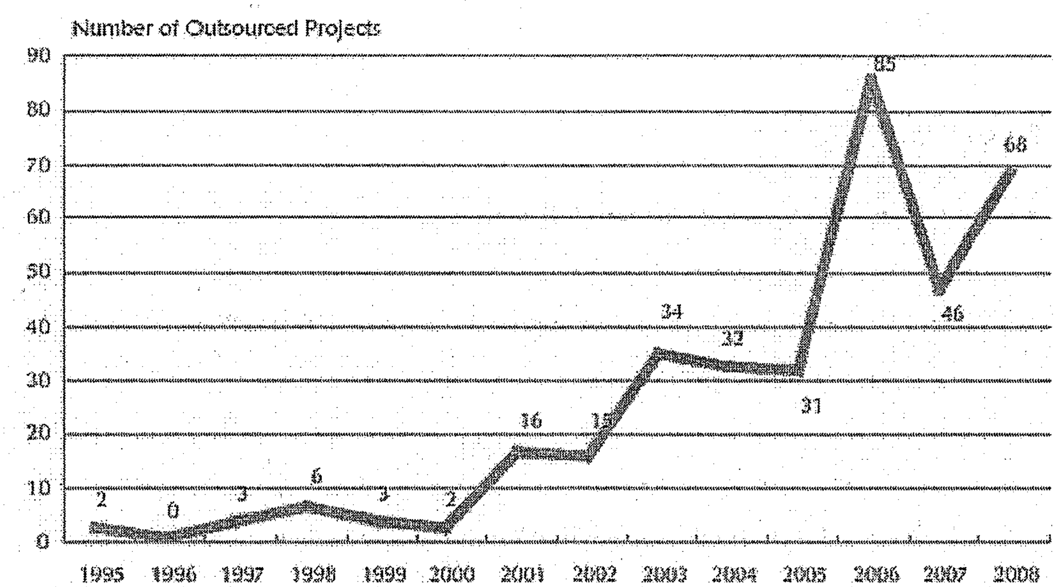
Midway through his term, some of Bush's major privatization successes became overshadowed by the media spotlight on a few major outsourcing projects that experienced difficulties in implementation. Recognizing the need to improve (a) state procurement and (b) the state's ability to monitor the procurements, 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."

Figure 1: Florida State Outsourcing Projects by Fiscal Year, 1995–2008



Note: Outsourced projects are arranged by contract start date. Data for hundreds of DEA projects were excluded to ensure accurate data comparisons against previous year results.

Source: State of Florida, Council on Efficient Government, *2008 Annual Report*.

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:

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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.

Today, the state's first commercial activities inventory is in development, and the newly revamped PPB resumed its regular meetings in 2010.

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 a service 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 2194 would help achieve that.

Under HB 2194, 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 2194 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.

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Testimony Re: HB 2194
House Government Efficiency Committee
Presented by Ronald R. Hein
on behalf of
Kansas Restaurant and Hospitality Association
February 16, 2011

Mr. Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel for the Kansas Restaurant and Hospitality Association (KRHA). The Kansas Restaurant and Hospitality Association, founded in 1929, is the leading business association for restaurants, hotels, motels, country clubs, private clubs and allied business in Kansas. Along with the Kansas Restaurant and Hospitality Association Education Foundation, the association works to represent, educate and promote the rapidly growing industry of hospitality in Kansas.

The KRHA supports HB 2194, and would like to speak especially about the sections of the bill that address government operations which compete with private businesses or private enterprise.

Our Board has specifically addressed the issue whether state or local governments should engage in operations which are traditionally private sector ventures, and also what process should be followed by government when entertaining ventures into traditionally private sector ventures.

KRHA recognizes that government might feel the need to facilitate development of private venture, such as lodging facilities, food service, entertainment, or other traditional private sector ventures, whether to promote tourism and economic development in certain instances, or otherwise.

For purposes of discussing this subject, as it might relate to our industry, I will use, as an example for purposes of my presentation, the government development of lodging facilities, potentially in competition with private business lodging facilities. Currently, the Kansas Department of Wildlife, Parks, and Tourism owns and operates, conceivably in competition with private lodging facilities, publicly owned cabins which are placed in state parks.

So in discussing the broader issue, I will use this example merely for exemplary reasons. This same concept would be applicable to sales of computers, computer services, sales of widgets, or any of a myriad of private business ventures.

So, again, using my lodging facility example, situations can arise where government is trying to promote tourism and economic development, but due to a number of factors, the private sector is not able to facilitate development of the lodging facilities necessary to accomplish those goals. Examples of lodging facilities that might be developed by the government or privately developed on government property include the following: 1) Property around Corps of Engineers lakes is governmentally owned and private acquisition of the land is not permitted by federal law. Development of a lake front lodging facility on a Corps of Engineers lake might require government development at the worst, and government participation, at the least, in order to provide the intended facility. However, in those instances, the government can contract for a long term lease of the land by a private sector entity. 2) A governmental unit might want to attract a lodging facility to a fairground or convention center, or even a state park. Circumstances such as proximity to the convention facilities, safety or other concerns of the surrounding private property, or other circumstances might warrant placing the facility on government property. 3) A community may not have any private entities willing to undertake development of a lodging facility because of economic risk, cost, or other issues, but the governmental unit feels that it is appropriate to develop a lodging facility to benefit the community as a whole and to promote economic development. In all such cases, consideration should be given to the occupancy rates of private facilities within a competitive distance

Along these same lines, sometimes such justifications exist for governmental ownership of private businesses, including government ownership and lease back of property for bond authority to private facilities seeking tax abatements, or other economic development.

On the other side of this argument is the general rule, at least promoted by some, that government should not compete with the private sector.

Development of a governmentally owned private facility or business, whether lodging facility or otherwise, raises issues relating to tax revenue lost, competition with private business, government subsidy of one competing business vs. another, and numerous other philosophical issues.

Government involvement in development of any historically private sector industry, including lodging facilities, should be condoned as a last resort only, if at all. Even with scenarios as described above, governmental involvement should be at the least possible level. The first option should always be to attempt to attract a private sector industry to locate on privately owned real estate to serve the economic development/tourism goal of the governmental unit. If a private facility cannot be located on private property, consideration should be given to contracting for the lodging facility to be developed on government property utilizing an open bid process. The facility should be a private sector operation, paying taxes and being subject to requirements of all other competing facilities.

Statutory procedures should be placed on any governmental unit regarding development of lodging facilities so that private sector facilities shall be the primary solution to meeting the governmental unit's goal, and stair stepping into governmental involvement at the least involved level, as certain criteria are met to protect the interests of competing private sector industries.

Abuses can result when government competes with private sector businesses. When government can compete with private sector, government can also tip the scales in their own favor by making the rules of the game for the state owned businesses more favorable than private business competitors. This unfair competition can include exemption from payment of taxes, such as property taxes, income taxes, sales taxes, transient guest taxes, and other taxes. It can include setting rates that are lower than competitive rates. It can include exemption from other legal prohibitions or requirements, such as the recent exemption of state owned casinos from the smoking ban.

This has caused our association to question why government owned lodging facilities are permitted in the first place, and, if operated by the government, why they are not required to pay taxes and comply with other requirements so that they are not given a competitive advantage over privately owned lodging facilities.

The KRHA acknowledges that situations arise where government is desirous of promoting tourism and economic development, but due to a number of factors, the private sector is not able to facilitate development of the lodging facilities necessary to accomplish those goals.

Governmental involvement in lodging facilities, or any other private sector business, should always be at the least possible level. The first option should always be to attempt to attract a private sector industry to locate on privately owned real estate to serve the economic development and the tourism goal of the governmental unit. If a private facility cannot be located on private property, consideration should be given to contracting for the lodging facility to be developed on government property utilizing an open bid process. The facility should be a private sector operation, paying taxes and being subject to requirements of all other competing facilities. Only when these avenues are not able to be fulfilled by private business should the government consider further remedies, including governmental provision of such private business ventures.

Thank you very much for permitting me to testify, and I will be happy to yield to questions.

Testimony Submitted to House Government Efficiency Committee
HB 2194 Council on Efficient Government

February 16, 2011

Dave Trabert, President, Kansas Policy Institute

Chairman Burgess and Members of the Committee,

It seems there are two fundamental issues to consider with this legislation: (1) whether to form an independent council and (2) if so, the particulars of its membership, governance and duties. My comments today are focused on the necessity for an independent council.

The stated purposes of the Streamlining Government Commission outlined in HB 2194 are *"...(1)To ensure that each state agency focuses on its core mission, and delivers goods and services effectively and efficiently by leveraging resources and contracting with private business suppliers or not-for-profit organizations if those entities can more effectively and efficiently provide such goods and services thereby reducing the cost of government while expanding those services to the greatest number of citizens; (2) to develop a comprehensive and detailed process to analyze opportunities to improve the efficiency, cost-effectiveness and quality of state governmental services, operations, functions and activities; and (3) to evaluate for feasibility, cost-effectiveness and efficiency, business cases that potentially could be outsourced and make recommendations to state agencies prior to the outsourcing of goods or services.."*

Each stated purpose is an essential element of developing and maintaining efficient operations and collectively they serve an even greater purpose, which is to help create an environment that maximizes the potential for private sector job creation.

As noted in Governor Brownback's Economic Development Strategic Plan, *"The state government has two fundamental roles to play in the process of economic development. First, it must establish a business environment that motivates as much risk-taking and competition as possible in the context of a "level playing field." Second, it must steward taxpayer resources in the most effective manner possible; when the government strives to do its job well with as few resources as possible it leaves more resources available for risk-taking and competition."*

We concur with that policy statement. Keeping tax burdens low is essential to encourage risk-taking and job creation. Individual taxpayers and employers have finite resources; spending more money on, say, a new car, means they must reallocate their resources and spend less on something else. The same applies to taxes; the more taxpayers must pay in taxes, the less they have to spend on goods and services. In order to maximize economic activity and encourage risk-taking, it's therefore extremely important that taxes be kept low and that state and local tax burdens are competitive with other states.

Kansas Policy Institute compared how the ten states with the lowest combined state and local tax burdens compared to the ten with the highest burdens on several key performance measures. We used the tax burden rankings from the non-partisan Tax Foundation, which used Fiscal 2008 data for their comparisons, the most recent nationwide data available when the study was published earlier last year.

We first looked at 10-year private sector job growth rates between 1998 and 2008 (we chose that time frame because Kansas' private sector employment peaked in April, 2008) and found that the low-burden states had remarkably better performance. We continued to track each group's progress over the next two years to see how the recession impacted their continuing performance.

Table 1: Private Sector Job Growth

State / Local Tax Burden Rank	1998-2008	1998-2010
10 lowest burden states(41-50)	16.5%	9.5%
10 highest burden states (1-10)	6.1%	-0.7%
National average	7.8%	1.2%
Kansas (21)	5.2%	-0.6%

Source: Tax Foundation, U.S. Dept. of Labor, Bureau of Labor Statistics.

The low-burden group of states was well above the national average and outperformed the high-burden group many times over. It's particularly interesting that the low-burden group is weathering the recession much better. In the 1998-08 time frame, the low-burden group outperformed the high-burden group by a factor of 2.7:1 (16.5% compared to 6.1%); a year later, they outperformed them by a factor of 13.6:1. Every state was affected by the recession, but private sector employment in the lowest-burden states is still well better than it was ten years ago – a claim that higher burden states (and Kansas) cannot make.

Next we looked at population change, since having a broad and expanding tax base is critical to keeping tax burdens low. We specifically looked at net domestic migration – U.S. residents moving into and out of states – between 2000 and 2009, with the net change measured as a percentage of current population.

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Table 2: Domestic Migration	
State / Local Tax Burden Rank	2000-2009
10 lowest burden states(41-50)	3.8%
low burden states w/o Louisiana	5.0%
10 highest burden states (1-10)	-3.3%
National average	0.0%
Kansas (21)	-2.5%

Source: Tax Foundation; U.S. Census Bureau.

Again, the low-burden states were the big winners. The ten states with the lowest state and local tax burden averaged a 3.8% gain from domestic migration; that includes Louisiana, which suffered significant population loss following Hurricane Katrina. Excluding Louisiana, the other nine states averaged a 5.0% gain. The ten states with the highest combined tax burden all had net losses, averaging a 3.3% decline. 2009 was the 11th consecutive year that Kansas lost population due to domestic migration.

Both performance comparisons (private sector job growth and domestic migration) make perfect sense. Given the means and opportunity, we all tend to gravitate toward what we perceive to be the best 'deal.' Human and financial capital is no different; it will go where it is treated the best. People want to retain more of their earnings and states with the lowest state and local tax burdens let them keep more of their hard-earned money and employers have more resources available for risk-taking and competition.

The Tax Foundation doesn't put Kansas in the ten highest or lowest rankings, listing it as having the 21st highest state and local tax burden in the country. Kansas is likely moving closer to having one of the highest tax burdens, however, as the rankings don't include any changes enacted since FY 2008. This year alone, Kansans are paying nearly $500 million more in sales tax, unemployment tax and property tax, and Kansas was the only state in the region that balanced its FY 2011 budget with a large tax increase. Given recent tax increases and recession-related income declines, it would not be surprising to find Kansas among the 20 highest tax burdens in the country when the full impact of these changes are considered.

Kansas has an uncompetitive tax burden and it must be reduced in order to encourage job creation and attract new residents. Reducing the tax burden means we must reduce spending, so the question we must ask is whether the hard choices required to do so will take place without independent, outside review. Experience says not.

- Between FY 2000 and FY 2009, State General Fund (SGF) spending increased 39% and All Funds spending increased 66%.

- At the same time, inflation increased just 21% and population only increased by 5%.

- If SGF spending had increased 4.5% annually between FY 2005 and FY 2010, we would have begun FY 2011 with a $2.6 billion surplus in the general fund.
- Overtime paid to state employees totaled $10.2 million in calendar 2010, an increase of 10.4% over 2009.
- Millions of dollars are spent each year on travel to conferences, organization dues and other non-essential items.

Have most agencies come before Appropriations in recent years saying they could operate on less money, or do most ask for ever-increasing funds? How many programs have agencies recommended be terminated for having run their course?

Most people would likely agree that every aspect of government should function as efficiently as possible. It's in determining the necessity of certain expenditures where differences of opinion arise. Some people may view a particular expenditure as unnecessary to the fulfillment of a program's or an agency's primary mission while others may see it as essential. Absent an independent review, we are expecting government employees to put their own self-interests aside and make completely unbiased decisions on how best to spend taxpayer funds. It's not that government employees are intentionally wasteful; it's that they are human beings and setting self-interests aside is challenge we all face.

Operating efficiently is also more challenging for employees and managers who have spent many years in the same company or agency. Even people who have made conscious efforts to control costs can easily overlook opportunities because they've been working in the same environment for so long that many assumptions of how things must be done become 'baked in' to their thinking. I've personally experienced this as the beneficiary of independent reviews as well as having conducted many such reviews.

Current and future taxpayers can only benefit from having an independent panel to find ways to reduce the cost of government. We believe the formation of such a panel is essential to creating a pro-growth economic environment and encourage the Committee to do so.

AMERICANS FOR PROSPERITY
KANSAS

February 16, 2011

House Bill 2194
House Government Efficiency Committee

Mr. Chairman and members of the committee,

My name is Jim Mullins and I am a Field Director for Americans for Prosperity of Kansas. I'm appearing today in support of HB 2194. Most of my work is educating and informing citizens and AFP members about how the government works or doesn't work for them. I believe that the fiduciary duty is the highest calling of elected officials and too many forget that after they are elected.

Before I was employed by AFP Kansas, I was the owner of a manufacturing representative business for almost 30 years. But for the ten years previous to starting my own business I performed as a turnaround specialist for three different companies. I learned how to find rat holes that were eating money for these businesses and make them profitable. As a result of that experience and from 1996 to 2007 I sold office equipment to businesses and the State of Kansas. I learned intimately how the state of Kansas bought and sold equipment and services. It hasn't changed since then and House Bill 2194 is a good start but does not go far enough. Here is how I believe it needs to be changed for the better.

An outstanding quote from the former Democratic Governor of New York, Mario Cuomo has stated, "It is not a government's obligation to provide services, but to see that they are provided."

Section 1 I believe that we should make the bill include all political sub divisions such as the counties, cities, and school districts, etc. Remember, collectively, they spend three times as much money for goods and services as the state.

Section 1 line 26 this should be the goal/mission of the bill.

Section 1 line 32 also see Section 7 The bill should spell out what the process is and how it should function and not leave it up to council members and bureaucrats. Here is an example:

<u>Prepare a Case Evaluation</u>

A case evaluation provides guidance in the process of determining if a project should be implemented. It is a continuous undertaking that moves within the political and management guidelines. The prime elements of a case evaluation are as follows:

Benchmarking: Determining the capital and operating costs of the service as it is currently performed using <u>full-cost-accounting</u>. Full-cost-accounting provides the basis for comparing costs with those in the private sector and assisting in the decision-making process for privatization. A few years ago a private company performed a performance review for the state of Oklahoma and determined what the true (full) cost of providing services really costs not just the budget numbers.

Rationale: Stating the reasons why privatization is being considered, such as oppressive costs.

Assumptions and methodology: Outlining the assumptions being used and explaining the methodology used to make cost comparisons and quality evaluations.

Success factors: Creating success factors that are measurable and tangible.

Transitions management: Determining whether there will be a need to change management structures or personnel.

Recommendation: Presenting the privatization proposal and identifying all costs (such as savings, cost avoidance, income from the sale of assets and new expenses), a timeline for implementation.

Following these steps the governing body (council) should make a decision whether or not the case evaluation has proven the case for privatization.

Section 5 sub section (5) all agencies should be required to submit an inventory every year of either inherently governmental or commercial activities that should be outsourced. The FAIR Act of 1998 for the federal government makes the agencies perform an inventory every year on whether or not the functions and locations of the agencies are inherently governmental or commercial. If it is commercial then the "Yellow Page" test should apply. You can go on-line and see the latest inventory in an Access database and search by agency, location, function, etc. We should do no less.

Section 5 sub section (7) Are the recommendations binding? If not put some teeth in the bill as I know many state agencies will not comply with a recommendation.

Section 5 general- I don't see anything so far that gives the council teeth. The way that I read is that all the power to change resides with the legislature as the council will be making reports on their activities and results.

Section 6- is the legislative post audit people going to be available to audit the outcomes of privatization or provide assistance.

Section 8-Make sure they are measuring outputs and not inputs. Example: Don't tell us how many people it takes to mop the floor. Tell us how clean you want it.

Section 11 Line 18-The council should approve this as well as the division of purchasing.

Section 12-the regents institutions should be included as the purchasing functions at these places have grown out of sight over the last 10-15 years. Most of their purchasing functions can and should be performed by the Division of Purchasing.

Questions: What happens if a state agency doesn't want to or doesn't submit an inventory? Another big problem is the agencies using single source contracts for purchasing or privatization. What is to stop them from this? PPP (Public Private Partnerships) can get out of hand if not handled correctly. This bill doesn't mention them as far as I know. Some additional challenges are job loss for state employees, cost of managing contracts including quality check and audit of performance, and potential for favoritism or bias in award of contracts. I am excited about the state considering a bill that will slow down and reduce the size and scope of the governmental functions as currently performed.

Thank you for your time and consideration.

Jim Mullins
Americans For Prosperity Kansas
785.354.4237

Kansas Organization of State Employees, AFT, AFSCME, AFL-CIO

KOSE

A New Day... A Better Way... For State Employees

Testimony before the
Government Efficiency and Fiscal Oversight Committee
On
HB 2194
By
Jane Carter, Executive Director
Kansas Organization of State Employees
February 16, 2011

Mr. Chairman and members of the committee:

My name is Jane Carter and I am the Executive Director of the Kansas Organization of State Employees (KOSE) representing 11,000 state employees of the executive branch.

First, I want to sincerely thank this committee for allowing me to testify impromptu on the day of February 16, 2011. I want to thank the chairman specifically for allowing me time to speak on behalf of state workers who are taxpayers and concerned citizens with families.

To be as clear as possible, HB 2194 is an outsourcing bill that jeopardizes the jobs for thousands of state employees and does nothing for the tax payer but place a "for sale" sign on our state government. It is an outsourcing bill because it tells state workers that their jobs and commitments to this state are not as sacred as the profit of private contractors. This government must not be sold to the highest bidder to become an inferior product that will cost taxpayers more over both the short and long term.

This bill, HB 2194, will shortcut the accountability of the taxpayer and of this very legislative body. It has the potential to take away the governmental oversight crucial to promoting the quality of services our state workers provide such as corrections, highway maintenance, direct care for the disabled, social services, child protective services, and the list goes on.

I will now provided this committee with examples to demonstrate the additional costs both monetarily and socially should any of our current state services be outsourced and/or privatized:

1. In New Mexico, state consultants concluded in a 500-page report that Wackenhut (private prison) was partially at fault for a riot. About 120 inmates at a Wackenhut facility initially participated in the riot, but it quickly spread to include about 400 inmates. The riot left 13 Corrections Officers (COs) injured and an inmate and a guard were killed. Two of the injured COs were state corrections officers who were at the prison to provide training. The consultants blamed the state for placing violent gang criminals in the company's medium-security prison, but they also denounced Wackenhut for lack of staffing, inexperienced supervisors, low pay and high turnover. The CO who was killed was making only $7.98 an hour. Low wages and benefits paid by for-profit corrections firms can attract workers who would not be qualified to work in a public correctional setting[i].

House Government Efficiency
Date: 2-16-2011
Attachment: 6-1

2. In Texas, Wackenhut lost a $12 million annual contract and was fined $625,000 for not abiding by the contract to run a state prison. The company did not have the minimum number of guards required in the contract[ii].

3. In Louisiana Wackenhut surrendered control of its juvenile prison in Jena, La., a week after the U.S. Justice Department accused the company in a lawsuit of beating boys, using tear gas indoors, spraying the boys in the face with pepper spray and not providing adequate education and counseling. The state seized control of the prison in the midst of negotiations to settle civil-rights lawsuits targeting the Jena facility and four other juvenile prisons, including one in Baton Rouge. The state and Wackenhut agreed to enact sweeping reforms at the Jena center in a temporary settlement of the suits.[iii]

4. As Wackenhut tried to sell Hernando County, Florida, on its latest project, two county commissioners are investigating whether Wackenhut and other private prison companies have balked at paying promised property taxes once they settled into a community.[iv]

5. Illinois began contracting with small, primarily non-profit agencies (many connected to churches) to provide foster care services, in theory until adoptions could be arranged. State audits and a *Chicago Tribune* investigation turned up a broad array of abuses in many group homes. Case in point, a set of homes run or overseen by the Reverend William Rucker and his wife, Miavria. Starting in 1994, their agency placed children referred by the state into various foster care settings. In 1998, the state removed the last of these children, amid auditors' findings of $3.4 million in unexplained or improper spending[v].

With no holds barred, the list of misconduct, inefficiencies, and waste regarding privatization schemes goes on and on and these examples are just some of the most blatant demonstrations of waste, fraud, and abuse I could find with a simple search of "privatization" and "outsourcing."

As for any cost savings in regard to private prisons specifically, please know that government costs are averages that include maximum-and medium-security inmates and only 2 percent of the inmate population in for-profit prisons are maximum-security inmates and Kansas has two maximum security prisons alone.

I must ask this committee to not forfeit its right to regulate and oversee the important services of state government which every single Kansan depends on and expects to be delivered in a superior and efficient manner. Under private ownership, our services and their delivery will be masked in shadow because we all know that once a service has been privatized it is no longer subjected to the public domain and no legislature or state agency will have access to the books of a private contractor.

In closing, this committee must realize that that these services are in no way quaint and the amount of damage that privatization and outsourcing can do to our communities will have dire consequences which cannot be easily undone. Workers will lose jobs, communities will lose neighbors, schools will lose children, churches will lose congregants, and taxpayer dollars will be squandered. Please reject HB 2194.

Thank you for your time and consideration.

[i] (*Albuquerque Journal*; *Miami Herald*)
[ii] (*Miami Herald*)
[iii] (*Capital City Press*; *Sunday Advocate*; *Sunday Metro Edition*; *Baton Rouge*, La.)
[iv] (*St. Petersburg Times*; *Hernando Times*)
[v] (*Chicago Tribune*)

For almost a decade, the Pew Center on the States, Governing Magazine and a group of academic experts have collaborated on this project to assess the quality of management in state government.

CHARTING THE COURSE FOR EXCELLENCE IN GOVERNMENT PERFORMANCE

Kansas

B-

Amid growing concerns among Americans about job stability, health care and education, there is a new demand for government to work better and cost less. Innovative solutions, particularly at the state level, are driving reform and progress. For Kansas to make significant management gains, the state needs to find a better balance between centralized control and agency flexibility.

In some areas, such as transportation planning, the legislative and executive branches have disagreed on how to adapt to diverse and changing needs. In other areas, such as workforce planning, strategic planning and asset management, resistance to consolidating some functions has kept the state from making far-reaching improvements.

Executive Summary

The Kansas Legislature is considering a comprehensive pay plan overhaul that would increase the focus on employees' performance and bring salaries more in line with the market—an important step for a state with acute employee-retention challenges. Hiring already is improving. Agencies now lead recruitment and hiring efforts, which has sped up the process. Individualized recruitment campaigns are helping the state target key candidate groups. The state has implemented a branding campaign called "Making Big Things Happen."

Kansas does not have a formal statewide strategic plan, though the governor's budget helps set a strategic direction. Governor Kathleen Sebelius outlines her priorities and performance measures and, where possible, includes progress toward achieving results in the budget document. Agencies must submit their own strategic plans along with their biennial budget requests.

The Legislative Division of Post Audit's performance audit function has improved in recent years, with more ambitious audits and increased cost-analysis capabilities aiding the division's efforts. The public can easily access key government services on the state's Web site, and credible information about the performance of key state programs is readily available.

TAKING ACTION

Key Recommendations

The Government Performance Project's team of management analysts offers the following suggestions. State policy makers and business leaders may wish to consider:

People

- Developing a statewide workforce plan that includes training and development
- Implementing a competency management system
- Developing an online job application feature and an e-recruitment and selection system to help increase the number of applications per job opening

Information

- Focusing on strategic planning at the statewide and agency levels
- Ensuring that plans look beyond the current budget cycle and incorporate performance measures that will help assess progress in achieving statewide and agency goals
- Updating and improving coordination among information technology systems

Money

- Continuing to strengthen the pension system
- Expanding opportunities for citizen input in the budget process
- Advancing the creation and use of cost data across branches of government to strengthen performance

Kansas faces significant fiscal challenges, including a $5.4 billion pension liability that is proportionally one of the nation's largest such obligations. In addition, an education funding settlement is applying fiscal pressure, and in order to meet that obligation, the state is currently spending down its ending balance from the past fiscal year. At the insistence of the Kansas Supreme Court, the legislature increased education funding by $194.5 million in school year 2006-2007, $149 million in school year 2007-2008 and $122.7 million in school year 2008-2009. The state relies on conservative revenue estimates and large year-end balances in lieu of a rainy-day fund.

Kansas does not calculate the accumulated value of deferred maintenance and lacks a statewide capital plan for general infrastructure. Instead, it relies on five-year agency plans. A legislatively mandated ten-year Comprehensive Transportation Program has reduced the policy flexibility of the Department of Transportation. A fixed ten-year list of projects contained in legislation limits resources and inhibits the department's ability to address major changes in infrastructure needs.

TAKING ACTION

Key Recommendations (continued)

Infrastructure

- Linking funding for infrastructure maintenance to the information collected by condition assessments for general infrastructure and transportation infrastructure
- Prioritizing funding of maintenance and calculating deferred maintenance
- Reviewing the transportation planning process to encourage periodic updates
- Developing a statewide capital plan that prioritizes agency five-year capital plans

THE PEW CENTER ON THE STATES' Government Performance Project

The Pew Charitable Trusts applies the power of knowledge to solve today's most challenging problems. **Pew's Center on the States** identifies and advances effective policy approaches to critical issues facing states.

The mission of the **Government Performance Project**, an initiative of the Pew Center on the States, is to improve service to the public by strengthening government policy and performance. The Project evaluates how well states manage employees, budgets and finance, information and infrastructure. A focus on these critical areas helps ensure that states' policy decisions and practices actually deliver their intended outcomes.
www.pewcenteronthestates.org

PEOPLE

C+

Strategic Workforce Planning

The state has no workforce plan or human capital plan, though data are compiled into an annual statewide workforce report. The central human resources (HR) agency uses this report to identify areas of high turnover where it could assist agencies with recruiting. HR also provides statistical analyses to agencies to support workforce planning efforts and consults with agencies in developing or updating workforce plans, which exist in most midsized and larger agencies.

The state's HR management information technology system is better than average, offering such components as compensation management, demographics, job classifications, performance management and recruitment. Kansas does not have a competency management system.

Hiring

Agencies are responsible for their own hiring, and the state doesn't track the percentage of acceptances. Although time-to-hire is well below the national average, Kansas also receives fewer applications per classified job opening than other states. The state has worked well with agencies to identify successful employees and develop recruiting strategies and interview questions designed to attract those with similar traits. As in most states, nurses and some "skilled trades" tend to be the most difficult positions to fill, and Kansas does not offer referral or signing bonuses. Fewer new hires are fired during their probationary period than the national average, but more new hires than average quit during that same period.

Kansas has a decent e-recruitment system but lacks an online application feature. The state has strong feeder programs. College sophomores majoring in engineering are eligible for tuition assistance from the Department of Transportation, and Child Protective Services has instituted a paid practicum for social workers. Kansas officials believe a pending pay-plan reform would improve its ability to recruit talented employees. The plan awaits legislative approval and funding.

PERFORMANCE

mid-level	Strategic Workforce Planning
mid-level	Hiring
weakness	Retaining Employees
mid-level	Training and Development
mid-level	Managing Employee Performance

○ weakness ◍ mid-level ● strength

TAKING ACTION

Suggestions that state policy makers and business leaders may wish to consider:

- Developing a statewide workforce plan that includes training and development
- Implementing a competency management system
- Developing an online job-application feature and an e-recruitment and selection system to help increase the number of applications per job opening

Retaining Employees

The pay plan would likely boost retention as well, as pay compression has become severe. Voluntary turnover is above the national average for classified employees, and overall voluntary turnover has been increasing.

The total average compensation is well below the national average, and employees use more annual leave and sick leave than average. Employee benefits per dollar of salary are the worst in the nation. On the plus side, grievances and appeals per 1,000 employees are well below the national average, and discrimination charges are almost nonexistent.

Training and Development

The quality of Kansas agencies' training varies. The state does not track overall training data. A cross-agency Statewide Training Action Team regularly meets to share innovations, but Kansas lacks a statewide training and development plan, as do the agencies surveyed.

A new pay plan would streamline the state's grade-classification system and build career paths through which employees could gain raises without becoming supervisors. The statewide promotion rate is among the nation's highest. Agencies have leadership programs tied to succession planning, and a partnership with the University of Kansas provides other opportunities. Mentoring and cross-team training help to ensure the knowledge is retained when employees leave.

Managing Employee Performance

The pay-plan overhaul would provide Kansas with a better way to reward top performers, though the performance review system may need to follow a more standardized model and be applied regularly. Currently, appraisals are not always conducted on time, and the review process is not well enforced.

Awards of up to $1,000 are given for exceptional performance and separately for innovations that are implemented, but only 1 percent of employees receive such bonuses. The employee suggestion program offers no such rewards and is used infrequently. Agency surveys are common, and Kansas has used them in drawing up the pay-plan redesign. The state's discipline and termination policy appears to work efficiently and effectively.

PEOPLE

Perspectives on this area of state performance:

People form the living core of any organization.

To assess state performance in the People category, the Government Performance Project team examined how well a state manages its employees. Among many other factors, the team reviewed how states hire, retain, develop and reward high-performing employees.

Given the challenges of an aging workforce, new expectations of younger workers and competition for top performers with the private and nonprofit sectors, the ways in which a state conducts business in this crucial area are vital to its ability to serve the public.

Grades in the People category ranged from A in Virginia to D in New Hampshire and Rhode Island. The national average among the 50 states for the People category was C+, and ten states received that grade. Twenty-three states earned grades above the national average (grades of B- and above), and 17 states received grades below the national average (C and below).

A number of promising new practices in recruitment strategies and leadership development emerged from this year's study. The Project will provide additional detail on these practices in the coming months.

INFORMATION

B

Strategic Direction

Kansas does not have a statewide strategic plan, though the governor's budget helps set a strategic direction. The governor outlines her priorities and includes performance measures and, where possible, progress toward them. Agencies must submit their own strategic plans along with their biennial budget requests.

The state information technology (IT) plan does not include performance information and is not comprehensive, focusing mostly on e-government. Kansas has a "federated" model for IT governance in which a multiagency Information Technology Executive Council (ITEC) sets policy based on direction from the governor and legislature. State managers report that this environment invites discussion of important issues and provides a forum to sort through competing IT interests.

Budgeting for Performance

Kansas produces a fair amount of performance and cost information through the governor's budget and agency performance reports, though the quality of these reports varies. The Division of Budget requires agencies to submit both outcome and output measures with their requests and explain how funding changes relate to performance.

The most pertinent performance information is included in the governor's budget and includes such policy areas as transportation, education and health care, which account for most state spending. The governor's budget lacks outcome data on several major policy areas, including public safety and the environment, however.

Managing for Performance

The three branches of government are jointly planning new data centers and disaster recovery initiatives, but structural barriers to cooperation and information sharing exist, and some information systems are incapable of communicating and sharing data. Although software upgrades have begun to advance, many agencies still use legacy systems. Governor Sebelius is said to have a greater interest in helping state government function day to day than recent predecessors and has fostered cross-agency collaboration in particular sectors, such as water policy and training for state personnel.

PERFORMANCE

mid-level	Strategic Direction
mid-level	Budgeting for Performance
mid-level	Managing for Performance
strength	Performance Auditing and Evaluation
strength	Online Services and Information

weakness · mid-level · strength

TAKING ACTION

Suggestions that state policy makers and business leaders may wish to consider:

- Focusing on strategic planning at the statewide and agency levels
- Ensuring that plans look beyond the current budget cycle and incorporate performance measures that will help assess progress in achieving statewide and agency goals
- Updating and improving coordination among information technology systems

Performance Auditing and Evaluation

The Division of Legislative Post Audit produces high-quality performance audits that cover programs that affect a large percent of Kansas residents. Although small, the division has controls in place to ensure valid and reliable results and recently added a specialist in data mining and analysis who has enabled the office to perform more complex audits.

Several new staff have launched a massive cost study of education and will continue to focus on education issues.

Online Services and Information

Citizens can easily perform many transactions from the state's Web site, including renewing vehicle and boat registrations, filing income taxes, applying for unemployment and Medicaid benefits, locating unclaimed property and filing insurance complaints.

Performance information is available for schools, as is graduation information for higher education. Residents may sign up for an interactive homework help service.

INFORMATION

Perspectives on this area of state performance:

Advances in information technology offer the promise of propelling every organization toward greater efficiency and accomplishment. Growing demands for public-sector transparency and for 24/7 public access to services are spurring a new level of creativity in meeting citizens' needs and improving internal business processes.

To evaluate performance in the Information category, the Government Performance Project examined how well state officials deploy technology and the information it produces to measure the effectiveness and results of state programs, make budget and other management decisions and communicate with one another and the public.

Grades in the Information category ranged from A in five states (Michigan, Missouri, Utah, Virginia and Washington) to D+ in New Hampshire and South Dakota. The national average among the 50 states for the Information category was B-, and 13 states received that grade. Fifteen states earned grades above the national average (grades of B and above), and 22 states received grades below the national average (C+ and below).

The study uncovered a number of promising new practices that are engaging the public, streamlining business processes, and improving the quality and utility of the information upon which state leaders rely to make policy and program decisions. The Project will provide additional detail on these practices in the coming months.

MONEY

B-

Long-Term Outlook

Kansas faces significant fiscal challenges, including a $5.4 billion pension liability that is proportionally one of the largest in the country. However, the state has implemented a long-term plan to fund the employee retirement system fully. The plan will draw from a $500 million bond issue and higher payroll contributions for employees hired on or after July 1, 2009. Moody's bond rating service downgraded the state's bond rating in October 2006 but now rates Kansas as stable after the resolution of an education-related lawsuit.

The consensus forecasting process in Kansas appears to work well. Representatives from three agencies and three universities meet twice each year, and the group publishes its estimate, which binds the budget. The state also forecasts a range of expenditures, going into great detail for the first two years and somewhat less detail over five years for large and ongoing programs. The Division of the Budget and the Department of Revenue consult with other agencies to write fiscal notes for all tax and spending bills. Kansas only uses debt for capital projects and specific operational functions.

Budget Process

Kansas typically passes its budget well before the deadline through a straightforward, efficient process. Agencies are asked to provide performance measures, and the governor and legislature review them in formulating the budget. A readable synopsis of the budget is available online during budget deliberations.

Structural Balance

The education funding settlement is putting fiscal pressure on the state, which is spending down the ending balance from the past fiscal year to meet this obligation. Kansas has a well-balanced revenue structure, and though it lacks a rainy-day fund, it uses large ending balances as a countercyclical planning device. Income and sales taxes bring in most of the revenue, while current resources were equal or close to twice the debt from 2004 to 2006.

PERFORMANCE

- Long-Term Outlook — mid-level
- Budget Process — mid-level
- Structural Balance — mid-level
- Contracting/Purchasing — mid-level
- Financial Controls/Reporting — mid-level

○ weakness ◍ mid-level ● strength

TAKING ACTION

Suggestions that state policy makers and business leaders may wish to consider:

- Continuing to strengthen the pension system
- Expanding opportunities for citizen input in the budget process
- Advancing the creation and use of cost data across branches of government to strengthen performance

6-10

Contracting/Purchasing

Kansas disperses contracting and purchasing responsibilities to various agencies, which conduct about 40 percent of service contracting; the remainder is conducted by central purchasing. Fewer than 25 percent of transactions are conducted electronically, with only a handful of the most commonly supported online activities offered in the state. An incentive program enables agencies to keep one-half of the savings that result from under-spending.

Financial Controls/Reporting

From 2004 to 2006, Kansas prepared its Comprehensive Annual Financial Reports in a timely manner and in accordance with generally accepted accounting principles. The reports received unqualified opinions all three years. The 2006 single audit received a clean opinion on the financial statements. The executive budget office and legislature use cost analysis on a limited basis, while certain agencies use it more actively.

MONEY

Perspectives on this area of state performance:

Having adequate financial resources and managing them well allows states to turn policies into results that matter for people. A state's fiscal systems are especially important in navigating today's uncertain economic climate.

To gauge how well a state is functioning in the Money category, the Government Performance Project evaluated the degree to which a state takes a long-term perspective on fiscal matters, the timeliness and transparency of the budget process, the balance between revenues and expenditures, and the effectiveness of a state's contracting, purchasing, financial controls and reporting mechanisms.

Grades in the Money category ranged from A in Utah to D+ in California and Rhode Island. The national average among the 50 states for the Money category was B-, and ten states received that grade. Twenty states earned grades above the national average (grades of B and above), and 20 states received grades below the national average (C+ and below).

Transparent financial transactions and unfettered public access to fiscal information have become two of the leading indicators of a state that is functioning well in this area. Several promising new practices in real-time tracking of statewide expenditures and budgeting decisions, as well as joint executive and legislative revenue forecasting approaches, are highlighted in this year's study. The Project will provide additional detail on these practices in the coming months.

INFRASTRUCTURE

C+

Capital Planning

The Kansas Department of Transportation (KDOT) has a ten-year Comprehensive Transportation Program. But the legislature has reduced the agency's flexibility by adopting a fixed ten-year list of projects. This limits resources and inhibits the department's ability to address major changes in infrastructure needs.

Kansas has no statewide capital plan, and though agencies have five-year plans, the state has unreliable information on the condition of some of its facilities. The Department of Corrections has no such plan but does analyze capacity needs based on demographic trends. The budget office prioritizes projects and appears to communicate well with legislators. Agencies must submit capital improvement plans to the state building advisory commission, the budget division and the Joint Committee on State Building Construction. Existing maintenance tends to take priority over new construction. Although required in budget instructions, only some operations and maintenance costs are taken into account.

Project Monitoring

The state monitors its core buildings with weekly status reports for quality and monthly reports for cost overruns, delays, efficiency and safety. Non-core buildings receive less regular attention. Contractors take one day to address safety issues, one week for poor quality, two to three weeks for delays, one to two months for inefficiencies and three to six months for cost overruns.

KDOT rigorously tracks individual activities, sets milestones and holds monthly production control meetings where projects that have missed deadlines are scrutinized and corrective actions are taken. An increased focus on performance measurement—along with better technology and new engineering approaches for some activities—have helped keep projects on time and within budget. Contractors must update their project schedules regularly, receiving one day to correct poor quality or safety problems and one week on inefficiencies, cost overruns or delays.

PERFORMANCE

mid-level	Capital Planning
mid-level	Project Monitoring
weakness	Maintenance
mid-level	Internal Coordination
mid-level	Intergovernmental Coordination

○ weakness ◍ mid-level ● strength

TAKING ACTION

Suggestions that state policy makers and business leaders may wish to consider:

- Linking funding for infrastructure maintenance to the information collected by condition assessments for general infrastructure and transportation infrastructure
- Prioritizing funding of maintenance and calculating deferred maintenance
- Reviewing the transportation planning process to encourage periodic updates
- Developing a statewide capital plan that prioritizes agency five-year capital plans

Maintenance

Kansas fails to fund maintenance at an adequate level. It is unclear the extent to which the Division of Facilities Management actively assists agencies in assessing building conditions. Core buildings have reliable annual condition assessments that help set priorities, but that process is decentralized and less consistent across the state. Kansas does not calculate the accumulated value of deferred maintenance.

Internal Coordination

The Budget Office and the legislative building construction committee review agency five-year plans to create the capital budget based on recommendations from the building advisory commission. The Division of Facilities Management helps agencies with design and construction-related services, property leasing and building management, while maintaining a database of leased property and providing space inventory reports. KDOT coordinates with other state agencies, metropolitan planning organizations and local governments.

Intergovernmental Coordination

Kansas holds regular meetings with key stakeholders to ensure cross-state coordination on capital projects. As laid out in its Long Range Transportation Plan, KDOT has made a conscious effort to spend more time with city and county governments as well as other stakeholders to better communicate prior to making project-related decisions.

KDOT's partnership project with local governments helps establish performance measures, communicate among entities, and attain environmental clearances, among other activities.

INFRASTRUCTURE

Perspectives on this area of state performance:

A state's capital assets are the literal crossroads of the effects of the other three categories—People, Information and Money.

Incidents such as the Minneapolis bridge collapse and the levee failures in New Orleans after Hurricane Katrina prove that few functions of state government—in partnership with the federal government and other jurisdictions—have a greater impact on people's daily lives than maintaining and securing the state's infrastructure.

To assess how well a state is managing its roads, bridges and buildings, the Government Performance Project team factored the degree to which a state has transparent and effective capital planning and project monitoring processes, maintains its assets and coordinates this work within the state and with other jurisdictions.

Grades in the Infrastructure category ranged from A in Utah to D+ in Massachusetts and New Hampshire. The national average among the 50 states for the Infrastructure category was B-, and ten states received that grade. Seventeen states earned grades above the national average (grades of B and above), and 23 states received grades below the national average (C+ and below).

In assessing how states select, prioritize, monitor and maintain their infrastructure projects over the long term, the Project found a variety of laudable practices. The Project will provide additional detail on these practices in the coming months.

STATE	OVERALL PERFORMANCE GRADES
Utah Virginia Washington	A-
Delaware Georgia Michigan Missouri Texas	B+
Indiana Iowa Louisiana Maryland Nebraska	B
Arizona Connecticut Florida Idaho **KANSAS** Kentucky Minnesota New Mexico New York North Carolina North Dakota Ohio Pennsylvania South Carolina Tennessee Vermont Wisconsin Wyoming	B- — NATIONAL AVERAGE
Alabama Colorado Hawaii Mississippi Montana Nevada Oklahoma Oregon South Dakota West Virginia	C+
Alaska Arkansas California Illinois Maine Massachusetts New Jersey	C
Rhode Island	C-
New Hampshire	D+

	D	D+	C-	C	C+	B-	B	B+	A-	A
NATIONAL AVERAGE						B-				

THE PEW CENTER ON THE STATES' Government Performance Project

The Pew Charitable Trusts applies the power of knowledge to solve today's most challenging problems. Pew's Center on the States identifies and advances effective policy approaches to critical issues facing states.

The mission of the Government Performance Project, an initiative of the Pew Center on the States, is to improve service to the public by strengthening government policy and performance.

The Project evaluates how well states manage employees, budgets and finance, information and infrastructure. A focus on these critical areas helps ensure that states' policy decisions and practices actually deliver their intended outcomes.

www.pewcenteronthestates.org

The Project grades but does not rank states. All states within a given grade category receive the same grade and are listed alphabetically.

Glossary

Following are some of the factors the Project team considered in evaluating state performance. For a list of the detailed criteria, visit www.pewcenteronthestates.org/gpp.

Asset Condition Index (ACI): A standard means of determining an asset's current and future physical condition. ACI is calculated by dividing the dollar amount needed for annual repairs by the amount that would be needed to replace the asset. There are three levels of condition: Good (0 to 5 percent), Fair (5 to 10 percent), and Poor (greater than 10 percent).

Benchmarks: Baselines against which the performance of government programs may be measured. The three most common types of benchmarks are past performance levels of the program, performance levels of similar programs in other states or agencies, and performance targets established by law or policy. Other possible types of benchmarks include targets set by federal regulations and standards prescribed by professional organizations.

Bidder preference: Advantage given to vendors meeting specific criteria in the bidding process for state product or service contracts.

Broadbanding: A technique that consolidates the number of salary grades into fewer but broader pay ranges. The spread of the pay ranges is wider, and there is less overlap among various pay ranges.

Capital budget: The spending plan for the year for building or acquiring major infrastructure projects, balanced against revenues or other financial resources. Although states often approve separate capital and operating budgets, capital projects also may be funded in the operating budget. For each item in the capital budget, costs may include those for the structure or land as well as related costs for original furniture and equipment.

Capital plan or capital improvement plan: A financial plan for the improvement of state-owned infrastructure assets over several years, including such proposed projects as buildings, roads, bridges, parks, dams and land.

Capital planning process: A formal assessment of a state's future infrastructure needs. The review may consider demographics, service demand, public input, federal regulations, health and safety concerns, resource availability and other factors.

Competency management system: A process by which an organization develops and manages specific models that include skills and behaviors needed for specific employee positions. These models may then be used in recruitment and hiring, performance appraisal criteria, and training and development.

Contracting: The process by which the state obtains necessary services from nongovernmental vendors. (Note: We consider contracting for services different from procurement of goods or products.)

Consensus forecasting: A process through which a panel of experts creates a forecast by mutual agreement. For a state's revenue forecast, included experts may include officials from the executive branch and legislature, as well as outside academic researchers, private consultants or citizens.

Earmarked revenue: A source of revenue designated by law or state constitution to support a specific program or agency. By definition, "earmarked revenue" cannot include taxes imposed on specific goods, services or businesses; taxes on sale of fuels other than motor fuels; or refunds of fuel taxes.

E-procurement: A system utilizing Internet technology to streamline the purchases of goods and products to reduce costs.

Human capital plan: A plan for employing, developing and evaluating the workforce of an organization to achieve the organization's strategic goals and objectives. The plan typically is broader than a strategic plan or workforce plan, though it contains elements of both.

Information technology (IT) plan: A statewide plan to improve the state's information technology systems that assesses future needs to achieve the state's overall goals and objectives.

Knowledge management system/strategy: The process of gathering, organizing, sharing and using the knowledge and experiences of employees within an organization to improve performance. Knowledge management includes a wide range of personal and technological approaches to sharing knowledge.

Leadership development program: A training and education program to prepare participants for leadership or senior management positions within the state or agency.

Glossary (continued)

Life-cycle approach: An approach to infrastructure maintenance that aims to keep capital assets in good working order for at least as long as they were originally designed to last.

Maintenance deferral: The act of postponing necessary operating and maintenance spending on an infrastructure asset.

Operating budget: The annual spending plan for the state's recurring expenses, including salaries, equipment and repairs (as distinct from expenses to build or acquire permanent infrastructure).

Performance: The accomplishments of an agency, program or employee relative to stated goals and objectives.

Performance appraisal: An evaluation of how well an employee performs his or her job in relation to a set of predetermined standards.

Performance-based compensation: A type of employee compensation based on demonstrated accomplishments on the job.

Performance audits: Audits that focus primarily on the effectiveness of an agency or program in meeting its objectives (rather than on legal or financial compliance issues).

Performance management system: A comprehensive process used to measure, improve and reward the performance of agencies, programs or employees.

Performance measures: Indicators of progress toward meeting prescribed objectives. Common measures for evaluating performance include outputs, outcomes and efficiency.

Procurement: The process by which the state obtains necessary goods or products from nongovernmental vendors. (Note: We consider procurement of goods or products different from contracting for services.)

Rainy-day fund: A type of contingency fund in which money is set aside to be drawn upon in case of a future budget deficit. It often is referred to as a budget-stabilization fund.

Salary compression: Inequity in employee pay occurring when the range of pay between the highest and lowest paid employees is unfairly small relative to their range of skills and experience.

Strategic plan: A comprehensive plan for accomplishment in relation to stated goals and objectives. Ideally, the plan should cover multiple years, include targets for expected accomplishments and propose specific performance measures to evaluate progress toward those targets.

Structural balance: A condition in which ongoing revenues meet ongoing expenses in a given fiscal year (excluding one-time expenses or revenues).

Succession planning: A process of systematically and deliberately preparing for future changes of leadership in key positions. The process may identify potential replacements and provide strategies for developing and/or hiring individuals to meet future needs.

Tax expenditure budget: A report showing the estimated reduction in state revenues attributable to tax credits, deductions and exclusions included in the state tax code.

Workforce plan: A plan assessing the current and future capacity of a state government or agency workforce, including actions necessary to meet future workforce needs.

Polsinelli Shughart PC

Memorandum

TO: The Honorable Mike Burgess, Chairman
House Government Efficiency Committee

FROM: William W. Sneed, Legislative Counsel
The University of Kansas Hospital Authority

SUBJECT: H.B. 2194

DATE: February 16, 2011

Mr. Chairman, Members of the Committee: My name is Bill Sneed and I am Legislative Counsel for the University of Kansas Hospital Authority. This is the Authority that the Kansas Legislature created to run and operate the hospital commonly referred to as KU Med. We appear here today as neutral conferees on H.B. 2194.

Our research indicates that the bill as written would bring the University of Kansas Hospital Authority under its purview due to the definition of "state agency" contained in the bill. Inasmuch as the Authority was specifically designed to act not as a state agency but more like a private entity, such inclusion will unintentionally hamper the hospital's ability to meet its goals. It is only through this structure that the hospital has been able to compete and ultimately add back to the state millions of dollars, provide the structure for a first-class school of medicine, and provide much-needed health care, much of it on a charity basis.

Therefore, we would request that the Committee add language to the bill specifically exempting the University of Kansas Hospital Authority as that entity is defined in the authorizing language found in K.S.A. 76-3301, *et seq.*

We appreciate the opportunity to present this testimony, and we will be happy to answer questions.

Respectfully submitted,

William W. Sneed

William W. Sneed

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House Government Efficiency
Date: 2-16-2011
Attachment: 7-1