

SESSION OF 2005

**SUPPLEMENTAL NOTE ON
SENATE SUBSTITUTE FOR HOUSE BILL NO. 2228**

As Recommended by Senate Committee on
Ways and Means

Brief*

Senate Substitute for HB 2228 amends statutes regarding the state use law, including the catalog of products and services manufactured by Kansans who are blind or severely disabled (the "State Use Catalog"). Under current law, the state use law, administered by the Secretary of the Department of Social and Rehabilitation Services, requires state agencies and Unified School Districts to purchase products manufactured or supplied by entities employing the blind or severely disabled. State agencies are also required to purchase services provided by those entities.

The substitute bill creates a "State Use Law" Committee with overall management responsibility for the State Use Catalog. The State Use Committee would be composed of nine members who would serve without compensation (except for legislative members who would receive their normal travel and subsistence expenses):

- two members appointed by the United School Superintendents (one representative of a small school district and one representative of a large school district);
- one member appointed by the State Board of Regents;
- one member appointed by the Director of Purchases of the Department of Administration;
- one member appointed by the Governor who is an advocate for the blind or severely disabled;

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- two members appointed by the Governor who are qualified vendors; and
- two legislators of differing political parties, appointed by the Governor.

The Committee would be responsible for advising the Director of Purchases on issues surrounding the provisions of the law, including:

- the development of waiver guidelines to be followed by qualifying agencies and unified school districts;
- the product and service eligibility process used by the Director of Purchases for state use law products and services;
- review of the threshold dollar amount of purchases by state agencies or unified school districts for the state use law to apply;
- review of the provisions of the law on any bid for any purchase that is determined by the Director of Purchases to be a substantially higher cost than the purchase would have cost had it been competitively bid,
- the establishment of rules, regulations and policies to assure fair and effective implementation of the law, including appropriate rules and regulations relating to violations of the law,
- establishing procedures for setting fair market prices for items included on the procurement list and revision of products and prices in accordance with the changing market conditions to assure that the prices established are reflective of the market;
- assisting qualified vendors in identifying and improving marketing efforts of the products manufactured or processed and offered for sale and services offered under the law to state agencies and unified school districts;
- encouraging and assisting the Director of Purchases, state agencies, and unified school districts to identify additional commodities and services that may be purchased from qualified

nonprofit agencies not participating in the state use law catalog;
and

- any other issue identified by any interested party.

The Committee would be responsible for maintaining a registry of qualified vendors, as defined by the bill. The qualified vendors would be responsible for furnishing a list of products manufactured and processed by the qualified vendors. The list of products and services would be certified by the Director of Purchases.

The term “qualified vendor” is defined as:

- a not-for-profit entity incorporated in the State of Kansas that primarily employs the blind or disabled;
- is operated in the interest of and for the benefit of the blind or persons with severe disabilities, or both;
- the net income of such entity shall not, in whole or any part, financially benefit any shareholder or other individual; and
- the entity’s primary purpose is to provide employment for persons who are blind or have other severe disabilities.

The definition specifically includes Business Technology Career Opportunities, Inc., in Wichita.

The substitute bill directs the Director of Purchases to approve prices of the products and services available. The qualified vendors would be responsible for publishing catalogs of products and services submitted by qualified vendors, but the products or services are not necessarily required to be included in the catalog for provisions of the law to apply.

The substitute bill also requires qualified vendors to submit an annual report to the Governor, Legislature, Director of Purchases, Board of Regents, and the Kansas Association of School Boards, regarding sales and waivers under the provisions of the bill.

Background

Representatives of Envision, InterHab, and the Coalition for Opportunity spoke in support of the substitute bill. Representatives of the United School Administrators, the Kansas Association of School Boards, and Unified School District (USD) 229 (Blue Valley) appeared in opposition to the substitute bill.

The bill as originally introduced also concerned the state use law. In addition to the provisions contained in this bill, the original bill included provisions which more broadly addressed vendor definition issues, and clarified the responsibilities of the Director of Purchases. These provisions were subsequently amended into a conference committee report on SB 118.

The House Committee amended the original bill to: add two legislators (of differing political parties) to the State Use Law Committee, bringing total Committee membership to nine members; to delete the requirement that mandates Unified School District utilization of "services" provided by qualified vendors and add the topic of utilization of services by USDs to the list of topics on which the Committee would advise the Director of Purchases; and to clarify that members of the Committee should serve without compensation. Other amendments are technical in nature.

The fiscal note prepared by the Division of the Budget indicates that the bill would have a negligible effect on state agencies' purchasing procedures or costs.