

## MINUTES OF THE SENATE WAYS &amp; MEANS COMMITTEE.

The meeting was called to order by Chairperson Dave Kerr at 11:00 a.m. on March 23, 2000 in Room 123-S of the Capitol.

All members were present except:

Committee staff present: Alan Conroy, Chief Fiscal Analyst, KLRD  
Rae Anne Davis, KS Legislative Research Department  
Debra Hollon, KS Legislative Research Department  
Norman Furse, Revisor of Statutes  
Michael Corrigan, Asst. Revisor of Statutes  
Judy Bromich, Administrative Assistant to the Chairman  
Ronda Miller, Committee Secretary

Conferees appearing before the committee:

Representative Kenny Wilk  
Representative Annie Kuether  
Barb Hinton, Legislative Post Audit  
Carol McDowell, President of the Kansas Preservation Alliance  
Jim Hoy, President, Kansas State Historical Society, Inc.  
Cheryl Collins, Past President of Kansas State Historical Society, Inc.  
Nancy Holt, Chairperson of the Executive Committee of Kansas State Historical Society, Inc.  
Michael Hoeflich, Dean of KU Law School and member of bylaws Committee of Kansas State Historical Society  
Dr. Herschel Stroud  
Helen King, volunteer, Kansas State Historical Society

Others attending: See attached list

**SB 653: Intergovernmental transfers with nursing facilities**

Copies of the balloon on **SB 653** were distributed to members (Attachment 1). There was lengthy discussion about who would be eligible under the Senior Services programs. Secretary Hubbell, Department on Aging, stated that the Senior Trust Fund earnings allow the Department to reduce future Medicaid costs to the state and she interpreted that to mean that services could be provided to avoid premature institutionalization and to those currently not on Medicaid. Kathie Sparks, KLRD, told members that she did not believe the age "65" addresses the Senior Services Trust Fund because it is not referenced anywhere else in the balloon except on page 1, line 28, where it references the Frail and Elderly Program as under the Secretary of Aging.

Senator Salisbury moved, Senator Morris seconded, that the balloon amendments for SB 653 be adopted. The motion carried on a voice vote.

Senator Petty moved, Senator Downey seconded, that SB 653 be further amended by eliminating the transfer of 25% of the Intergovernmental Transfer monies to the State General Fund in the first year, and redirecting it to a newly created State Matching Medicaid Fund to be used for the HCBS/Frail Elderly Waiver and for the Physically Disabled Waiver (Attachment 2). Copies of a document entitled "Where to Spend HCFA Funds?" was distributed to members (Attachment 3). There was lengthy discussion about whether the proposed amendment would transfer the risk (inherent in not receiving the monies) from the Governor's proposal for education to those persons on the HCBS/Frail Elderly Waiver and the Physically Disabled Waiver. There was general consensus among staff that it would. However, during the discussion, it was pointed out that distributing the monies to some fund other than the SGF would avoid affecting the 7.5% ending balance requirement. Senator Petty stated that she wanted to ensure that Medicaid dollars were used for Medicaid eligible clients and to establish the new fund for a Medicaid

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match. The Chairman stated that he thought it would be possible to structure the bill in such a way that the risk would not be passed on to the Frail/Elderly or Developmentally Disabled and provide a solution to the ending balance problem by setting up a separate fund.

Senator Petty withdrew her motion, Senator Downey withdrew her second, noting that an amendment would be offered on the floor.

It was moved by Senator Salisbury and seconded by Senator Ranson that **SB 653** as amended be recommended favorably for passage. In answer to a question about the use of the Intergovernmental Transfer monies, Secretary Hubbell noted that Nebraska has used the dollars for programs other than those for seniors. The motion carried on a roll call vote.

**HB 2605: Sub for H 2605 by committee on Kansas 2000 Select Committee – Kansas state historical society created as a new state agency, transferring statutory agency powers, duties and functions from not-for-profit corporation**

Audrey Nogle, KLRD, distributed copies of an interim study on “The Organization and Structure of the State Historical Society to the 2000 Kansas Legislature”(Attachment 4) and noted that the interim committee and Post Audit reviewed issues of clear lines of authority between the public and private entities, questions about contracting because of the same names, and questions about accountability. She distributed and reviewed copies of a summary of the original provisions of **HB 2605** and of the amendments made by the Kansas 2000 Select Committee (Attachment 5).

Representative Wilk appeared before the Committee in support of **HB 2605** and reviewed the historical background of the bill from the perspective of the Post Audit Committee and the Kansas 2000 Select Committee (Attachment 6). In answer to Senator Ranson, Representative Wilk stated that the name of the public agency was changed back to “Kansas State Historical Society” in deference to the non profit entity. Responding to Senator Jordan’s inquiry, Representative Wilk stated that he did not believe that any provisions of the amended bill would make changes to current staff of the non profit entity. Members discussed the procedure outlined in the bill for choosing the Executive Director.

Written testimony from Bill Rich, Professor of Law at Washburn University School of Law, was distributed to members (Attachment 7). Dr. Rich’s comments addressed the constitutional issues that the Legislature might want to consider in its review of **HB 2605**.

Representative Annie Kuether distributed and reviewed copies of her written testimony in support of **HB 2605** (Attachment 8). She enumerated the issues which were reviewed by the interim committee and addressed some issues which she termed inaccurate information.

Barb Hinton, Legislative Post Auditor, provided background information on some of the issues that led to this bill (Attachment 9). She pointed out that her testimony included a chart illustrating the issues addressed by the Post Audit Committee, some of the discussion related to those issues, and the options that evolved from discussions with nine other states about the structure of their “historical societies.” The last page of her testimony provided an organizational chart showing the separation and togetherness of the two entities. Senator Salisbury noted that the interim committee was very much guided by the Post Audit Report in the writing of the bill.

Carol McDowell, President of the Kansas Preservation Alliance, Inc., appeared before the Committee in support of **HB 2605** and presented her Board of Directors’ position (Attachment 10). She noted that the bill would elevate the importance of historic preservation in state government.

Jim Hoy, President of Kansas State Historical Society, Inc., appeared before the Committee in opposition to **HB 2605** and reviewed his written testimony (Attachment 11). He pointed out that the Historical Society is highly regarded and that the Post Audit Report only called attention to the potential for problems which he did not believe had materialized.

Michael Hoeflich, Dean of the University of Kansas School of Law, Kansas University, testified before

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the Committee in opposition to **HB 2605** (Attachment 12). He addressed some of the constitutional issues presented by Dr. Bill Rich. Dr. Hoeflich opposed the passage of the bill and asked that the Historical Society be permitted to refine its current structure.

Dr. Herschel Stroud, D.D.S. appeared before the Committee in opposition to **HB 2605** and stated that “Kansas has the tallest tree in the forest when it comes to historical museums and research facilities.” (Attachment 13). He noted that he believed concerns expressed by the Post Audit Committee have been addressed by recent changes in the bylaws.

Cheryl Collins, past President of the Kansas State Historical Society, Inc., distributed and reviewed copies of her written testimony in opposition to **HB 2605** (Attachment 14). In answer to Senator Salisbury, Ms. Collins stated that she had not witnessed a high level of confusion between the not-for-profit entity and the state agency in fund raising and the receipt of donations. She stated that when people have given money to the Kansas State Historical Society, Inc., they have known and preferred giving it to a 501(c)3 not-for-profit entity.

Nancy Holt, Executive Committee Chairperson of the Kansas State Historical Society, appeared in opposition to the bill and reviewed her written testimony which outlined some of the changes that the Kansas State Historical Society, Inc. has initiated in its bylaws to address legislative concerns (Attachment 15). Ms. Holt added that the private entity still has some concerns about the bill which were discussed in her document. Senator Salisbury pointed out that the bill does not change the authority of Executive Director to serve in an ex-officio capacity on the executive committee under the new bylaws. Senator Salisbury read a sentence from the minutes of the January 14 meeting of the Executive Committee (“It was reiterated that members of the Board of Directors and the Executive Committee should express a unified position and the view was expressed that members who cannot support the position of the Society should be asked to resign.”) and inquired if that was the decision of the Executive Committee. Ms. Holt stated that the sentence was a point of view and was not adopted by the Committee.

Helen King, a long time supporter of the Kansas State Historical Society and past member of the Board of Directors, told members of the volunteer efforts that have contributed to the success of the Kansas State Historical Society. She noted that she is a founding member of the Genealogy Society whose members use the facilities, attend the events, and contribute time, energy and money to the public entity. Ms. King stated that she believed the accomplishments could not have been made without the volunteers who are members of the not-for-profit entity.

The Chairman noted that the Committee would take action on **HB 2605** at the following meeting.

Chairman Kerr told members that the Committee had adopted the Capital Improvements subcommittee report as amended on March 20, 2000 but had not amended those provisions into a bill. Senator Salisbury moved, Senator Morris seconded, that the original language in **HB 2513** be deleted and that the provisions of the FY 2001 subcommittee report on Capital Improvements as amended be inserted into the bill. The motion carried on a roll call vote.

The Chairman adjourned the meeting at 12:50 p.m. The next meeting will be March 24, 2000.