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**House Corrections and Juvenile Justice Committee  
Testimony – Request to Amend HB 2595 (support if amended)  
February 13, 2018**

**Chair Jennings and members of the Committee:**

My name is Rocky Nichols. I am the Executive Director of the Disability Rights Center of Kansas (DRC). DRC is a public interest legal advocacy organization that is part of a national network of federally mandated organizations empowered to advocate for Kansans with disabilities. DRC is the officially designated protection and advocacy system in Kansas. DRC is a private, 501(c)(3) nonprofit corporation, organizationally independent of state government and whose sole interest is the protection and enhancement of the legal rights of Kansans with disabilities.

We are very supportive of updating the Kansas statutes to remove outdated and offensive terms to describe people with disabilities (terms like “insane,” “idiot,” “impairment of the mind,” etc.). We commend the sponsors of the bill, Reps. Hodge and Schroeder, for taking a leadership role to update this old terminology. These are obviously relics of a bygone era when Kansas law used extremely offensive terms regarding Kansans with disabilities. These terms are so outdated, that it is obvious the use of these terms in law predate the American’s with Disabilities Act (ADA). Therefore, we believe the update in the language should be about more than just modernizing the terminology. Additionally, the policy language in the underlying statute should also be updated to make it integrated with the ADA language.

The ADA requires, among other things, all government programs and the business of government (including but not limited to how government takes and processes property for right-of-way transactions) to make reasonable accommodations for Americans with disabilities to ensure their equity and participation in that program. Additionally, government programs cannot discriminate against Americans with disabilities under the ADA and Section 504 of the Rehabilitation Act. *Any* difference to government programs where the difference is regarding an individual with a disability shall *only* be different in a way in which it *accommodates* the person’s disability and is *positive and advantageous* to the person with a disability

(example, proving more time for an individual with a disability to review an offer to purchase land for a right-of-way, providing the offer in a format – Braille, large print, etc. – which accommodates their disability, etc.).

That's the key thing here. It is laudable to update the offensive language in the statute. However, that update all must look at the underlying policy and make updates to it as well in order to ensure that policy is effective and fully complies with the ADA.

First, we are disability rights experts. We are not experts in takings public policy or right-of-way public policy. However, when we read the underlying policy in Section 1, for example, it appears to treat certain individuals with disabilities (those with “impairment of the mind” or those “incapable of making a legal contract” – assumedly those with a guardian) differently than those without disabilities. This section appears to say that the restrictive processes laid out in Section 1 only apply when an individual withOUT a disability “is unable to agree” with the board of supervisors on the offer to purchase their right-of-way. However, for those with an “impairment of the mind” or other disabilities these more restrictive sections come into play simply because they have a disability. To have the restrictive provisions apply to the person with a disability, it can happen simply because they have a disability. This is a big difference between how those with disabilities and those without disabilities are treated under this policy. If we are understanding the underlying section and the policy ramifications, then doing that would not be allowable under the ADA, because the new restrictions would apply to people with disabilities in a disadvantageous manner. Again, we are not experts in right-of-way policy, but it would appear that the other provisions of HB 2595 would be impacted by this as well.

We have shared with Rep. Schroeder that we would gladly work with him and Rep. Hodge to amend the bill to ensure conformity to the ADA. What we talked to Rep. Schroeder about was that we would not have a specific balloon amendment today, but rather would work with both of them to come back with a balloon for this committee.

Mr. Chairman, thank you for the opportunity to share our testimony. I would gladly stand for questions at the appropriate time.