

MINUTES OF THE SENATE WAYS AND MEANS COMMITTEE

The meeting was called to order by Chairman Dwayne Umbarger at 11:30 A.M. on April 27, 2005 in Room 123-S of the Capitol.

All members were present except:

Senator Chris Steineger- excused

Committee staff present:

Norman Furse, Revisor of Statutes
Jill Wolters, Senior Assistant, Revisor of Statutes
Helen Pedigo, Revisor of Statutes Office
Alan Conroy, Director, Kansas Legislative Research Department
J. G. Scott, Kansas Legislative Research Department
Leah Robinson, Kansas Legislative Research Department
Amy Deckard, Kansas Legislative Research Department
Debra Hollon, Kansas Legislative Research Department
Susan Kannarr, Kansas Legislative Research Department
Carolyn Rampey, Kansas Legislative Research Department
Matt Spurgin, Kansas Legislative Research Department
Amy VanHouse, Kansas Legislative Research Department
Judy Bromich, Administrative Analyst
Mary Shaw, Committee Secretary

Conferees appearing before the committee:

Robert Hayes, Executive Director, Health Care Stabilization Fund
Jerry Slaughter, Executive Director, Kansas Medical Society
Lana Walsh, Office of Judicial Administration
Mary Ellen Conlee, Coalition for Opportunity
Matt Fletcher, Associate Director, InterHab
Linda Merrill, President and CEO, Envision, Inc.
Sherry Plenert, President/CEO, Cartridge King of Kansas (written)
Robert Vancrum, Governmental Affairs Specialist, Blue Valley Univied School District No. 229
and representing Wichita School District No. 259
Mark Tallman, Assistant Executive Director - Advocacy, Kansas Association of School Boards
Don Willson, Governmental Relations, United School Administrators of Kansas
Joe Fritton, P.E., Deputy Director of Facilities Management and Architectural Services, Kansas
Department of Administration
Eric King, Director of Facilities, Kansas Board of Regents (written)
Joe Fund, Chief Fiscal Officer, Kansas Water Office

Others attending:

See attached list.

Bill Introductions

Senator Morris moved, with a second by Senator Barone, to introduce a conceptual bill regarding clinic registration bill. Motion carried on a voice vote.

Senator Morris moved, with a second by Senator Wysong, to introduce a bill regarding the Legislative Coordinating Council accessing outside counsel regarding school finance and other matters (5rs1235). Motion carried on a voice vote.

Chairman Umbarger explained that the following sets of minutes were distributed to the committee for review: February 16, February 17, February 18, February 21, February 22, February 23, February 24, February 25, March 1, March 2, March 3, March 4, March 7, March 8, March 9, March 10, March 14 (p.m.), March 14 (a.m.), March 15, March 16, March 17, March 18, March 21, March 22, March 24, March 25, and

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March 30 (at the rail).

The committee was given until Tuesday, May 10, 2005, to call the Kansas Legislative Research Department regarding additions, deletions or revisions; otherwise, these sets of minutes would be considered approved as of May 10, 2005.

Chairman Umbarger opened the public hearing on:

Senate Substitute for HB 2512--Health care stabilization fund, expenditures for certain payments and expenses owing, notwithstanding date incurred

Staff briefed the committee on the bill.

Robert Hayes, Executive Director, Kansas Health Care Stabilization Fund, testified in support of **Senate Substitute for HB 2512 (Attachment 1)**. Mr. Hayes explained that the bill, to the best of his knowledge, would accomplish the goal of the legislature to make the two annual provisos (described in Mr. Hayes' written testimony) part of the Health Care Provider Insurance Availability Act without making any change in the operations, coverage provisions or other related matters of the Health Care Stabilization Fund.

Jerry Slaughter, Executive Director, Kansas Medical Society, spoke in support of **Senate Substitute for HB 2512 (Attachment 2)**. Mr. Slaughter mentioned that the Kansas Medical Society supports the clarifying language in the bill which would eliminate the need for annual provisos. He proposed an amendment related to the investments authorize for the Health Care Stabilization Fund which would authorize the Pooled Money Investment Board to invest Health Care Stabilization Fund monies in the highest levels of "investment grade" corporate bonds (copy of amendment attached to Mr. Slaughter's testimony).

There being no further conferees to come before the committee, the Chairman closed the public hearing on **Senate Substitute for HB 2512**.

Senator Schmidt moved, with a second by Senator Kelly, to adopt the amendment proposed by Mr. Slaughter that would authorize the Pooled Money Investment Board to invest Health Care Stabilization Fund monies in the highest levels of "investment grade" corporate bonds. Motion carried on a voice vote.

Senator Teichman moved, with a second by Senator Schmidt, to report Senate Substitute for HB 2512 favorable for passage as amended. Motion carried on a roll call vote.

The Chairman opened the public hearing on:

HB 2320--Seal of justice for supreme court chamber in judicial center

Staff briefed the committee on the bill.

Lana Walsh, Office of Judicial Administration, appeared before the committee as a proponent on **HB 2320 (Attachment 3)**. Ms. Walsh explained that the bill would allow the Judicial Branch to make expenditures either from the State General Fund or from any special revenue fund for a replica of the wooden seal of justice that hangs in the old Supreme Court Room in the Statehouse. The replica would be hung in the Supreme Court Room in the Judicial Center.

There being no further conferees to come before the committee, Chairman Umbarger closed the public hearing on **HB 2320**.

Senator Teichman moved, with a second by Senator Kelly, to report HB 2320 favorable for passage. Motion carried on a roll call vote.

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Chairman Umbarger opened the public hearing on:

HB 2228--Kansas use law procedures, establishing the state use law committee

Staff briefed the committee on the bill.

Mary Ellen Conlee, on behalf of the Coalition for Opportunity, testified in support of **HB 2228** (Attachment 4). Ms. Conlee explained that Kansas public policy has long been that state government agencies, state universities and USD's will purchase products manufactured by blind and disabled Kansas citizens so that employment opportunities that otherwise may not exist will be created. She noted that this public policy is set out in K.S.A. 75-3317 *et seq.*, and is termed the Kansas State Use Law (SUL). Ms. Conlee mentioned that for consideration is the creation of a new "SUL Committee" designed to bring required purchasers and vendors together to advise the Director of Purchases on several contentious issues that arise as vendors, state agencies and school districts attempt to comply with the law.

Attached to Ms. Conlee's written testimony, on pages 3-4, are recommended provisions and proposed amendments indicated as follows:

- Red font represents remaining provisions of **HB 2228** that need to be considered, and
- Green font represents proposed amendments to the SUL committee membership and allow for legislator's time and travel.

Ms. Conlee explained that the member of the Coalition for Opportunity introduced the language set out in **HB 2228** in order to make the SUL work better for all parties involved. She described two additional amendments that do not have the full support of the vendors (listed on page 2 of her testimony):

- One related to trying to create a definition of a "substantial purchase" by a USD that would constitute compliance with the law.
- The second relates to requiring a waiver for price if it substantially exceeds a quote or bona fide bid.

Committee questions and discussion followed regarding the definition of "substantial purchase".

Matt Fletcher, Associate Director, InterHab, testified in support of **HB 2228** (Attachment 5). Mr. Fletcher mentioned that he appeared on behalf of the Board of Directors of InterHab to encourage support in strengthening the "State Use Law". He urged approval of the bill as is, without any further amendments that may be offered.

Linda Merrill, President and CEO, Envision, Inc., Wichita, Kansas, presented testimony in support of **HB 2228** (Attachment 6). Ms. Merrill addressed that according to the 2000 Kansas Census, 429,687 people in Kansas have disabilities. She noted in Kansas, state use law vendors are employing less than 1/10% of a percent of these citizens with disabilities. Ms. Merrill explained what keeps them from employing more is the availability of work and they need the protected marketplace of the state government. Their request for **HB 2228** stems from a basic need to update definitions and current practices of the law as well as an honest attempt to address the decades of frustration by both vendors and purchasers impacted under that law. Committee discussion followed.

Sherry Plenert, President/CEO, Cartridge King of Kansas, submitted written testimony regarding **HB 2228** (Attachment 7). Ms. Plenert distributed copies of the State of Kansas, 2005 Products and Services Catalog, manufactured and offered by Kansans who are blind or severely disabled. Copies of this catalog are on file with the Kansas Legislative Research Department.

Robert Vancrum, Governmental Affairs Specialist, Blue Valley Unified School District No. 229, and representing Wichita School District No. 259 (for purposes of this hearing), testified in opposition to **HB 2228** (Attachment 8). Mr. Vancrum provided suggested amendments on page 2 of his written testimony.

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He explained that one of the problems that has occurred with regard to trying to impose this requirement, not just on state agencies, is trying to address over 300 school districts with their various needs and practices related to purchasing and fit into a mold as if they were a state agency. On page 3 of his written testimony, Mr. Vancrum provided some data from Blue Valley Unified School District No. 229 showing what the differences in prices would have been if they had purchased every item off the state catalog. He noted that every amount, in many cases, is 40 to 100 percent above what they are currently paying from local vendors. Senator Barone requested information regarding a broad base cost of products across the board and products that may be cheaper if purchased at other places and not the catalog.

Committee discussion followed regarding the request by the Senate Ways and Means Committee during the 2004 legislative session that all parties involved meet during the interim to work things out and no meeting had taken place with all parties until January of 2005.

Mark Tallman, Assistant Executive Director - Advocacy, Kansas Association of School Boards (KASB), spoke in opposition to **HB 2228** (Attachment 9). Mr. Tallman mentioned that the State Use Law is not being followed and feels one of the major reasons may be that people are not aware of the law. He provided three proposed amendments (detailed on page 2 of his written testimony) and especially with the first two amendments listed, they would be supportive of the bill. As an association Mr. Tallman indicated KASB would do what they could to help their members better understand the law and their obligations under it. Without these compromises, they are not supportive of **HB 2228**. Committee discussion followed.

Don Willson, Governmental Relations, United School Administrators of Kansas, testified in opposition to **HB 2228** (Attachment 10). Mr. Willson mentioned that their organization in the future will make sure their administrators know about the Kansas Use Law. He noted that they do not reject the bill and the concept is good, but their concern is no guidelines on cost. Committee discussion followed.

There being no further conferees to come before the committee, the Chairman closed the public hearing on **HB 2228**.

Senator Emler moved, with a second by Senator Kelly, to incorporate provisions into **Senate Substitute for HB 2228** (5rs1245).

Senator Teichman moved a substitute motion, with a second by Senator Wysong, to add the language that deals with "substantial purchases" to **Senate Substitute for HB 2228**. Vote was taken on the motion and division was requested. Motion failed on a show of hands.

Motion carried on the original motion by Senator Emler on a voice vote.

Senator Emler moved, with a second by Senator Kelly, to report **Senate Substitute for HB 2228** favorable for passage. Motion carried on a roll call vote.

The Chairman opened the public hearing on:

HB 2399--Authorizing certain fees for architectural and engineering services for state capital improvement projects, definitions

Staff briefed the committee on the bill.

Joe Fritton, P.E., Deputy Director of Facilities Management and Architectural Services, Kansas Department of Administration, testified in support of **HB 2399** (Attachment 11). Mr. Fritton explained that the bill would make two changes to the current statutes regarding capital improvements and architectural and engineering services which he detailed in his written testimony.

Eric King, Director of Facilities, Kansas Board of Regents, submitted written testimony in support of **HB 2399** (Attachment 12).

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There being no further conferees to come before the committee, Chairman Umbarger closed the public hearing on **HB 2399**.

Senator Teichman moved, with a second by Senator Kelly, to report **HB 2399** favorable for passage. Motion carried on a roll call vote.

The Chairman opened the public hearing on:

HB 2108--Water plan storage act; determination of rates for withdrawal and use of water; disposition of moneys

Staff briefed the committee on the bill.

Joe Fund, Chief Fiscal Officer, Kansas Water Office, testified in support of **HB 2108** (Attachment 13). Mr. Fund explained that **HB 2108** is a technical bill that would allow the Water Marketing Program to be more responsive to operational costs as well as develop a long range capital development and maintenance plan for the storage the state owns in federal reservoirs.

There being no further conferees to come before the committee, Chairman Umbarger closed the public hearing on **HB 2108**.

Senator Teichman moved, with a second by Senator Schodorf, to report **HB 2108** favorable for passage. Motion carried on a roll call vote.

Senator Morris explained that at the present time there is a predicament regarding the law suit and school finance with no way for the Legislature to respond with legal counsel. He suggested a bill that would allow the Legislature to access legal counsel. The Revisor explained that there is a bill that could be used as a substitute bill, **HB 2507**. Chairman Umbarger called the committee's attention to discussion of:

HB 2507--Appointment of legislative counsel by legislative coordinating council

Senator Emler moved, with a second by Senator Morris, to remove the contents of **HB 2507**, and recommend a **Senate Substitute for HB 2507** to allow the Legislative Coordinating Council to enter into a contract for legislative counsel. Motion carried on a roll call vote.

The meeting adjourned at 2:00 p.m. The next meeting is scheduled for April 28, 2005.