

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairperson Nick Jordan at 8:07 A.M. on March 23, 2005 in Room 123-S of the Capitol.

All members were present.

Committee staff present:

Susan Kannarr, Kansas Legislative Research Department
Kathie Sparks, Kansas Legislative Research Department
Helen Pedigo, Revisor of Statutes
Jackie Lunn, Committee Secretary

Conferees appearing before the committee:

Steve Weatherford, KDFFA
Hal Gardner, Executive Director KAN-ED
Eldon Rightmeier, Director Tech Operations
Dr. Mel Chastain, Kansas State University
Fred Atchison, Libraries in Kansas
Carol Woolbright, Greenbush Service Center
Jennifer Findley, Kansas Hospital Association
Dale White, Kansas Hospital Association
Jim Edwards, Kansas Association of School Boards
Sandy Braden, Cingular Wireless
Chris Bramhall for Noah Wood, Nuvio
Dina Fisk, Verizon Wireless
Jim Gartner, Southwestern Bell
Linda Langston, Cox Communications
John Frederico, KCTA

Others attending:

See attached list.

Chairperson Jordan opened the meeting by stating the Committee needed to continue working **HB 2144**. The Chair introduced Steve Weatherford, KDFFA, to explain the \$310 million lid on the STAR bonds for Wyandotte County and address the issue of why it was presented in the Post Audit Amendment. Mr. Weatherford explained the importance of refunding a bond issue and lowering the interest rate. He stated with STAR Bonds the state is allowing the state sales tax to pay the debt service on the bonds. The state is paying both the interest and the principal out of the state sales tax. The state is in a similar situation the county is in so we want them to refund and lower that interest rate because it will take less of our sales tax to pay those bonds off. The problem with the cap is the county has \$284 million in outstanding debt. Under normal circumstances all those costs are customarily allowed to be paid out of bond proceeds so that would cause an increase of the outstanding bonds issued to refund the original debt. The cap set in the House and the cap which was discussed in Committee yesterday is lower than what they would anticipate is needed to refund that outstanding debt.

Upon conclusion of Mr. Weatherford's explanation there was a discussion with the Committee regarding the cap. Senator Wysong was concerned with what the original reserve was. Mr. Weatherford stated he was not privy to any of the details of financing of the Unified Government. Matt Jordan was recognized and he introduced a representative of the Unified Government, Mike Taylor. Mr. Taylor stated he did not know what the original reserve was but could make a call and get that information for the Committee. He also stated there would be a savings in refinancing and each developer had his own bonds now. He stated the savings in refunding the bonds would be in the \$100 millions and that STAR bonds would be paying for the fees. The number of bonds issued to date is \$298 million. The discussion continued with reference to the Table in the Post Audit for December of 2004 which does not reflect \$290 in bonds. The Committee raised the issue that it looked like \$60 million had been issued in bonds from December until now. Mr. Taylor stated he was not sure about that but his supervisor had informed him as of this date was \$298 had been issued in bonds. Senator Barone addressed the Chair asking to have the discrepancy reconciled in order for them to know exactly where they were at. The Committee had confidence in the Post Audit and felt it was very accurate and reliable. Chairperson Jordan recognized Matt Jordan, Department of Commerce who offered an

CONTINUATION SHEET

MINUTES OF THE Senate Commerce Committee at 8:30 A.M. on March 23, 2005 in Room 123-S of the Capitol.

amendment idea which would be conceptual at this point, regarding the cap and refunding of bonds. Mr. Jordan explained. (Attachment 1)

Chairperson Jordan recognized Senator Brownlee. She stated she understood the value of refunding and since the Unified Government had remaining bond authority, they could fund any costs in the refunding of bonds out of these fees.

Senator Brownlee stated the amendment for **HB 2144** wasn't written quite right and she wanted to explain what she was trying to do. (Attachment 2) Senator Brownlee made a motion to accept the amendment including a \$304 million cap and any draws or activity to be approved by Secretary of the Department Revenue and the Secretary of the Department of Commerce. Senator Reitz seconded

A discussion followed. Senator Wysong stated he felt it should go to a Conference Committee and that we should have a bond counselor to advise the conferees. Chairperson Jordan stated this bill will go to a Conference Committee.

Chairperson Jordan called for a vote on the motion. Motion carried with Senator Wysong voting no.

Senator Barone stated he supported the motion but if he gets new information before the day is over from Post Audit he may come forward with an amendment on the Senate floor to adjust the cap.

Chairperson Jordan recognized Senator Brownlee once again to continue with the review of the balloon. She called the Committee's attention to Page 11 of balloon and explained the amendment in the box to the Committee. She stated she has concerns if someone has a project they need to put some of their monies in the project and not depend solely on the state bonds. Chairperson Jordan assured the Committee he was concerned about projects starting under the \$50 million threshold and stated these concerns would be addressed in the Committee this summer. At this time he would rather the decision be left to the Secretary of Commerce. He stated that the owner of Heartland Park had invested \$3 million of his own money. Senator Brownlee stated she understood he had invested money but not in the new project. Two issues that prompt the need for the amendment to limit the STAR bond eligible amount to 50% of the project amount are:(1 Heartland Park does not pay property taxes because the land is owned by the city; and 2) the property is currently generating sales tax which would be diverted to pay off STAR bonds. Typically STAR bond projects are paid for with new sales tax only.

Senator Brownlee made a motion to amend page 11. Senator Barone seconded.

A discussion follow the motion. Senator Barone has concerns using existing tax dollars to finance STAR Bonds. Senator Kelly stated the Heartland Park project would be threatened if they pass the Brownlee amendment on page 11. She doesn't necessarily think the amendment on page 11 is a bad idea, she would like more time to consider.

Chairperson Jordan called for a vote on the motion. Votes were 3 for and 4 against with Senator Wysong passing. The motion did not carry.

Senator Brownlee continued through the amendment moving to page 5 with an explanation. Senator Brownlee made a motion to accept the amendment on page 5. Senator Emler seconded. Motion carried.

Senator Brownlee moved to page 13 & 21 and explained. Senator Brownlee made a motion to accept amendment on pages 13, 21 and 22. Senator Emler seconded. Motion carried.

The explanation by Senator Brownlee continued to page 26 and the amendment removing post audit from doing the annual audit and having the cities provide the annual audit done by an independent CPA. Senator Brownlee then made the motion to accept the amendment and Senator Reitz seconded. A discussion followed.

In the discussion it was determined the cities would have to pay whether it was done by Post Audit or the cities hiring a CPA. The Committee discussed the advantages of having the audit done by Post Audit or by

CONTINUATION SHEET

MINUTES OF THE Senate Commerce Committee at 8:30 A.M. on March 23, 2005 in Room 123-S of the Capitol.

and independent CPA. Senator Emler wondered if Post Audit would sub out the audit. Senator Jordan stated they could sub out the audit.

Upon completion of the discussion Chairperson Jordan called for the vote. The motion carried after a show of hands. Four voting for and Senator Wagle, Senator Barone and Senator Kelly voting against with Senator Wysong passing.

Chairperson Jordan recognized Senator Kelly. Senator Kelly made a motion to accept amendment from the Department of Commerce (Attachment 3) giving the Department of Commerce the ability to negotiate the contract on workforce training. Senator Reitz seconded. Motion carried.

Senator Reitz made the motion to adopt a substitute bill for **HB 2144** and move it out favorably. Senator Schodorf seconded. The motion carried.

Chairperson Jordan turned the Chair over to Senator Brownlee. She opened the hearing on **HB 2026** by asking if Representative Jason Watkins was present. Representative Watkins was not in attendance, therefore, Chairperson Brownlee referred the Committee to the amendment he offered to **HB 2026**.

Chairperson Brownlee introduced Hal Gardner, Executive Director Kan-ed. Mr. Gardner offered written testimony. (Attachment 5) He provided an accounting of Kan-ed activities from Aug 2004 to the present. Kan-ed strongly recommended the re-authorization of KAN-ed's source of funding so that they can provide rigorous, ongoing efforts over the next five years. During that same time Kan-ed staff, and their many volunteers and consultants will be working to identify and develop other stable funding models for Kan-ed to build upon. Upon the conclusion of Mr. Gardner's testimony he introduced Eldon Rightmeier, Director of Technical Operations and Planning for Kan-ed to give his testimony.

Mr. Rightmeier offered written testimony. (Included in Attachment 5) Mr. Rightmeier provided information regarding the deployment of the Kan-ed private network. He stated that at the present time, Kan-ed partners with approximately twenty Kansas companies, either directly through contracts or indirectly through industry initiated cooperation. The Kan-ed network is completely leased though these Kansas telecom providers and has Network Access Points in all areas of the state. In closing he stated Kan-ed is working with multiple Kansas hospitals to deploy tele-medicine and tele-radiology applications. Kan-ed is looking at refinements and upgrades for the scheduling process associated with Distance Learning. They are also looking to enhance scheduling for mobile classrooms and interstate access applications. A new product, Marratech, for desktop video collaboration is also under review with a recommendation scheduled by mid-year 2005.

Chairperson Brownlee introduced Mel Chastain, Ph.D. Kansas Regents Educational Communications Center, Kansas State University. Dr. Chastain offered written testimony (Attachment 6) Dr. Chastain stated the Kan-ed network allows opportunities to rural and isolated schools, libraries and hospitals, as well as the entire state, that would not be possible without the Kan-ed network.

Chairperson Brownlee introduced Fred Atchison, Jr., Director of the North Central Kansas Libraries System and the Manhattan Public Library. Mr. Atchison offered written testimony. (Attachment 7). Mr. Atchison stated the development of the Kan-ed Network represents a huge opportunity to take resource sharing and collaboration to a level that a few years ago we could only dream about. Libraries have benefitted from KAN-ed through subsidies used to help pay for high-speed Internet connections. This enabled small communities to move from a slow dial-up to a fast DSL connection. Some of these libraries were able to offer access to the Internet for the first time. All libraries from Johnson County to Hope, Kansas have received access to databases provided by Kan-ed. The many databases are allowing students access to information they would not have without the Kan-ed Network. In closing, Mr. Atchison urged the Committee to support the full re-authorization of Kan-ed and to maintain a stable source of funding that will make it possible for out work to continue.

Chairperson Brownlee introduced Carol Woolbright, Director, Greenbush Interactive Distance Learning Network at the Southeast Kansas Education Service Center, Girard. Ms. Woolbright offer written testimony. (Attachment 8) She stated that during a regular school day, thousands of students take high school and college classes over the distance learning network in Kansas. Kan-ed has had a significant impact that our statewide

CONTINUATION SHEET

MINUTES OF THE Senate Commerce Committee at 8:30 A.M. on March 23, 2005 in Room 123-S of the Capitol.

network with the K-12 distance learning in Kansas. The Greenbush Interactive Distance Learning Network provides educational opportunities for more than 15,000 Kansas students each year in classes, enrichment, and videoconferencing programs. They have just begun to explore the kinds of educational innovation that can be accomplished for Kansas kids across the state using Kan-ed resources. In closing Ms. Woolbright stated there is a need to establish a statewide comprehensive plan to organize, plan, promote, and support distance learning for all learning so all Kansas students have educational opportunities that allow them to prepare for their futures and grasp their dreams. She is in support of the re-authorization of funding for Kan-ed, **HB 2026**.

Due to the lack of time, Jennifer Findley, Kansas Hospital Association offered her testimony as written only (Attachment 9) and Chairperson Brownlee introduced Dale White, Kansas Hospital Association to give his testimony. Mr. White offered written testimony (Attachment 10) Mr. White stated the Kansas Hospital Association was in support of **HB 2026**. He stated hospitals of all sizes have enjoyed many benefits from their participation in Kan-ed. Mr. White stated the Kansas Hospital Association urges the Committee to support HB 2026 not just for what Kan-ed has already provided to Kansas hospital, but equally important for the potential that exists for future services. The Medicare Modernization Act, the Governor's Healthy Kansas Initiative, the Leapfrog Initiative and many others have all focused on increased use of technology as a key factor to decreasing costs and increasing the quality and safety of health care delivery system.

Chairperson Brownlee introduced Jim Edwards, Kansas Association of School Boards. Mr. Edwards offered written testimony. (Attachment 11) He stated that Kan-ed has provided students and teachers access to education's most comprehensive suite of instructional programs, software content, and professional development programs; is providing access to thousands of citations and many full-text articles in scholarly journals, business and trade journals, and other news sources; and provides a technological infrastructure to extend the work with kids that suffer from a chronic illness. In closing Mr. Edwards stated Kan-ed is offering opportunities to students which would not be available without Kan-ed and expressed the support of the Kansas Association of School Boards for **HB 2026**.

Following the conclusion of Mr. Edwards testimony, Senator Emler was recognized with a question for Mr. Edwards. Senator Emler wanted to know if any of the hospitals utilizing the Kan-ed network were for profit hospitals. Mr. Edwards stated "no".

Chairperson Brownlee introduced Sandy Braden, Cingular Wireless. Ms. Braden offered her testimony as written only. (Attachment 12)

Chairperson Brownlee introduced Chris Bramhall to present the written testimony of Jason P. Tally, CEO, Nuvio Corporation, as an opponent of **HB 2026**. (Attachment 13) Mr. Bramhaul stated the problem that Nuvio has with **HB 2026** is the 911 VOIP language. With this language it is not possible to do with the current technology in this field. If this language stays in this bill then Novio will be forced to cease doing business in Kansas.

Chairperson Brownlee introduced Dina Fisk, Verizon Wireless. Ms. Fisk offered written testimony. (Attachment 14). Ms. Fisk stated Verizon Wireless recognizes the Kan-ed program is an important initiative for Kansas schools, hospitals and libraries. The problem is the way it is funded. They are concerned that the diversion of funds to Kan-ed will encourage other social programs to likewise seek KUSF funding in the future. Ms. Fisk offered an amendment to **HB 2026** with her written testimony. In closing Mrs. Fisk stated Verizon Wireless is committed to defending the best interests of their wireless customers. Shifting the KUSF funding of Kan-ed to the state's general revenue fund over the next three years ensures the continued existence of this important program while providing a fairer funding mechanism and correcting the obligation that has been placed on wireless and land line phone customers.

Chairperson Brownlee introduced Jim Gartner, Southwestern Bell Communications. Mr. Gartner offered written testimony (Attachment 15) Mr. Gartner stated SBC has concerns with Section 3 of **HB 2026**, dealing with E911 functionality with Voice over Internet Protocol (VOIP) services. VOIP is a promising new technology. The industry needs to be given the opportunity to collectively develop solutions for E911. Kansas should follow the FCC's lead regarding regulation of VOIP and other new technologies.

CONTINUATION SHEET

MINUTES OF THE Senate Commerce Committee at 8:30 A.M. on March 23, 2005 in Room 123-S of the Capitol.

Chairperson Brownlee introduced John Federico testifying as a neutral in regard to HB 2026, on behalf of the Kansas Cable Telecommunications Association. Mr. Federico offered written testimony along with an amendment attached. (Attachment 16) Mr. Federico stated that the Kansas Cable Telecommunications Association has a concern with Section 3 of HB 2026 and therefore offered an amendment.

Chairperson Brownlee recognized Linda Langston, Cox Communications. Ms. Langston stated she agrees with Mr. Federico and stands behind the amendment he offers.

Chairperson Brownlee asked if section 3 was removed from the bill, would Cox Communications and KCTA be happy with **HB 2026**. The answer was "yes".

With no other testimonies to be given and no further question Chairperson Brownlee closed the hearing on **HB 2026** and addressed the Committee telling them the bill was blessed but she would like to work it later this week. She stated she has an amendment to offer on **HB 2026**.

The Committee discussed section 3 of the bill. Senator Emler made a motion to remove section 3 of HB 2026. Senator Schodorf seconded. Motion carried.

The meeting was adjourned at 9:30 a.m. with the next meeting to be announced.