

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 10:30 a.m. on March 10, 2011, in Room 144-S of the Capitol.

All members were present except:
Senator Steve Morris

Committee staff present:
Jason Long, Office of the Revisor of Statutes
Doug Taylor, Office of the Revisor of Statutes
Dennis Hodgins, Kansas Legislative Research Department
Julian Efird, Kansas Legislative Research Department
Connie Burns, Committee Assistant

Conferees appearing before the Committee:
Representative Jan Pauls
Representative Marvin KleeB
Dave Trabert, Kansas Policy Institute
Jane Carter, Kansas Organization of State Employees
Jeffrey Hewitt, Teamster Local Union 696
Fernando Harms, Teamster Local Union 696
Jeremy Hendrickson, Laborers Local Union 1290PE, Kansas City

Others attending:
See attached list.

Sub HB 2188--Requiring fiscal notes for certain resolutions

Chairman Brungardt opened the hearing on **Sub HB 2188**.

Representative Jan Pauls spoke in favor of the bill. (Attachment 1) The bill makes only one change in the law regarding the law requiring fiscal notes, fiscal notes are not required for resolutions. The bill should be further amended to add "or resolution" in lines 17, 18, 19 (twice), and 23.

Chairman Brungardt closed the hearing on **Sub HB 2188**.

HB 2120--Kansas government effectiveness and efficiency commission act

Chairman Brungardt opened the hearing on **HB 2120**.

Staff provided an overview of the bill.

Dave Trabert, President, Kansas Policy Institute, testified in favor of the bill. (Attachment 2) The bill has two fundamental issues to consider (1) whether to form an independent commission and (2) if so, the particulars of its membership, governance and duties. Current and future taxpayers can only benefit from having an independent commission to examine the executive branch of government in search of ways to reduce costs and increase both efficiency and effectiveness.

Daniel M. Rothschild, Managing Director, State and Local Policy Project, George Mason University, provided written testimony in support of the bill. (Attachment 3) Mr. Rothschild stated in his testimony that Kansas would be well served by the commission this bill would create.

Kent Eckles, vice President of government Affairs, The Kansas Chamber, provided written testimony in support of the bill. (Attachment 4) Mr. Eckles stated in his testimony that the bill will make the state more efficient and effective with limited taxpayer dollars.

Scott Douglas, Larned, Kansas, provided written testimony in support of the bill. (Attachment 5)

CONTINUATION SHEET

The minutes of the Federal and State Committee at 10:30 a.m. on March 10, 2011, in Room 144-S of the Capitol.

Jane Carter, Executive Director, Kansas Organization of State Employees, spoke in opposition to the bill. (Attachment 6) This bill takes the power of oversight out of the hands of the Legislature and ignores the need for good, quality services, and strongly urges the Committee to oppose this legislation.

Jeremy Hendrickson, Business Manager and Secretary/Treasurer, Laborers' Public Service Employees Local 1290PE, provided written testimony in opposition to the bill. (Attachment 7) Mr. Hendrickson stated the Legislative powers should not be delegated to a Commission that operates outside of normal channels and is not subject to oversight.

Luke Bell, Vice President of Governmental Affairs, Kansas Association of Realtors, (Attachment 8) and Gary Reser, Executive Vice President, Kansas Veterinary Medical Association, (Attachment 9) provided written testimony as neutral and asked the committee to retain the exclusion of fee funded agencies found in the bill intact.

William W. Sneed, Legislative Counsel, the University of Kansas Hospital Authority, provided neutral written testimony on the bill, requesting the Committee add language to the bill specifically exempting the University of Kansas Hospital Authority. The Authority was designed to act as a private entity, not as a state agency, in order to compete in a hospital environment. (Attachment 10)

Chairman Brungardt closed the hearing on HB 2120.

HB 2194--Creating the council on efficient government; requirements concerning state contractors

Chairman Brungardt opened the hearing on HB 2194.

Staff provided an overview of the bill.

Representative Marvin KleeB spoke in favor of the bill. (Attachment 11) The bill establishes a systematic process for evaluating privatization opportunities, and enables and encourages private-sector involvement, input and expertise in the process.

Dave Trabert, President, Kansas Policy Institute, testified in favor of the bill. (Attachment 12) Mr. Trabert believes the formation of such a panel is essential to creating a pro-growth economic environment.

Leonard C. Gilroy, AICP Director of Government Reform Reason Foundation, Los Angeles, California, provided written testimony in support of the bill. (Attachment 13) Mr. Gilroy stated in his testimony by applying competition to non-core activities would free up valuable resources for agencies to complete their missions and provide the greatest value to taxpayers.

Written testimony in favor of the bill was provided by Ron Hein, Kansas Restaurant and Hospitality Association, (KRHA). The KRHA Board has specifically addressed the issue whether state or local governments should engage in operations which are traditionally private sector ventures, and also what process should be followed by government when entertaining ventures into traditionally private sector ventures. (Attachment 14)

Jane Carter, Executive Director, Kansas Organization of State Employees, testified in opposition to the bill. (Attachment 15) HB 2194 is an outsourcing bill that jeopardizes the jobs for thousands of state employees and does nothing for the tax payer but place a "for sale" sign on our state government. Also provided with Ms. Carter's testimony is a brief report compiled on privatization that analyzes the true costs of such attempts to privatize public service.

Fernando Harms, Business Agent, Teamsters Local Union 696, spoke in opposition to the bill. (Attachment 16) The privatization of state services such as corrections is a serious mistake that will have a severe and negative impact for Kansas taxpayers and compromise services within those correctional facilities.

Jeffrey Hewitt, Secretary-Treasurer, Teamster Local Union 696, testified in opposition to the bill. (Attachment 17) The privatization of state services such as corrections poses a serious risk to Kansas, a

CONTINUATION SHEET

The minutes of the Federal and State Committee at 10:30 a.m. on March 10, 2011, in Room 144-S of the Capitol.

risk that will compromise not only our safety but the state's bottom line.

Jeremy Hendrickson, Business Manager and Secretary/Treasurer, Laborers' Public Service Employees Local 1290PE, spoke in opposition to the bill. (Attachment 18) The bill would allow state jobs to be outsourced not based on quality performance, but based only on costs. Fundamentally, the bill takes the approach that cheaper is always better.

William W. Sneed, Legislative Counsel, the University of Kansas Hospital Authority, provided neutral written testimony on the bill, requesting the Committee add language to the bill specifically exempting the University of Kansas Hospital Authority. The Authority was designed to act as a private entity, not as a state agency, in order to compete in a hospital environment. (Attachment 19)

Chairman Brungardt closed the hearing on **HB 2194**

The next meeting is scheduled for March 15, 2011. The meeting was adjourned at 11:55 a.m.

SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

GUEST LIST

DATE

3-10-11

NAME	REPRESENTING
JAN PAULS	Dist. 102 Hutch
JOANN VOYCE	KOSE
Kathleen Outlaw	KSNA
Gus Trunkle	KOSE
Jeremy Hendrickson	Laborers' Local Union 1290PE
Jane Carter	KOSE
Fernando Harms	Teamsters Union 696
Jeffrey Hewitt	Teamsters Union 696
Jimmy L. Love JR.	Teamster Union 696
Matt Hall	KOSE
Richard Short	KOSE
TED HENRY	CS.
STUE FARLO	TEAMSTERS LOCAL 696
Richard Shauf	Alliance for Kansans with Dev. Dis.
Mark Coney	BBA
Justin Stone	LPA
CHRIS HOWE	ADMINISTRATION / PURCHASERS
Andy Sanchez	KS AFL-CIO
Dave Trubert	KS Policy Institute
Shado Jacobs	Page-Bob Marshall
Logan Joos	Page-Bob Marshall
Matt Hastings	Page-Dennis Pyle
Blake Heck	Page-Dennis Pyle

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STATE OF KANSAS



TOPEKA
HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS

RANKING MINORITY MEMBER:
JUDICIARY
MEMBER:
HOUSE RULES AND JOURNAL
COMMERCE AND LABOR COMMITTEE
JOINT HOUSE AND SENATE COMMITTEE
ON JUVENILE JUSTICE AND CORRECTIONS
OVERSIGHT
JOINT HOUSE AND SENATE COMMITTEE
ON ADMINISTRATIVE RULES AND
REGULATIONS
MEMBER OF KANSAS SENTENCING COMMISSION
CHAIR:
NATIONAL CONFERENCE OF STATE
LEGISLATORS COMMITTEE ON LAW AND
CRIMINAL JUSTICE

Sub for House Bill No. 2188
Testimony Before The Senate Federal and State Affairs
March 9, 2011

Chairman Brungardt, members of the committee, I appreciate the opportunity to testify before you on Sub for House Bill No. 2188.

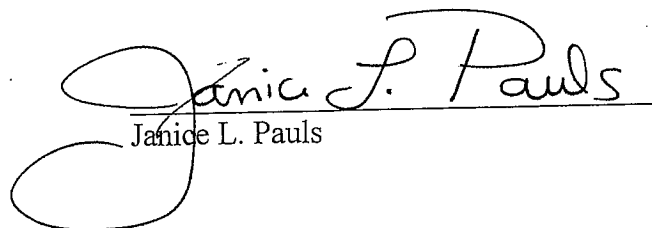
This bill makes only one change in the law regarding the law requiring fiscal notes. Fiscal notes are required under KSA 75-3715a:

“for all bills increasing or decreasing state revenues or the revenues of counties, cities and school districts, making state appropriations or increasing or decreasing existing appropriations or the fiscal liability of the state, or imposing functions or responsibilities on counties, cities and school districts which will increase their expenditures or fiscal liability”.

During a House floor fight (or discussion), our House Rules Committee realized that fiscal notes are not required for resolutions. As the Vice-Chair of the Rules Committee, I was happy to have a bill that could be amended to resolve this problem. (The Director of Budget is usually doing these fiscal notes anyway).

I believe this bill should probably be further amended to add “or resolution” in lines 17, 18, 19 (twice), and 23.

I'd be glad to stand for questions.


Janice L. Pauls



KANSAS POLICY INSTITUTE

ADVOCATING FOR FREE MARKETS AND THE PROTECTION OF PERSONAL LIBERTY

Testimony Submitted to Senate Committee on Federal and State Affairs HB 2120 Streamlining Government Commission

March 10, 2011

Dave Trabert, President, Kansas Policy Institute

Chairman Brungardt and Members of the Committee,

Thank you for the opportunity to testify today. It is an honor and privilege to be able to answer your questions and provide assistance as you work to ensure that taxpayer funds are used as efficiently and effectively as possible.

It seems there are two fundamental issues to consider with this legislation: (1) whether to form an independent commission and (2) if so, the particulars of its membership, governance and duties. My comments today are focused on the necessity for an independent commission.

The stated purposes of the Streamlining Government Commission outlined in HB 2120 are *"...to improve the performance, streamline the operations, improve the effectiveness and efficiency, and reduce the operating costs of the executive branch of state government by reviewing state programs, policies, processes, original positions, staffing levels, agencies, boards and commissions, identifying those that should be eliminated, combined, reorganized, downsized or otherwise altered, and recommending proposed executive reorganization orders, executive orders, legislation, rules and regulations, or other actions to accomplish such changes and achieve such results."*

Each stated purpose is an essential element of developing and maintaining efficient operations. Collectively they serve an even greater purpose, which is to help create an environment that maximizes the potential for private sector job creation.

As noted in Governor Brownback's Economic Development Strategic Plan, *"The state government has two fundamental roles to play in the process of economic development. First, it must establish a business environment that motivates as much risk-taking and competition as possible in the context of a "level playing field." Second, it must steward taxpayer resources in the most effective manner possible; when the government strives to do its job well with as few resources as possible it leaves more resources available for risk-taking and competition."*

We concur with that policy statement. Keeping tax burdens low is essential to encourage entrepreneurial risk-taking and job creation. Individual taxpayers and employers have finite

resources; spending more money on, say, a new car, means they must reallocate their resources and spend less on something else. The same applies to taxes; the more taxpayers must pay in taxes, the less they have to spend on goods and services. In order to maximize economic activity and encourage risk-taking, it's therefore extremely important that taxes be kept low and that state and local tax burdens are competitive with other states.

Kansas Policy Institute compared how the ten states with the lowest combined state and local tax burdens compared to the ten with the highest burdens on several key performance measures. We used the tax burden rankings from the non-partisan Tax Foundation, which used 2009 data for their comparisons, the most recent nationwide data available when the study was published last month.

We first looked at 10-year private sector job growth rates between 1998 and 2008 (we chose that time frame because Kansas' private sector employment peaked in April 2008) and found that the low-burden states had remarkably better performance. We continued to track each group's progress over the next two years to see how the recession impacted their continuing performance.

Table 1: Private Sector Job Growth		
State / Local Tax Burden Rank	1998-2008	1998-2010
10 lowest burden states (41-50)	14.6%	8.8%
10 highest burden states (1-10)	7.0%	0.6%
National average	7.9%	1.2%
Kansas (19)	5.2%	-0.6%
<i>Source: Tax Foundation, U.S. Dept. of Labor, Bureau of Labor Statistics.</i>		

The low-burden group of states was well above the national average and outperformed the high-burden group many times over. It's particularly interesting that the low-burden group is weathering the recession much better. In the 1998-08 time frame, the low-burden group outperformed the high-burden group by a factor of just over 2:1 (14.6% compared to 7.0%); two years later, they outperformed them by a factor of well over 14:1. Every state was affected by the recession, but private sector employment in the lowest-burden states is still well better than it was ten years ago – a claim that higher burden states (and Kansas) cannot make.

Next we looked at population change, since having a broad and expanding tax base is critical to keeping tax burdens low. We specifically looked at net domestic migration – U.S. residents moving into and out of states – between 1999 and 2009, with the net change measured as a percentage of current population.

Table 2: Domestic Migration	
State / Local Tax Burden Rank	1999-2009
10 lowest burden states(41-50)	3.2%
low burden states w/o Louisiana	4.3%
10 highest burden states (1-10)	-4.1%
National average	0.0%
Kansas (19)	-2.5%
<i>Source: Tax Foundation; U.S. Census Bureau.</i>	

Again, the low-burden states were the big winners. The ten states with the lowest state and local tax burden averaged a 3.2% gain from domestic migration; that includes Louisiana, which suffered significant population loss following Hurricane Katrina. Excluding Louisiana, the other nine states averaged a 4.3% gain. The ten states with the highest combined tax burden all had net losses, averaging a 4.1% decline. 2009 was the 11th consecutive year that Kansas lost population due to domestic migration.

Both performance comparisons (private sector job growth and domestic migration) make perfect sense. Given the means and opportunity, we all tend to gravitate toward what we perceive to be the best 'deal.' Human and financial capital is no different; it will go where it is treated the best and provided the opportunity to expand. People want to retain more of their earnings and states with the lowest state and local tax burdens let them keep more of their hard-earned money and employers have more resources available for growth and job creation.

The Tax Foundation doesn't put Kansas in the ten highest rankings, but we are definitely moving in the wrong direction. Kansas had the 23rd highest burden in 2008 and now has the 19th highest combined burden based on changes enacted through 2009. Since then, Kansas are paying nearly \$500 million more in sales, unemployment, and property taxes, and Kansas was the only state in the region that balanced its FY 2011 budget with a large tax increase. Given recent tax increases and recession-related income declines, it would not be surprising to find Kansas even closer to having one of the 10 highest tax burdens in the country when the full impact of these changes are considered.

Kansas has an uncompetitive tax burden and it must be reduced in order to encourage job creation and attract new residents. Reducing the tax burden means we must reduce spending, so the question we must ask is whether the hard choices required to do so will take place without independent, outside review. Experience says not.

- Between FY 2000 and FY 2009, State General Fund (SGF) spending increased 39% and All Funds spending increased 66%.
- At the same time, inflation increased just 21% and population only increased by 5%.

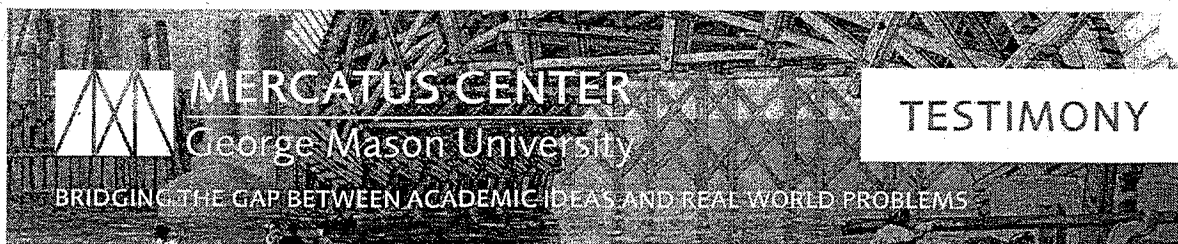
- If SGF spending had increased 4.5% annually between FY 2005 and FY 2010, we would have begun FY 2011 with a \$2.6 billion surplus in the general fund.
- Overtime paid to state employees totaled \$10.2 million in calendar 2010, a 10% increase over 2009.
- Millions of dollars are spent each year on travel to conferences, organization dues and other non-essential items.

Have most agencies come before Appropriations in recent years saying they could operate on less money, or do most ask for ever-increasing funds? How many programs have agencies recommended be terminated for having run their course?

Most people would likely agree that every aspect of government should function as efficiently as possible. It's in determining the necessity of certain expenditures where differences of opinion arise. Some people may view a particular expenditure as unnecessary to the fulfillment of a program's or an agency's primary mission while others may see it as essential. Absent an independent review, we are expecting government employees to put their own self-interests aside and make completely unbiased decisions on how best to spend taxpayer funds. It's not that government employees are intentionally wasteful; it's that they are human beings and setting self-interests aside is challenge we all face.

Operating efficiently is also more challenging for employees and managers who have spent many years in the same company or agency. Even people who have made conscious efforts to control costs can easily overlook opportunities because they've been working in the same environment for so long that many assumptions of how things must be done become 'baked in' to their thinking. I've personally experienced this as the beneficiary of independent reviews as well as having conducted many such reviews.

Current and future taxpayers can only benefit from having an independent commission to examine the executive branch of government in search of ways to reduce costs and increase both efficiency and effectiveness. We believe the formation of such a commission is essential to creating a pro-growth economic environment and encourage the Committee to do so.



USING GOVERNMENT STREAMLINING COMMISSIONS TO REDUCE SPENDING AND IMPROVE EFFICIENCY: EVIDENCE FROM LOUISIANA AND VIRGINIA

MARCH 10, 2011

Daniel M. Rothschild
Managing Director, State and Local Policy Project

Kansas Senate Federal and State Affairs Committee

Chairman Brungardt, Ranking Member Faust-Goudeau, and members of the committee:

Thank you for the opportunity to speak with you today about the Kansas Government Effectiveness and Efficiency Commission Act (HB 2120). I appreciate the invitation and applaud the committee's interest in making Kansas's government more efficient and effective.¹

My name is Daniel Rothschild, and I am the managing director of the State and Local Policy Project at the Mercatus Center at George Mason University. The Mercatus Center is a university-based research group focused on the economics of public-policy issues. Our mission is to generate knowledge and understanding of how institutions affect the freedom to prosper and find creative solutions to overcome barriers that prevent individuals from living free, prosperous, and peaceful lives. Nothing in my statement today represents an official position of the Mercatus Center or of George Mason University.

Over the past three years, as states have faced record budget deficits, a number of governors and legislatures have looked for ways to increase government efficiency and effectiveness in order to minimize painful budget cuts and avoid tax and fee increases.

With my colleague Maurice McTigue, I have had the opportunity to work with Louisiana's Commission on Streamlining Government and Virginia's Commission on Government Reform and Restructuring as they spent much of 2009 and 2010, respectively, poring over their states' operations looking for efficiencies and opportunities to refocus state agencies on their critical core missions. My comments today reflect my personal experience with these commissions, as well as ex-post analysis based on qualitative interviews with many of the members and staff who participated in Louisiana's efforts and less formal conversations with participants in Virginia's commission.

We have found that independent government streamlining commissions that bring together officials from the legislative and executive branches of government as well as outsiders from the private sector and nonprofit groups to look closely at government activities can be effective at identifying opportunities to cut waste, eliminate duplicative programs, realize economies of scale, and generally streamline state government operations.

We have identified eight specific factors relating to the creation and composition of streamlining commissions that we believe help make them more effective and their reports more likely to result in positive policy changes. I will go through these points briefly, and I am happy to discuss them in greater detail at a

¹ This written testimony is based on the written and oral testimony I gave on February 14, 2011 before the Kansas House Government Efficiency Committee.

later date if it would be helpful to the committee.

1. Identify a focus and clear goals. Commissions can either focus on specific, discrete issues or cover a wide range of government services. This should be clearly and specifically articulated in the commission's charter, as should the deliverables the commission is charged with producing. Failure to do either of these things will delay the commission's start and open it up to pressure from outside interest groups to either include or exclude specific issues. To maximize the effectiveness of the commission's reports, the committee may wish to review section 8 of the bill and more clearly specify what should be included in the four reports required of the commission.
2. Keep the timeline commensurate with the scope. Commissions with a very narrow scope may be able to complete their work in a matter of months, but those with broader missions may need a year or more to complete their work. Your proposal to stagger reports over two years may be a way to achieve both short-term results with the kind of reform that only comes through longer-term deliberation and study. As one staff member from Louisiana's Commission on Streamlining Government said, "The deal with true reform is you sit back and look at it a while." Taking the time for deep study, debate, and reflection will yield a better final product. The approach proposed in the bill may be an effective way to grab some of the "low-hanging fruit" early on while contemplating more complex reforms over two years.
3. Structure committees in a way that comports with staff expertise. Both the Louisiana's and Virginia's commissions created committees to study particular issues in depth and report back to the commission. These committees should be structured to take advantage of legislative staff experience and expertise. Additionally, each committee should be provided with clear terms of reference that minimize overlap between committees. The "Terms of Reference" should make it clear that the commission has the authority to create committees and specify who is eligible to serve on these committees. In some cases it would be valuable to allow committees to include citizens who are not commission members but with deep experience in specific areas to assist the work of the committee. These appointments should be approved by the whole commission.
4. Properly resource the commission with the funds necessary to start quickly, investigate thoroughly, and report effectively. Providing a budget to a commission tasked with reducing spending may sound oxymoronic. But virtually all of the members of the Louisiana Commission on Streamlining Government who we interviewed told us that they would have been more effective with an independent investigative and analytic staff. While members praised the diligence and expertise of the legislative staff detailed to the commission, these staff members, by virtue of their positions as civil servants, were unable to effectively critique ideas put forth either by commissioners or members of the public. Moreover, they were unable to aggressively seek information from agencies. Commissioners and staff generally agreed that civil-service staff can be valuable assets to commissions, but commissions need their own independent staff as well for fact-finding and analysis. Further, we recommend that a commission be given the funds to hire a facilitator to serve as a chief of staff to the chairperson and an editor to begin the hard work of writing intermediate and final reports from the first day the commission meets. These positions help the commission make the most of its time, especially when operating on a tight timeline.
5. Select commission members who are largely outsiders. Streamlining commissions are most effective when a majority of their members do not make government their full-time occupation. After all, much of their strength comes from having a fresh set of eyes look at the operations of state government. The bill in question enshrines this principle in section 3(b), so I will not dwell on this topic. But that said, your committee may wish to consider amending the bill to allow one or two legislative members who can speak for the commission when its recommendations come before the legislature. I discuss this more in point eight.
6. Select an independent chair. Your bill makes this the prerogative of the members of the commission, so I would simply recommend to them that they elect a chair who is widely seen as politically independent yet knowledgeable of the policy making process, can effectively speak for the

commission in the media, and ensure that the commission is making timely progress.

7. Keep administration participation circumscribed but significant. Having buy-in from the governor can greatly increase the commission's access to timely, accurate information. However, the commission must be able to act independently of the executive branch.

8. Plan for legislative follow through. Nobody agrees to serve on a commission like this because of the joy that comes from writing articulate, convincing reports that sit on shelves and do not result in policy changes. Therefore, the commission should endeavor to make all of its recommendations as actionable as possible. As I suggested earlier, having a small number of legislative members may be useful in this regard, as legislators bring expertise about the legislative process and can serve as spokespeople for the commission with their fellow legislators. Additionally, the facilitator and editor can help maintain focus on the actionability of recommendations throughout the research and writing process.

In addition to these recommendations, we have identified a number of effective practices that the commission may wish to employ after it is constituted. I would be happy to discuss these with the members of the commission when it is formed.

There is no "one size fits all" recipe for establishing or operating state streamlining commissions. Rather, effective commissions must be created and managed in a way that is compatible with a state's political, economic, and constitutional environments.

Based on what we have learned from other states, I believe that Kansas will be well served by the commission this bill would create. I believe that some small changes, especially allowing limited legislative membership, providing a budget for investigation and facilitation, and clarifying the commission's deliverables, could improve the quality, scope, and time of the commission's work.

I hope my comments today have been useful to the committee, and I thank you for the opportunity.

**Written Testimony before the Senate Federal & State Affairs Committee
HB 2120 – Establishing the Kansas Government Effectiveness & Efficiency Act
Submitted by J. Kent Eckles, Vice President of Government Affairs**

Thursday, March 10th, 2011

The Kansas Chamber of Commerce appreciates the opportunity to submit testimony in favor of HB 2120, which would establish the Kansas Government Effectiveness & Efficiency Commission.

Responses to our Annual CEO Poll and input from our members have indicated a strong desire of employers throughout Kansas to encourage the legislature to implement a host of government efficiency suggestions for all levels of government. With ever decreasing and precious tax dollars available, it is imperative those dollars are spent in the most efficient and transparent manner possible.

Kansas residents and businesses simply cannot afford our state government, which grew in the boom years but must now undergo a “reset of state government” to reflect economic times. The Kansas Streamlining Government Effectiveness & Efficiency Commission is an idea whose time has come.

This coming state government reset will no doubt be extremely difficult considering the spending binge the state was on immediately preceding this recession. During the last decade, states increased their spending by an average of 6% per year, topping out at 8% during 2007-08 – Kansas included. Much of the government institutions built up in those years will now have to be dismantled.

States that have made the same tough choices years ago that Kansas faces now are in a much better position to attract jobs and grow their tax base. Simply put, the cost of doing business is much lower when state government is streamlined.

Kansans are currently seeing first-hand the political impulse to protect government largess and how it leads many states to aggravate their dilemma. More than 30 states have raised taxes, often on businesses, serving only to chase them and their tax payments away and into the open arms of states that have moved in the opposite direction. If efficiencies are not found and the tax burden is increased on Kansas employers, many will surely close up shop and seek out low-cost, enterprise-friendly environments in other states.

We urge the Committee to pass favorably House Bill 2120 to make the state more efficient and effective with limited taxpayer dollars.

The Kansas Chamber, with headquarters in Topeka, Kansas, is the leading statewide pro-business advocacy group moving Kansas towards becoming the best state in America to live and work. The Chamber represents small, medium, and large employers all across Kansas. Please contact me directly if you have any questions regarding this testimony.



5

March 10, 2011

Members of the Federal And State Affairs committee I come before you today to ask for your support of H.B. 2120 "An act establishing the Kansas streamlining government commission; providing for an independent review of state agencies of the executive branch of state government; prescribing powers, duties and functions for the commission and certain other agencies; amending K.S.A. 2010 Supp 75-2973 and 7543-19 and repealing the existing sections ." I urge this committee to vote the bill favorably out of the committee and send it to the full senate for a vote.

I believe their exist within the executive branch of Kansas Government waste, fraud, and abuse. This bill would form the foundation of a "commission" to clean up, and expel the ineffective and wasteful areas of the executive branch of state government, thus saving the citizens of Kansas potentially hundreds of thousands if not millions of dollars a year. I especially like "New Sec 7. (a) "The commission shall:"#s 3,4, and 5. I would encourage the committee to amend the bill to adopt H.B. bill 2158 under New Sec. 7. (4) This bill deals with "performance goals" of state agencies, which is what (4) of this current bill is established to do. So by adopting H.B. 2158 which is currently in the Senate Ways And Means committee, you would further strengthen the provisions of H.B. 2120 by adding language specifically spelling out how the performance goals are to be measured and what consequences may come to a state agency, as a result of not meeting specific performance goals. I believe it's vital to hold state agencies accountable to their Mission Statement, and this act would establish a "systematic method" of verifying if state agencies are effective and meeting the legislative intent, the agency was established for. If an agency is no longer meeting the "legislative intent" it was established for or a program within an agency is no longer meeting the legislative intent it was established for, then the agency or program needs to be eliminated or restructured, so that the original legislative intent can be reestablished. This bill would take things a step further by introducing legislation to correct problem areas within state agencies "increasing effectiveness and efficiency" of the agency. I ask the committee to unanimously support this bill as amended and urge the entire senate to follow the recommendation of the committee, and pass this bill and send it to a House and Senate conference committee, so the Governor can sign it.

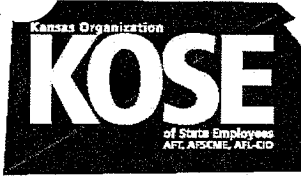
Sincerely, Scott Douglas



cc: My files

Sn Fed & State
Attachment 5

3-10-11



A New Day... A Better Way... For State Employees

Testimony before the
Senate Federal and State Affairs

On
HB 2120

By
Jane Carter, Executive Director
Kansas Organization of State Employees
March 10, 2011

Mr. Chairman and members of the committee:

My name is Jane Carter and I am the Executive Director of the Kansas Organization of State Employees (KOSE) representing 11,000 state employees of the executive branch. I appreciate the opportunity to speak before the Committee in opposition to HB 2120.

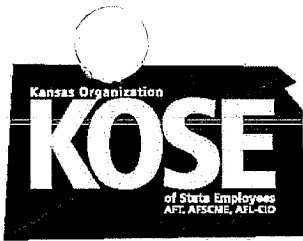
HB 2120 creates a new Commission to review efficiency of government. The Streamlining Commission created by HB 2120 is empowered to review agencies and other components of government, "identifying those that should be eliminated, combined, reorganized, downsized or otherwise altered."

The chair of the commission is given great powers, e.g., to "determine which aspects of the exec. branch... shall be reviewed. In establishing such data, the chairperson shall settle upon those units of exam [sic] where the greatest likelihood of cost savings exists." Such a determination is difficult to attain, and not clearly identified in this proposed legislation. In essence, the Chair of this Commission could target any function of government and target that function for any supposed "savings". This is not a rational or effective way to streamline or consolidate. Furthermore, the Commission takes streamlining as a valid end goal by itself. Presumably streamlining has value to the degree that it actually saves money or accomplishes things, not just for the sake of streamlining.

This bill simply has a cost-over-quality bias. For instance, Section 7(4) charges the commission to identify and address "any state services that could be provided at lower cost by the private sector" or other levels of govt. The only intent of this proposed legislation is to cut costs; however, quality of service that Kansans rely on and deserve is not taken into consideration.

The bill gives extensive power to the commission, and envisions that it could recommend agency or executive actions. The legislature would have to approve only by concurrent resolution, without the resolution being subject to amendment. Essentially, this bill simply allows for a rubber stamp, with little to no oversight, debate or even discussion.

KOSE, however, has persistently held that there are ways to cut costs in government. A good example of a Commission is from Rhode Island. In April 2003, the Governor of Rhode Island officially kicked off the Fiscal Fitness initiative by recruiting sixty state employees from all levels of state government to carry out an intensive review of executive-branch departments. This review focused on organization, staffing, workflow, processes, management, spending and budgeting of the Executive Branch.



A New Day... A Better Way... For State Employees

From the Rhode Island Department of Administration website:

"Taking a leadership role, Fiscal Fitness team members helped employees throughout the state to generate hundreds of ideas, most of which were based on detailed analyses of agency operations. Teams of employees also researched best practices from other states and solicited improvement ideas from the private sector. An enthusiastic public contributed their own ideas, and several Rhode Island business leaders volunteered their time in support of the initiative.

In total, Fiscal Fitness generated one hundred and forty recommendations, focusing on better and less costly government. These recommendations fell along clear lines of action: reducing costs, capturing lost revenues, leveraged purchasing, updating technology, consolidating back-office and redundant functions, streamlining agencies, combining similar divisions and reducing the levels of upper- and mid-level management. Fiscal Fitness has already begun to help the agencies implement these ideas which have resulted in efficiency and real savings.¹"

Additional resources on the Rhode Island Fiscal Fitness team can be found at, <http://www.bpmminstitute.org/articles/article/article/rhode-island-reengineers-state-government.html>

KOSE fully supports the concept of and dedication to the delivery of cost-effective and quality services to satisfied citizens who have confidence that their hard earned taxpayer dollars are being spent effectively. However, HB 2120 takes the power of oversight out of the hands of the Legislature and ignores the need for good, quality services. We strongly urge the Committee to oppose this legislation

¹ Rhode Island Department of Administration, <http://www.fiscalfitness.ri.gov/misc/welcome2.php>



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Written Testimony before the
Senate Federal and State Affairs

On
HB 2120

By
Jeremy Hendrickson, Business Manager and Secretary/Treasurer
Laborers' Public Service Employees Local 1290PE
March 10, 2011

Mr. Chairman and members of the committee:

My name is Jeremy Hendrickson and I am the Business Manager and Secretary/Treasurer for Laborers' Public Service Employees Local Union 1290PE. I am submitting these remarks in opposition to HB 2120.

The goal of HB 2120 is purportedly to review governmental efficiency. Under HB 2120, the Streamlining Commission can review agencies and other components of government, "identifying those that should be eliminated, combined, reorganized, downsized or otherwise altered." In other words, any function of government could be targeted for elimination or reduction, with cost-cutting as the primary goal.

Government is not a private, for-profit enterprise. Government focused only on costs is government that does not consider its citizens, or the needs of its citizens, when making decisions. Costs, and costs alone, should never be the basis for governmental decisions.

My primary concern with this bill is the amount of power it grants to the Streamlining Commission. Government officials are elected to make appropriate decisions for those they govern. If decisions about how to provide services to the citizenry are made by an unelected Commission instead of by elected officials, there is little to no accountability for the decisions made.

If the types of changes contemplated by this bill are necessary and required, those changes should be made by the legislature, through the appropriate political process, and with the normal oversight. Significant changes to state operations should not be made outside of the traditional democratic process.

While I understand the goals of efficient government, I do not believe Legislative powers should be delegated to a Commission that operates outside of normal channels and is not subject to oversight. I encourage the Committee to oppose this legislation.



8

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Email: lbell@kansasrealtor.com

To: Senate Federal and State Affairs Committee

Date: March 10, 2011

Subject: **HB 2120** -- Establishing the Kansas Streamlining Government Commission and Providing for an Independent Review of Executive Branch State Agencies

Chairman Brungardt and members of the Senate Federal and State Affairs Committee, thank you for the opportunity to provide written testimony on behalf of the Kansas Association of REALTORS® in support of **HB 2120**. Through the comments expressed herein, it is our hope to provide additional legal and public policy context to the discussion on this issue.

KAR is the state's largest professional trade association, representing nearly 8,000 members involved in both residential and commercial real estate and advocating on behalf of the state's 700,000 homeowners for over 90 years. REALTORS® serve an important role in the state's economy and are dedicated to working with elected officials to create better communities by supporting economic development, a high quality of life and providing affordable housing opportunities that embrace the environmental qualities we value, while protecting the rights of private property owners.

HB 2120 would establish the Kansas Streamlining Government Commission that would seek to streamline the operations and improve the efficiency of state government by reviewing state agencies, boards and commissions. At the conclusion of the process outlined in **HB 2120**, the Commission would have the authority to recommend legislation to eliminate, combine, reorganize and downsize certain state agencies, boards and commissions.

KAR Strongly Supports the Intent Behind HB 2120 to Help Prevent Future Budget and Spending Crises by Identifying Long-Term State General Fund Efficiencies and Savings

First, we would like to emphasize that we strongly support the intent behind the provisions of **HB 2120** to streamline the operations and improve the efficiency of state agencies that receive funding from the state general fund (SGF). Given the current budget and spending crisis facing the Kansas Legislature, we believe it is vitally important for the Kansas Legislature to consider any legislation that would result in state general fund (SGF) savings over both the short- and long-term horizon.

In the past five years, the Kansas Legislature has taken actions that have resulted in the sweep of nearly \$1.9 million from the real estate fee fund administered by the Kansas Real Estate Commission to pay for unrelated programs funded through the state general fund in other parts of the state budget. As a result, the Kansas Real Estate Commission has been forced to increase licensing fees on real estate professionals, which is an indirect tax increase on the individuals and small businesses that make up the real estate industry.

Unfortunately, it is clear the status quo in our budgeting process is not functioning properly when the state is forced to raid regulatory fee funds to pay for programs funded through the state general fund. If the Kansas Streamlining Government Commission is able to identify any efficiencies and savings from the agencies funded by the state general fund, we are hopeful that this will help end the Kansas Legislature's recent habit of raiding regulatory board fee funds for SGF spending.

KAR Strongly Opposes Any Proposals to Eliminate Regulatory Agencies Funded Exclusively Through Fee Funds That Receive No SGF Funding (Such as the Kansas Real Estate Commission)

In order to maximize the long-term SGF savings that can be achieved through the process outlined in **HB 2120**, we believe the main thrust of the Commission should be to review the operations of state agencies that are funded through appropriations from the state general fund. As a result, we believe this process should not include a review of fee-funded regulatory agencies that are exclusively funded by fee funds and receive absolutely no appropriations or funding from the state general fund.

Under the definition of "state agency" in section 2(d) of **HB 2120**, we believe the new commission would have the authority to review "any state agency in the executive branch of state government." In our opinion, a fee-funded regulatory agency that receives no appropriations or funding from the state general fund could fit within this definition of the term "state agency" as it is currently written.

As a profession, we strongly believe in the need for the licensing of real estate professionals and the necessity of an independent Kansas Real Estate Commission to regulate our profession. If the Kansas Real Estate Commission was eliminated or merged with another state agency, we believe this would result in less consumer protection, decreased services for real estate licensees and a regulatory body that lacks the expertise necessary to properly regulate the real estate industry.

In order to ensure that state agencies that are exclusively funded through fee funds and receive absolutely no funding from the state general fund were not included in the scope of the review, the House Government Efficiency and Technology Committee unanimously adopted an amendment to explicitly exclude fee-funded state agencies from the scope of this legislation. We would strongly urge the members of the Senate Federal and State Affairs Committee to retain this amendment.

Conclusion

For all the foregoing reasons, we would urge the members of the Senate Federal and State Affairs Committee to support the legislation and retain the amendment adopted by the House to explicitly exclude fee-funded agencies from the scope of the legislation. Once again, thank you for the opportunity to provide written comments on **HB 2120** and I would be happy to respond to any questions at the appropriate time.



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Testimony
Senate Federal and State Affairs Committee
Presented by the Kansas Veterinary Medical Association on H.B. 2120
Thursday, March 10, 2011

Members of the Senate Federal and State Affairs Committee, thank you for the opportunity to present written testimony on **H.B. 2120**.

The Kansas Veterinary Medical Association (KVMA) represents and advocates on behalf of the Kansas veterinary profession through legislative, regulatory, educational, communications, and public awareness programs.

The KVMA respectfully requests that the Senate Federal and State Affairs Committee keep intact the exclusion of fully fee funded agencies found in H.B. 2120 that was adopted unanimously by the House Government Efficiency Committee.

It has been the experience of the KVMA over the years that the Kansas Board of Veterinary Examiners, a small, exclusively fee funded state agency, is extremely efficient in its operations.

The Kansas Board of Veterinary Examiners does not take any State General Fund money and, in fact, transfers twenty percent of its fee funds to the State General Fund.

Two years ago, an additional \$65,000 was transferred from veterinary fee funds into the State General Fund through fee weeps, one third of the agency's fee fund balance. This is another indication of the Board's efficiency.

Of course these transfers result in funding for other state programs outside of the purpose of veterinary fee funds, that is to license, regulate, inspect, and oversee the Kansas veterinary profession and to protect the public health, safety, and welfare.

Under **H.B. 2120**, the Commission would have the authority to recommend legislation to eliminate, combine, reorganize, and downsize certain state agencies, boards, and commissions.

The KVMA also strongly supports the validity and necessity of licensing and regulating the Kansas veterinary profession and safeguarding the public health, safety, and welfare through the Kansas Board of Veterinary Examiners, a managerially disciplined and fiscally responsible regulatory body.

The KVMA is extremely concerned that if the Kansas Board of Veterinary Examiners was eliminated or merged with another state agency the result would be a loss of the very specific expertise needed to regulate the veterinary profession, fewer inspections, oversights, and services to the public, and, most importantly, less veterinary client protection.

Once again, the KVMA respectfully requests the Senate Federal and State Affairs Committee keep the exclusion of fee funded agencies found in H.B. 2120 intact.

Thank you again for the opportunity to present this testimony to the Committee.

Respectfully submitted,

Gary Reser
KVMA executive vice president

TO: The Honorable Pete Brungardt, Chairman
Senate Federal and State Affairs Committee

FROM: William W. Sneed, Legislative Counsel
The University of Kansas Hospital Authority

SUBJECT: H.B. 2120

DATE: March 10, 2011

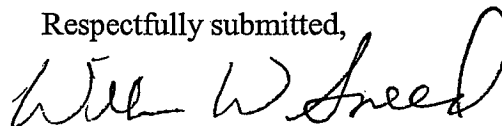
Mr. Chairman, Members of the Committee: My name is Bill Sneed and I am Legislative Counsel for the University of Kansas Hospital Authority. This is the Authority that the Kansas Legislature created to run and operate the hospital commonly referred to as KU Med. We appear here today as neutral conferees on H.B. 2120.

Our research indicates that the bill as written would bring the University of Kansas Hospital Authority under its purview due to the definition of "state agency" contained in the bill. Inasmuch as the Authority was specifically designed to act not as a state agency but more like a private entity, such inclusion will unintentionally hamper the hospital's ability to meet its goals. It is only through this structure that the hospital has been able to compete and ultimately add back to the state millions of dollars, provide the structure for a first-class school of medicine, and provide much-needed health care, much of it on a charity basis.

Therefore, we would request that the Committee add language to the bill specifically exempting the University of Kansas Hospital Authority as that entity is defined in the authorizing language found in K.S.A. 76-3301, *et seq.* We have attached the language that has been used in other bills.

We appreciate the opportunity to present this testimony, and we will be happy to answer questions.

Respectfully submitted,



William W. Sneed

WWS:kjb

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Sn Fed & State
Attachment 10

As Amended by House Committee

Session of 2011

HOUSE BILL No. 2158

By Committee on Government Efficiency

2-4

1 AN ACT concerning state agencies; relating to performance measures;
2 amending K.S.A. 75-3715 and 75-3716 and K.S.A. 2010 Supp. 74-
3 72,123 and repealing the existing sections.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 New Section 1. (a) The legislature finds that performance
7 measures are an important management tool that has been utilized by
8 state agencies for numerous years.

9 (b) The legislature finds that the use of quantifiable performance
10 measures can be used by the governor and the legislature to assess the
11 effectiveness over time of programs and actions of each ~~sate~~ state
12 agency.

13 New Sec. 2. As used in sections 1 through 3, and amendments
14 thereto:

15 (a) "State agency" shall be defined as set forth in K.S.A. 75-3049,
16 and amendments thereto, **except that the university of Kansas**
17 **hospital authority shall not be included in such definition for the**
18 **purposes of sections 1 through 3, and amendments thereto; and**

19 (b) "performance measures" means a quantitative or qualitative
20 indicator used to assess state agency performance, including outcome
21 and output indicators.

22 New Sec. 3. (a) Each state agency shall consult with a
23 representative of the department of legislative research and the director
24 of the budget or the director's designee to modify each agency's
25 performance measures to standardize those performance measures and
26 to utilize best practices across all state agencies.

27 (b) On or before October 1 of each year, each state agency shall
28 submit an annual report based on those performance measures to the
29 legislative budget committees, the director of the budget and the
30 secretary of administration.

31 (c) The required reports in subsection (b) ~~shall also be sent to the~~
32 department of administration ~~to~~ shall be posted on the website created
33 pursuant to K.S.A. 2010 Supp. 74-72,123, and amendments thereto.

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STATE OF KANSAS
HOUSE OF REPRESENTATIVE



MARVIN G. KLEEB
48TH DISTRICT

COMMITTEE ASSIGNMENTS
CHAIR: JOHNSON COUNTY DELEGATION
VICE CHAIRMAN: TAXATION
MEMBER: APPROPRIATIONS
MEMBER: COMMERCE & LABOR

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March 10, 2011

HR 2194
Creating the Council On Efficient Government: Requirements
Concerning State Contractors

The goal of the HB 2194, The Council on Efficient Government and is two-fold:

1. To ensure that the taxpayers' hard-earned money is utilized in the most cost-effective and productive manner possible.
2. To ensure that state governmental services are efficiently provided so the limited resources can serve the greatest number of constituents needing those services.

WHAT THE COUNCIL ON EFFICIENT GOVERNMENT DOES NOT DO:

The intent of HB 2194 through the establishment of the Council on Efficient Government is not to review or recommend divisional or departmental:

1. Restructuring
2. Consolidation
3. Elimination
4. Mergers

WHAT THE COUNCIL IS INTENDED TO DO:

The intent of HB 2194 is to establish a Council on Efficient Government to:

1. Develop and execute a rigorous systematic process to initiate and review business cases for opportunities to privatize and outsource activities and/or functions that may produce or enhance efficiencies, cost savings and quality outcomes

2. Encourage and enable the private sector to provide "outside" expertise, experience and a fresh consultative approach to the evaluation of opportunities to privatize or outsource
3. Review opportunities for state government to create or enhance further partnerships with non-profit organizations and local governments in the delivery of services.
4. Provide a transparent and easy process for the Executive and Legislative branches of government to review, but not require, the use of Kansas based and most cost effective providers in the vendor selection process

HB 2194 ENACTS PRIOR RECOMMENDATIONS

It is well recognized that these are not necessarily new concepts for Kansas state government. In fact, a previous Legislative Post Audit and a Council on Privatization have researched and documented opportunities, challenges and successes surrounding outsourcing and privatization.

HB 2194 addresses the key recommendations that have been made by these two groups to create a focused special committee to:

1. Establish a systematic process for evaluating privatization opportunities
2. Enable and encourage private-sector involvement, input and expertise in the process

The support that would be required for the Council on Efficient Government would be provided by the Legislative Research Department. After consulting with the department, it has been determined there would be no additional manpower cost or fiscal note associated with their support.

The legislation, HB 2194, also is asking for the Division of Purchasing to assist with the review and evaluation of private contracts and purchasing decisions: a) when the lowest cost bid or option is not chosen; b) when a Kansas business is not selected as the vendor for a particular contract. Last year, it has been determined that the Division of Purchases would have most of the needed information and it would be available through current reporting methods so there would not be a material fiscal note for their support.

I realize that the proposed Council on Efficient Government, privatization, outsourcing, the elimination of redundant services or selecting the lowest cost vendor will not independently solve the state's dire budget problems. However, we owe it to the taxpayers and those we serve to seek every opportunity to employ our limited resources in the most efficient, cost-effective and productive ways possible.



KANSAS POLICY INSTITUTE

ADVOCATING FOR FREE MARKETS AND THE PROTECTION OF PERSONAL LIBERTY

Testimony Submitted to Senate Committee on Federal and State Affairs
HB 2194 Kansas Advisory Council on Privatization and Public-Private Partnerships
March 10, 2011
Dave Trabert, President, Kansas Policy Institute

Chairman Brungardt and Members of the Committee,

Thank you for the opportunity to testify today. It is an honor and privilege to be able to answer your questions and provide assistance as you work to ensure that taxpayer funds are used as efficiently and effectively as possible.

It seems there are two fundamental issues to consider with this legislation: (1) whether to form an independent council and (2) if so, the particulars of its membership, governance and duties. My comments today are focused on the necessity for an independent council.

The stated purposes of the Kansas Advisory Council on Privatization and Public-Private Partnerships outlined in HB 2194 are *"...(1) To ensure that each state agency focuses on its core mission, and delivers goods and services effectively and efficiently by leveraging resources and contracting with private business suppliers or not-for-profit organizations if those entities can more effectively and efficiently provide such goods and services thereby reducing the cost of government while expanding those services to the greatest number of citizens; (2) to develop a comprehensive and detailed process to analyze opportunities to improve the efficiency, cost-effectiveness and quality of state governmental services, operations, functions and activities; and (3) to evaluate for feasibility, cost-effectiveness and efficiency, business cases that potentially could be outsourced and make recommendations to state agencies prior to the outsourcing of goods or services.."*

Each stated purpose is an essential element of developing and maintaining efficient operations. Collectively they serve an even greater purpose, which is to help create an environment that maximizes the potential for private sector job creation.

As noted in Governor Brownback's Economic Development Strategic Plan, *"The state government has two fundamental roles to play in the process of economic development. First, it must establish a business environment that motivates as much risk-taking and competition as possible in the context of a "level playing field." Second, it must steward taxpayer resources in the most effective manner possible; when the government strives to do its job well with as few resources as possible it leaves more resources available for risk-taking and competition."*

We concur with that policy statement. Keeping tax burdens low is essential to encourage entrepreneurial risk-taking and job creation. Individual taxpayers and employers have finite resources; spending more money on, say, a new car, means they must reallocate their resources and spend less on something else. The same applies to taxes; the more taxpayers must pay in taxes, the less they have to spend on goods and services. In order to maximize economic activity and encourage risk-taking, it's therefore extremely important that taxes be kept low and that state and local tax burdens are competitive with other states.

Kansas Policy Institute compared how the ten states with the lowest combined state and local tax burdens compared to the ten with the highest burdens on several key performance measures. We used the tax burden rankings from the non-partisan Tax Foundation, which used 2009 data for their comparisons, the most recent nationwide data available when the study was published last month.

We first looked at 10-year private sector job growth rates between 1998 and 2008 (we chose that time frame because Kansas' private sector employment peaked in April 2008) and found that the low-burden states had remarkably better performance. We continued to track each group's progress over the next two years to see how the recession impacted their continuing performance.

Table 1: Private Sector Job Growth		
State / Local Tax Burden Rank	1998-2008	1998-2010
10 lowest burden states (41-50)	14.6%	8.8%
10 highest burden states (1-10)	7.0%	0.6%
National average	7.9%	1.2%
Kansas (19)	5.2%	-0.6%
<i>Source: Tax Foundation, U.S. Dept. of Labor, Bureau of Labor Statistics.</i>		

The low-burden group of states was well above the national average and outperformed the high-burden group many times over. It's particularly interesting that the low-burden group is weathering the recession much better. In the 1998-08 time frame, the low-burden group outperformed the high-burden group by a factor of just over 2:1 (14.6% compared to 7.0%); two years later, they outperformed them by a factor of well over 14:1. Every state was affected by the recession, but private sector employment in the lowest-burden states is still much better than it was ten years ago – a claim that higher burden states (and Kansas) cannot make.

Next we looked at population change, since having a broad and expanding tax base is critical to keeping tax burdens low. We specifically looked at net domestic migration – U.S. residents moving into and out of states – between 1999 and 2009, with the net change measured as a percentage of current population.

Table 2: Domestic Migration	
State / Local Tax Burden Rank	1999-2009
10 lowest burden states (41-50)	3.2%
low burden states w/o Louisiana	4.3%
10 highest burden states (1-10)	-4.1%
National average	0.0%
Kansas (19)	-2.5%
<i>Source: Tax Foundation; U.S. Census Bureau.</i>	

Again, the low-burden states were the big winners. The ten states with the lowest state and local tax burden averaged a 3.2% gain from domestic migration; that includes Louisiana, which suffered significant population loss following Hurricane Katrina. Excluding Louisiana, the other nine states averaged a 4.3% gain. The ten states with the highest combined tax burden averaged a 4.1% decline. 2009 was the 11th consecutive year that Kansas lost population due to domestic migration.

Both performance comparisons (private sector job growth and domestic migration) make perfect sense. Given the means and opportunity, we all tend to gravitate toward what we perceive to be the best 'deal.' Human and financial capital is no different; it will go where it is treated the best and provided the opportunity to expand. People want to retain more of their earnings and states with the lowest state and local tax burdens let them keep more of their hard-earned money and employers have more resources available for growth and job creation.

The Tax Foundation doesn't put Kansas in the ten highest or lowest rankings, but we are definitely moving in the wrong direction. Kansas had the 23rd highest burden in 2008 and now has the 19th highest combined burden based on changes enacted through 2009. Since then, Kansans are paying nearly \$500 million more in sales, unemployment and property taxes, and Kansas was the only state in the region that balanced its FY 2011 budget with a large tax increase. Given recent tax increases and recession-related income declines, it would not be surprising to find Kansas even closer to having one of the 10 highest tax burdens in the country when the full impact of these changes are considered.

Kansas has an uncompetitive tax burden and it must be reduced in order to encourage job creation and attract new residents. Reducing the tax burden means we must reduce spending, so the question we must ask is whether the hard choices required to do so will take place without independent, outside review. Experience says not.

- Between FY 2000 and FY 2009, State General Fund (SGF) spending increased 39% and All Funds spending increased 66%.
- At the same time, inflation increased just 21% and population only increased by 5%.

- If SGF spending had increased 4.5% annually between FY 2005 and FY 2010, we would have begun FY 2011 with a \$2.6 billion surplus in the general fund.
- Overtime paid to state employees totaled \$10.2 million in calendar 2010, an increase of 10.4% over 2009.
- Millions of dollars are spent each year on travel to conferences, organization dues and other non-essential items.

Have most agencies come before Appropriations in recent years saying they could operate on less money, or do most ask for ever-increasing funds? How many programs have agencies recommended be terminated for having run their course?

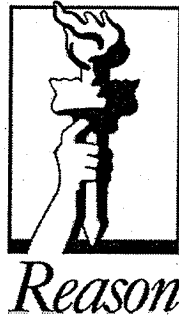
Most people would likely agree that every aspect of government should function as efficiently as possible. It's in determining the necessity of certain expenditures where differences of opinion arise. Some people may view a particular expenditure as unnecessary to the fulfillment of a program's or an agency's primary mission while others may see it as essential. Absent an independent review, we are expecting government employees to put their own self-interests aside and make completely unbiased decisions on how best to spend taxpayer funds. It's not that government employees are intentionally wasteful; it's that they are human beings and setting self-interests aside is challenge we all face.

Operating efficiently is also more challenging for employees and managers who have spent many years in the same company or agency. Even people who have made conscious efforts to control costs can easily overlook opportunities because they've been working in the same environment for so long that many assumptions of how things must be done become 'baked in' to their thinking. I've personally experienced this as the beneficiary of independent reviews as well as having conducted many such reviews.

Current and future taxpayers can only benefit from having an independent panel identify ways to reduce the cost of government by ensuring that taxpayer funds are used as effectively and efficiently as possible. We believe the formation of such a panel is essential to creating a pro-growth economic environment and encourage the Committee to do so.

TESTIMONY ON HOUSE BILL 2194

Testimony of Leonard C. Gilroy, AICP
Director of Government Reform
Reason Foundation



Written Testimony Submitted to the
Kansas Senate Federal and State Affairs Committee

March 10, 2011

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Chairman Brungardt and members of the Senate Federal and State Affairs Committee,

Thank you for the opportunity to submit written testimony on the proposed House Bill 2194. My name is Leonard Gilroy, and I am the director of government reform at Reason Foundation, a public policy research and education institute based in Los Angeles. Reason first began researching privatization and government reform in the late 1970s, and we published the first book on government privatization—*Cutting Back City Hall*—in 1979. Our experts have advised numerous presidents and state and local governments on how competition and privatization efforts can improve government services and reduce costs.

Kansas, like many other states, is in the midst of a fiscal crisis that demands immediate attention. And with organizations like the National Governors Association and the National Association of State Budget Officers predicting a fiscal “lost decade” for the states, fiscal pressures in Kansas are likely to linger for some time.

Though there are many causes of the current fiscal woes, one contributing factor is that over the years governments at all levels have expanded into hundreds of activities that are commercial in nature. Many of these are support functions that service the bureaucracy. However, most of these functions are not inherent or unique to government; in fact, they can be found in the Yellow Pages in towns all over America. This trend should concern those of us who believe that government should be focused on performing its core functions well and should not be in competition with its own citizens to perform non-core functions. From servicing vehicles to running print shops, and from building convention centers to providing IT services, Kansas's state and local governments are literally cutting into the business of business.

In fact, if the experience of other states holds true in Kansas, then policymakers can reasonably assume that thousands of Kansas state employees are engaged in activities that are commercial in nature and could be delivered by private sector firms at a lower cost and higher level of quality. Identifying areas where the private sector can perform government functions more efficiently and at a lower cost can be an important part of the budget solution. A wealth of studies by government agencies, academics and think tanks like Reason Foundation have consistently shown that privatization can lower the costs of government service delivery between 10 to 25 percent, on average.

However, individual privatization proposals tend to become quickly politicized, as they often lack a functional bureaucratic support structure to separate myths from facts, to conduct due diligence on agency privatization proposals and to develop business cases outlining the rationale for potential outsourcing projects. Without such support, it becomes difficult to engage in an informed policy discussion on whether privatization makes sense or not in any given case.

A central lesson learned from global experience in privatization is that it **works best when governments develop a centralized, independent decision-making body to manage public-private partnership (PPP) and privatization initiatives**—in other

words, a state “center of excellence” in procurement. HB 2194, which would create a new center of excellence along these lines, represents a critical step in this direction for the state of Kansas.

Experience from other states that have implemented versions of this state competition and efficiency council concept has demonstrated that having a standardized method for procuring and managing contracts will result in more accountability, transparency and competition. Further, having a dedicated unit manage the process on an enterprise-wide scale ensures that the benefits of lessons learned and best practices are shared among agencies. Altogether, a sound privatization policy framework is essential for depoliticizing outsourcing and maximizing cost savings and value for money in the delivery of state services.

Florida’s Council on Efficient Government, for example, was developed during former Governor Jeb Bush’s tenure and was a key component of a strategy that ultimately helped his administration realize over \$550 million in cost savings through over 130 privatization and managed competition initiatives. The Texas Council on Competitive Government has been a pioneer at taking numerous “shared services outsourcing” concepts—blending consolidation and privatization together, in essence—from concept to contract since its establishment in 1993. And as reported in Reason Foundation’s *Annual Privatization Report 2008*, Utah passed legislation in the spring of 2008 to strengthen that state’s Privatization Policy Board and give it more tools to advance sound privatization policy, and the recently reconstituted board is now back at work.

With widespread state fiscal crises deepening across the country, other state policymakers are increasingly looking to the example set by Florida and the other states that have pioneered this concept as they struggle to close large budget deficits. For example, Louisiana policymakers established a Commission on Streamlining Government to review and evaluate government activities, functions, programs and services to eliminate, streamline, consolidate, privatize or outsource them, and in December 2009 the Commission released a set of 238 government downsizing recommendations—including a recommendation for a “center of excellence” in privatization, as well as over a dozen specific privatization proposals—that would be estimated to save over \$1 billion. Policymakers in Arizona, Virginia and Oklahoma also advanced major privatization board proposals that passed one or both legislative houses in 2009, and recent privatization task forces established by New Jersey Gov. Chris Christie and Arizona Gov. Jan Brewer both recommended the adoption of state privatization boards.

A. Rationale for State Competitive Government Commission

To help keep state budgets in check and promote efficiency in government, it is critical to eliminate wasteful, non-essential government functions by continually challenging state entities to identify and focus on their core functions and competencies. Competitive sourcing is a vital tool in this process and involves looking at everything government agencies do and determining whether private firms could do the same things more

efficiently and effectively. Additionally, minimizing government competition with businesses will help states retain (and grow) private sector jobs and increase state revenue by shifting tax-exempt properties and activities to the taxable sector.

A sound process is essential to fostering competitive service delivery and to ensuring a transparent, accountable, ethical, performance-based and competitive environment. Competitive sourcing works best when governments *develop a centralized, independent decision-making body* designed to manage competitive sourcing/efficiency initiatives (i.e., a state “center of excellence in procurement”). This center of excellence should:

- Develop a standardized, enterprise-wide process for identifying and implementing competitive sourcing;
- Develop rules instituting performance-based contracting and business case development as requirements for state procurements;
- Disseminate lessons learned and best practices in competitive sourcing across state government;
- Assist agencies in developing business cases for any proposed privatization initiative—*before* any RFP/RFQ is issued—that clearly outline the rationale for the initiative (cost savings, service quality improvements, changing antiquated business practices, etc.);
- Conduct an annual or biannual inventory of all functions and activities performed by state government, distinguishing between inherently governmental activities (e.g., those that only a government body can or should perform) and commercial activities (e.g., those that are routinely performed in the private sector);
- Create a uniform cost accounting model to facilitate “apples-to-apples” cost comparisons between public and private sector service provision (critical to ensuring a level public-private playing field), and
- Review and take action on complaints regarding inappropriate government competition with the private sector.

Having a standardized method for procuring and managing contracts will result in more accountability, transparency and competition. Further, experience from Florida, Virginia and Texas—which have each implemented versions of the privatization “center of excellence” concept—suggests that this approach has increased the public’s confidence and has mitigated perceptions of impropriety (a common public concern with any privatization initiative).

HB 2194 would create a new center of excellence in PPPs and privatization that would perform many of the above functions and offer public officials in Kansas a powerful, new tool to prioritize limited resources and identify opportunities to seek more efficient and effective means of service delivery through outsourcing and privatization.

Applying similar thinking, Congress passed the Federal Activities Inventory Reform (FAIR) Act in 1998. Its purpose was to identify which activities within the federal government are “inherently governmental” (i.e., it is a job only government can do?) and which are commercial in nature. A “commercial activity” is a service or good that can normally be obtained from private enterprise. In the federal law, agencies perform

inventories annually and identify both commercial and inherently governmental positions. With this information agencies can identify services that can be competed or privatized.

As a result of the FAIR Act, agencies have identified more than 800,000 federal employees engaged in activities—such as data collection, administrative support, and payroll services—that could be provided by the private sector.

The Commonwealth of Virginia has adopted a similar process at the state level. Under the direction of the Commonwealth Competition Council (CCC), a survey of state agencies was conducted in 1999 to determine what commercial activities were being conducted by state personnel. In the 1999 survey alone, the CCC identified 205 commercial activities that were being performed by nearly 38,000 state employees. According to the CCC's first director, actions taken at the Council's recommendation (based on the inventory results) currently are estimated to be saving Virginia taxpayers at least \$40 million per year.

B. Case Studies

1. Florida's Council on Efficient Government

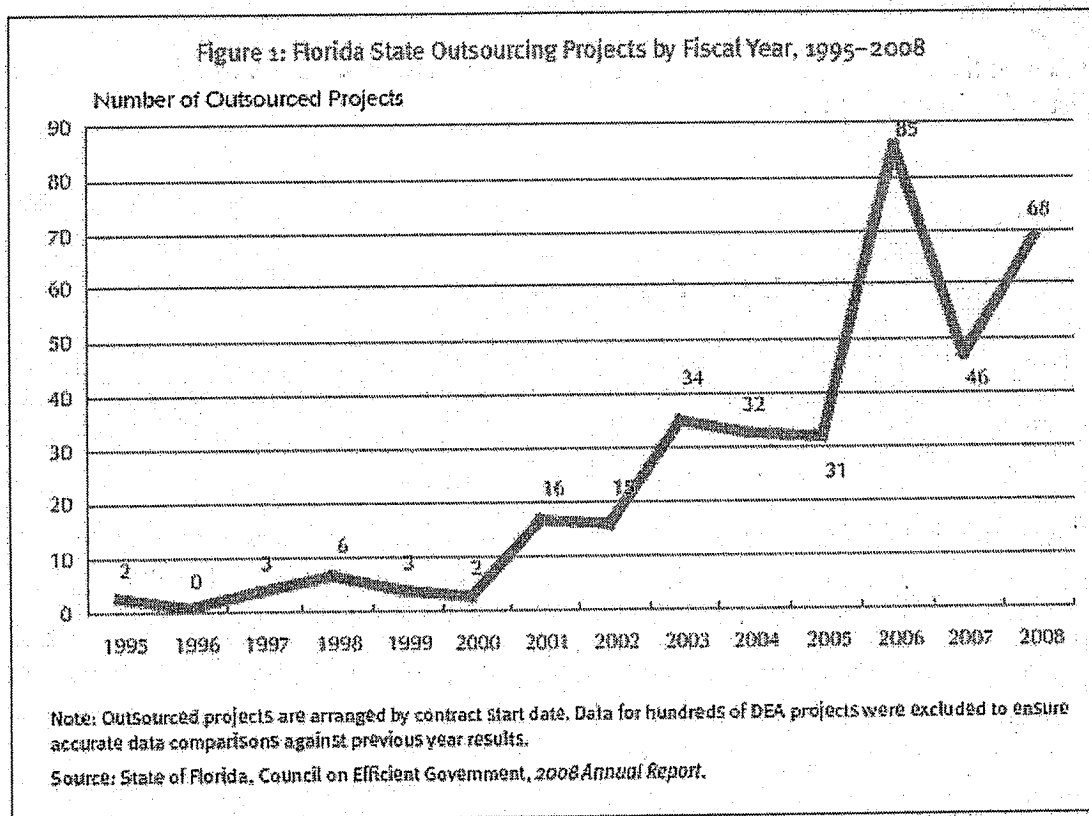
During former Florida Governor Jeb Bush's term (1999-2007), Florida engaged in over 130 privatization/managed competition initiatives saving taxpayers over \$550 million in aggregate. When many other states were raising taxes, these initiatives helped Florida shed almost \$20 billion in taxes during Bush's term.

Midway through his term, some of Bush's major privatization successes became overshadowed by the media spotlight on a few major outsourcing projects that experienced difficulties in implementation. Recognizing the need to improve (a) state procurement and (b) the state's ability to monitor the procurements, Gov. Bush signed an executive order in March 2004 directing the Department of Management Services to create a "center of excellence" authorized to conduct a statewide evaluation of Florida's competitive sourcing efforts. The new Center for Efficient Government (CEG, subsequently codified by the legislature as the Council on Efficient Government) was empowered to "identify opportunities for additional [competition] initiatives, and oversee execution of future [competition] projects."

The CEG's mission is "to promote fair and transparent best business practices in government in order to foster accountability, competition, efficiency and innovation in the way state agencies serve Florida's citizens." It serves as the enterprise-wide gateway for best business practices in competitive sourcing and standardizes how the state identifies opportunities, conducts competitions, and awards and manages contracts for government services.

Prior to 2001, Florida had a total of 16 outsourced projects reported by state agencies. From 2001 to 2006, the state initiated an average of 37 projects annually (see figure below). For FY2008, state agencies identified 551 projects currently being outsourced with a lifetime value of over \$8 billion. Notably, the CEG was initially created in 2004, which coincides with the tremendous ramp-up in state privatization.

In 2008 alone, it reviewed a total of 21 business cases valued at more than \$94 million, identifying more than \$29 million in potential savings to the state. The value that CEG is delivering for taxpayers is so evident that even Bill Cotterell, a *Tallahassee Democrat* editorialist and frequent critic of state privatization initiatives, wrote, "For return on investment, no Agency can beat the Council on Efficient Government. Each of the council's four employees saved the taxpayers about \$7.25 million last year."



2. Utah Privatization Policy Board

Nearly two decades ago, the Utah state legislature established the Privatization Policy Board (PPB) to evaluate and make recommendations to state agencies concerning effective privatization of government services and to address concerns regarding unfair government competition with the private sector. But with its membership heavily tilted toward public sector representation, the lack of clearly defined duties in its statutory mandate and no dedicated staff, the PPB's efforts prior to 2008 have been piecemeal at

best. Only two successful privatization initiatives have been completed to date: contracting with Staples for procurement of the state's office supplies and contracting with Xerox to provide state printing services.

However, two bills passed the 2008 legislative session to give the Privatization Policy Board powerful new tools for advancing privatization and in the process elevate Utah to the upper echelon of state privatization leaders. Both bills passed overwhelmingly in both houses and were signed into law by Governor Jon Huntsman, Jr. in May 2008.

House Bill 75 expanded the membership of the PPB to include more private sector members and required the PPB to develop a biannual inventory of "inherently governmental" and "commercial" activities and services performed by state agencies, develop an accounting method to facilitate accurate cost comparisons between public sector and private sector service providers, and investigate citizen complaints of unfair government competition with a private enterprise. HB75 also required the governor's office to recommend at least three potential services or activities for potential privatization every two fiscal years.

Senate Bill 45 went even further by requiring Utah cities and counties of the first and second class—which includes the majority of Utah's local governments—to submit biannual commercial activity inventories to the PPB, similar to those that will be prepared at the state level. Also, the bills created a new, full-time staff position to serve the PPB.

Today, the state's first commercial activities inventory is in development, and the newly revamped PPB resumed its regular meetings in 2010.

C. Conclusion

There are no easy solutions for Kansas' current budget deficits, and policymakers need the sharpest tools in the toolbox at their disposal. Implementing a state competition and efficiency council would help the state regain its fiscal health, deliver higher quality services at a lower cost, and revive the state's economy.

The declining fiscal situation in Kansas demands that policymakers take a deep look for opportunities to shop around. Most Kansans, like people everywhere, want their tax dollars spent in the most effective and efficient manner possible. If there is one thing to learn, it's that competition works to promote efficiency and restrain costs. Governments at every level have embraced it and will continue to do so.

Just because government is tasked with providing a service doesn't mean the public sector offers the cheapest means of delivering it—it often does not. If taxpayers would get a better deal by contracting with a nonprofit firm or private company, it should behoove policymakers to use similar opportunities before resorting to tax hikes or service cuts. In challenging economic times, families routinely become "smarter shoppers," shopping

around for the best deal in order to stretch their family's dollars to achieve the maximum benefit. Kansas state government should do the same, and HB 2194 would help achieve that.

Under HB 2194, policymakers and agency managers would have a powerful new tool to allow them to concentrate on their core functions of providing "inherently governmental" services while partnering with the private sector for commercial activities. Applying competition to non-core activities would free up valuable resources for agencies to complete their missions and provide the greatest value to taxpayers.

Thomas Jefferson's words from 1808 ring as true, if not more so, today as they did then: "It is better for the public to procure at the market whatever the market can supply; because there it is by competition kept up in its quality, and reduced to its minimum price." HB 2194 would honor Jefferson's words and represent an important step towards more effective, efficient, transparent, and accountable government.

As the think tank that has done the most research on privatization and government reform, Reason Foundation welcomes the opportunity to be of further assistance to this committee. Please feel free to call upon us.

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**Testimony Re: HB 2194
Senate Federal and State Affairs Committee
Presented by Ronald R. Hein
on behalf of
Kansas Restaurant and Hospitality Association
March 10, 2011**

Mr. Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel for the Kansas Restaurant and Hospitality Association (KRHA). The Kansas Restaurant and Hospitality Association, founded in 1929, is the leading business association for restaurants, hotels, motels, country clubs, private clubs and allied business in Kansas. Along with the Kansas Restaurant and Hospitality Association Education Foundation, the association works to represent, educate and promote the rapidly growing industry of hospitality in Kansas.

The KRHA supports HB 2194, and would like to speak especially about the sections of the bill that address government operations which compete with private businesses or private enterprise.

Our Board has specifically addressed the issue whether state or local governments should engage in operations which are traditionally private sector ventures, and also what process should be followed by government when entertaining ventures into traditionally private sector ventures.

KRHA recognizes that government might feel the need to facilitate development of private venture, such as lodging facilities, food service, entertainment, or other traditional private sector ventures, whether to promote tourism and economic development in certain instances, or otherwise.

For purposes of discussing this subject, as it might relate to our industry, I will use, as an example for purposes of my presentation, the government development of lodging facilities, potentially in competition with private business lodging facilities. Currently, the Kansas Department of Wildlife, Parks, and Tourism owns and operates, conceivably in competition with private lodging facilities, publicly owned cabins which are placed in state parks.

So in discussing the broader issue, I will use this example merely for exemplary reasons. This same concept would be applicable to sales of computers, computer services, sales of widgets, or any of a myriad of private business ventures.

So, again, using my lodging facility example, situations can arise where government is trying to promote tourism and economic development, but due to a number of factors, the

private sector is not able to facilitate development of the lodging facilities necessary to accomplish those goals. Examples of lodging facilities that might be developed by the government or privately developed on government property include the following:

1) Property around Corps of Engineers lakes is governmentally owned and private acquisition of the land is not permitted by federal law. Development of a lake front lodging facility on a Corps of Engineers lake might require government development at the worst, and government participation, at the least, in order to provide the intended facility. However, in those instances, the government can contract for a long term lease of the land by a private sector entity. 2) A governmental unit might want to attract a lodging facility to a fairground or convention center, or even a state park. Circumstances such as proximity to the convention facilities, safety or other concerns of the surrounding private property, or other circumstances might warrant placing the facility on government property. 3) A community may not have any private entities willing to undertake development of a lodging facility because of economic risk, cost, or other issues, but the governmental unit feels that it is appropriate to develop a lodging facility to benefit the community as a whole and to promote economic development. In all such cases, consideration should be given to the occupancy rates of private facilities within a competitive distance

Along these same lines, sometimes such justifications exist for governmental ownership of private businesses, including government ownership and lease back of property for bond authority to private facilities seeking tax abatements, or other economic development.

On the other side of this argument is the general rule, at least promoted by some, that government should not compete with the private sector.

Development of a governmentally owned private facility or business, whether lodging facility or otherwise, raises issues relating to tax revenue lost, competition with private business, government subsidy of one competing business vs. another, and numerous other philosophical issues.

Government involvement in development of any historically private sector industry, including lodging facilities, should be condoned as a last resort only, if at all. Even with scenarios as described above, governmental involvement should be at the least possible level. The first option should always be to attempt to attract a private sector industry to locate on privately owned real estate to serve the economic development/tourism goal of the governmental unit. If a private facility cannot be located on private property, consideration should be given to contracting for the lodging facility to be developed on government property utilizing an open bid process. The facility should be a private sector operation, paying taxes and being subject to requirements of all other competing facilities.

Statutory procedures should be placed on any governmental unit regarding development of lodging facilities so that private sector facilities shall be the primary solution to meeting the governmental unit's goal, and stair stepping into governmental involvement

at the least involved level, as certain criteria are met to protect the interests of competing private sector industries.

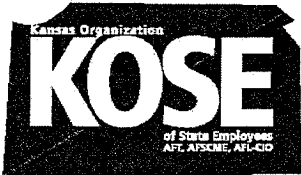
Abuses can result when government competes with private sector businesses. When government can compete with private sector, government can also tip the scales in their own favor by making the rules of the game for the state owned businesses more favorable than private business competitors. This unfair competition can include exemption from payment of taxes, such as property taxes, income taxes, sales taxes, transient guest taxes, and other taxes. It can include setting rates that are lower than competitive rates. It can include exemption from other legal prohibitions or requirements, such as the recent exemption of state owned casinos from the smoking ban.

This has caused our association to question why government owned lodging facilities are permitted in the first place, and, if operated by the government, why they are not required to pay taxes and comply with other requirements so that they are not given a competitive advantage over privately owned lodging facilities.

The KRHA acknowledges that situations arise where government is desirous of promoting tourism and economic development, but due to a number of factors, the private sector is not able to facilitate development of the lodging facilities necessary to accomplish those goals.

Governmental involvement in lodging facilities, or any other private sector business, should always be at the least possible level. The first option should always be to attempt to attract a private sector industry to locate on privately owned real estate to serve the economic development and the tourism goal of the governmental unit. If a private facility cannot be located on private property, consideration should be given to contracting for the lodging facility to be developed on government property utilizing an open bid process. The facility should be a private sector operation, paying taxes and being subject to requirements of all other competing facilities. Only when these avenues are not able to be fulfilled by private business should the government consider further remedies, including governmental provision of such private business ventures.

Thank you very much for allowing me to submit this written testimony.



A New Day... A Better Way... For State Employees

Testimony before the
Senate Federal and State Affairs
On
HB 2194
By
Jane Carter, Executive Director
Kansas Organization of State Employees
March 10, 2011

Mr. Chairman and members of the committee:

My name is Jane Carter and I am the Executive Director of the Kansas Organization of State Employees (KOSE) representing 11,000 state employees of the executive branch. I appreciate the opportunity to speak before the Committee in opposition to HB 2194.

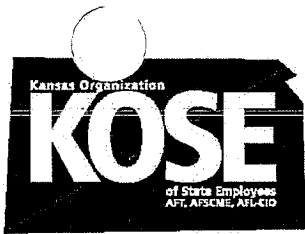
To be as clear as possible, HB 2194 is an outsourcing bill that jeopardizes the jobs for thousands of state employees and does nothing for the tax payer but place a "for sale" sign on our state government. It is an outsourcing bill because it tells state workers that their jobs and commitments to this state are not as sacred as the profit of private contractors. This government must not be sold to the highest bidder to become an inferior product that will cost taxpayers more over both the short and long term.

This bill, HB 2194, will shortcut the accountability of the taxpayer and of this very legislative body. It has the potential to take away the governmental oversight crucial to promoting the quality of services our state workers provide such as corrections, highway maintenance, direct care for the disabled, social services, child protective services, and the list goes on.

Specific aspects of HB 2194 are troubling. Section 2(a) states that it is the "policy of this state to provide the highest quality services at the lowest possible cost to taxpayers." HB 2194 is clearly written to make privatization the default option, and in fact to more or less require that if a service CAN be performed by the private sector, it SHOULD be. That's very different from a commitment to high-quality, low-cost services, which would require an open mind regarding who will provide the services.

Section 2(a) isn't calling for a fair and rigorous competition between the public and private sectors, or an accurate evaluation of costs and quality by sector; it's essentially calling for unilateral disarmament by the public sector if the private sector can do the task. Subsections (1) through (3) (still under 2(a)), taken to their logical extreme, would essentially outsource everything, despite the vague invocation of "inherently governmental" in subsection (4).

The political and industry makeup of the advisory council is less than non-partisan. Nine of 11 would be appointed by the Governor or his party. Ten of 11 would be "in private business," although a handful of them could be legislators too. This is similar to having a wolf watch the chicken coop.



A New Day... A Better Way... For State Employees

Section 5 shows the one-way nature of the bill. It calls for reviews where a private agency can provide the same type of service, to see if costs would be lower. Here, suddenly, quality seems to be off the table. Moreover, HB 2194 is not an "innovation through competition" bill, but rather, a "remove government competition for the private sector" effort. Specifically, HB 2194 clearly states it would seek "to eliminate such competition" from the public sector. If the private sector is really so dynamic and efficient, why does it seek to remove any competition from government? The whole idea of privatization is supposed to be one of lively competition driving down costs and/or increasing quality - eliminating competition is totally backwards.

In short, the bill purports to stand for high-quality, low-cost services, but in general, weights the deck heavily in favor of low-cost with little care for the true quality of the service. It also weights the deck heavily in favor of outsourcing, and declares that part of the bill's purpose is to "eliminate... competition" from the public sector. The bill gives no guidance on determining what is inherently governmental, and no obvious way by which quality concerns could trump the lowest bid. It puts the burden on the state to justify why it isn't eliminating competition from the public sector and why it isn't accepting the lowest bid. Finally, no attempt is made to actually measure costs such as monitoring, contingency plans, and so forth.

We strongly urge the Committee to oppose this legislation. Attached to this testimony is a brief report compiled on privatization that analyzes the true costs of such attempt to privatize public service.

The True Costs of Privatization

- *Privatization, also called contracting out or outsourcing, is far from the cure-all claimed by its supporters. It often rests on shaky assumptions and stereotypes about both the public and private sectors, particularly that the private sector always knows best and can best organize the delivery of services. If this assumption were true, all companies would be successful.*
- Privatization discussions frequently ignore the very real, but sometimes delayed or unseen, costs of substituting private interests for public ones – even direct effects on cost and quality.
- *Privatization has frequently led to huge cost overruns, poor performance, a loss of government capacity to deliver the services, and therefore a weak government bargaining position upon contract renewal. Although the union does not subscribe to the notion that costs are the only way to measure government, even on that narrow basis, privatization often fails. Numerous privatization “horror stories” show that competition has not always worked. (In fact, as discussed below, privatization does not even fit economic models of competition.)*
- *Privatization has significant social costs, which tend to be delayed, or fall on different entities' budgets, and thus are ignored. These costs are especially understated in forward-looking, speculative privatization analyses, sometimes performed by the very firms which stand to gain from outsourcing proposals.*
- Social costs include the impact of lower wages and benefits on workers, their families, their communities, and the tax base, if private firms underbid government on that basis. Moreover, the impact of cuts in wages and/or benefits is often disproportionately felt by women and minorities – for whom public service jobs have been a route to middle class status. At any rate, costs such as workers losing health insurance and then relying on public assistance – saving money in one place, but draining it elsewhere – are almost never counted.
- *Another category of costs stemming from privatization, also hardly ever included in cost comparisons, is indirect costs. These include the costs of the process itself -- developing a request for proposals, putting a service out to bid, choosing a contractor, negotiating a contract, and monitoring a contract over its life. There are also conversion costs from shifting workforces, such as sick leave and pension payouts, which again are seldom counted.*
- *The cost of monitoring contracts is one of the most significant costs involved in privatization, but one that can only be cut at great risk. Only careful monitoring can prevent over-billing, bid-rigging, poor quality work, and a host of other factors all too common without regulation. Even in the absence of any serious misbehavior, a key unanswered question is this: How can a government get solid performance out of contractors if it cannot supervise its own workers?*
- There are costs from privatization which even the most rigorous analysis would be hard-pressed to quantify -- a loss of public confidence in government, a loss of accountability for public services, and a dangerous mingling of private interests with public interests. This mingling is especially troubling when contractors can decide who gets government services.
- The Kansas privatization bill is particularly troubling because it seems to assume that if the private sector can perform any function, the government should not do so. This assumption is contrary to the bill's stated interest in high-quality, low-cost services. If the public sector can perform a service well, at a cost below the complete cost of privatization, it should do so.

Why Competition and Privatization *Don't* Always Go Hand in Hand

Many discussions of privatization assume that competition will guarantee positive results. This is an incorrect assumption. There are actually a fairly small number of competitors for many public contracts, and even less for contract renewals, when an incumbent has a major advantage.

Also, the very nature of public services defies simple economic models. From major public construction projects (from which many firms and individuals benefit, but for which none could pay on their own), to social services for the disadvantaged and vulnerable, public services are not the straightforward, rational transactions of basic economic theories. Instead, they are complex, hard-to-measure "public goods," with costs and benefits widely diffused throughout society.

The chart below expands on this concept. The chart is adapted, with very minor modifications, from a National Association of Child Advocates (NACA) fact sheet, "Does privatization of human services provide the benefits of market competition?" The fact sheet makes the point that market factors are absent not just in human (social) services, but for other public services as well.

<i>A competitive market requires:</i>	<i>Public service privatization usually involves:</i>
A large number of buyers and sellers (so that no one actor has significant influence on price).	Few sellers and only one buyer (the government agency).
Low barriers to market entry and exit (so that if profits rise, new firms can easily enter the market – which will tend to keep prices down).	High costs to enter the market, e.g., technology investments, hiring and training staff, leasing space, etc. -- most feasible for big corporations.
Sufficient information to all buyers and sellers about prices, qualities, sources of supply, etc.	Insufficient information for bidders to estimate costs well, particularly where there is poor cost data on current services or existing contracts, and where lengthy time frames are involved.
A homogenous product (each company's product is a perfect substitute for any other).	Very customized products, designed to agency specifications and with unique state conditions.

For the reasons indicated in the table and text above, "competition" is a misleading term to use in government reform discussions. Indeed, in most cases of government contracting, particularly involving large state projects, the number of bidders is few or sometimes one, the product is highly specialized and unique, and the contract tends to shift work out of the state (or out of the country altogether). Meanwhile, the savings and quality promised by competition can be elusive.

Moreover, everything that occurs in the real world -- selecting the vendor, negotiating the contract, pricing the services, monitoring service delivery, and so forth -- occurs in a personal and political context. Organizational psychology and political science are probably as useful as economics, if not considerably more so, in explaining, predicting, and measuring privatization. The bottom line is that competition only works in certain settings and under certain conditions. These conditions are not met in most public contracting, so positive results are unlikely to occur.

Even more troubling is the fact that the privatization bill in Kansas is explicitly designed to identify instances where government provides services that the private sector also provides, and to "eliminate" the government competition. Eliminating public sector capacity only weakens the government's bargaining power; recognizing this, the bill itself requires "contingency" planning.

The Proof is in the Pudding – Privatization Just Doesn't Work

The following passages are excerpts (indented) or summaries of news items about privatization. These items show that, far from being a cure-all, privatization is frequently an expensive failure.

This is just a small cross-section of literally hundreds of privatization problems which can be documented based on media reports, government audits, and other sources. When the full cost of privatization is counted, including fixing vendors' errors, the cost often far exceeds the bid price.

Custodial Services – Beware the Lowest Bid

"Scranton officials question cleaning company's work." *Scranton Times Tribune*, December 15, 2010.

A Wilkes-Barre company is failing to fulfill the terms of a janitorial contract for Scranton's government buildings, city officials say....In 2009, Jan Pro was one of four companies that responded to the city's request for proposals. It offered the lowest bid at \$84,760.60 for a two-year contract. The other companies offered prices to clean City Hall and the police department station that ranged from \$98,000 to \$142,378. The contract ends Dec. 31, 2011....In a letter sent to city solicitor Paul Kelly, Jr., City Controller Roseann Novembrino said there have been numerous concerns since the contract began with Jan Pro, including the company not refilling soap in bathrooms in City Hall as is required in the contract. City officials say the company is also failing to do other activities, such as not cleaning the floor and door windows and not refilling toilet paper....Police Chief Dan Duffy said he's not satisfied with Jan Pro's services, and has been emptying garbage cans himself because of the company's service issues.¹

Custodial Services – Expensive Pollution Problems

"Aramark cases concern Hempfield Area district." *Tribune-Review* (Greensburg, PA), February 6, 2010.

Aramark paid a \$1 million settlement to a Texas school district in January 2010 after polluting school property with paint. The settlement did not cover the district's total costs. Aramark also was responsible for a 6,500 gallon oil spill at a Pennsylvania school that closed the campus for six weeks in 2008.²

Custodial Services – "Savings" Turn Costly

"Privatization may not mean savings." *Battle Creek Enquirer* (Michigan), October 22, 2009.

The *Battle Creek Enquirer* warns school districts against assuming that privatization equals automatic savings, recounting the 2007 privatization of Marshall School District. Contracting out was supposed to save more than \$300,000 per year for the schools, but ended up *increasing* costs by more than \$75,000 in the first year.³

¹ http://thetimes-tribune.com/news/scranton-officials-question-cleaning-company-s-work-1.1077629#_axzz18BkkekUI.

² Not available online. Text available upon request.

³ Not available online. Text available upon request.

Corrections and Food Service – Contractors Fail to Share Records, and Audits Show Problems

“Editorial: Pike water business smells funny, merits more scrutiny.” *Lexington Herald-Leader*, February 2, 2011.

An audit report on the Mountain Water District in Pike County should serve as another cautionary tale about the risks involved in privatizing public services.

And not just the risk of the financial losses the district suffered when its contract with a private company, Utility Management Group, resulted in what the audit report called "costly management fees and conflicts of interest."

Of equal concern is the loss of transparency and public accountability.

For instance, UMG refused to provide the auditor's office with certain financial records, even though state law gives the auditor the authority to examine the management of "public works" in which the state has any financial interest. Mountain Water is such a public work and is partially funded by the state.

Auditor Crit Luallen's office ran into similar stonewalling in recent reviews of Aramark's contract with the Department of Corrections and Passport's contract for managing Medicaid services in the Louisville area.⁴

“Audit: State overpays by thousands of dollars on prison food contract.” *Herald Leader* (Kentucky), October 8, 2010.

An audit of the state Department of Corrections' \$12 million food service contract with Aramark Correctional Services has found that the state is overpaying the company thousands of dollars a year and is not ensuring that Aramark serves the proper quantities of required ingredients or meets its obligations. State Auditor Crit Luallen released the report Thursday.

The report said:

- Aramark declined the auditors' requests for certain cost records.
- The audit identified more than \$36,000 in overpayments to Aramark due to billing errors and non-compliance with contract provisions and said the total overpayments could exceed \$130,000. It found that in most cases, billing errors and food-production problems favored Aramark rather than the state.
- Due to poor documentation, auditors were unable to verify that Aramark consistently followed approved recipes, used the proper quantities of ingredients and met safety standards for food temperatures or use of leftovers.
- Aramark received almost \$148,000 in inmate-grown food for nearly no cost, which is not compliant with the contract.⁵

⁴ <http://www.kentucky.com/2011/02/02/1620011/editorial-pike-water-business.html# more>.

⁵ <http://www.kentucky.com/2010/10/08/1468910/audit-state-overpays-by-thousands.html# ixzz11gQnH2I3>.

Information Technology – Massive Overruns and Poor Quality in State and City Outsourcing

“NYC’s Computer-System Cash-Dump Disaster. NYC threw away a mountain of cash over a new computer system. Now, finally, someone is going to pay.” *Village Voice*, January 12, 2011.

Originally slated in 1998 to cost \$63 million over five years, CityTime has cost the city more than \$760 million over its 12 beleaguered years of existence. Despite all that expense, the system is operating in only about a third of all city agencies. The cost overruns were caused by the vast complexity of the project and changes to the plans, claim Bloomberg officials and the company responsible for building the system, Virginia-based Science Applications International Corp. ... “There’s no way that any problems or changes they had could justify a cost increase of more than 10 times,” says Local 375 vice president Jon Forster, who believes SAIC should face criminal investigation. “In 12 years, we haven’t changed the number of agencies or the number of employees. My sense is that someone saw a gravy train here, and they said, ‘Let’s go for it.’”

Even at \$63 million, the contract provided fairly lavish pay rates for the contractors: more than \$300 an hour for top managers, more than \$200 per hour for mid-level people. Even the word processors would get \$80 an hour. (A percentage is, of course, kicked to the company.) [Note: IT workers employed by the city reportedly earn \$77,000 on average.]⁶

Call Centers -- Problems in Texas and Indiana

In 2005, Texas launched a new business model that made significant changes to the ways clients apply for Medicaid, TANF and SNAP (food stamps) through the use of call centers, and a heavier reliance on technology and remote application options. Tens of thousands of needy Texans who relied on SNAP were wrongly denied benefits and approximately 127,000 children lost their Medicaid or CHIP benefits. In less than two years Texas was forced to cancel its \$899 million contract with Accenture.⁷

In 2007, Indiana contracted with IBM to operate and staff call centers for eligibility intake for Medicaid, SNAP and welfare benefits, using call center technology and internet applications. The Governor gave assurances the automated operations would greatly improve efficiency. Prior to implementation Indiana laid off 1,400 public employees and kept approximately 750 managers and staff to process applications submitted by the private call centers.

Government data, reports from the U.S. Department of Agriculture (USDA), and numerous stories of hardship and suffering due to lack of access to benefits and services offered compelling evidence of the failure. In October 2009, Indiana cancelled its \$1.34 billion contract with IMB for a centralized welfare intake and replaced it with a hybrid program. The Governor acknowledged the experiment was a failure after numerous reports of lost paperwork and records, long delays and wrongly denied benefits. Indiana sued IMB seeking to recoup \$437 million for poor performance and failure to comply with the terms of the contract. IBM countersued alleging it is still owed about

⁶ <http://www.villagevoice.com/content/printVersion/2326562/>.

⁷ Multiple sources, including <http://www.dallasnews.com/news/politics/texas-legislature/headlines/20100831-Phone-troubles-hang-up-Texas-welfare-7580.ece>.

\$100 million. The state has set aside \$5.25 million for the lawsuit itself.⁸

Problems in Kansas – Care for the Disabled

“Malpractice verdict: \$4 million.” *Wichita Eagle*, September 5, 2001.

The family of a developmentally disabled woman who died in a western Kansas rehabilitation center won one of the state's biggest malpractice awards Tuesday: \$4 million. The verdict included \$2.5 million in punitive damages against Golden West Skill Center of Goodland and its parent company, Res-Care Kansas Inc. It was the largest jury award in Kansas for medical malpractice in three years, culminating an eight-week trial before U.S. Magistrate Judge John Reid at the federal courthouse in Wichita. The case involved the treatment of Christine Zellner, 23, of Denver, who died 13 days after entering the Goodland facility in January 1996. An autopsy never determined the cause of death, but the woman was found face down with marks on her wrist indicating she'd been tied up.⁹

Problems in Kansas – Juvenile Care

“Nine former employees sue Topeka juvenile facility.” *Topeka Capital-Journal*, March 9, 2010.

TOPEKA, Kan. - A closed juvenile center in Topeka has been sued for discrimination by nine former employees. In the federal lawsuit, the former employees of Forbes Juvenile Attention Center allege that they were subjected to racially insensitive jokes, intimidation and disparities in job evaluations. The nine employees are seeking \$500,000 in damages. Scott Henricks, an official with center's parent company said the company wouldn't comment because it didn't know about the lawsuit. The Topeka Capital-Journal reported last year that a 12-year-old resident alleged he was repeatedly raped because of insufficient staffing and room checks at the center. The company settled that lawsuit out of court in late November. The center closed a few weeks after the story was reported.

“Youth detention center in ‘chaos.’” *Topeka Capital-Journal*, October 17, 2009.

Insufficient staff numbers and inadequate room checks by a Topeka juvenile residential center opened the door for a 12-year-old boy to be repeatedly raped by his roommate over three days in January 2008, a civil lawsuit claims.

"The rape, sodomy, sexual assault and sexual battery could not have happened if the boys or men were properly supervised," reads the suit.

The suit, filed last year in Shawnee County District Court against the owners of Forbes Juvenile Attention Facility, isn't the only place to find concerns about the welfare of residents of the facility.

Other issues related to the treatment of residents have been raised in inspection reports, internal memos and the words of former FJAC workers. Allegations of racial discrimination and questions about how FJAC administrators notify authorities of alleged abuse also have been raised.

The problems, former staffers say, allowed sexual misconduct to go unnoticed.

"The last couple months before I left, it was chaos," said Clarence Tyson, a shift

⁸ Multiple sources, including <http://www.businessweek.com/ap/financialnews/D9IVMTN01.htm>.

⁹ Article excerpted at <http://www.vor.net/images/AbuseandNeglect.pdf>

supervisor who resigned in late 2008 after seven years at FJAC....

In an e-mail to Campbell on Feb. 14, 2008, [parent company] Kelley administrator Scott Henricks conceded some fault. "The cause of the alleged incident can partially be attributed to staff error," he wrote. In its court response, however, FJAC flatly denied the allegations of improper staff work. JJA commissioner Russ Jennings said:, "Is there a concern that staff aren't checking rooms regularly? Yes, there certainly is."

Mona Brown, a floor staffer for more than a year until she was fired in January, said she wasn't surprised something happened. "The staff ratio just wasn't there," she said. "That is the thing that sets it up for things to happen."

Runaway

The alleged rape isn't the only incident in which inadequate supervision has been an issue at FJAC. A KDHE investigatory report from March 19, 2009, chronicled how a resident stole a worker's cell phone and her car after FJAC staff members left him in a visitation room alone with instructions to stay put.

After meeting for 30 minutes and then going to their offices for another 20 minutes, staff members returned to the room to find the boy gone.

A security video would later show him walking up and down the halls on both floors. The report stated the boy roamed the halls for "approximately one hour and was able to steal a teacher's cell phone and car keys and then exit the building and steal a car without being noticed or missed."

"There was not adequate staff to supervise youth at all times," the report said.¹⁰

¹⁰ Articles from <http://kansascpsabuselawsuit2.blogspot.com/2010/03/9-former-employees-sue-topeka-juvenile.html>.



Testimony before the
Senate Federal and State Affairs Committee

Fernando Harms, Business Agent
Teamsters Local Union 696
March 10, 2011

OPPOSE HOUSE BILL 2194

Mr. Chairman and members of the committee:

My name is Fernando Harms and I am a Business Agent at Teamsters Local Union 696, which represents 1,500 Kansas workers, including 200 employees of the Kansas Juvenile Justice Authority and 150 Shawnee County correctional officers.

Teamsters Local Union 696 strongly opposes HB 2194, which would outsource vital public services to private contractors. The outsourcing of corrections, juvenile justice, social services, or child protective care would put the safety and security of thousands of Kansas residents in the hands of private companies, something that should concern all of us as studies show that employees of private prison companies receive less training and have significantly less on-the-job experience than public employees.

Juvenile Corrections Officers (JCO's) employed by the Kansas Juvenile Justice Authority are highly trained professionals. From the moment that individuals apply for a position with JJA, they must submit to a regulated hiring process to ensure their eligibility for the job, including a criminal history records background check, verification of references or prior employment, and a drug test.

JCO applicants must also complete the JCO Post Offer Work Screen, an examination conducted after an offer of employment is made to further ensure that only quality candidates are hired. Furthermore, any applicants who have a past felony or misdemeanor conviction are ineligible for JCO positions.

Before they are allowed to work unsupervised, all newly-hired JCO's also receive extensive on-the-job training that is vital to their own personal safety as well as facility security and inmate well-being, including verbal de-escalation, behavior management, and use of force; mental health, suicide prevention, and security threat groups (gangs); and, juvenile rights and responsibilities, security procedures, and conditions of confinement

Meanwhile, there is clear evidence that the training and hiring standards for private prisons are inferior to the established process currently in Kansas. State audits have suggested that private companies have not produced improved outcomes for juvenile offenders, and private prison companies have implemented poor screening protocols for new employees. Most notably, a California audit noted comprehensive criminal background checks were not completed for new hires and at several facilities no attempts

were made to determine whether job applicants had family members at the facilities. Meanwhile, the quality of private prison guards is also questionable as studies note that lower wages for starting correctional officers have resulted in a 41% turnover rate in private prisons compared to just 15% turnover rate in public prisons.¹

The privatization of state services such as corrections is a serious mistake that will have a severe and negative impact for Kansas taxpayers and compromise services within those correctional facilities. It is clear that House Bill 2194 poses too many serious risks, and I urge this committee to stand up for Kansas and oppose HB-2194.

¹ Greene, Judy. "Bailing Out Private Jails," *American Prospect*, p. 3, September 2001.



Testimony before the
Senate Federal and State Affairs Committee

Jeffrey Hewitt, Secretary-Treasurer
Teamsters Local Union 696
March 10, 2011

OPPOSE HOUSE BILL 2194

Mr. Chairman and members of the committee:

My name is Jeffrey Hewitt and I am the Secretary-Treasurer of Teamsters Local Union 696, which represents 1,500 Kansas workers, including 200 employees of the Kansas Juvenile Justice Authority and 150 Shawnee County correctional officers.

Teamsters Local Union 696 strongly opposes HB 2194. The outsourcing of corrections, juvenile justice, social services, or child protective care would put the safety and security of thousands of Kansas residents, including nearby communities, in the hands of private companies who have no accountability to the state or our communities. Furthermore, as reflected in countless examples throughout the country, privatization provides no guarantee of improved services or reduced costs to Kansas taxpayers:

- **Private prison corporations are not accountable to the public and have no transparency requirements.** Because private prison corporations are private entities, they are not covered by the Freedom of Information Act or most state public records laws. In 2008, Corrections Corporation of America's (CCA) general counsel admitted that the corporation did not disclose detailed audit reports to contracting government agencies claiming "[CCA] did not make customers aware of these documents."¹ A Corrections Corporation of America whistleblower who worked in the company's quality assurance office accused the corporation of keeping two sets of audit reports, and providing less detailed reports to government agencies.²
- **Contractors can take on significant debt and make business decisions that impact the provision of services without oversight by elected officials.** For example, CCA, the country's largest private prison operator, has nearly \$1.2 billion in debt. The company acknowledges that this level of indebtedness could "*require us to dedicate a substantial portion of our cash flow from operations to payments on our indebtedness.*" Taxpayer dollars could go toward making interest payments on ballooning debt instead of on actual operations. Without adequate oversight, financial decisions will most likely trump decisions on services to the state.
- **Private prisons have also been implicated in serious corruption scandals.** For example, a former Pennsylvania judge was convicted of taking a \$1million bribe while serving on the bench from the builder of a private juvenile jail. The judge sent hundreds of children and teenagers to the private prison for minor

crimes after being given the money by the company which ran it.³ Without much-needed transparency, these private companies will compromise the integrity of our state's correctional facilities.

- **Private prisons will not save the state money – private prisons may actually be more costly than state-run institutions on a per-inmate basis.** A recent audit conducted by the State of Arizona found that the state paid more per inmate at private facilities than at state-run correctional facilities. At private facilities in the state, the cost to house a medium-custody inmate was \$55.89 per day, but was only \$48.13 at state-run facilities.⁴

Meanwhile, a 2010 Florida Center for Fiscal and Economic Policy report revealed that prison privatization did not lower costs or reduce recidivism rates compared to prisons operated by the state. The report also noted that high cost prisoners (e.g. high security risks and those with extensive medical issues) are often held in public prisons.⁵

- **Public safety and security could be put at risk if correctional institutions are turned over to private contractors.** California's Inspector General recently found serious problems at a number of private out-of-state facilities housing California inmates, including missing or damaged inmate identification cards, inmates wearing clothing similar to custody personnel, unsupervised inmates in restricted areas, failure to follow good security procedures during inmate movements and inmate counts, inadequate documentation of cell searches, improper evidence handling, inefficient alarm systems, and improperly focused security cameras.⁶
- **A study by researchers at the Federal Bureau of Prisons Office of Research and Evaluation cited that private prisons had a much higher rate of escapes compared to public prisons.**⁷ In August 2010, three convicted murderers escaped from a privately operated prison in Kingman, AZ. The escapees lead authorities on a manhunt and to the discovery of a couple killed in New Mexico.⁸
- **Correctional officers in private prisons are not held to the same high training standards and could be unprepared to effectively control inmates and maintain a secure facility.** The same California audit cited above also found that there were poor screening protocols for new employees. Comprehensive criminal background checks were not completed for new hires and at several facilities no attempts were made to determine whether job applicants had family members at the facilities. Armed transportation employees at one facility were only required to complete weapons qualification annually or semi-annually, rather than quarterly, as required of direct employees of the California Department of Corrections and Rehabilitation. At another facility, officers were not required to carry critical safety equipment such as handcuffs and whistles.⁹
- **Higher rates of assaults occur at private prisons.** A 2004 article in the Federal Probation Journal found that private prisons had more than twice as many inmate-on-inmate assaults than in public prisons.¹⁰ A nationwide study demonstrated that

private prison guards were assaulted by prisoners at a rate that is 49% higher than the rate of assaults experienced by their public prison counterparts. And the rate of prisoner-on-prisoner assaults is 65% higher in private prisons.¹¹

- **Correctional officers at private prisons are less experienced than their public sector counterparts.** Lower wages for starting correctional officers have resulted in a 41% turnover rate in private prisons compared to the 15% turnover rate in public prisons.¹²
- **Private prisons have a history of falling behind in quality compared to public prisons.** Cost-cutting measures in private prisons have led to decreased spending on inmate health care and staff training.¹³

As the aforementioned evidence suggests, the privatization of state services such as corrections poses a serious risk to Kansas, a risk that will compromise not only our safety but the state's bottom line as well. On behalf of Teamsters Local Union 696, I urge this committee to stand up for Kansas and oppose House Bill 2194.

¹ Responses of Gustavus Adolphus Puryear IV, Nominee to the U.S. District Court for Middle District of Tennessee, to Additional Written Questions of Senator Diane Feinstein, at 6 (n.d.) ("Because the intent was to use such documents for internal purposes only, so that auditors would feel free to make candid observations to help protect the health and safety of CCA's employees and inmates, we did not make customers aware of these documents.").

² Zagorin, Adam, "Scrutiny for a Bush Judicial Nominee", *TIME Magazine*, March 13, 2008, <http://www.time.com/time/printout/0.8816.1722065.00.html>, Downloaded on March 8, 2011.

³ Bates, Daniel, "Cash for kids' judge took \$1m kickback from private jail builder to lock children up", *Daily Mail*, February 21, 2011.

⁴ Report issued Sept., 2010, http://www.azauditor.gov/Reports/State_Agencies/Agencies/Corrections_Department_of/Performance/10-08/10-08Highlight.pdf

⁵ Hall, John and Kelly Walsh, "Are Florida's Private Prisons Keeping Their Promise?", Florida Center for Fiscal and Economic Policy, April 2010.

⁶ Report issued, Dec. 2010,

<http://www.oig.ca.gov/media/reports/BOA/reports/Inspection%20of%20Out%20of%20State%20Facilities.pdf>

⁷ Camp, Scott. D., & Gaes, Gerald. G. "Growth and Quality of US Private Prisons: Evidence from a National Survey." Washington, DC: Federal Bureau of Prisons Office of Research and Evaluation. 2001.

⁸ Hensley, JJ and Ginger Rough, "Kingman prison still under scrutiny", *The Arizona Republic*, January 30, 2011.

⁹ <http://www.oig.ca.gov/media/reports/BOA/reports/Inspection%20of%20Out%20of%20State%20Facilities.pdf>

¹⁰ Blakely, Curtis R. and Vic W. Bumphus, "Private and Public Sector Prisons—A Comparison of Select Characteristics", *Federal Probation Journal*, Volume 68 Number 1, June 2004.

¹¹ Austin, James and. Garry Coventry, "Emerging Issues on Privatized Prisons", U.S. Department of Justice, February 2001.

¹² Greene, Judy. "Bailing Out Private Jails," *American Prospect*, p. 3, September 2001.

¹³ Greene, Judy. "Bailing Out Private Jails," *American Prospect*, p. 3, September 2001.



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Testimony before the
Senate Federal and State Affairs

On

HB 2194

By

Jeremy Hendrickson, Business Manager and Secretary/Treasurer
Laborers' Public Service Employees Local Union 1290PE

Mr. Chairman and members of the committee:

My name is Jeremy Hendrickson and I am the Business Manager and Secretary/Treasurer of Laborers' Public Service Employees Union Local 1290PE. I am here today to express my opposition to HB 2194.

We are all familiar with the phrase "you get what you pay for." My union has a similar saying: "Skilled workers are not cheap and cheap workers are not skilled."

HB 2194, in the name of efficiency, would allow state jobs to be outsourced not based on quality performance, but based only on costs. Fundamentally, the bill takes the approach that cheaper is always better. This approach ignores the reality privatization has brought to other governmental entities.

One example is the City of Atlanta, Georgia, which chose to privatize its water utility in 1999. Privatization collapsed in 2003, although the contract was to extend through 2019. The City took control because private service was poor, unresponsive, and resulted in water main breaks, brown water coming from city taps, and boil orders.

When the City re-took control of its water utility, the publicly controlled water system was more expensive to customers than the private system it replaced. One Atlanta water customer, Gordon Certain, was quoted in the New York Times as saying, "Is it possible to have private water work right? I'm sure it is. But if you have a political problem in your city, you can vote in a new administration. If you have a private company with a long-term contract and they're the source of your problems, then it gets a lot more difficult."

As Atlanta experienced, privatization can make it more difficult to get a needed response because private companies are not directly accountable to voters the way government administration is.

Chicago had a similar experience. In 2009, the city decided to privatize its parking meters. Under private control, meter rates increased sharply, the meter system began to malfunction, and drivers were reportedly hesitant to use parking meters. This resulted in traffic problems and congestion on non-metered side streets. Additionally, analysis by the City's Inspector General later revealed that the meters would have produced more revenue if left under City control. The report found the City was shortchanged by almost \$1 billion.

Parking privatization experiences in both Chicago and Indianapolis revealed that the private contracts contained hidden costs and provisions. One example was a non-compete clause that forbid the City from improving or updating its other parking facilities during the term of the contract.

What privatization plans forget is that a governmental entity's purpose is different than a private entity's purpose. Governments do not exist to generate profit, they exist to provide governance and services to the citizenry. Government should remember its purpose and not promote a Wal-Mart style economy where price is the only relevant factor.

I encourage the committee to promote quality of service over low price and oppose HB 2194. Thank you for your time.

TO: The Honorable Pete Brungardt, Chairman
Senate Federal and State Affairs Committee

FROM: William W. Sneed, Legislative Counsel
The University of Kansas Hospital Authority

SUBJECT: H.B. 2194

DATE: March 10, 2011

Mr. Chairman, Members of the Committee: My name is Bill Sneed and I am Legislative Counsel for the University of Kansas Hospital Authority. This is the Authority that the Kansas Legislature created to run and operate the hospital commonly referred to as KU Med. We appear here today as neutral conferees on H.B. 2194.

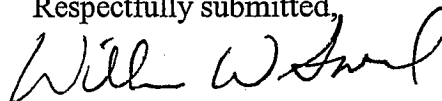
Our research indicates that the bill as written would bring the University of Kansas Hospital Authority under its purview due to the definition of "state agency" contained in the bill. Inasmuch as the Authority was specifically designed to act not as a state agency but more like a private entity, such inclusion will unintentionally hamper the hospital's ability to meet its goals. It is only through this structure that the hospital has been able to compete and ultimately add back to the state millions of dollars, provide the structure for a first-class school of medicine, and provide much-needed health care, much of it on a charity basis.

When the House committee worked the bill, there was a similar request by the Kansas Turnpike Authority. To that end, the committee drafted an amendment on page 10, lines 20-22. However, since the Hospital takes Medicaid patients, we are uncertain that this language would in fact exclude us. Thus, we respectfully request the Committee to insert the same language as was used in H.B. 2120 (copy attached).

Therefore, we would request that the Committee add language to the bill specifically exempting the University of Kansas Hospital Authority as that entity is defined in the authorizing language found in K.S.A. 76-3301, *et seq.*

We appreciate the opportunity to present this testimony, and we will be happy to answer questions.

Respectfully submitted,



William W. Sneed

WWS:kjb

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Sn Fed & State
Attachment 19

As Amended by House Committee

Session of 2011

HOUSE BILL No. 2158

By Committee on Government Efficiency

2-4

1 AN ACT concerning state agencies; relating to performance measures;
2 amending K.S.A. 75-3715 and 75-3716 and K.S.A. 2010 Supp. 74-
3 72,123 and repealing the existing sections.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 New Section 1. (a) The legislature finds that performance
7 measures are an important management tool that has been utilized by
8 state agencies for numerous years.

9 (b) The legislature finds that the use of quantifiable performance
10 measures can be used by the governor and the legislature to assess the
11 effectiveness over time of programs and actions of each state
12 agency.

13 New Sec. 2. As used in sections 1 through 3, and amendments
14 thereto:

15 (a) "State agency" shall be defined as set forth in K.S.A. 75-3049,
16 and amendments thereto, except that the university of Kansas
17 hospital authority shall not be included in such definition for the
18 purposes of sections 1 through 3, and amendments thereto; and

19 (b) "performance measures" means a quantitative or qualitative
20 indicator used to assess state agency performance, including outcome
21 and output indicators.

22 New Sec. 3. (a) Each state agency shall consult with a
23 representative of the department of legislative research and the director
24 of the budget or the director's designee to modify each agency's
25 performance measures to standardize those performance measures and
26 to utilize best practices across all state agencies.

27 (b) On or before October 1 of each year, each state agency shall
28 submit an annual report based on those performance measures to the
29 legislative budget committees, the director of the budget and the
30 secretary of administration.

31 (c) The required reports in subsection (b) shall also be sent to the
32 department of administration to be posted on the website created
33 pursuant to K.S.A. 2010 Supp. 74-72,123, and amendments thereto.