

## MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairperson Karin Brownlee at 8:30 a.m. on January 29, 2004 in Room 123-S of the Capitol.

All members were present.

Committee staff present:

Kathie Sparks, Legislative Research  
Susan Kanarr, Legislative Research  
Helen Pedigo, Revisor of Statutes  
Nikki Kraus, Committee Secretary

Conferees appearing before the committee:

Matt Jordan, Department of Commerce  
Charles Miller, President, Kansas Connection  
Senator Derek Schmidt  
Senator Jean Schodorf  
Marci Penner, Kansas Sampler/TIAK  
Derenda Mitchell, Assistant Counsel, KLA  
Terry Holdren, Kansas Farm Bureau  
Debra Brown, Proprietor, Red Rock Guest Ranch  
Lynn Johnson, Kansas Trial Lawyers Assn.

Others attending:

See Attached List.

Chairperson Brownlee opened the meeting and announced that there would be a couple bill introductions.

Senator Jordan asked the committee for the introduction of two bills, one concerning the Kansas Center for Entrepreneurship and one concerning angel investors. Senator Jordan moved to introduce the bills. Senator Brungardt seconded the motion. The motion passed.

Mr. Matt Jordan asked the committee for the introduction of three bills under the economic revitalization plan. He explained that they concern the Kansas Business Benefits Plan to replace the high performance incentives program, Kansas First, which amends the IMPACT program, and Rural Business Development Tax Credits. Mr. Jordan included a letter from Lt. Governor John Moore explaining the three bills. (Attachment 1) Senator Barone moved to request introduction of the three bills. Senator Emler seconded the motion. The motion passed.

Mr. Miller then presented an overview of the organization over which he is the president, Kansas Connection, explaining the significance of the organization and its vision for promoting the independent film industry in the state. (Attachment 2)

Chairperson Brownlee opened the public hearing on:

### SB 334--Limiting liability of persons involved in agritourism

Senator Schmidt spoke as a proponent of the bill, emphasizing the history of the bill and explaining the current version was a corroborative effort produced from several months of work. He stated that the bill was modeled on the state's domestic animal law and that he would also support the amendment that would be offered by the Kansas Livestock Association. (Attachment 3)

Senator Schodorf spoke as a proponent of the bill, recounting her personal experiences with agritourism as a family business, and illustrating its value to tourists and Kansans alike. She emphasized the importance of helping to develop this fledgling industry. (Attachment 4) She also provided the committee with an article by Stephen Kinzer, "Sowing Art on the Kansas Prairie" New York Times, January 22, 2004.

Ms. Penner spoke as a proponent of the bill. She stated to the committee that it was important to discuss how

## CONTINUATION SHEET

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to make agritourism possible in the state and that it could be a source of important supplemental income to ranchers and farmers, as well as a great opportunity for visitors. (Attachment 5)

Ms. Mitchell spoke as a proponent of the bill. She stated that while supportive, the KLA also wanted to offer an amendment that, “provides that someone who is both an agritourism provider and a provider and a provider of land for recreational activities is entitled to the full protections of the recreational use statute. We do not want a court to interpret this new legislation as weakening the protections afforded an agritourism provider currently entitled to specific protections under the recreational use statutes.”(Attachment 6)

Mr. Holdren spoke as a proponent of the bill. He stated that the bill was a great compromise and that he believes members are embracing the idea of bringing people in; KFB is supportive of the KLA amendment also.(Attachment 7)

Ms. Brown spoke as a proponent of the bill. She emphasized the enjoyment tourists get from agritourism and encouraged the committee to support the bill.(Attachment 8)

Senator Barone asked the conferees what would happen if the secretary does not act in a timely manner to process applications and offered to amend in a time limit within the bill.

Senator Schmidt agreed that this would be a friendly amendment. In response to another question from Senator Kerr, Senator Schmidt stated that the experience of an visitor would change in two ways because of this bill: the location would have more warning signs, similar to those at the state fair, and, in the event that an activity requires written consent, the same language must be used in that document.

Mr. Johnson spoke as an opponent of the bill. He argued that in response to Senator Kerr’s question, an agritourist would have no recourse against a negligent agritourism provider and that there were no inspections nor oversights through the Department. In his testimony, he stated, “Enactment of [SB 334] would create a new and unprecedented immunity from personal responsibility through the application of the doctrine of assumption of risk, which is not currently recognized by the common-law of Kansas....There simply is no objective evidence that the legislative grant of immunity is needed or necessary to ‘promote rural tourism and rural economic development...’” (Attachment 9)

Senator Emler asked Mr. Johnson to bring something forward to the committee which he, Mr. Johnson, and his organization could support, because the Senator was tired of hearing phrases like “you can’t” while at the same time Mr. Johnson told the committee he was in favor of agritourism.

Mr. Johnson stated that he would go back and work on it and get something for the committee.

Helen Pedigo provided the committee with a comparison of **SB 334** and **SB 134** from the past, defining terms such as ordinary negligence, gross negligence, and willful, wanton, or reckless negligence according to Black’s Law Dictionary, Sixth Edition. (Attachment 10)

The committee was also given a fiscal note for the bill. (Attachment 11)

The public hearing was closed.

Chairperson Brownlee adjourned the meeting at 9:30 a.m. The next meeting will be at 8:30 a.m. on January 30, 2004 in Room 123-S of the Capitol.