

**MINUTES**

**JOINT COMMITTEE ON ECONOMIC DEVELOPMENT**

October 17, 2002

Centennial Room, Kansas Union, University of Kansas, Lawrence

October 18, 2002

Room 123-S—Statehouse

**Members Present**

Senator Nick Jordan, Chairman  
Representative William Mason, Vice-Chair  
Senator Jim Barone  
Senator Karin Brownlee  
Senator U.L. "Rip" Gooch  
Representative Jerry Aday (October 18 only)  
Representative Carol Edward Beggs  
Representative Mary Compton  
Representative Annie Kuether (October 18 only)  
Representative Margaret Long (October 18 only)  
Representative Vern Osborne

**Members Absent**

Senator Lynn Jenkins  
Representative Valdenia Winn

**Staff Present**

April Holman, Kansas Legislative Research Department  
Deb Hollon, Kansas Legislative Research Department  
Jerry Donaldson, Kansas Legislative Research Department (October 18 only)  
Bob Nugent, Office of the Revisor of Statutes  
Norman Furse, Office of the Revisor of Statutes (October 18 only)  
Judy Swanson, Committee Secretary

## Conferees

David Brant, Kansas Securities Commissioner  
Rick Fleming, General Counsel, Kansas Securities Commission  
Debbie Fitzhugh, Kansas, Inc.  
Sherry Brown, Acting Secretary, Kansas Department of Commerce & Housing  
Patricia Oslund, Research Economist, Institute for Public Policy & Business  
Research, The University of Kansas  
Steve Kelly, Director of Business Development, KS Department of Commerce  
Marlee Carpenter, Director of Taxation, Kansas Chamber of Commerce and  
Industry  
Kent Keermann, President, Regional Development Assn. of East Central Kansas  
Bill Laves, Kansas Department of Human Resources

### Thursday, October 17

The meeting was called to order by Committee Chairman Nick Jordan at 3:25 p.m. in the Centennial Room of the Kansas Union on the University of Kansas campus in Lawrence.

Kansas Securities Commissioner David Brant introduced Rick Fleming, general counsel in his office. Mr. Fleming reviewed activity in the Securities Office, both regulatory and law enforcement activity. They have 28 employees including eight investigators and four attorneys.

Mr. Fleming then reported on Kansas Venture Capital, Inc.(KVC) (Attachment 1). In April 2002, a civil lawsuit was filed for wrongful termination and an investigation started. He told the Committee that, although the agency was concerned about the allegations against KVC, there is not a viable case for the state to allege any violations of state securities law based on the findings. He emphasized that his agency's report does not address and is not intended to comment on the merits of the employees' lawsuit. He noted that the report is not meant to be an exoneration of KVC, but rather to indicate that there were no violations of Kansas securities law. He reviewed his investigation which found there was no basis for fraud charges.

He addressed concerns that Tri-Circle Corporation was not named in testimony to the Legislature in 1997, stating that at the time state legislative leaders seemed pleased that the state was receiving its initial \$5 million investment back. He concluded the payment of bonuses was a separate issue and per agreement, the bonuses would have been paid even if the state had not been reimbursed. He found the state was not misled about the payment of dividends.

Committee discussion followed Fleming's testimony. It was stated that KVC board members were aware of the Tri-Circle Corporation transactions. Senator Gooch requested a list of KVC Board members. Senator Brownlee questioned whether the legislature received a KVC annual report. April Holman, Kansas Legislative Research Department

(KLRD), told the Committee that she would look into the matter. Senator Barone stated he is troubled with the report and disagreed with the conclusion regarding the revealing of a company name. He noted that the Legislature should have been given the information since public moneys were involved. Mr. Fleming said confidentiality was the issue at hand for the corporation, but he did agree that there were ways to inform the legislature and maintain confidentiality. Senator Barone requested that he be recorded as not being pleased with the report and its thoroughness. He was disappointed that he was not contacted since he served on the subcommittee in 1997. Brant said that an April 18 letter was sent to Senator Barone, and he had personally had private conversations with him. Brant noted that Senator Don Steffes was also consulted as chair of the subcommittee.

Ms. Holman presented the Committee with Conclusions and Recommendations on proposed legislation concerning broadband deployment ([Attachment 2](#)). The focus of the study was placed specifically on the impact of broadband deployment on economic development. Broadband technology is that technology that provides for speeds of at least 200 kbps in at least one direction. It can be provided over wireline facilities such as digital subscriber line (D.L.), wireless third Generation (3G) facilities, cable facilities and satellite facilities. She summarized comments from conferees that testified at the September committee meeting. It was concluded that further study and legislative action in the area of broadband deployment might be necessary. It is unclear whether it is sufficient under the law that broadband competition exists among the various technologies, or if the law will be interpreted to require competition in the provision of broadband services using telephone technology. If it were decided that intra modal competition is not necessary then there would be no need for the incumbent provider to make its broadband network available to carriers. The KCC and the FCC are currently considering this question. There are also other issues that arise in the area of the supply of broadband services.

Chairman Jordan requested that the KANED program be mentioned in the report. Senator Brownlee noted that the key issue relative to broadband deployment is more demand than, and she feels that demand should be stressed in the report. Senator Brownlee also asked that "FCC" be added on page 5 of the report as also investigating intra modal competition, and mention of price driving demand should be added to the report under the subheading "Demand for Broadband Access." Senator Gooch and Chairman Jordan want "core issue is the reimbursement rates for current lines," added to the report. Representative Mason stated that the expansion of broadband is very important to the economic well being of the state, and would like a strong statement on the importance of this added to the report. He offered the following specific language to this end: *The Committee concludes that broadband is important to economic development and that the 2003 session of the Legislature should continue to examine ways to encourage market-driven investment in broadband throughout the state.*

Ms. Holman will rework the report for the Committee to consider at their November meeting. The Committee adjourned at 4:30 p.m.

## Friday, October 18

The meeting was called to order by Chairman Jordan at 9:10 a.m. in Room 123 of the Statehouse on October 18, 2003.

Debby Fitzhugh presented written testimony from Charles Ranson, President of Kansas, Inc., (Attachment 3) concerning the implementation of HB 2505, enacted by the 2002 Legislature. In his written remarks, Mr. Ranson shared his frustration with the time-line for implementation of HB 2505. He noted that the Kansas, Inc. Board had urged the expedited implementation of the venture capital program and that he had communicated this message to former Secretary of Commerce, Gary Shearer.

Sherry Brown, Acting Secretary of the Kansas Department of Commerce and Housing (KDOCH), outlined the requirements of HB 2505 concerning the set-up and implementation of the program (Attachment 4). She said KDOCH has no staff and no money to implement the program. There is no way to get the program in place so they can collect fees this year. One solution could be to finance the current year costs from one of their other fee funds, and reimburse that fund the following year. However, she noted that this would create accounting problems. Another problem is establishing the capacity within the agency for adequate oversight of the Capital Formation Companies (CFCs). Again, the agency has no one on staff currently with the skills and experience to manage this program. She said the best option appears to be to contract out the bulk of the work. The first two years of the program will be the most resource intensive. Currently, they are working with the Division of Purchasing on the request for proposal for a contractor to manage the program. She said she does not intend to make any decisions, or sign any contracts, that would keep the next Secretary from having a full range of options.

Committee discussion ensued. Representative Mason said he has great concerns. He noted that perhaps the regulation and control of this program should go to some other agency since the KDOCH was never a proponent of this bill and the former Secretary of Commerce seemed to have a conflict of interest in implementing the program. Ms. Brown assured the Committee that KDOCH would follow the law and do it to the best of their ability. She explained that the agency's total budget is \$100 million, but less than \$20 million is state money with the remainder being federal money, leaving very little flexibility for spending. Representative Mason further stated that he felt there has been much foot dragging over the past four years, and that prioritizing of KDOCH programs should be reconsidered.

Ms. Brown said the Department of Commerce has 5.5 positions currently unfilled. Senator Brownlee expressed her disappointment that KOCH has not taken more action towards implementing the program.

Representative Kuether concurred with Senator Brownlee's comments. She encouraged Ms. Brown to get this program going and use available FTEs immediately. She also requested the Tech Advisory Council to be started immediately.

Senator Barone said he is very disappointed that they are not further ahead with this project. He encouraged Ms. Brown to contact the Attorney General Office for its opinion on

the transfer of fee funds from one project to another. He said he wanted to echo the frustrations of the other Committee members.

Representative Osborn stated there is plenty to be done before the new administration comes in, and he encouraged Ms. Brown to contract with a private contractor to get this program going and move ahead rapidly.

Senator Gooch concurred with other Committee members. He inquired as to whom was expected to respond to the application for private contractor. Ms. Brown said there is no way to know, but she anticipates that it may be big accounting firms, people in the investment and securities business, and perhaps even individuals. She said she hopes the application information goes to as many people as possible.

Representative Aday questioned why parties who might apply to become a CFC should be precluded from serving on the Advisory Council. Ms. Brown said she agreed that they should be asked for their input, but they should not have an officially sanctioned say in the rules and regulations. Representative Aday stated he felt that the Committee has been deceived and undercut by the Department of Commerce, and unfortunately there is nothing that the Committee could do at this point to expedite the program. He questioned if the program could be given to Kansas, Inc. to implement.

Chairman Jordan stated it is the consensus of the Committee that they are extremely disappointed in the progress that has been made by the Department of Commerce. He said it is frustrating and angering to the legislators that this bill had problems getting through, and now that it is not being implemented. He said the Committee would make a Committee Statement that they strongly support the implementation of this bill as soon as possible, and request that on the first day of the session an update on the progress is given. If this progress report is not satisfactory, the legislature should look at other ways to get it implemented. Representative Aday suggested that the Department of Commerce look at other states and not try to recreate a way to get it started. The Committee will review and recommend a final statement at the November Committee meeting.

Patricia Oslund, Research Economist, Institute for Public Policy and Business Research, The University of Kansas, gave a comprehensive report on a study, *Kansas Business Taxes and Costs: Perspectives on Competitiveness (Attachment 5)*. She reviewed:

- Tax rates and other business costs that most affect Kansas firms.
- What the main business tax incentives are for which Kansas firms may qualify and how they compare with those available elsewhere in the region.
- What the overall impact of the Kansas tax structure and of other Kansas business costs are on the bottom line of a typical Kansas firm.

In response to a question, Ms. Oslund explained that the firms they looked at were firms that could locate anywhere, and are export-based. With the exception of the property tax, Kansas rates tend to be in the mid range for the region while Worker Compensation

costs in Kansas are slightly lower than the national average. Ms. Oslund's report found that the Kansas property tax, particularly as applied to machinery and equipment, is the tax where Kansas most diverges from surrounding states. The property tax tends to be higher in Kansas than in neighboring states. She noted that Kansas ranks in the mid-range for the region in the cost of labor, which she opined is the most important basic business cost. She also noted that Kansas offers a generous package of tax incentives for new and expanding firms and also provides generous sales tax exemptions.

She explained that a "hypothetical firm model" was developed and used to compare tax rates and how other business costs affect a firm's bottom line profits. Some clear patterns emerged:

- Kansas has consistently been a moderately attractive business location for new and expanding firms, as compared with the region.
- Kansas tax structure leads to tax impacts on new firms that are about average for the region.
- Kansas has some tax disadvantages for established firms that cannot make use of special credits or abatements, although these disadvantages tend to be offset by relatively low business costs.

She opined that being the lowest cost location is usually not desirable as a policy goal. A much more desirable policy goal is to be competitive in costs without having the lowest costs.

Ms. Oslund answered Committee members' questions. She agreed that corporate income tax is low in Colorado, and that Colorado can be more alluring to a large industry because of their lower tax rate. However, she cautioned that there are also other reasons unrelated to taxes that draw companies to states, such as quality of life and the availability of a quality workforce. She noted that a large number of telephone services and telemarketing services locating in Kansas. Those companies are not going to be as worried about property taxes. Chairman Jordan complimented Ms. Oslund on her presentation and thanked her for appearing before the Committee.

Steve Kelly, Director of Business Development, KDOCH, discussed SB 617 and explained the matrix that would be used under SB 617 to more equitably distribute tax credits (Attachment 6). He explained that this is an attempt to have a more incentive-based program for the number and the quality of jobs. Mr. Kelly gave the Committee a packet of information concerning how wages would be affected by capital investment when this incentive formula is applied (Attachment 7).

Mr. Kelly provided balloon amendments to SB 617, which are aimed at clarifying the intent of the bill. He distributed Application Guidelines for the Kansas Economic Opportunity Initiatives Fund (KEOIF) and the Kansas Existing Industry Expansion Program (KEIEP) (Attachment 8) and a summary of Workforce Development Programs (Attachment 9). This issue will be revisited again at the November Committee meeting.

Marlee Carpenter, Director of Taxation, Kansas Chamber of Commerce & Industry (KCCI), submitted written testimony to the Committee stating that KCCI does not believe that Kansas needs to have the lowest taxes to attract and maintain businesses, but needs to at least have a competitive tax structure within the region and the nation as a whole (Attachment 10).

Kent Keermann, President of the Regional Development Association of East Central Kansas, testified in regard to his experience in recruiting new businesses in the Emporia area (Attachment 11). He reviewed Emporia's competition for a pet food plant with Nebraska, Missouri and Arkansas. The project went to Fremont, Nebraska. Kansas could not compete on business tax structure. Nebraska treats residential and business classes of property the same, whereas a Kansas business pays 13.5 percent more in real property taxes. Committee discussion followed testimony. Long-term policy will be addressed at the November Committee meeting.

Jerry Donaldson, KLRD, reviewed the Committee findings on unemployment compensation (Attachment 12). Norman Furse, Revisor of Statutes, explained to the Committee that the unemployment insurance issue was also presented to the Legislative Coordinating Council (LCC). The LCC referred the matter to a subcommittee, and the subcommittee was told by the Department of Human Resources (KDHR) reported that no recommendation was made by the Advisory Council and therefore the request was withdrawn from the LCC.

Bill Layes, KDHR, explained that Unemployment Insurance Advisory Council was asked to look at possible refinancing and reallocation of \$78 million of Reed Act moneys. They met twice and no recommendations were made.

It was the Committee consensus to make no recommendations, since the issue has been thoroughly reviewed and KDHR has withdrawn their request.

***Representative Beggs made a motion to approve the Minutes of the September Committee meeting. Senator Gooch seconded the motion.*** Senator Brownlee asked for a number of corrections. Staff will make corrections and present corrected minutes at the November meeting. ***No vote was taken on the motion by Representative Beggs.***

Senator Barone requested a status report on Project Pronto.

Senator Jordan announced that approval of the interim report on Workplace Safety will be taken up at the November Committee meeting.

The meeting adjourned at 11:50 a.m.

Prepared by Judy Swanson  
Edited by April Holman

Approved by Committee on:

November 15, 2002