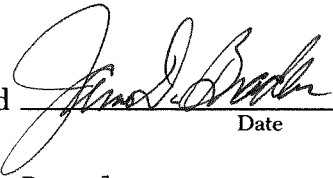


Approved



5-7-86

Date

MINUTES OF THE Legislative COMMITTEE ON Economic Development

The meeting was called to order by Representative Jim Braden at
Chairperson

7:00 a.m./p.m. on March 21, 1986, 19 in room 123-S of the Capitol.

All members were present except:

Committee staff present:

Belden Daniels
Paul West

Visitor's Register (Attachment "K")

Conferees appearing before the committee:

The Chairman called the meeting to order. Daniels distributed a bill draft on the small business venture capital act. (Attachment "A") Daniels called attention to Sec. 4 (Venture Capital Tax Credit Provision) (b) and (c) and explained the financing.

Daniels reviewed Sec. 6 (Certification) stressing that a company seeking to be certified as a Kansas capital company must meet the level of capitalization in order to qualify for the tax credits.

Sec. 8 (c). Daniels said an annual review was a very important factor in that an annual review of each capital company would determine if they are meeting the requirements of certification.

Daniels passed out bill draft (Attachment "B") on research and development tax credits. He also passed out a bill draft establishing the Kansas Technology Enterprise Corporation (KTEC) (Attachment "C"), and Senate Concurrent Resolution No. 1635 (Attachment "D") which is to amend the constitution on internal improvements. Daniels asked the Commission to note the amendment on page 2 which calls for the amendment to be submitted in the primary election instead of the general election.

A copy of House Bill No. 2960 by Representative Helgerson was distributed which would establish the membership and organization of Kansas, Inc. (See Attachment "E"). Kansas, Inc. would replace the Kansas Advisory Commission to the Kansas Department of Economic Development. He noted the advisory commission has not met since November 1984.

Daniels passed out Attachment "F" concerning legislative committees; Attachment "G", concerning tax exemption of property for economic development purposes, and Attachment "H", concerning method of distribution of grants.

Daniels asked the commission to note language in House Concurrent Resolution No. 5047 on page 2 which states "for the purpose of manufacturing, fabricating, assembling, processing or finishing articles of commerce or research and development, and warehousing goods which are sold or traded in interstate commerce which is a primary job creating industry or business". Discussion followed regarding this language and Daniels proposed adding on line 54 of House Concurrent Resolution No. 5047 "necessary to facilitate the job creating expansion of an existing business or industry".

CONTINUATION SHEET

MINUTES OF THE Legislative COMMITTEE ON Economic Development,
room 123-S, Statehouse, at 7:00 a.m./p/m. on March 21, 1986, 19 .

Daniels felt House Bill No. 2951 (Attachment "I") was a very high level of legislative drafting. Only three of the ten marketing positions in the Department of Agriculture will go to the Department of Commerce. The three positions are involved with international agricultural marketing.

The Chairman announced the next meeting would be Thursday morning, March 27, 1986.

Meeting adjourned 9:00 A.M.

Attached for Commission review are research papers prepared by KDED staff and also staff at the Institute of Public Policy and Business Research at the University of Kansas for Commission information. (Attachment J)

Approved by Commission

5-1-86

(date)

March 21, 1986
Economic Dev. Comm

11:00 A.M.

Name

Representing

Jim Ryan

Gov Ofc

Steve Holstein

Dept of Econ. Dev.

David Barclay

" " " "

CHARLES BELT

WICHITA CHAMBER OF COMMERCE

Paul E. Fleener

Kansas Farm Bureau

BUD GRANT

KCCI

JACK ALUMBAUGH

SCKRDD / KACDC

RONALD D. NICHOLAS

NINE COUNTY DEV.

KEP L. FOX

KDOA

Lynden Drew

KDOR

B.W. SABOK

KDHE

Tom Bell

KHA

Dick Dummel

KHCA

Lewis Allen

KHCA

Robert Anderson

SRS

Attachment K

March 21, 1986
Economic Dev. Comm.

BILL NO. _____

By

AN ACT enacting the small business venture capital act; prescribing the purpose of such act; certification of capital companies; granting certain income tax credits; and providing for the administration of the provisions of the act.

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

Section 1. Need Statement. The lack of risk capital is a significant impediment to the further growth and diversification of the Kansas economy. Difficulty in obtaining equity financing for small and expanding firms in Kansas inhibits the adoption of new and innovative production techniques, the development of new products, the restructuring of existing industry and the creation of new jobs. Therefore, the legislature enacts this capital companies tax incentive program in order to diversify and stimulate the economy of the state, to attract new jobs, to retain existing jobs, and to retain and generate in the state the financial resources necessary to foster a growth economy.

Sec. 2. Mission Statement. The purpose of the small business venture capital act is to facilitate the formation of private venture capital companies by granting tax credits against the Kansas income tax liability of individuals or entities investing in venture capital companies that make primarily equity investments in Kansas based businesses which are primary, job and wealth creating enterprises.

Sec. 3. Definitions. For the purposes of this act, the following terms shall have the meanings provided herein, unless the context clearly indicates otherwise:

(a) "Capital company" means any partnership or corporation, whether organized on a profit or nonprofit basis, that has as its

Attachment A

primary business activity the investment of funds in return for equity in other companies that are in need of capital for survival, expansion, new product development or similar business purposes and that may be certified by the secretary as meeting the criteria of this act and thus eligible for the tax credit provided in this act.

(b) "Department" means the department of commerce.

(c) "Kansas business" means any small business owned solely by a Kansas resident, any partnership, association or corporation domiciled in Kansas, or any corporation, even if a wholly owned subsidiary of a foreign corporation, that does business primarily in Kansas or does substantially all of its production in Kansas. The department shall provide by rule and regulation definitions of "small business," "primarily doing business in the state" and of "substantially all of its production."

(d) "Secretary" means the secretary of the department of economic development.

Sec. 4. Venture Capital Tax Credit Provision. (a) A credit may be claimed by a person, either natural or artificial, against the person's Kansas income tax in the year in which the person invests in a certified capital company and in every year thereafter to the full income tax liability of the person until the credit is exhausted.

(b) The credit shall be calculated by the department as 25% of the person's cash investment into a certified Kansas capital company, not the value of property or services contributed.

(c) No more than 25% of the tax credit allowed under subsection (b) may be credited against the taxpayer's Kansas income tax liability for any taxable year. If the amount of the tax credit exceeds the taxpayer's tax liability for the taxable year, the amount of the credit which exceeds the tax liability may be carried back or carried forward in accordance with the provisions of section 46(b) of the internal revenue code of 1954, as amended.

(d) The secretary may grant credits for no more than

\$24,000,000 of new investments in qualified capital companies in any one year. The credits shall be allocated to qualified companies in the order that completed applications for designation as qualified capital companies are received by the secretary. However, investors in Kansas risk and venture capital firms established after July 1, 1984, which otherwise meet the requirements specified in this act shall be, upon certification of the capital company, entitled to the tax credit provided in this act in the calendar year in which the investment was made.

Sec. 5. Implementation. The secretary, in addition to other grants of authority to promote the industrial development of the state, shall adopt policies and procedures or rules and regulations to implement this act on or before October 1, 1986, and shall serve as a clearinghouse for information relevant to potential incorporators or organizers of capital companies and for the locating and promoting of Kansas businesses seeking infusions of capital from transfers of equity.

Sec. 6. Certification. (a) The department shall promulgate policies and procedures or rules and regulations for making an application for certification of a capital company and shall specify the information that must be submitted at the time of application. No capital company shall be certified until the department has issued policies and procedures or rules and regulations as required in section 5. A company seeking to be certified as a Kansas capital company must specify the level of capitalization that the company expects to qualify for the tax credits provided for in this act. The application must show that the applicant's purpose is to encourage and assist in the creation, development and expansion of Kansas-based businesses and to provide maximum opportunities for the employment of Kansans by making venture capital available to sound small Kansas firms.

(b) The department, through the secretary, shall review the articles of incorporation or the articles of partnership of each applicant for certification and the business history of the

applicant, determine that the capitalization is at least \$1,500,000, and determine that the officers and board of directors or partners are thoroughly acquainted with the requirements of the capital companies tax credit program and the certification and decertification procedures.

(c) Within 60 days of application, the secretary shall issue the certification and notify the department of revenue of said certification or shall refuse the certification and explain to the applicant the grounds for the refusal, including suggestions for the removal of those grounds.

Sec. 7. Maintaining Certification. (a) To continue in certification, a capital company must:

(1) Invest at least 30% of its capitalization at the end of the initial four years in such a manner as to acquire equity in the companies in which the investments are made;

(2) have invested 50% total in the same fashion at the end of seven years; and

(3) have a total of 75% of its initial capitalization invested in the acquisition of equity at the end of nine years under the program.

(b) At the fourth year, seventh year and ninth year investment levels, at least 60% of the total investment of the capital company must be in Kansas businesses in which the funds so invested were to be used solely for the purpose of enhancing their productive capacity or ability to do business within the state or to add value to goods or services produced or processed within the state.

(c) No more than 20% of the assets of a capital company may be invested in the equity of a single company at any one time.

(d) The use of invested funds by a Kansas business for oil and gas exploration and development, for real estate development or appreciation, for banking or lending operations, or service or retail shall not be counted for purposes of the continuance of certification.

(e) Documents and other materials submitted by capital

companies or by Kansas businesses for purposes of the continuance and certification shall not be public records if such records are determined to be trade or business secrets and shall be maintained in a secured environment by the secretary.

Sec. 8. Annual Review. (a) Each qualified Kansas capital company shall report to the secretary on an annual basis such information as the secretary requires to be submitted.

(b) The secretary shall provide this information contained in subsection (a) to the department of revenue on an annual basis.

(c) The secretary shall conduct an annual review of each capital company certified under the program to determine if the capital company is abiding by the requirements of certification, to advise the capital company as to the certification status of its investments, and to ensure that no investment has been made in violation of the provisions of this act and the policies and procedures or rules or regulations promulgated by the department. The cost of the annual review shall be paid by each capital company according to a reasonable fee schedule adopted by the secretary.

(d) Any violation shall be grounds for decertification under this section. If the secretary determines that a company is not in compliance with any requirements for continuing in certification, he shall, by written notice, inform the officers of the company and the board of directors or partners that they will be decertified in 120 days from the date of mailing of the notice unless they correct the deficiencies and are once again in compliance with the requirements for certification.

(e) At the end of the one hundred twenty day grace period, if the capital company is still not in compliance, the secretary shall send a notice of decertification to the company and to the secretary of the department of revenue. Decertification of a capital company shall cause the forfeiture of any right or interest to a tax credit under the program and shall cause the total amount of tax credit previously claimed by persons under

the program to be due and payable with that year's income tax liability. These amounts are due notwithstanding the fact that the years for which the credits were originally taken may have prescribed.

(f) Following each annual examination, the secretary shall notify the department of revenue of any companies that are not in compliance with this section.

(g) The department of revenue shall send written notice to the address of each person whose tax credit has been forfeited, using the address last shown on the person's last income tax filing.

Sec. 9. Decertification. At any time a capital company may voluntarily decertify itself by sending written notice of decertification to the secretary and by remitting to the secretary of the department of revenue full payment of all tax credits claimed by investors under its participation in the certification program. These amounts are due notwithstanding the fact that the years for which the credits were originally taken may have prescribed. Thereafter, the company shall be a full subrogee to the state of Kansas through the department of revenue for such sums as were remitted by the company against its investors or equity owners.

Sec. 10. Accountability. (a) The secretary of the department of economic development shall report annually to the governor and the legislature and to each certified capital company detailing:

- (1) The number of capital companies;
- (2) the total tax credit generated;
- (3) the total investments made under the program;
- (4) the total investments in Kansas businesses;
- (5) an estimate of jobs created or preserved under the program; and

(6) an estimate of the multiplier effect on the economy of the program.

(b) Additionally, the secretary shall attempt to evaluate

the success or lack of success of the program and may include specific recommendations for legislation.

(c) Five years after the effective date of this act, a special review panel shall be convened to perform a financial and program audit of the act. The panel shall consist of 12 members, who are not members of the board of directors, as follows:

(1) Six chosen by the governor, of whom:

(A) Three shall be entrepreneurs or representatives of the business community;

(B) one shall be scientists or engineers from either educational institutions or private enterprise; and

(C) two shall be representatives of the private financial community;

(2) three chosen by the president of the senate, of whom:

(A) One shall be an entrepreneur or representative of the business community;

(B) one shall be a scientist or engineer from either an educational institution or private enterprise; and

(C) one shall be a representative of the private financial community; and

(3) three chosen by the speaker of the house of representatives, of whom:

(A) One shall be an entrepreneur or representative of the business community;

(B) one shall be a scientist or engineer from either an educational institution or private enterprise; and

(C) one shall be a representative of the private financial community.

(b) All panel members shall be recognized by their peers for outstanding knowledge and leadership and have particular experience with those small, exporting enterprises of special importance to the Kansas economy.

(c) The panel will have six months to review the tax credit provision and the activities and investments of the certified capital companies, including:

(1) A performance analysis of the extent to which the objectives stated in the act have been achieved; and

(2) the economic and fiscal impact of the act on the state's economy and jobs created.

(d) Based on the panel's findings, it will recommend to the legislature one of the following actions:

(1) Continue the venture capital tax credit and statutory provisions relating to capital companies;

(2) continue the act, but with modifications recommended by the committee; or

(3) repeal the act.

Sec. 11. Liability. The state of Kansas may not be held liable for any damages to an investor in a Kansas capital company.

Sec. 12. Effective Date. This act shall take effect and be in force from and after and its publication in the Kansas register.

"B"

5 RS 2751

March 21, 1986
Economic Dev. Comm.

BILL NO. _____

By

AN ACT relating to the taxation of income; granting certain credits to corporations for the investment in research and development activities.

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

Section 1. Every corporation shall be entitled to claim a credit for investment in research and development activities in an amount equal to 6 1/2% of the amount by which the amount invested in such activities, within this state in the tax year for which such credit is claimed against the tax liability imposed against such taxpayer pursuant to article 32 of chapter 79 of the Kansas Statutes Annotated, exceeds the corporation's average expenditure for such purpose during the three immediate preceding years of the taxpayer. In no case shall such credit exceed an amount equal to 25% of the total tax liability of the taxpayer in any one year.

For the purposes of this section "investment in research and development activities" shall mean and include expenditures incurred in connection with the taxpayer's trade or business which represents research or development costs in the experimental or laboratory sense. The term includes generally all costs incident to the development of an experimental or pilot model, a plant process, a product, a formula, an invention, or similar property, and the improvement of already existing property of the type mentioned. The term does not include expenditures such as those for the ordinary testing or inspection of materials or products for quality control or those for efficiency surveys, management studies, consumer surveys, advertising, or promotions.

Sec. 2. This act shall take effect and be in force from and after its publication in the Kansas register.

Attachment B

March 21, 1986
Economic Dev. Comm.

BILL NO. _____

By

AN ACT establishing the Kansas technology enterprise corporation;
and prescribing its purpose, powers, duties and functions.

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

Section 1. Statement of need. The legislature of the state of Kansas finds that:

(a) There exists in the state a great and growing opportunity for cooperation between private enterprise and educational institutions in the areas of innovation, basic and applied research and the transfer of new technologies between educational institutions and private enterprises;

(b) there exists a lack of seed-capital financing for the development of new products or processes by small innovative enterprises or new enterprises engaged in, or supplying to, key exporting industries of special importance to the Kansas economy;

(c) encouraging these activities can lead to increased industrial and commercial development to provide and maintain employment and revenues which are important functions to the state;

(d) these activities can improve the pace at which existing industries innovate and grow, increasing opportunities for small and large enterprises alike and creating new exporting industries and services within the state, resulting in increased employment and public revenues; and

(e) these opportunities for innovation and growth lie particularly in those small enterprises engaged in agricultural, manufacturing and technology based exporting industries, which are increasingly recognized as the sources of new job creation within Kansas and the nation.

Attachment C

Sec. 2. Mission statement. (a) The purpose of the Kansas technology enterprise corporation is to foster innovation in existing industry and the development of new industry in key exporting areas of special importance to the Kansas economy, especially in those small enterprises including, but not limited to:

(1) Existing resource based industries of agriculture, oil, gas, coal and helium.

(2) existing advanced technology industries of aviation, pharmaceuticals, computers and electronics; and

(3) emerging industries of telecommunications, computer software, information services and research services.

(b) The corporation shall achieve the purpose stated in subsection (a) of this section by:

(1) Financing centers of excellence at education institutions to engage in basic research that potentially has application in existing and new Kansas industries;

(2) awarding applied research matching grants to educational institutions and private enterprises in order to move innovation and applied research toward commercial application; and

(3) engaging in seed-capital financing for the development and implementation of innovations or new technologies for existing resource, technology based and emerging exporting industries;

(4) providing technical referral services to such small, new, emerging or mature exporting enterprises and encouraging educational institutions to establish technical information data bases and industrial liaison offices which are easily accessible by both private and public sector organizations.

Sec. 3. Definitions. As used in this act:

(a) "Applied research" means those research activities occurring at educational institutions and in private enterprises, which have potential commercial application in key exporting areas of special importance to the Kansas economy;

(b) "basic research" means research that has longer range generic value to an industry classification or group of companies. It is distinguished from applied research which has more present value to a single company or project to be achieved in a limited time period;

(c) "corporation" means the Kansas technology enterprise corporation;

(d) "educational institutions" means public and private community colleges, colleges and universities in the state;

(e) "enterprise" means a firm with its principal place of business in Kansas which is engaged or proposes to be engaged in this state in agricultural, natural resource based or other manufacturing, research and development, or the provision of technology based services;

(f) "innovation" means any new technology, product or process without regard to whether a patent has or could be granted;

(g) "new technology" means the development through science or research of methods, processes and procedures, including but not limited to those involving the utilization of agricultural products and by-products and oil and gas and other mineral resources, for practical application in industrial and service situations;

(h) "person" means any individual, partnership, corporation or joint venture carrying on business or proposing to carry on business within the state;

(i) "product" means any product, device, technique or process, which is or may be exploitable commercially; however, "product" does not refer to basic research but shall apply to such products, devices, techniques, or processes which have advanced beyond the theoretical stage and are in a prototype or practice stage;

(j) "qualified security" means any public or private financial arrangement, involving any note, security, debenture, evidence of indebtedness, certificate of interest or

participation in any profit-sharing agreement, preorganization certificate or subscription, transferable security, investment contract, certificate of deposit for a security, certificate of interest or participation in a patent or application therefor, or in royalty or other payments under such a patent or application, or, in general, any interest or instrument commonly known as a "security" or any certificate for, receipt for, guarantee of, or option, warrant or right to subscribe to or purchase any of the foregoing to the extent allowed by law;

(k) "seed capital" means financing that is provided for the development, refinement and commercialization of a product, process or innovation, whether for the startup of a new firm, the expansion of a young, small firm or the restructuring of a mature, small firm;

(l) "small business" means an enterprise engaged in manufacturing having 500 or fewer employees and all other business enterprises having 100 or fewer employees; and

(m) "exporting" means those Kansas enterprises that sell goods or services outside the state and their suppliers.

Sec. 4. Powers. To carry out the purposes specified in section 2 of this act, the corporation shall have all the powers necessary to carry out its purposes, which include the power to:

(a) Make, amend and repeal bylaws, rules and regulations for the management of its affairs;

(b) sue and be sued;

(c) make contracts and execute all instruments necessary or convenient for carrying out its business;

(d) acquire, own, hold, dispose of and encumber real or personal property of any nature, both tangible and intangible, of any nature or any interest therein;

(e) enter into agreements or other transactions with any federal, state, county or municipal agency and with any individual, corporation, enterprise, association or any other entity involving applied research and technology;

(f) acquire real property or an interest therein, by

purchase or foreclosure, where such acquisition is necessary or appropriate to protect or secure any investment or loan in which the corporation has an interest;

(g) sell, transfer and convey any such property to a buyer, and in the event such sale, transfer or conveyance cannot be effected with reasonable promptness or at a reasonable price, to lease such property to a tenant;

(h) invest any funds appropriated by the state and held in reserve in funds not required for immediate disbursement, in such investments that may be lawful for fiduciaries in this state, and invest funds received from gifts, grants, donations and other operations of the corporation in such investments as would be lawful for a private corporation having purposes similar to the corporation;

(i) borrow money and give guaranties, provided that the indebtedness and other obligations of the corporation shall be payable solely out of its own resources, and shall not constitute a pledge of the full faith and credit of the state or any of its revenues;

(j) appoint officers, consultants, agents and advisors, and prescribe their duties and compensation;

(k) appear in its own behalf before boards, commissions, departments or other agencies of municipal, county or state government or federal government;

(l) procure insurance against any losses in connection with its properties in such amounts from such insurers as may be necessary or desirable;

(m) consent, subject to the provisions of any contract with note-holders, whenever it considers it necessary or desirable in the fulfillment of the purposes of this act, to the modifications, with respect to the rate of interest, time payment or of any installment, of principal and interest or any terms of any contract or agreement of any kind to which the corporation is a party;

(n) accept any and all donations, grants, bequests and

devises, conditional and otherwise, of money, property, services or other things of value which may be received from the United States or any agency thereof, any governmental agency, or any institution, person, firm or corporation, public or private, to be held, used or applied for any or all of the purposes specified in this act, in accordance with the terms and conditions of any such grant; receipt of each such donation or grant shall be detailed in the corporation's annual report; such report shall include the donor or lender's identity, the nature of the transaction and any conditions;

(o) trade, buy or sell qualified securities;

(p) finance, conduct or cooperate in the financing or conducting of scientific, technological, business, financial or other investigations which are related to or likely to lead to business and economic development, involving natural resources, innovation, applied research and new technology, by making and entering into contracts or other appropriate arrangements, including the provisions of grants, loans and other forms of assistance;

(q) solicit, study and assist in the preparation of business plans and proposals of new or established resource and technologically oriented enterprises, particularly in those exporting areas of special importance to the Kansas economy;

(r) prepare, publish and distribute, with or without charge as the corporation may determine, such technological studies, reports, bulletins and other materials as it considers appropriate, subject only to the maintenance and responsibility for confidentiality of the client proprietary information and encourage educational institutions to develop and disseminate similar materials;

(s) organize, conduct, sponsor or cooperate with, and assist both the private sector and educational institutions in the conduct of, special institutes, conferences, demonstrations and studies relating to the stimulation and formulation of innovation, applied science and technologically oriented

enterprises and studies relating to the formulation of resource and technologically oriented enterprises and industry endeavors;

(t) provide and pay for such advisory services and technical assistance that may be necessary or desirable to carry out the purposes of this act;

(u) own, possess and take license in, patents, copyrights and proprietary processes and negotiate and enter into contracts and establish charges for the use of such patents, copyrights and proprietary processes when such patents and licenses for innovation or inventions result from research sponsored by the corporation in a private enterprise or when the corporation finances a product developed by a private enterprise;

(v) negotiate royalty payments to the corporation on patents and licenses for innovations or inventions arising in the course of research sponsored by the corporation at educational institutions under the jurisdiction of the Kansas board of regents; such negotiated royalty arrangements should reflect an appropriate sharing of legal risk as well as financial return between the corporation and educational institution; such patents and licenses shall be in keeping with the patent policies of the Kansas board of regents;

(w) exercise any other powers necessary for the operation and functioning of the corporation within the purposes authorized in this act;

(x) participate with any state agency or educational institution in developing specific programs and goals to assist in the development of industrial innovation, applied research and new technology in those exporting areas of special importance to the Kansas economy and monitor performance;

(y) cooperate with the department of commerce regarding financial assistance programs targeted to small enterprises engaged in key exporting industries of special importance to the Kansas economy; and

(z) provide resource based, scientific and technological data and information required by the governor, the legislature,

or its committees, and to state agencies, educational institutions and cities, counties and school districts and to private citizens and groups, within the limitations of the resources available to the corporation. This service shall be in addition to any services currently provided by any educational institution, committee or other organization;

(aa) the corporation shall be exempt from all franchise, corporate business and income taxes levied by the state. However, this act is not intended to exempt from any such taxes, or from any taxes levied in connection with the manufacture or sale of any products or processes which are the subject of any agreement made by the corporation, or any person entering into any agreement with the corporation;

(bb) documents and other materials submitted to the corporation by Kansas businesses shall not be public records if such records are determined to be trade or business secrets and shall be maintained in a secured environment by the president;

(cc) the corporation shall not be subject to state purchasing laws.

Sec. 5. Board of directors. (a) The Kansas technology enterprise corporation is created as an independent, nonprofit, public corporation.

(b) The corporation shall be governed by a board of 11 members who shall be residents of this state. The board shall consist of the governor, or the secretary of the department of commerce, and 10 directors appointed by the governor, subject to senate confirmation as provided in K.S.A. 75-4315b, and amendments thereto, as follows:

(1) Five directors shall be persons from the private sector who have demonstrated leadership, knowledge and experience in key exporting industries of special importance to the Kansas economy including those small enterprises which include, but are not limited to:

(A) Existing resource based industries of agriculture, oil and gas;

(B) existing advanced technology industries of aviation, manufacturing and information and design; and

(C) emerging industries of telecommunications, computer software, information services and research services;

(2) three directors shall be engineers or scientists who have extensive experience in managing basic or applied scientific and technological research at Kansas universities and who are recognized by their peers for outstanding knowledge and leadership in their fields; and

(3) two directors shall represent the private financial sector; one shall have experience in the area of high-risk venture investments; and the other shall have commercial banking experience in an industry of special technological importance to the Kansas economy and both of whom are recognized by their peers for outstanding knowledge and leadership in their fields.

(c) The governor shall give consideration to geographical representation when making board appointments.

(d) Two directors shall be appointed for a term of one year, two directors shall be appointed for terms of two years, three directors shall be appointed for terms of three years and three directors shall be appointed for terms of four years. Successors to such directors shall be appointed for terms of four years. Each director shall hold office for the term of appointment and until the successor shall have been appointed and confirmed. In the event of a vacancy, the vacancy shall be filled by the governor in the manner provided for appointments for the remainder of the unexpired portion of the term.

(e) In addition to the 11 directors, there shall be four nonvoting, ex officio directors, one member of the house of representatives appointed by the speaker, one member of the house of representatives appointed by the minority leader, one member of the senate appointed by the president, and one member of the senate appointed by the minority leader. The ex officio directors shall serve from the date of their appointment until the opening day of the next regular session of the legislature. Ex officio

directors may be reappointed.

(f) Members of the board of directors shall, in their dealings with enterprises that may receive financing through the corporation, declare any potential conflict of interest and abstain from voting prior to taking any actions relating to that transaction.

(g) The board of directors shall select a corporate president who is not a board member.

(h) The board of directors shall hold all board meetings within the state of Kansas.

(i) Members of the board of directors are entitled to compensation and expenses as provided in K.S.A. 75-3223, and amendments thereto.

(j) The board shall annually elect from the private sector membership one member as chair and one member as vice-chair.

(k) The board of directors shall meet at least once during each calendar quarter, and at such other times as may be provided in the rules of the corporation, upon call by the president, the chair or upon written request of a majority of the directors.

(l) A majority of the board of directors shall be necessary to transact corporation business, and all actions of the directors shall be by a majority vote of the full number of corporate directors.

(m) The directors shall establish an executive committee composed of the chair, vice-chair and three additional members chosen by the chair from the remaining directors. The executive committee, in intervals between board meetings, may transact any board business that has been delegated to the executive committee. A majority of the executive committee shall be necessary to transact business and all actions of the executive committee shall be by a majority vote of the committee.

(n) No member of the board of directors is eligible to serve more than two terms of office.

(o) A member of the board of directors may be removed by the governor for cause, stated in writing, after a hearing

thereon.

Sec. 6. Management. (a) The president shall be the chief executive officer of the corporation who shall serve at the pleasure of the board. The president's salary shall be set by the board of directors. The president shall direct and supervise administrative affairs and the general management of the corporation.

(b) The president:

(1) May employ and terminate such other officers and employees as designated by the board of directors and who shall be members of the unclassified service;

(2) shall attend board meetings;

(3) shall appoint a secretary to keep a record of all proceedings and maintain and be custodian of all financial and operational records, documents and papers filed with the corporation and of the minute book of the corporation;

(4) shall, before receiving operating funds or accepting any applications from an enterprise for applied research grants or seed-capital funds, prepare a business plan before October 1, 1986, which shall be approved by the board of directors, shall be submitted for review to the economic development commission and to Kansas, Inc. Upon approval of the commission, the state finance council shall release operating funds for the corporation prior to the 1987 legislative session.

Sec. 7. Centers of excellence. (a) The purpose of this section is to authorize the establishment of centers of excellence at the state universities that will undertake ongoing basic research with a particular focus that will have long run potential for commercial development. The centers should build on institutional strengths and be in areas of research where the university has achieved or has true promise of attaining excellence as recognized by national and international peers.

(b) The Kansas technology enterprise basic research fund is hereby created to which shall be credited any state funds specifically so designated. The fund is not to be used for

technical assistance, training or applied research, but only for actual basic research.

(c) The corporation may use the Kansas technology enterprise fund to carry out the purposes of this act by awarding funds to establish new centers of excellence or to increase funding to already established centers of excellence. Awards of funds shall be made on a competitive basis, and all proposals shall be subject to external peer review on the basis of scientific merit and subsequent potential for commercial application.

(d) In carrying out its functions under this section, the corporation is directed to create a centers of excellence committee to assist in evaluating the establishment of new centers of excellence and in evaluating increases in funding for already established centers of excellence. The membership of the centers of excellence committee may include both directors and staff members of the corporation, and other persons drawn from sources other than the corporation who meet standards similar to those applying to the board of directors and who are recognized by their peers for outstanding knowledge and leadership in their fields.

(e) The corporation shall award funding for new centers and increased funding for established centers only after:

(1) Developing, adopting and publishing the criteria it shall use when evaluating centers of excellence; and

(2) receiving the recommendation of the centers of excellence committee which will review proposals for new or established centers of excellence containing:

(A) Documentation that not less than 50% of the center's total funding will be matched by sources other than the corporation; equipment may be considered as part of the matching funds, but must be accompanied by a statement that the center of excellence has received the machinery or equipment, and it is state of the art and either:

(i) Verifying that the equipment or machinery is donated

and has only been used in testing to insure quality control, or used by a wholesaler or retailer for demonstration purposes only; or

(ii) detailing the price paid by the center of excellence, with an invoice showing the amount paid for the equipment;

(B) a description of a potential for future benefit to industry;

(C) an itemized operations budget; and

(D) other information that may be required by the board.

(f) The three existing Kansas centers of excellence--the center for artificial intelligence and automated control systems at Kansas state university, the center for bioanalytical research at the university of Kansas, and the center for productivity enhancement at Wichita state university--are eligible for continuing support from the corporation according to the same terms and conditions as provided in this act following an external review to determine under what provision of this statute and by what terms continuing funding is appropriate.

(g) The board shall approve such basic research proposals after the board finds, based upon the proposal submitted, external peer reviews, and such additional investigation as the staff of the corporation shall make and incorporate in its minutes that:

(1) The proposed center of excellence has the potential to stimulate economic growth by bringing together university-industry partnerships to focus on basic research and technology transfer; and

(2) the center has the long run potential for benefit to existing and new industries through innovation and development of new technology.

Sec. 8. Centers for technology transfer. The corporation shall provide funding to educational institutions to establish centers of technology transfer. Each such center shall emphasize technology transfer to Kansas industry.

(a) The corporation may use funds from the Kansas

technology enterprise fund to carry out the purpose of this section by establishing new centers of technology transfer. If the Kansas legislature establishes a center at Pittsburg state university during 1986, funding will be continued by the corporation in subsequent years in accordance with the criteria for centers under this section.

(b) Awards of funds shall be made on a competitive basis and all proposals shall be evaluated by the corporation on the basis of merit and potential for increasing the competitiveness of Kansas industry.

(c) The corporation shall award funding to centers of technology transfer in accordance with sections 7(f) and 7(g).

Sec. 9. Applied research fund. (a) The Kansas technology enterprise applied research fund is hereby created, to which shall be credited any state funds specifically so designated.

(b) The corporation may use the Kansas technology enterprise applied research fund to carry out the purposes of this act by awarding competitive applied research grants to educational institutions and private enterprises in key exporting areas of special importance to the Kansas economy. The fund is not to be used for technical assistance or training but only for actual applied research.

(c) The board shall award grants only after:

(1) Developing, adopting and publishing the criteria it shall use when evaluating research proposals; and

(2) reviewing applied research proposals which present:

(A) Documentation, if the proposal is from an educational institution, that not less than 60% of the total direct cost of the proposed project will be provided by sources other than the corporation; equipment may be considered as part of the matching funds for the research, but must be accompanied by a statement:

(i) That the educational institution has received the machinery or equipment and it is state of the art; and either

(ii) verifying that the equipment or machinery is donated and has only been used in testing to insure quality control, or

used by a wholesaler or retailer for demonstration purposes only;
or

(iii) detailing the price paid by the educational institution, with an invoice showing the amount paid for the equipment;

(B) documentation, if the proposal is from a private enterprise, that not less than 60% of the total direct cost of the proposed project will be provided by sources other than the corporation or through in-kind services provided through the private enterprise as evaluated by the board or review committee;

(C) a description of the future commercial application and the industrial sectors that will likely benefit by the applied research project and the potential for job creation;

(D) an itemized research budget, time line and research methodology;

(E) a recommendation from the sponsoring educational institution or business enterprise; and

(F) other information that may be required by the board.

(d) The board shall approve such applied research proposals after the board of directors finds, based upon the proposal submitted and such additional investigation as the staff of the corporation shall make and incorporate in its minutes, that:

(1) The proposed project is research that leads to innovation, new knowledge or technology and is not training or technical assistance for business firms;

(2) the proposed applied research project will expand that field's technological base within the state;

(3) the project will enhance employment opportunities within Kansas; and

(4) the project is technically sound and will produce a measurable result.

(e) In carrying out its functions under this section, the board of directors is encouraged to create an applied research committee to assist in evaluating potential applied research projects. The membership of this applied research committee may

include both directors and staff members of the corporation, and other persons drawn from sources other than the corporation who meet standards similar to those applying to the board of directors and who are recognized by their peers for outstanding knowledge and leadership in their fields.

(f) Any commercialized research that results from a corporation applied research grant shall be subject to the provisions of subsections (v) and (w) of section 6 of this act.

Sec. 10. Seed-capital fund. (a) There is hereby created the technology enterprise seed-capital fund to which shall be credited any state funds specifically so designated. The corporation may credit the fund with such unrestricted appropriations, gifts, donations or grants from any source, with payments on loans made from the fund.

(b) The corporation may use the Kansas technology enterprise seed-capital fund as follows:

(1) To carry out the purposes of this act through investments in qualified securities and through the forms of financial assistance authorized by this act, including:

- (A) Loans, loans convertible to equity, and equity;
- (B) leaseholds;
- (C) management or consultant service agreements;
- (D) loans with warrants attached that are beneficially owned by the corporation;
- (E) loans with warrants attached that are beneficially owned by a party other than the corporation; and

(F) any other contractual arrangement in which the corporation is providing scientific and technological services to any federal, state, county or municipal agency, or to any individual, corporation, enterprise, association or any other entity involving science and technology. The corporation, in connection with the provision of any form of financial assistance, may enter into royalty agreements with an enterprise.

(2) To pay all or a portion of the corporation's operating expenses from revenues generated by seed-capital fund

investments, which shall be an amount sufficient to allow the corporation to undertake and efficiently manage its responsibilities.

(3) To invest in such other investments as are lawful for Kansas fiduciaries.

(c) The corporation may use the Kansas technology enterprise seed-capital fund to purchase qualified securities issued by enterprises as a part of a resource and technology project for the purpose of raising the initial capital for such projects subject to the conditions set forth in this section.

(d) The corporation may use the fund to make low-interest or zero-interest loans to business incubator facilities in exchange for royalties from future gross sales generated by enterprises created in the incubator.

(e) The corporation shall purchase qualified securities issued by an enterprise as a part of a resource and technology project only after:

(1) Receipt of an application from the enterprise which contains:

(A) A business plan including a description of the enterprise and its management, product and market;

(B) a statement of the amount, timing and projected use of the capital required;

(C) a statement of the potential economic impact of the enterprise, including the number, location and types of jobs expected to be created; and

(D) such other information as the corporation board of directors shall request.

(2) Approval of the investment by the corporation may be made after the board of directors finds, based upon the application submitted by the enterprise and such additional investigation as the staff of the corporation shall make and incorporate in its minutes, that:

(A) The proceeds of the investment will be used only to cover the seedcapital needs of the enterprise except as

authorized by this section;

(B) the enterprise has a reasonable chance of success;

(C) the corporation's participation is instrumental to the success of the enterprise and its retention within the state because otherwise funding available for the enterprise is less readily available or offered on terms on less desirable terms than can be obtained if the enterprise were located outside of Kansas.

(D) the enterprise has the reasonable potential to create a substantial amount of primary employment within the state;

(E) the entrepreneur and other founders of the enterprise have already made or are contractually committed to make a substantial financial and time commitment to the enterprise;

(F) the securities to be purchased are qualified securities;

(G) there is a reasonable possibility that the corporation will recoup at least its initial investment; and

(H) binding commitments have been made to the corporation by the enterprise for adequate reporting of financial data to the corporation, which shall include a requirement for an annual report, or if required by the board, an annual audit of the financial and operational records of the enterprise, and for such control on the part of the corporation as the board of directors shall consider prudent over the management of the enterprise, so as to protect the investment of the corporation, including in the discretion of the board and without limitation, right of access to financial and other records of the enterprise.

(f) In carrying out its functions under this section, the board of directors is encouraged to create an investment committee to assist in evaluating potential investments in qualified securities. The membership of this investment committee may include both directors and staff members of the corporation, and other persons drawn from sources other than the corporation who meet standards similar to those applying to the board of directors and who are recognized by their peers for

outstanding knowledge and leadership in their fields, all of whom shall serve at the pleasure of the board. Members of the investment committee shall serve without compensation for their membership on such committee, but shall be reimbursed for any reasonable expenses incurred by them in the performance of duties assigned by the board.

(g) The corporation shall not make investments in qualified securities issued by enterprises in excess of the smaller of the following limits:

(1) Not more than the amount necessary to own more than 49% of qualified securities in any one enterprise at the time of the purchase by the corporation, after giving effect to the conversion of all outstanding convertible qualified securities of the enterprise except that in the event of severe financial difficulty of the enterprise, threatening, in the judgment of the board of directors, the investment of the corporation therein, a greater percentage of such securities may be owned by the corporation; or

(2) not more than 20% of the fund available for investment shall be invested in any one enterprise.

Sec. 11. Industrial liaisons and technology transfer. (a) The Kansas technology enterprise corporation shall establish a clearinghouse to deliver managerial assistance and technical referral services, particularly to small, new, emerging or mature exporting enterprises and shall fund educational institutions to establish technical information data bases and industrial liaison offices which are easily accessible by both private and public sector organizations.

(b) The corporation shall provide funding to educational institutions to establish centers of technology transfer. Each such center shall emphasize technology transfer to Kansas industry.

(1) The corporation may use funds from the Kansas technology enterprise fund to carry out the purpose of this section by establishing new centers of technology transfer. If

the Kansas legislature establishes a center at Pittsburg state university during 1986, funding will be continued by the corporation in subsequent years in accordance with the criteria for centers under this section.

(2) Awards of funds shall be made on a competitive basis and all proposals shall be evaluated by the corporation on the basis of merit and potential for increasing the competitiveness of Kansas industry.

(3) The corporation shall award funding to centers of technology transfer in accordance with sections 7(f) and 7(g).

(c) The corporation shall provide to private enterprises and individuals services which include, but are not limited to:

(1) Disseminating such research and technical information as is available to the corporation;

(2) referring clients to researchers or laboratories for the purpose of testing and evaluating new products, processes or innovations;

(3) assisting persons developing innovations or new technology in locating enterprises or entrepreneurs that may be interested in applying such innovations or new technologies; and

(4) providing managerial assistance to enterprises requesting such assistance, but particularly to those small enterprises in key exporting of special importance to the Kansas economy.

(d) The corporation shall encourage business enterprises to use such technical support services as provided by educational institutions and especially the state's small business development centers.

Sec. 12. Accountability. (a) The corporation shall publish an annual report which shall include an audit by an independent third party, by June 30 of each year, and present the report to the governor, legislature and Kansas, Inc., setting forth in detail the operations and transactions conducted by it pursuant to this act or to other legislation. The corporation shall distribute its annual report by such means that will make

it widely available to those innovative enterprises in exporting of special importance to the Kansas economy.

(b) The corporation shall also annually review and prepare a report showing how and at what level other states fund centers of excellence, institutes of applied research, institutes of technology transfers, research matching grants, small business innovation research and seed-capital programs. The corporation shall recommend an appropriate funding level for Kansas which will make these activities nationally competitive with other states. The corporation's findings and recommendations shall be submitted to the governor and the legislature.

(c) The corporation shall adopt a threshold funding level for each of the activities listed in section . The threshold amount shall provide for funding that is great enough to have a significant impact and carry out the intent of this act. If the appropriation to fund these activities falls below the threshold, then no funding shall be provided.

(d) The corporation shall be subject to a fiscal audit by the legislative division of post audit.

(e) Seven years after the effective date of this act, a special review panel shall be convened to perform a financial and program audit of the corporation. The panel shall consist of the corporation chairperson and 12 members, who are not members of the board of directors, as follows:

(1) Six chosen by the governor, of whom:

(A) Two shall be entrepreneurs or representatives of the business community;

(B) two shall be scientists or engineers from either educational institutions or private enterprise; and

(C) two shall be representatives of the private financial community;

(2) three chosen by the president of the senate, of whom:

(A) One shall be an entrepreneur or representative of the business community;

(B) one shall be a scientist or engineer from either an

educational institution or private enterprise; and

(C) one shall be a representative of the private financial community; and

(3) three chosen by the speaker of the house of representatives, of whom:

(A) One shall be an entrepreneur or representative of the business community;

(B) one shall be a scientist or engineer from either educational institution or private enterprise; and

(C) one shall be a representative of the private financial community.

(d) All panel members shall be recognized by their peers for outstanding knowledge and leadership and have particular experience with those small, exporting enterprises of special importance to the Kansas economy.

(e) The panel will have six months to review the corporation's investments, grants and activities including:

(1) a financial performance analysis of seed-capital fund investments;

(2) an economic and fiscal impact; and

(3) the extent to which the corporation employed its powers and the seed capital, applied research and clearinghouse functions to carry out its purpose and to address the opportunities found by the legislature to require its creation.

(f) Based on the panel's findings, it will recommend to the legislature one of the following actions:

(1) Continue the corporation in its statutory form;

(2) continue the corporation, but with modifications recommended by the committee; or

(3) dissolve the corporation with recommendations on how to dispose its assets and liabilities.

Sec. 13. Invalidity of part. If any provision of this act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the

invalid provision or application, and to this end the provisions of this act are severable.

Sec. 14. Effective date. This act shall take effect and be in force from and after its publication in the statute book.

Senate Concurrent Resolution No. 1635

By Committee on Assessment and Taxation

2-3

0017 A PROPOSITION to repeal section 9 of article 11 of the consti-
0018 tution of the state of Kansas, relating to internal improve-
0019 ments.

0020 *Be it resolved by the Legislature of the State of Kansas, two-*
0021 *thirds of the members elected (or appointed) and qualified to*
0022 *the Senate and two-thirds of the members elected (or ap-*
0023 *pointed) and qualified to the House of Representatives con-*
0024 *curring therein:*

0025 Section 1. The following proposition to amend the constitu-
0026 tion of the state of Kansas shall be submitted to the qualified
0027 electors of the state for their approval or rejection: Section 9 of
0028 article 11 of the constitution of the state of Kansas, relating to
0029 internal improvements, is hereby repealed.

0030 Sec. 2. The following statement shall be printed on the bal-
0031 lot with the amendment as a whole:

0032 *“Explanatory statement.* This proposed amendment would
0033 eliminate the current restrictions regarding the state being a
0034 party to certain works of internal improvements.

0035 *“A vote for the proposed amendment would eliminate the*
0036 *current restrictions regarding the state being a party to certain*
0037 *works of internal improvements.*

0038 *“A vote against the proposed amendment would continue*
0039 *the current restrictions on the state being a party to works of*
0040 *internal improvements.”*

0041 Sec. 3. This resolution, if approved by two-thirds of the
0042 members elected (or appointed) and qualified to the senate and
0043 two-thirds of the members elected (or appointed) and qualified
1 to the house of representatives, shall be entered on the journals,
45 together with the yeas and nays. The secretary of state shall

"D"
March 21, 1986
Economic Dev. Comm.
Attachment D

0046 cause this resolution to be published as provided by law and
0047 shall cause the proposed amendment to be submitted to the
0048 electors of the state at ~~the general election in the year 1986~~
0049 ~~unless a special election is called at a sooner date by concurrent~~
0050 ~~resolution of the legislature, in which case it shall be submitted~~
0051 ~~to the electors of the state at the special election.~~

a special election, which is hereby called, to be held on August 5, 1986, pursuant to section 1 of article 14 of the constitution of the state of Kansas, for the purpose of submitting such proposition

HOUSE BILL No. 2960

By Representative Helgerson

2-12

0017 AN ACT establishing the state economic development policy
0018 committee, providing for the membership and organization
0019 thereof; prescribing powers, duties and functions therefor.

Kansas, Inc.

0020 Be it enacted by the Legislature of the State of Kansas:

"E"
March 21, 1986
Economic Dev Comm

Section 1. Need statement. (a) There exists within Kansas a substantial need to:

(1) Oversee the ongoing development of economic development policies and short and long range strategic economic planning for the state;

(1) expand personal income through the development of business and employment opportunities which afford sufficient compensation to insure an adequate standard of living for Kansans;

(3) develop a stable, diversified, growing economy through the growth and development of value-added business enterprises in a diversified range of primary sectors which export innovative products, processes and services that in turn import quality jobs, wealth and income into the state in ways that are beneficial to Kansas.

(4) develop economic health and opportunities throughout the communities and counties of the state in partnership with those communities;

(5) develop an economy that contributes to and enhances the environmental quality of the state;

(6) develop an economy which is capable of providing the necessary revenue for state government, local governments, and other political subdivisions of the state and in this way minimize the tax burden faced by all taxpayers of the state.

Sec. 2. Mission statement. (a) The mission of Kansas, Inc. shall be to:

(1) Oversee the formulation of economic development policy and short and long range strategic planning for the state;

(2) undertake ongoing strategic analysis in order to determine the state's areas of potential and continuing competitive economic advantage;

(3) undertake continuing strategic planning for the improvements of the state's tax, regulatory and expenditure policies to enhance the state's potential and comparative economic advantages;

(4) oversee crisis management and opportunity management of short term potential gains or losses in economic activity through impact analysis;

(5) serve in an advisory capacity to the Kansas department of commerce; and

(6) establish program standards and evaluate the effectiveness of state economic development programs and policies.

Attachment E

0021 ~~Section 1. (a) There is hereby established the state economic~~
 0022 ~~development policy committee as a separate state agency. The~~
 0023 ~~committee shall consist of nine members as follows:~~
 0024 (1) One member shall be the executive director of the insti-
 0025 tute for public policy and business research of the university of
 0026 Kansas;
 0027 (2) one member shall be the director of the institute for
 0028 public policy and business research of the university of Kansas;
 0029 (3) one member shall be a representative of the center for
 0030 business research of Wichita state university appointed by the
 0031 president of Wichita state university;
 0032 (4) one member shall be the secretary of economic develop-
 0033 ment, or the secretary's designee;
 0034 (5) one member shall be the director of the Kansas advanced
 0035 technology commission;
 0036 (6) one member shall be a person appointed by the state
 0037 board of regents;
 0038 (7) one member shall be a member of the senate appointed
 0039 by the president of the senate;
 0040 (8) one member shall be a member of the house of repre-
 0041 sentatives appointed by the speaker of the house of representa-
 0042 tives; and
 0043 (9) one member shall be a person appointed by the governor.
 0044 (b) The two members appointed under subsections (a)(7) and
 0045 ~~(a)(8) by the president of the senate and the speaker of the house~~

Sec. 3. Kansas, Inc. (a) In order to meet this need there is hereby established Kansas, Inc., which shall be a not-for-profit public instrumentality of but not in state government. The council shall consist of 15 predominately private sector members as follows:

- (1) The governor of Kansas;
- (2) the secretary of the Kansas department of commerce;
- (3) one member from each of the primary economic sectors in the state--agriculture, oil and gas, and aviation--who are appointed by the governor and are recognized leaders in their fields and have reputations as innovative, future oriented individuals;
- (4) three members appointed by the governor from other primary, job creating, valued added business sectors who are recognized in their fields and have reputations as innovative, future oriented individuals;
- (5) two members from the private financial sector appointed by the governor; one shall have experience in the area of high-risk venture investments; and the other shall have commercial banking experience in an industry of special importance to the Kansas economy and both of whom are recognized by their peers for outstanding knowledge and leadership in their fields;
- (6) one member representing labor who is recognized by the person's peers as having demonstrated outstanding knowledge and leadership;
- (7) one member shall be a person appointed by the state board of regents from a Kansas university who is recognized for outstanding knowledge and leadership in the field of economic development;
- (8) the speaker of the house, the house minority leader, the president of the senate, and the senate minority leader or legislators appointed to represent them who will provide continuity by virtue of their membership on the house or senate committees on economic development or the joint committee on economic development.

5 of representatives shall not be members of the same political
0047 party.

0048 (e) Each member of the committee under subsection (a)(1),
0049 (a)(2), (a)(4) or (a)(5) shall serve by virtue of office or position.

0050 Each member appointed under subsection (a)(3), (a)(6) or (a)(9)
0051 shall serve at the pleasure of the officer or board making the

0052 appointment. Each member of the committee appointed under
0053 subsection (a)(7) or (a)(8) shall be appointed for a term ending on

0054 the first day of the regular legislative session in odd-numbered
0055 years. In case of a vacancy on the committee, a successor shall be

0056 appointed in like manner as the original appointment for the
0057 unexpired term of the member creating the vacancy.

0058 Sec. 2. (a) The state economic development policy commit-
0059 tee shall organize annually by electing a chairperson and vice-

0060 chairperson from among the members thereof. The committee
0061 shall meet at least once each calendar quarter and at such other

0062 times designated upon the call of the chairperson.
0063 (b) Members of the state economic development policy

0064 committee attending meetings of the policy committee, or at-
0065 tending a subcommittee meeting thereof authorized by the pol-

0066 icy committee, shall be paid amounts provided in subsection (e)
0067 of K.S.A. 75-3223 and amendments thereto.

0068 Sec. 3. (a) The state economic development policy commit-
0069 tee shall formulate on a continuing basis a comprehensive plan

0070 for economic development in Kansas. Such plan shall be based
0071 substantially on the plan for economic development in Kansas

0072 developed as part of the Kansas economic development study
0073 prepared by the institute for public policy and business research

0074 of the university of Kansas. The committee shall seek advice
0075 from the general public and from professional associations, aca-

0076 demic groups and institutions and individuals with knowledge of
0077 and interest in issues in areas of economic development and

0078 planning.
0079 (b) The plan shall set forth the recommendations of the

committee for the short-term and long-term economic develop-
0082 ment of strategies, policies, goals and objectives for Kansas,

including the character and extent of existing and proposed

(b)

Kansas, Inc.

(a) (8)

(a) (4), (a) (5), (a) (6), or (a) (7)

Kansas, Inc.

4.

The governor shall serve as co-chair of Kansas, Inc. The other co-
chair shall be elected from among the private sector members. A
vice-chair shall be elected from among all the members.

Kansas, Inc.

governor

Kansas, Inc.

Sec. 5. Powers and duties. (a) In order to carry
out its mission and meet the needs articulated in this
act, Kansas, Inc. shall:

(1) Evaluate and analyze the state's economy to
guide the direction of future public and private
actions, and report and make recommendations to the
department of commerce, the governor and the legis-
lative economic development commission with respect to
the state's economy.

(2) Oversee and evaluate the state's economic
development activities on an ongoing basis.

(3) Oversee the implementation of the state's
economic development plan and monitor updates of that
plan.

(4) Update, revise, and manage the state's stra-
tegic planning process.

(b) Kansas, Inc. shall seek advice from the gen-
eral public and from professional associations, aca-
demic groups and institutions and individuals with
knowledge of and interest in areas of economic develop-
ment and planning.

(c) Kansas, Inc. shall be exempt from state pur-
chasing laws.

0083 ~~initiatives, projects, programs and facilities as are necessary or~~
0084 ~~desirable in the judgment of the committee to accomplish such~~
0085 ~~strategies, policies, goals and objectives. The plan shall be for~~
0086 ~~mulated and used for the general purpose of accomplishing the~~
0087 ~~coordinated management, conservation and development of the~~
0088 ~~resources of the state for economic development.~~

commerce

Kansas, Inc.

0089 (c) The department of economic development and all other
0090 interested state agencies shall cooperate with the committee in
0091 providing information and other assistance as may be requested
0092 by the committee for the formulation of such plan.

0093 ~~Sec. 4. The state economic development policy committee~~
0094 ~~annually shall submit to the legislature and to the governor an~~
0095 ~~updated plan for economic development in Kansas which shall~~
0096 ~~contain recommendations which are necessary or advisable, in-~~
0097 ~~cluding recommendations for legislation, to achieve the goals~~
0098 ~~and objectives for short term and long term economic develop-~~
0099 ~~ment in Kansas.~~

Sec. 6. Management. (a) The board shall hire a person to serve in the unclassified service as the chief executive officer and president of Kansas, Inc. The president's salary shall be commensurate with the responsibilities of the position based on a national standard for similar positions. The president shall direct and supervise the general management of the corporation and a small core staff of analysts.

(b) The president:

(1) May employ and terminate such other employees as designated by the board of directors and who shall be members of the unclassified service;

(2) shall attend board meetings;

(3) shall keep a record of all proceedings and maintain and be custodian of all financial and operational records, documents and papers filed with Kansas, Inc.;

(4) shall, as a first priority, prepare a business plan which shall be approved by the board of directors, shall be submitted for review and comment to the legislative economic development commission.

(c) The board is hereby authorized to negotiate and enter into contracts for professional consulting and research services and econometric modeling from the center of public policy and business research at the university of Kansas, the department of commerce, and other consulting and research services as needed. All such contracts shall be exempt from the competitive bid requirements of K.S.A. 75-3739 and amendments thereto. Such services should be available on an ongoing basis to Kansas, Inc.

(d) The board is authorized to accept gifts, donations and grants.

Sec. 7. Accountability. Kansas, Inc. shall be required to provide the following products:

(a) A review of the state economic development plan developed by the department of commerce. This plan shall be submitted to Kansas, Inc. by the department no later than November 1 of each year. The council shall review, comment and approve the plan before transmitting it to the governor and legislature, no later than the first day of each regularly scheduled session of the legislature.

(b) Publish an annual report. Such report shall include:

(1) An analysis of the current state of and emerging trends in the Kansas economy over the next decade.

(2) An evaluation of the effectiveness of state economic development policies and programs in meeting the goals of the state economic plan.

(3) A prioritized list of recommendations for initiatives that will further the effective implementation of the state economic plan.

(4) A synopsis of the activities of Kansas, Inc. during the previous fiscal year.

Such report shall be transmitted to the governor and legislature on the first day of each fiscal year following Kansas, Inc.'s first year of operation.

0100 ~~Sec. 5. (a) Within the limitations of appropriations available~~
0101 ~~therefor, the state economic development policy committee is~~
0102 ~~hereby authorized to negotiate and enter into contracts for pro-~~
0103 ~~fessional and consulting services to assist the committee in the~~
0104 ~~performance of duties and functions imposed under sections 3~~
0105 ~~and 4. All such contracts shall be exempt from the competitive~~
0106 ~~bid requirements of K.S.A. 75-3730 and amendments thereto.~~

0107 ~~(b) The secretary of economic development shall provide to~~
0108 ~~the state economic development policy committee such staff and~~
0109 ~~other assistance as may be requested by the committee.~~

0110 ~~Sec. 6. This act shall take effect and be in force from and~~
0111 ~~after its publication in the statute book.~~

8.

Kansas, Inc.

9.

*March 21, 1986
Economic Dev. Comm.*

BILL NO. _____

By Committee on

AN ACT concerning economic development; establishing certain legislative committees for the consideration of matters affecting economic development in the state; and providing for the establishment of certain advisory committees or task forces to conduct studies and to make reports and recommendations thereon prior to the 1987 regular session of the legislature.

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

Section 1. Senate economic development committee. There is hereby established a standing committee of the senate known as the senate committee on economic development which shall consist of 11 members of the senate. Ten members of the committee shall be appointed in the same manner as members of other standing committees of the senate. The president of the senate, or another senator of the same party designated by the president, shall be a member and chairperson of the committee.

Sec. 2. House economic development committee. There is hereby established a standing committee of the house of representatives known as the house committee on economic development which shall consist of 15 members of the house of representatives. Fourteen members of the committee shall be appointed in the same manner as members of other standing committees of the house of representatives. The speaker of the house of representatives or another representative of the same party designated by the speaker shall be a member and chairperson of the committee.

Sec. 3. Joint economic development committee. (a) On January 1, 1987, there is hereby created the joint committee on economic development which shall be composed of five senators and

Attachment F

eight members of the house of representatives. The five senate members shall be the chairperson of the standing committee on economic development of the senate, or a member of such committee appointed by the chairperson, two members of such committee appointed by the president and two members of such committee appointed by the minority leader. The eight representative members shall be the chairperson of the standing committee on economic development of the house of representatives, or a member of such committee appointed by the chairperson, four members of such committee appointed by the speaker and three members of such committee appointed by the minority leader.

(b) All members of the joint committee on economic development shall serve for terms ending on the first day of the regular legislative session in odd-numbered years. After June 30 in odd-numbered years, the chairperson shall be one of the representative members of the joint committee selected by the speaker and the vice-chairperson shall be one of the senate members selected by the president. After June 30 in even-numbered years, the chairperson shall be one of the senate members of the joint committee selected by the president and the vice-chairperson shall be one of the representative members of the joint committee selected by the speaker. The chairperson and vice-chairperson of the joint committee shall serve in such capacities until July 1 of the ensuing year. The vice-chairperson shall exercise all of the powers of the chairperson in the absence of the chairperson.

(c) The joint committee on economic development may meet at any time and at any place within the state on the call of the chairperson.

(d) The provisions of the acts contained in article 12 of chapter 46 of the Kansas Statutes Annotated, and amendments thereto, applicable to special committees shall apply to the joint committee on economic development to the extent that the same do not conflict with the specific provisions of this act applicable to the joint committee.

(e) In accordance with K.S.A. 46-1204 and amendments thereto, the legislative coordinating council may provide for such professional services as may be requested by the joint committee on economic development.

(f) The joint committee on economic development may introduce such legislation as it deems necessary in performing its functions.

Sec. 4. (a) The legislative economic development commission established pursuant to 1986 HCR 5034 shall conduct such meetings as the commission shall determine necessary for the purpose of performing the studies directed by such concurrent resolution and in making the recommendations and reports required by such resolution shall coordinate with the joint committee on economic development in the presentation of such report and recommendations to members of the 1987 regular session of the legislature.

(1) The first priority of the commission shall be to oversee the implementation of the economic development initiatives adopted during the 1986 legislative session; and (2) the second priority of the commission shall be the oversight of the activities of the task forces established pursuant to section 5.

Sec. 5. Advisory committees or task forces. For the purpose of conducting an in-depth analysis of major areas of economic development requiring legislative action in the 1987 regular session of the legislature, the legislative economic development commission shall appoint such advisory committees or task forces as it shall determine necessary. Each task force shall consist of not less than seven and not more than 13 members representing the business community, financial institutions, institutions under the control of the board of regents and the legislature. A majority of the members of each task force shall be representative of the business and financial communities. The legislative economic development commission shall appoint the chairperson and vice-chairperson and specify the subject of study to be conducted by each task force. Each task force shall

prepare policy and funding recommendations regarding the subject of study assigned and shall make a report and recommendations thereon to the legislative economic development commission on or before October 1, 1986. Task forces shall be established for the study of the following described purposes and may be established for such additional areas of study as the legislative economic development commission may deem necessary.

A task force shall be appointed for the study of the following:

(a) Agricultural research - which shall include:

(1) Agricultural diversification and identification of new products and new technologies;

(2) the scope of value added agricultural processing; and

(3) state provision of technical assistance to farmers on processing technologies and enterprises and marketing alternatives.

(b) Kansas business capital markets - which shall include:

(1) The availability of equity capital from Kansas financial institutions and availability for Kansas businesses;

(2) the adequacy of debt capital for Kansas businesses from Kansas financial institutions; and

(3) the availability and adequacy of state government programs to foster business capital availability for Kansas businesses.

(c) Kansas' tax structure - which shall include:

(1) An overall review of the appropriateness of the state's tax structure for its impact on economic development; and

(2) the sales and use tax exemption on manufacturing machinery and equipment.

(d) Control, supervision and financing of postsecondary education in Kansas - which shall include:

(1) A review and determination of the mission of public postsecondary education to and beyond the year 2,000;

(2) the structure, control and supervision required of public postsecondary education to accomplish such mission; and

(3) the financing of public postsecondary education for this period.

Sec. 6. This act shall take effect and be in force from and after its publication in the Kansas register.

House Concurrent Resolution No. 5047

By Representatives Hayden, Braden, Acheson, Apt, Aylward, Baker, Barr, Bideau, Brown, Bryant, Buehler, Bunten, C. Campbell, K. Campbell, Cloud, Crowell, Crumbaker, Dyck, Erne, Foster, Fox, Freeman, Friedeman, Fuller, Goossen, Graeber, Harper, Hassler, Hloy, Jenkins, King, Kline, Knopp, Littlejohn, Long, Louis, Lowther, R. D. Miller, Mollenkamp, Nichols, O'Neal, B. Ott, K. Ott, Patrick, Polson, Pottorff, Ramirez, Reardon, Roe, Rolfs, Runnels, Sand, Sifers, Smith, Snowbarger, Solbach, Sughrue, Vancrum, Wagon, Walker, Whiteman, Williams and Wunsch

3-4

0026 A PROPOSITION to amend article 11 of the constitution of the
0027 state of Kansas by adding a new section thereto, relating to the
0028 exemption of property for economic development purposes.

0029 *Be it resolved by the Legislature of the State of Kansas, two-*
0030 *thirds of the members elected (or appointed) and qualified to*
0031 *the House of Representatives and two-thirds of the members*
0032 *elected (or appointed) and qualified to the Senate concurring*
0033 *therein:*

0034 Section 1. The following proposition to amend the constitu-
0035 tion of the state of Kansas shall be submitted to the qualified
0036 electors of the state for their approval or rejection: Article 11 of
0037 the constitution of the state of Kansas is amended by adding a
0038 new section thereto to read as follows:

0039 "§ 13. Exemption of property for economic development
0040 purposes; procedure; limitations. (a) The board of county
0041 commissioners of any county or the governing body of any city
0042 may, by resolution or ordinance, as the case requires, exempt
0043 from ad valorem taxation all or any portion of the appraised
0044 valuation of: (1) All buildings, together with the land upon
0045 which such buildings are located, and all tangible personal
0046 property associated therewith used exclusively by a business

for the purpose of manufacturing, fabricating, assembling, processing or finishing articles of commerce or research and development, and warehousing goods which are sold or traded in interstate commerce in this state and which is

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0048 commencing operations after the date on which this amend-
 0049 ment is approved by the electors of this state; or (2) all
 0050 buildings, or added improvements to buildings constructed
 0051 after the date on which this amendment is approved by the
 0052 electors of this state, together with the land upon which such
 0053 buildings or added improvements are located, and all tangible
 0054 personal property purchased after such date and ~~associated~~
 0055 ~~therewith,~~ necessary to facilitate the expansion of an existing
 business.

and which is a primary job creating industry
 or business

for the purpose of manufacturing,
 fabricating, assembling, processing or
 finishing articles of commerce or research
 and development, and warehousing goods which
 are sold or traded in interstate commerce
 in this state which is

0056 (b) Any ad valorem tax exemption granted pursuant to
 0057 subsection (b) shall be in effect for not more than 10 calendar
 0058 years after the calendar year in which the business com-
 0059 mences its operations or the calendar year in which expansion
 0060 of an existing business is completed, as the case requires.

and which is a primary job creating
 industry or business

0061 (c) The legislature may limit or prohibit the application of
 0062 this section by enactment uniformly applicable to all cities or
 0063 counties.

0064 (d) The provisions of this section shall not be construed to
 0065 affect exemptions of property from ad valorem taxation
 0066 granted by this constitution or by enactment of the legislature,
 0067 or to affect the authority of the legislature to enact additional
 0068 exemptions of property from ad valorem taxation found to
 0069 have a public purpose and promote the general welfare.”

0070 Sec. 2. The following statement shall be printed on the bal-
 0071 lot with the amendment as a whole;

0072 “*Explanatory statement.* This proposed amendment would
 0073 authorize cities and counties to grant property tax exemptions
 0074 for economic development purposes.

0075 .“A vote for the proposed amendment would allow the gov-
 0076 erning body of a city or county to exempt property of a new
 0077 business or property necessary to facilitate the expansion of an
 0078 existing business from property taxation for a period not to
 0079 exceed 10 years.

0080 A vote against the proposed amendment will continue the
 0081 existing law that the legislature is the only authority to grant
 property tax exemptions.”

0083 Sec. 3. This resolution, if approved by two-thirds of the

1 members elected (or appointed) and qualified to the house of
0085 representatives and two-thirds of the members elected (or ap-
0086 pointed) and qualified to the senate, shall be entered on the
0087 journals, together with the yeas and nays. The secretary of state
0088 shall cause this resolution to be published as provided by law
0089 and shall cause the proposed amendment to be submitted to the
0090 electors of the state at ~~the general election in the year 1986~~
0091 ~~unless a special election is called at a sooner date by concurrent~~
0092 ~~resolution of the legislature, in which case it shall be submitted~~
0093 ~~to the electors of the state at the special election.~~

a special election, which is hereby called,
to be held on August 5, 1986, pursuant to
section 1 of article 14
of the constitution of the state of Kansas,
for the purpose of submitting such
proposition

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Insertion on page 10, new section 13, under subsection (b).

(1) Subject to legislative appropriations, the division shall make performance grants available to certified development companies and small business development centers as key constituent elements of a "statewide risk capital system." Such grants shall be made to provide secure base levels of funding and incentives for providing financial and technical assistance through the statewide risk capital system to primary, job creating enterprises.

(2) The method of distribution of the grants shall be developed by the division in consultation with the certified development companies and small business development centers and reviewed and approved by the legislative commission on Kansas economic development in FY 1987, and by Kansas, Inc. in all subsequent years. The method of distribution shall include provision for the establishment of performance standards and performance review prior to initial funding and for all subsequent refunding. The method of distribution shall also provide a formula for base levels of funding which considers all current levels of federal, state and other existing funding and which recognizes different needs based upon differences in client populations and areas served. The method of distribution proposed shall give priority to the use of state funds for incentive funding where possible, and shall specifically encourage co-location of services essential to an effective an efficient statewide risk capital system.

Attachment H

HOUSE BILL No. 2951

By Representatives Hayden, Apt, Baker, Barr, Bideau, Braden, Bryant, Buehler, Buntin, C. Campbell, Chronister, Cloud, Crowell, Duncan, Dyck, Eckert, Flottman, Foster, Freeman, Friedeman, Goossen, Gracher, Guldner, Harper, Hassler, Hoy, Jenkins, King, Kline, Knopp, Littlejohn, Long, R. D. Miller, Mollenkamp, Moomaw, Neufeld, Nichols, O'Neal, K. Ott, Polson, Pottorff, Roe, Roenbaugh, Sand, Shore, Sifers, Walker, Wilbert, Williams and Wunsch

2-12

0024 AN ACT concerning economic development in Kansas; estab-
0025 lishing a department of commerce therefor; prescribing the
0026 powers and duties of such department; amending K.S.A. 74-
0027 5002a, 74-5002b, 74-5002c, 74-5002d, 74-5002e, 74-5005, 74-
0028 5008a, 74-5008b, 74-5008c, 74-5009, 74-5010a, 74-5032, ~~74-~~
0029 ~~5034, 74-5035~~ and 74-5045 and repealing the existing sections.

0030 *Be it enacted by the Legislature of the State of Kansas:*

*March 21, 1986
Economic Dev. Comm.*

Section 1. Need statement. (a) There exists within Kansas a substantial need to:

(1) Expand personal income through the development of business and employment opportunities which afford sufficient compensation to insure an adequate standard of living for Kansans;

(2) develop a stable, diversified, growing economy through the growth and development of value-added business enterprises in a diversified range of primary sectors which export innovative products, processes and services that in turn import quality jobs, wealth and income into the state in ways that are beneficial to Kansas.

(3) develop economic health and opportunities throughout the communities and counties of the state in partnership with those communities;

(4) develop an economy that contributes to and enhances the environmental quality of the state;

(5) develop an economy which is capable of providing the necessary revenue for state government, local governments, and other political subdivisions of the state and in this way minimize the tax burden faced by all taxpayers of the state.

Sec. 2. Mission statement. (a) The purpose of the department of commerce shall be to develop and implement strategies to:

(1) Facilitate the maintenance of and expansion of existing enterprises and the creation of new wealth-generating economic enterprises;

(2) promote economic diversification within the economy of the state;

(3) promote productivity among wealth-generating economic enterprises;

(4) maintain and revitalize economically depressed rural areas and urban neighborhoods; and

(5) protect and enhance the environmental quality of the state.

Attachment I

Sec. 3. Department of commerce.

0031 ~~Section 4~~ K.S.A. 74-5002a is hereby amended to read as
 0032 follows: 74-5002a. (a) There is hereby created a department of
 0033 economic development *commerce*, the head of which shall be
 0034 the secretary of economic development *commerce*. The governor
 0035 shall appoint the secretary of economic development *commerce*,
 0036 subject to confirmation by the senate as provided in K.S.A.
 0037 75-4315b, and amendments thereto, and the secretary shall serve
 0038 at the pleasure of the governor. The department of economic
 0039 development *commerce* shall be administered under the direc-
 0040 tion and supervision of the secretary of economic development
 0041 *commerce*. The secretary of economic development *commerce*
 0042 shall receive an annual salary fixed by the governor. The offices
 0043 of the department of economic development *commerce* shall be
 0044 located in Topeka.
 0045 ~~(b) The provisions of the Kansas sunset law apply to the~~
 0046 ~~office of secretary of economic development commerce and the~~

that is recognized as nationally competitive with
 the salaries of his or her peers in the economic
 development field. The secretary shall employ a
 deputy secretary, division directors and such
 professional staff and other employees as may be
 deemed necessary to effectively carry out this
 act. The salaries of the staff shall meet a
 standard of competitiveness with other
 professional positions of comparable
 responsibility in the state in the economic
 development field

0017 ~~department of economic development *commerce* created by this~~
0018 ~~section, and the office and department are subject to abolition~~
0019 ~~under that law.~~

Transfer of powers and duties.

0050 Sec. 2. K.S.A. 74-5002b is hereby amended to read as fol-
0051 lows: 74-5002b. All the powers, duties and functions of the state
0052 department of economic development created by K.S.A. 74-5003;
0053 the Kansas economic development commission created by K.S.A.
0054 1974 Supp. 74-5006 74-5002a and the director *secretary* of the
0055 department of economic development created by K.S.A. 74-5004
0056 74-5002a are hereby transferred to and conferred and imposed,
0057 respectively, upon the department of economic development
0058 *commerce* and the secretary of economic development *com-*
0059 *merce* created by this order *act*, except as is hereinafter other-
0060 wise provided.

Transfer of powers and duties.

5 0061 Sec. 3. K.S.A. 74-5002c is hereby amended to read as fol-
0062 lows: 74-5002c. The department of economic development *com-*
0063 *merce* and the secretary of economic development *commerce*
0064 created by this order *act* shall be the successors in every way,
0065 respectively, to the powers, duties and functions of the state
0066 department of economic development; the Kansas economic
0067 development commission and director *and secretary* of the de-
0068 partment of economic development abolished by this order and
0069 in which the same were vested prior to the effective date of this
0070 order *act*, except as hereinafter otherwise provided. Every act
0071 performed in the exercise of such powers, duties and functions
0072 by or under the authority of the department of economic devel-
0073 opment *commerce* or secretary of economic development *com-*
0074 *merce* created by this order *act*, respectively, shall be deemed to
0075 have the same force and effect as if performed by the state
0076 department of economic development; the Kansas economic
0077 development commission and director *and secretary* of the de-
0078 partment of economic development abolished by this order and
0079 in which such functions were vested prior to the effective date of
0080 this order *act*. The department of economic development and
0081 secretary of economic development *commerce* created by this
0082 order *act* shall be continuations of the state department of eco-
0083 nomical development created by K.S.A. 74-5003; the Kansas eco-

0084 nomic development commission created by K.S.A. 4974 Supp.
0085 74-5006 74-5002a and the director *secretary* of the department of
0086 economic development created by K.S.A. 74-5004 74-5002a.

6 0087 Sec. A. K.S.A. 74-5002d is hereby amended to read as fol-
0088 lows: 74-5002d. ~~All rules and regulations and all orders and~~
0089 ~~directives of the Kansas economic development commission and~~
0090 ~~the director of the department secretary of economic develop-~~
0091 ~~ment abolished by this order which are in existence on the~~
0092 ~~effective date of this order act, shall continue to be effective and~~
0093 ~~shall be deemed to be the duly adopted rules and regulations or~~
0094 ~~orders and directives of the secretary of economic development~~
0095 ~~commerce created by this order act, until revised, amended,~~
0096 ~~revoked or nullified according to law.~~

Transfer of powers and duties.

7 0097 Sec. B. K.S.A. 74-5002e is hereby amended to read as fol-
0098 lows: 74-5002e. (a) Whenever the state department of economic
0099 development, or words of like effect, is referred to or designated
0100 by a statute, contract or other document, such reference or
0101 designation shall be deemed to apply to the department of
0102 economic development *commerce* created by this order act.

Departmental name change.

0103 (b) Whenever the Kansas economic development commis-
0104 sion or, the director of the department of economic development
0105 or *secretary of economic development*, or words of like effect,
0106 are referred to or designated by a statute, contract or other
0107 document, such reference or designation shall be deemed to
0108 apply to the secretary of economic development *commerce*
0109 created by this order act.

Departmental powers and duties.

8 0110 Sec. 6. K.S.A. 74-5005 is hereby amended to read as follows:
0111 74-5005. The department shall be the official agency of the state
0112 for the economic development of the state through the promotion
0113 of business, ~~commerce and industry~~ within the state. In general,
0114 but not by way of limitation, the department shall have, exercise
0115 and perform the following powers and duties:

lead

, trade and tourism

to develop

state government

long term

strategy

(a) To assume central responsibility and coordinate within
the department all facets of a comprehensive economic devel-
opment program;

coordinate the strategy

(b) to ~~create and carry out a coordinated plan~~ with all other
state departments and agencies and state universities which do

and local agencies and offices

0121 research work, develop materials and programs, gather statistics,
0122 or which perform functions related to economic development;
0123 and such state departments and agencies shall advise and coop-
0124 erate with the department in the planning and accomplishment
0125 of the objectives of this act;

0126 (c) to advise and cooperate with all federal departments,
0127 research institutions, educational institutions and agencies,
0128 quasi-public professional societies, private business and agri-
0129 cultural organizations and associations, and any other party,
0130 public or private, and to call upon such parties for consultation,
0131 and assistance in their respective fields of interest, to the end
0132 that all up to date available technical advice, information and
0133 assistance be gathered for the use of the department, the gover-
0134 nor, the legislature, and the people of this state;

0135 (d) to enter into agreements necessary to carry out the objec-
0136 tives of this act;

0137 (e) to conduct an effective business information service,
0138 keeping up to date information on such things as manufacturing
0139 industries, labor supply and economic trends in employment,
0140 income, savings and purchasing power within the state, utilizing
0141 the services and information available from the division of the
0142 budget of the department of administration;

0143 (f) to support a coordinated program of scientific and indus-
0144 trial research with the objective of developing additional uses of
0145 the state's natural resources, agriculture, agricultural products,
0146 new and better industrial products and processes, and the best
0147 possible utilization of the raw materials in the state; and to
0148 coordinate this responsibility with the universities and colleges
0149 in the state, with all state and federal agencies, and all public and
0150 private institutions within or without the state, all in an effort to
0151 assist and encourage new industries or expansion of existing
0152 industries through basic research, applied research and new
0153 development;

0154 (g) to maintain and keep current all available information
0155 regarding the industrial opportunities and possibilities of the
0156 state, including raw materials and by-products; power and water
0157 resources; transportation facilities; available markets and the

and local agencies and offices

0158 marketing limitations of the state; labor supply; banking and
0159 financing facilities; availability of industrial sites; and the ad-
0160 vantages the state and its particular sections have as industrial
0161 locations; and such information shall be used for the encourage-
0162 ment of new industries in the state and the expansion of existing
0163 industries within the state;

0164 (h) to publicize information and the economic advantages of
0165 the state which make it a desirable place for commercial and
0166 industrial operations and as a good place in which to live;

0167 (i) to acquaint the people of this state with the industries
0168 within the state and encourage closer cooperation between the
0169 farming, commercial and industrial enterprises and the people of
0170 the state;

0171 (j) to encourage and promote the traveling public to visit this
0172 state by publicizing information as to the recreational, historic
0173 and natural advantages of the state and its facilities for transient
0174 travel and to contract with organizations for the purpose of
0175 promoting tourism within the state; and the department may
0176 request other state agencies such as, but not limited to, the state
0177 water resources board, the state park and resources authority, the
0178 Kansas fish and game commission and the department of trans-
0179 portation, for assistance and all such agencies shall coordinate
0180 information and their respective efforts with the department to
0181 most efficiently and economically carry out the purpose and
0182 intent of this subsection;

0183 (k) to participate in economic development and planning
0184 assistance programs of the federal government to political sub-
0185 divisions;

0186 (l) to assist counties and cities in industrial development
0187 through the establishment of industrial development corpora-
0188 tions, including site surveys, small business administration
0189 problems *situations*, and render such other similar assistance as
0190 may be required; and in those instances where it is deemed
0191 appropriate, to contract with and make a service charge to the
0192 county or city involved for such services rendered;

0193 (m) to render assistance to private enterprise on planning
0194 problems and site surveys upon request and shall make a rea-

0195 sonable service charge for such services rendered; and any
0196 moneys received for services rendered, as provided in this sub-
0197 section, shall be deposited in the fund and expended therefrom,
0198 as provided in subsection (u);

0199 (n) to make agreements with other states and with the United
0200 States government, or its agencies, and to accept funds from the
0201 federal government, or its agencies, or any other source for
0202 research studies, investigation, planning and other purposes
0203 related to the duties of the department; and any funds so re-
0204 ceived shall be deposited in the state treasury and shall be
0205 credited to a special revenue fund which is hereby created and
0206 shall be known as the "economic development fund" or used in
0207 accordance with or direction of the contributing federal agen-
0208 cies; and expenditures from said fund may be made for any
0209 purpose in keeping with the responsibilities, functions and au-
0210 thority of the department; and warrants on said fund shall be
0211 drawn in the same manner as required of other state agencies
0212 upon vouchers signed by the secretary;

~~0213 (o) to prepare and publish an annual report of its activities
0214 and expenditures for the information of the governor and the
0215 public, and shall, from time to time, submit recommendations to
0216 the governor and to the Kansas economic development commis-
0217 sion concerning legislation found to be necessary or desirable in
0218 affecting the purposes of this act;~~

(c) 0219 (p) to do other and further acts as shall be necessary and
0220 proper in fostering and promoting the industrial development
0221 and economic welfare of the state;

(p) 0222 (q) to organize, or cause to be organized, an advisory board or
0223 boards representing interested groups, including industry, labor,
0224 agriculture, scientific research, the press, the professions, in-
0225 dustrial associations, civic groups, etc.; and such board or boards
0226 shall advise with the department as to its work and the depart-
0227 ment shall, as far as practicable, cooperate with such board or
0228 boards, and secure the active aid thereof in the accomplishment
0229 of the aims and objectives of the department; and

(g) 0230 (r) to serve as the central agency and clearing house to collect
0231 and disseminate ideas and information bearing on local planning

02 problems; and, in so doing, the department may, upon request of
0233 the board of county commissioners of any county or the govern-
0234 ing body of any city in the state, make a study and report upon
0235 any planning problem of such county or city submitted to it.

9 0236 Sec. ~~7~~. K.S.A. 74-5008a is hereby amended to read as fol-
0237 lows: 74-5008a/There is hereby established within and as a part
0238 of the department of economic development ~~commerce~~ a divi-
0239 sion of industrial development ~~business recruitment~~, the head of
0240 which shall be the director of industrial development ~~business~~
0241 ~~recruitment~~. Under the supervision of the secretary of economic
0242 development ~~commerce~~, the director of industrial development
0243 ~~business recruitment~~ shall administer the division of industrial
0244 development ~~business recruitment~~. The secretary of economic
0245 development ~~commerce~~ shall appoint the director of industrial
0246 development ~~business recruitment~~ and such director shall serve
0247 at the pleasure of the secretary of economic development. The
0248 director of industrial development ~~business recruitment~~ shall be
0249 in the unclassified service under the Kansas civil service act and
0250 shall receive an annual salary fixed by the secretary of economic
0251 development ~~commerce~~ and approved by the governor.

10 0252 New Sec. ~~8~~. The division of ~~business recruitment~~ is hereby
0253 authorized and empowered to:

0254 (a) Foster a climate of agricultural and industrial develop-
0255 ment by providing incentives to businesses and industries lo-
0256 cated principally outside the state to expand, locate or relocate
0257 within the state;

0258 (b) to engage in recruitment of such businesses and indus-
0259 tries by identifying, contacting and informing them of the ben-
0260 efits of expanding, locating or relocating in Kansas;

0261 (c) maintain and keep current all available information re-
0262 garding the industrial opportunities and possibilities of the state,
0263 including raw materials and by-products; power and water re-
0264 sources; transportation facilities; available markets and the mar-
0265 keting limitations of the state; labor supply; banking and financ-
0266 ing facilities; availability of industrial sites; and the advantages
0267 the state and its particular sections have as industrial locations;
0268 and such information shall be used for the encouragement of

Division of industrial development.

industrial development

Division responsibilities. The mission of the division of industrial development shall be to attract new business and industry from outside the state, thereby creating quality jobs, attracting new capital investment, and expanding and diversifying the state's economic tax base. In defining this mission, the department and state government recognizes that the future of the Kansas economy depends largely on the creation of diversified, value added, primary economic activity that imports new quality jobs, income and wealth into the state.

industrial development

0269 new industries in the state and the expansion of existing indus-
0270 tries within the state;

0271 (d) to assist counties and cities in industrial development
0272 through the establishment of industrial development corpora-
0273 tions, including site surveys, small business administration
0274 problems, and render such other similar assistance as may be
0275 required; and in those instances where it is deemed appropriate,
0276 to contract with and make a service charge to the county or city
0277 involved for such services rendered; and

0278 (e) to acquaint the people of this state with the industries
0279 within the state and encourage closer cooperation between the
0280 farming, commercial and industrial enterprises and the people of
0281 the state.

// 0282 Sec. ~~9~~ K.S.A. 74-5008b is hereby amended to read as fol-
0283 lows: 74-5008b. (a) ~~On July 1, 1983 the effective date of this act,~~
0284 ~~the division of research and publications industrial development~~
0285 ~~and the office of the director of research and publications indus-~~
0286 ~~trial development of the department of economic development~~
0287 ~~shall be and are hereby abolished.~~

0288 ~~(b)~~ Except as otherwise provided in this act, all of the powers
0289 and duties of the department of economic development which
0290 were being exercised and performed immediately prior to the
0291 effective date of this act by the division and director of researeh
0292 and publications industrial development are hereby expressly
0293 retained as powers and duties of the department of economic
0294 development *commerce*. The secretary of economic develop-
0295 ment *commerce* may delegate and assign such powers and duties
0296 to the division of ~~business recruitment~~ or any other division or
0297 divisions within the department of economic development *com-*
0298 *merce*.

0299 ~~(c)~~ Officers and employees who, immediately prior to the
0300 effective date of this act, were engaged in the exercise and
0301 performance of the powers and duties specified in subsection
0302 (b), and who, in the opinion of the secretary of economic devel-
0303 opment *commerce*, are necessary to the continued exercise and
0304 performance of such powers and duties shall be retained as
0305 officers and employees of the department of economic develop-

industrial development

(b)

0306 ment commerce. Any abolition of personnel positions in the
0307 classified service under the Kansas civil service act shall be in
0308 accordance with civil service laws and rules and regulations
0309 adopted thereunder.

12 0310 Sec. 107 K.S.A. 74-5008c is hereby amended to read as fol-
0311 lows: 74-5008c./There is hereby established within and as a part
0312 of the department of economic development commerce a divi-
0313 sion of community development, the head of which shall be the
0314 director of community development./Under the supervision of
0315 the secretary of economic development commerce, the director
0316 of community development shall administer the division of
0317 community development. The secretary of economic develop-
0318 ment commerce shall appoint the director of community devel-
0319 opment and such director shall serve at the pleasure of the
0320 secretary of economic development. The director of community
0321 development shall be in the unclassified service under the
0322 Kansas civil service act and shall receive an annual salary fixed
0323 by the secretary of economic development commerce and ap-
0324 proved by the governor.

13 0325 Sec. 117 K.S.A. 74-5009 is hereby amended to read as fol-
0326 lows: 74-5009./The division of community development is
0327 hereby authorized and empowered to:

0328 (a) Contract with federal, state or other public agencies and
0329 with qualified private persons or agencies and exercise such
0330 other powers as may be necessary to accomplish the purposes of
0331 this act;

0332 (b) advise, confer, cooperate with and assist local govern-
0333 ments, planning commissions, agencies, officials, civic and other
0334 groups and citizens in matters relating to the purposes of the
0335 department and to encourage the development of comprehen-
0336 sive community planning programs;

0337 (c) apply for, receive, administer, and utilize any grants or
0338 other financial assistance that the federal government, under
0339 section 701 of the federal housing act of 1954, and amendments
0340 thereto, and other public or private sources make available for
0341 the purposes of the department; and

0342 (d) receive funds from any county, city or official metropoli-

Division of community development.

The mission of the division of community development shall be to collaborate in partnership with local Kansas communities to provide grants, loans and technical assistance to these communities to stimulate and support economic development activity. In defining this mission, the department and state government shall recognize that business enterprises make decisions to undertake, expand and locate new business activity within a state and its local communities through an assessment of the combined impact of state and local tax, expenditure and regulatory policies on that firm's prospects for growth and profitability.

Division responsibilities.

0343 tan or regional planning agency established under the provisions
0344 of K.S.A. 12-716 to 12-724, inclusive, and amendments thereto,
0345 receiving financial assistance for local community planning
0346 work.

14 0347 Sec. 12. K.S.A. 74-5045 is hereby amended to read as fol-
0348 lows: 74-5045. There is hereby established within and as a part
0349 of the department of economic development ~~commerce~~ a divi-
0350 sion of ~~small business, technology and resource~~ development,
0351 the head of which shall be the director of ~~small business, tech-~~
0352 ~~nology and resource~~ development. Under the supervision of the
0353 secretary of economic development ~~commerce~~, the director of
0354 ~~small business, technology and resource~~ development shall ad-
0355 minister the division of ~~small business, technology and resource~~
0356 development. The secretary of economic development ~~com-~~
0357 ~~merce~~ shall appoint the director of ~~small business, technology~~
0358 ~~and resource~~ development and such director shall serve at the
0359 pleasure of the secretary of economic development. The director
0360 of ~~small business, technology and resource~~ development shall be
0361 in the unclassified service under the Kansas civil service act and
0362 shall receive an annual salary fixed by the secretary of economic
0363 development and commerce and approved by the governor.

15 0364 New Sec. 13. The division of ~~small business, technology and~~
0365 ~~resource~~ development is hereby authorized and empowered to:
0366 ~~(a) Promote research in advanced technology and to assist in~~
0367 ~~the transfer of technology to small businesses where and when it~~
0368 ~~is beneficial to economic growth in Kansas;~~
0369 ~~(b)~~ assist small business by providing assistance in inter-
0370 preting and applying the laws and administrative rules and
0371 regulations of the state applying to such businesses;
0372 ~~(c) foster the use of the natural resources in Kansas in such~~
0373 ~~fashion as to assist in the economic growth of Kansas;~~
0374 (d) support a coordinated program of scientific and industrial
0375 research with the objective of developing additional uses of the
0376 state's natural resources, agriculture, agricultural products, new
0377 and better industrial products and processes, and the best possi-
0378 ble utilization of the raw materials in the state; and to coordinate
0379 this responsibility with the universities and colleges in the state,

Division of existing industry development.

existing industry

Division responsibilities. The mission of the division of existing industry development shall be to promote and encourage the growth, diversification and retention of business and industry in Kansas. In defining this mission, the department and the state recognizes that the existing industry base of the state provides the best prospect for the growth and diversification of the economy and new job and wealth creation. The division of existing industry

- (a) Provide programs that facilitate the development of existing industries and startup industries;
- (b) facilitate the availability of capital for business growth and quality job creation;
- (c) foster the development of a coordinated statewide network of business assistance programs;
- (d) encourage the development of minority and women-owned businesses;
- (e) pursue initiatives that expand the market for Kansas products and services.

(F)

0381 ~~with all state and federal agencies, and all public and private~~
 0382 ~~institutions within or without the state, all in an effort to assist~~
 0383 ~~and encourage new industries or expansion of existing industries~~
 0384 ~~through basic research, applied research and new development;~~
 0385 ~~and~~
 0386 ~~(c) render assistance to private enterprise on planning prob-~~
 0387 ~~lems and site surveys upon request.~~

16

0387 Sec. 14. K.S.A. 74-5010a is hereby amended to read as fol-
 0388 lows: 74-5010a. There is hereby established within and as a part
 0389 of the department of economic development ~~division of small-~~
 0390 ~~business, technology and resource development~~ the office of
 0391 minority business, the head of which shall be the *assistant*
 0392 *director of the office of for minority business affairs*. Under the
 0393 supervision of the secretary of economic development *director*
 0394 *of small-business, technology and resource development*, the
 0395 *assistant* director of the office of *for minority business affairs*
 0396 shall administer the office of minority business. ~~The secretary of~~
 0397 ~~economic development-commerce shall appoint the assistant-~~
 0398 ~~director of the office of for minority business affairs and such~~
 0399 ~~assistant~~ director shall serve at the pleasure of the secretary of
 0400 economic development. The *assistant* director of the office of *for*
 0401 *minority business affairs* shall be in the unclassified service
 0402 under the Kansas civil service act and shall receive an annual
 0403 salary fixed by the secretary of economic development *com-*
 0404 *merce* and approved by the governor.

Minority business affairs.

existing industry

0405 New Sec. 15. There is hereby established within and as a
 0406 part of the division of small business, technology and resource
 0407 development the office of advanced technology, the head of
 0408 which shall be the assistant director for advanced technology.
 0409 Under the supervision of the secretary of commerce, the assistant
 0410 director for advanced technology shall administer the office of
 0411 advanced technology. The secretary of commerce shall appoint
 0412 the assistant director for advanced technology and such director
 0413 shall serve at the pleasure of the secretary. The assistant director
 0414 for advanced technology shall be in the unclassified service
 0415 under the Kansas civil service act and shall receive an annual
 0416 salary fixed by the secretary of commerce and approved by the

0117 ~~governor.~~

0118 Sec. 16. K.S.A. 74-5034 is hereby amended to read as fol-
0119 lows: 74-5034. (a) There is hereby created within the department
0120 of economic development *office of advanced technology* a Kan-
0121 sas advanced technology commission, referred to in this act as
0122 the "commission." The commission shall promote, develop and
0123 coordinate education, research and economic development pro-
0124 grams in fields of advanced technology.

0125 (b) The commission shall seek to improve the quality and the
0126 quantity of graduates from Kansas institutions of higher educa-
0127 tion in fields of advanced technology, to further the research
0128 capabilities of Kansas institutions of higher education, to provide
0129 incentives to attract and retain superior faculty members at such
0130 institutions and to enhance the economic health of the state of
0131 Kansas through encouraging investment by both governmental
0132 and private sources in research and educational programs which
0133 promote advanced technology education and research develop-
0134 ment.

0135 (c) The commission shall place priority on those programs
0136 and projects that will enhance employment opportunities and
0137 stimulate high technology economic development in the areas of
0138 agricultural and industrial processes, biochemistry and related
0139 biotechnical processes, computers, engineering, natural re-
0140 sources, plastics and telecommunications.

0141 (d) The commission shall exercise its powers and perform its
0142 duties and functions specified in this act, within and as a part of
0143 the department of economic development *office of advanced*
0144 *technology*. All budgeting, purchasing and related management
0145 functions of the commission shall be administered under the
0146 direction and supervision of the secretary of economic develop-
0147 ment *commerce*.

0148 Sec. 17. K.S.A. 74-5035 is hereby amended to read as fol-
0149 lows: 74-5035. (a) The commission shall consist of 13 commis-
0150 sioners. The speaker of the house of representatives, minority
0151 leader of the house of representatives, president of the senate,
0152 minority leader of the senate, president of Kansas state univer-
0153 sity, ~~president of Wichita state university, chancellor of the~~

university of Kansas and president of Pittsburg state university
 0455 shall each appoint one commissioner, who shall serve at the
 0456 discretion of the appointing authority. Five commissioners shall
 0457 be appointed by the governor. These five commissioners shall
 0458 represent advanced technology industries and associated busi-
 0459 nesses and at least one of the five commissioners shall be a
 0460 representative of a small business enterprise.

0461 (b) The term of each commissioner appointed by the gover-
 0462 nor shall be for four years, except that, of such commissioners
 0463 first appointed, two commissioners shall be appointed for terms
 0464 of two years and three commissioners shall be appointed for
 0465 terms of four years. A member appointed or designated to fill a
 0466 vacancy arising other than by expiration of such member's term
 0467 shall be appointed for the unexpired term of the commissioner
 0468 such member is to succeed. A commissioner shall be eligible for
 0469 reappointment.

0470 (c) Commissioners shall receive amounts provided in sub-
 0471 section (e) of K.S.A. 75-3223.

0472 (d) ~~The commission shall elect a chairperson and vice chair-~~
 0473 ~~person from its members. The governor shall appoint the chair-~~
 0474 ~~person and vice chairperson of the commission.~~ The secretary of
 0475 ~~economic development commerce~~ or the secretary's designee
 0476 shall serve as secretary for the commission. The commission
 0477 shall adopt such rules and regulations governing its procedure
 0478 and research matching grant procedures as it may consider
 0479 necessary or advisable and shall keep a record of its proceedings,
 0480 which record shall be open to inspection by the public at all
 0481 ~~reasonable times.~~

17 0482 Sec. 18. K.S.A. 74-5032 is hereby amended to read as fol-
 0483 lows: 74-5032. There is hereby established within and as a part
 0484 of the department of ~~economic development commerce~~ a divi-
 0485 sion of travel, ~~tourism and film services~~, the head of which shall
 0486 be the director of travel, ~~tourism and film services~~. Under the
 0487 supervision of the secretary of ~~economic development com-~~
 0488 ~~merce~~, the director of travel, ~~tourism and film services~~ shall
 0489 administer the division of travel, ~~tourism and film services~~. The
 0490 secretary of ~~economic development commerce~~ shall appoint the

Division of travel and tourism development.

and tourism development

and tourism development.

The mission of the division of travel and tourism shall be to increase the number of visitors to Kansas by promoting the state as a travel and learning opportunity to both Kansans and non-Kansans alike.

and tourism development

0492 director of travel, ~~tourism and film services~~ and such director
 0493 shall serve at the pleasure of the secretary of economic develop-
 0494 ment. The director of travel, ~~tourism and film services~~ shall be in
 0495 the unclassified service under the Kansas civil service act and
 0496 shall receive an annual salary fixed by the secretary of economic
 0497 development *commerce* and approved by the governor.

and tourism development

18 0497 New Sec. 19. ~~The division of travel, tourism and film ser-~~
 0498 ~~vices~~ is hereby authorized and empowered to:

Division responsibilities. The division of travel and tourism development

0499 (a) Encourage and promote the traveling public to visit this
 0500 state by publicizing information as to the recreational, historic
 0501 and natural advantages of the state and its facilities for transient
 0502 travel and to contract with organizations for the purpose of
 0503 promoting tourism within the state; and

office

Division of trade development.

0504 (b) request other state agencies such as, but not limited to,
 0505 the state water ~~resources~~ board, the state park and resources
 0506 authority, the Kansas fish and game commission and the depart-
 0507 ment of transportation, for assistance and all such agencies shall
 0508 coordinate information and their respective efforts with the de-
 0509 partment to most efficiently and economically carry out the
 0510 purpose and intent of this subsection.

trade development

trade development. The mission of the division of trade development shall be to increase sales of Kansas agricultural and manufactured products, processes and services worldwide, especially value added products which diversify the Kansas economy thereby creating quality jobs, bringing new dollars, income and wealth into the state, and enhancing the growth, diversification and expansion of the state's economic base. In defining this mission, the department and state government recognizes that new quality jobs, income and wealth within the state are primarily created by the export of broadly diversified, value-added goods and services outside the state to the nation and world.

19 0511 New Sec. 20. There is hereby established within and as a
 0512 part of the department of commerce a division of foreign mar-
 0513 ~~keting~~, the head of which shall be the director of foreign mar-
 0514 ~~keting~~. Under the supervision of the secretary of commerce, the
 0515 director of ~~foreign marketing~~ shall administer such division. The
 0516 secretary of commerce shall appoint the director of ~~foreign mar-~~
 0517 ~~keting~~ and such director shall serve at the pleasure of the
 0518 secretary. The director of ~~foreign marketing~~ shall be in the
 0519 unclassified service under the Kansas civil service act and shall
 0520 receive an annual salary fixed by the secretary of commerce and
 0521 approved by the governor.

trade development

20 0522 New Sec. 21. ~~The division of foreign marketing~~ is hereby
 0523 authorized and empowered to:

Division responsibilities. The division of trade development

0524 (a) ~~Promote investment in Kansas by industries located prin-~~
 0525 ~~cipally outside the United States;~~

state and the

(a) 0526 (b) promote the export of Kansas products, agricultural, sci-
 0527 entific and industrial outside of the United States;

0528 *b (c)* develop and conduct trade development and market re-
0529 search missions to foreign markets and host foreign buying teams
0530 visiting Kansas;
0531 *c (d)* prepare and distribute an export directory and other spe-
0532 cialized product information to foreign buyers;
0533 *d (e)* identify and develop foreign trade leads; and
0534 *e (f)* coordinate with and disseminate information regarding
0535 the international grains program and international trade institute
0536 conducted at Kansas state university.

Sec. 21. Accountability. (a) The provisions of the Kansas sunset law apply to the department of commerce. In order to insure that the department is effectively carrying out its mission and meeting the needs articulated in this act. The department shall cooperate with the joint committee on economic development and Kansas, Inc. in the performance of an independent performance review of the activities of the department and the departmental divisions. The review shall include, but not be limited to: (1) An assessment of the impacts of the department's programs corresponding to the strategic plans of the department and the departmental divisions; (2) a comparative assessment of the relative impact of the department's programs with similar programs in other states; and (3) a comparative assessment of the department's programs on different parts of the state. The review shall be completed or updated at least once every three years.

(b) The department shall prepare and publish an annual report of its activities and expenditures for the information of the governor, the joint committee on economic development, Kansas, Inc. and the public, and shall, from time to time, submit recommendations to the governor concerning legislation found to be necessary or desirable in effecting the purposes of this act. The annual report shall specifically account for the ways in which the need and missions of the department and its divisions as described in this act have been carried out, and the recommendations shall specifically note what changes in the activities of the department and its divisions, and of state government are necessary to better address the need and missions described in this act.

Sec.22. Transfer of the office of advanced technology and the advanced technology commission.

(a) The office of advanced technology shall be transferred and recreated as the Kansas technology enterprise corporation on January 1, 1987, upon completion of the following tasks and in accordance with the following schedule:

(1) The governor and the state board of regents shall complete the appointment of board members by July 1, 1986.

(2) The board shall conduct a national search and select a corporation president by November 1, 1986, who meets a national standard of experience and ability for similar positions.

(3) At the direction of the board, the president shall prepare or have prepared a business plan for the corporation by December 31, 1986.

(4) Upon approval of the business plan by the corporation board, the plan shall be submitted to the joint legislative economic development committee for approval.

(b) The advanced technology commission shall be abolished on January 1, 1987.

(c) The governor and the board of regents shall consider the appointment of members of the advanced technology commission to the board of the Kansas technology enterprise corporation when they meet the qualifications prescribed in the enacting legislation for the Kansas technology enterprise corporation.

0537 Sec. ²³~~22~~. K.S.A. 74-5002a, 74-5002b, 74-5002c, 74-5002d, 74-
0538 5002e, 74-5005, 74-5008a, 74-5008b, 74-5008c, 74-5009, 74-
0539 5010a, 74-5032, ~~74-5034; 74-5035~~ and 74-5045 are hereby re-
0540 pealed.

0541 Sec. ²⁴~~23~~. This act shall take effect and be in force from and
0542 after its publication in the statute book.

January 1, 1987, and

KANSAS DEPARTMENT OF ECONOMIC DEVELOPMENT

503 Kansas Avenue, Sixth Floor, Topeka, Kansas 66603
Phone (913) 296-3481



March 21, 1986

meeting
CHARLES J. "Jamie" SCHWARTZ
Secretary

JOHN CARLIN
Governor

For Ec. Dev. Info.

M E M O R A N D U M

TO: Legislative Economic
Development Commission

FROM: *DB* David Barclay

DATE: March 19, 1986

Attached are Research Papers prepared by the Policy Analysis and Research Unit at Kansas Department of Economic Development and the staff at the Institute for Public Policy and Business Research at the University of Kansas.

1. A Study of Product Development Corporations.
2. Business Retention: Buyer/Supplier and Retention and Expansion Programs.
3. An Analysis of the Indiana Corporation for Innovation Development.
4. Property Tax Abatements and Exemptions (Excluding IRB Options).
5. Recommendation #1. Establish a task force on agriculture development and marketing.
6. Recommendation #2. Sales tax exemption on all new machinery and equipment used in manufacturing and on computers for business use.
7. Recommendation #17. Sponsor or organize a financial symposium for Kansas companies.
8. Recommendation #27. Review the constitutional prohibition on internal improvements to determine if it should be modified or repealed.
9. Recommendation #28. Facilitate the development of incubators.
10. Recommendation #29. Infrastructure loan pool for economic development at the community level.
11. Recommendation #34. Provide state funding for the state business development center network to expand technical assistance to Kansas small business.

Attachments

Attachment J

Research Paper



A STUDY OF
PRODUCT DEVELOPMENT CORPORATIONS

Policy Analysis & Research Unit

Kansas Department
of Economic Development

400 W. 8th St.—Suite 500
Topeka, Kansas 66603-3957
913-296-3481

A STUDY OF PRODUCT
DEVELOPMENT CORPORATIONS

Prepared by: Terry E. Denker
Policy Analysis & Research Unit
Kansas Department of Economic Development
February 18, 1986

EXECUTIVE SUMMARY

A product development corporation is a quasi-public organization which invests money in the development of new products or processes. The money is invested through royalty agreements with existing in-state companies and is expected to stimulate job creation and diversification of industry.

Four states (Connecticut, Iowa, New Mexico and North Carolina) have programs in operation. Product development corporations are initially funded by state appropriations. Invested money is recovered at a rate of approximately 5 percent of new product sales. Royalty payments continue until a multiple of the state's investment has been returned (for example, Iowa uses a five fold rate of return and Connecticut varies between 2 1/2 and 5 times depending on contract terms).

Product development corporations are governed by an appointed board of directors who have expertise in business and technology development. Staff makes recommendations to the board based on analysis of business plans, company history and market conditions. The board makes the ultimate decision on funding applications and developing policy for implementation.

Product development corporations vary in the amount of development costs which are allowed to be funded. These development costs include labor rates, materials and supplies, outside services, required testing, and patent costs. Currently states are investing between \$37,500 and \$153,000 per project.

Projects are reviewed on the basis of extensive business plans which are submitted by the requesting company. Key criteria for selection by the product development corporation include product feasibility, market availability, job creation and company history.

Products that are financed by product development corporations typically range from frozen seafood to integrated microcircuitry for the electronics industry. The emphasis by existing programs has been on high technology products although any type of new product is eligible.

Additional programs may be developed to supplement the work of a product development corporation. Start-up funding and loans for equipment purchases are two examples of additional funding which may be necessary for a company to develop and market a new product. These types of programs are added to the portfolio that can be offered by the product development corporation.

The following report describes the programs of the previously mentioned states in greater detail.

INTRODUCTION

Product Development Corporations are organizations that invest money in the development of new products or processes. The money is invested through royalty agreements with the company. Their purpose is to assist in the creation of jobs and diversification of products by industry within a state.

To date, four states have product development corporations in operation. Connecticut, Iowa, New Mexico and North Carolina have developed programs with varying components. The Connecticut Product Development Corporation (CPDC) was first created in 1972 and implemented in 1975. Iowa used the CPDC as a model for creation of the Iowa Product Development Corporation (IPDC) in 1983. New Mexico has a similar program called the New Mexico Energy Research Development Institute (NMERDI) which has only addressed energy-related products. However, recent legislation has removed the program from the State Department of Energy and allowed the funding of all types of products. North Carolina has developed a hybrid program which operates through royalties and seed grants.*

Only Connecticut has had such a program for a period of time long enough to fully evaluate its results. For the purposes of this study, we will focus on Connecticut but make special emphasis on the other states where their programs differ dramatically.

ORGANIZATION

What is a product development corporation?

Connecticut's version of a product development corporation is a quasi-public organization chartered by state legislation. It is governed by a board of directors which guides policy and makes decisions on funding applications. It differs from a private corporation in that it is "not for profit" and its directors are appointed by the governor.

Directors have extensive knowledge in business, technology development, or both. In Connecticut, operations are conducted by a professional staff that has in-depth private sector experience. Initial funding for the Connecticut and Iowa programs came from appropriations by the state. As these programs develop, proceeds from successful ventures and the issuance of bonds and notes are expected to fund projects and make the programs self-sustaining.

How does a product development corporation function?

Although the enabling legislation is rather broad, the procedure used is to make joint venture investments in new products with the expectation of recovering this investment through royalties on the sale of the product. The financial aid is neither a grant or a loan nor does it require an equity position in the company in which the investment is made. Participation is truly an investment in the product itself. If the product is a success, the product development corporation recovers its investment, and if the product fails, the investment is lost.

Success for such a program is measured by four criteria:

- 1.) Creation of new jobs and revenue sources;
- 2.) Covering operating expenses from investment income;
- 3.) Generating additional capital for future investment;
- 4.) Repaying the state's initial funding.

* Seed grants - a gift of money given to promising companies in the early stages of development to assist in the research needed for product development

What is the role of a product development corporation in relation to economic development?

The specific goal of a product development corporation is to create jobs and thus increase the state's economic base. In addition, the program assists in the diversification of existing companies and stimulates the innovation process necessary to develop new and innovative products during the development phase. Ultimately, the program is designed to assist in assuring the survival of existing companies and expansion of product lines in such a way that companies can respond to the increasing competitive activity in today's economy.

Other areas of impact include maintaining jobs that might otherwise be lost, increasing tax revenue through corporate and individual taxpayers, decreasing unemployment and welfare costs for workers who might otherwise be unemployed and recycling the payroll dollars through other businesses in the state.

How is a product development corporation organized?

As previously indicated, a product development corporation is usually governed by a board of directors who are appointed by the governor. Their role is to establish policy guidelines and to review and approve applications according to pre-determined criteria. In addition, a permanent professional staff is employed to provide technical assistance to submitting companies, make recommendations to the board of directors and conduct the administrative procedures necessary to implement the program initiatives. During the course of a typical year, staff must respond to several hundred inquiries describing the program and criteria for participation. Staff must be knowledgeable in developing contracts with participating companies and conducting accounting procedures necessary to monitor all product costs and reimbursements.

Who serves in a product development corporation?

The board of directors must be made up of people who have exhibited success in the operation of a business or been instrumental in the development of new technology. Professional staff should have the same general experience and background with the ability to analyze financial statements, product designs and marketing strategies. The key to making a program of this nature work is to employ people who will run the operation like a business functioning in the private sector. The success of future investment opportunities depend on careful scrutiny and decision making during the initial process.

COSTS

How is a product development corporation funded?

Initial funding in each of the four states has been provided through legislative appropriations. Generally, this funding is part of a package designed to address multiple programs that will stimulate a state's economy. During FY 1983-84, Iowa appropriated \$729,000 for product development. In comparison, Connecticut received \$6.0 million for its first year of operation.

Ideally, these programs are designed to become self-sustaining with respect to operating expenses. Application fees and royalty payments are the methods of reimbursement to a product development corporation.

How is the money invested?

Once a product plan has been approved, a product development corporation pays a certain percent of allowable development costs on the basis of monthly invoices submitted by the company (Connecticut - 60%, Iowa - no limit, New Mexico - no limit, North Carolina - \$50,000 per project). Typical allowable costs include labor at a burdened rate*, materials and supplies, outside services, required testing and approval procedures, patent application costs, and special molds, dies, and fixtures. In general, all costs, other than for capital equipment, incurred from concept to a production-ready product may be eligible.

Are there criteria or guidelines for limiting the amount of money invested on a given project?

States have varying levels of funding for individual products. In Connecticut, the product development corporation may provide up to 60 percent of eligible costs whereas Iowa will provide a percentage up to an agreed upon dollar limit. New Mexico has no limit on the amount of money to be funded for development costs although it is hoped that the company will contribute a portion. The North Carolina Innovation Research Fund of the Technological Development Authority (TDA), a cross between a royalty and seed grant program, has a maximum award of \$50,000 per product. It is expected that the remainder will be provided by the company or its principals from their own funding sources.

Project approval and the amount to be invested are based upon careful analysis of a business plan submitted by the company. The preparation of a business plan forces the applicant to consider all aspects of the process including where the money will come from.

In what manner is a product development corporation repaid?

As previously stated, a product development corporation does not operate through loans or grants but rather from royalties on the sales of the funded products. Therefore, return on the investment parallels that of the client companies. Royalty percent is determined individually, but generally is 5 percent of new product sales. Royalty payment continues until a multiple of the state's investment has been returned. Iowa has a goal of a five-fold rate of return. Once the project meets those commitments the contract is considered fulfilled and the royalty payments end. Connecticut drops the royalty rate to a lower percentage and continues for a fixed additional time after the multiple (from 2 1/2 to 5 times depending upon the contract payback schedule) is reached.

Prepayment of royalty is always acceptable and complete buy-out offers are considered. Royalty obligations stop when product sales stop or when the required payback has been met.

What is the average cost of a project to the state?

As might be expected, average size of product development corporation investments have increased over the past few years. In Connecticut, investments

* burdened rate - labor costs plus additional indirect costs such as administrative, insurance, unemployment compensation, etc.

increased from \$90,000 per project in the 1979-1980 fiscal year to \$291,000 per project in the 1984-1985 fiscal year. Iowa's first year of operation resulted in an investment of \$152,000 per project. An increase can be expected in future years due to general inflationary trends and the submittal of more sophisticated development projects with greater potential for job creation. North Carolina invested an average of \$45,000 per project in 1984 and \$34,100 per project in 1985, but the state has a cap of \$50,000 per individual project. In general, the state must carefully balance the amount of investment against the number of jobs that are expected to be created.

PRODUCTS

What is the criteria for a product to be considered?

In considering a new product for its portfolio, Connecticut, Iowa and North Carolina require the applicant to prepare a business plan. This business plan forces the applicant to address the issues of financing, production, marketing and distribution. Some of the key evaluation criteria include:

- 1.) Product Feasibility. Likelihood of successful development of the proposed product is assessed.
- 2.) Company Ability. Experience of key personnel is evaluated, based upon their track record, to predict ability to complete the product development and then produce and sell the product successfully. Technical, manufacturing, marketing, and financial skills are considered.
- 3.) Market Availability. Assuming successful product development, there must be a suitable prospective customer base for the new product at its projected selling price. Further, the predicted product life must be long enough to provide a suitable return on investment.
- 4.) Job Creation. New jobs created as a result of approved projects are required to remain in the state. These jobs may be within the client's facilities or those of in-state contractors to the client company. Although no fixed number of jobs are required, evaluation of an application relates the number of jobs projected to the amount of funding sought.
- 5.) Overall Financial Condition. Successful product development, production, and marketing is most apt to occur in companies financially sound in areas not supported by a product development corporation. A favorable financial history and cash flow projection, as well as likely available sources of additional capital which may be required must be demonstrated.

Additional questions concerning protection by patents and the companies record as an employer should also be evaluated. Perhaps the bottom line is whether the number of new jobs created by the project will justify the state's investment.

What kind of products are considered?

Connecticut indicates that the products sponsored by them cover a wide range from frozen seafood to computer controlled telecommunications equipment and from bathroom accessories to solar collector panels. Iowa's products include integrated microcircuitry for the electronics industry, computerized telemarketing equipment, a new form of electrolyte solution used in kidney dialysis, and a new retro-reflective process for treating fabric. New Mexico,

through their Energy Research Development Institute, only invests in products that relate to the energy field. The emphasis is clearly on products which could be considered as "high technology" but the states indicate that they will consider any product or process which is innovative or new. This would include innovative processes for the production of old and familiar products as well as new products to fill needs.

How many projects may be considered in a given year?

Product development corporations respond to hundreds of inquiries regarding their programs. Although a majority of the inquiries are considered inappropriate for one reason or another, Connecticut indicates that these contacts usually result in 10 to 15 formal applications and 5 to 7 new projects during a typical year. Iowa considered 10 formal applications and funded four projects in its first year of operation. Compared with the number of legitimate inquiries made, Iowa funded 3.33% of the total company response to the new program. Connecticut indicated that they funded 3% of the legitimate inquiries made. The level of appropriations and the comparison of jobs to investment will help to determine how many products may be funded in a given year.

What happens if a product does not work out?

Since the state is investing money in the development of a product, failure by the company to complete the production and marketing process will result in the loss of money to the state. This makes a product development corporation more of a risky venture than normal venture capital programs which maintain secured interests in their loans or grants. This also underlies the importance of careful evaluation of a companies' business plan and product strategies.

Over the years, Connecticut has funded 63 new and innovative products. Of this total, 7 have been abandoned for one reason or another. The net cost to the state of these abandoned projects has been \$162,000 or less than 3% of the total funds committed to date.

What kind of success has been experienced by states with product development corporations and how is success measured?

States have used a couple of measures to determine the success of their product development corporations. These include:

- 1.) Return on investment. Expressed by royalty income as a percentage of total taxpayer investment.
- 2.) Cost per job created. Determined by dividing taxpayer investment by the number of jobs created.

Of the four states, only Connecticut has been in operation long enough to develop figures which indicate a return on investment. During the fiscal year ending June 30, 1985, this figure reached 18.5%. It is anticipated that this return on investment will be in the range of 20% to 25% as the program reaches maturity.

In regard to cost per job created, Connecticut has invested \$8.9 million dollars in the direct creation of 803 jobs. This translates into a cost of approximately \$11,080 per job. Iowa has expended \$1.0 million to create 73 new jobs or approximately \$13,699 per job. New Mexico has invested \$2.6 million to

create 126 jobs. This equals about \$20,635 per job. North Carolina has only been in existence eighteen months and has not developed any figures on jobs created. The figures for the three states do not consider the ripple effect which may occur on the state's economy due to additional jobs created by suppliers, etc.

A third measure which might be helpful is the number of jobs per project. This measure could be used in comparing projects during the application stage. Connecticut has received 803 jobs from the funding of 63 projects. This equals 12.7 jobs per project. Iowa has created 73 new jobs from the investment in seven projects or 10.4 jobs per project.

	<u>Connecticut</u>	<u>Iowa</u>	<u>New Mexico</u>	<u>North Carolina</u>
Initial Investment	\$6.0 million	\$729,000	\$1.12 million	\$225,000
State Dollars Invested	\$10.9 million	\$1.0 million	\$2.6 million	\$600,000
Cumulative Program Funds ¹	\$22.8 million	\$1.2 million	\$3.0 million	\$850,000
Number of Jobs Created	803	73	126	---
Number of Projects	63	7	17	16
Average Cost per Project	\$141,270	\$142,857	\$152,941	\$37,500
Cost per Job Created	\$11,080	\$13,699	\$20,635	---
Jobs per Project	12.7	10.4	7.4	---
Return on Investment	18.5%	---	---	---
Length of Program	11 yrs.	2 yrs.	3 yrs.	2 yrs.
Size of Staff	7	1 (part-time)	12 *	4
Allowable development costs funded	60%	no limit	no limit	\$50,000

Table 1. Selected Comparisons

¹ Includes state monies invested in products, royalty income receipts and program operating costs.

* Staff is comprised of twelve people who work on several programs including the product development corporation.

OPERATION

How do companies apply for participation?

Companies contact the product development corporation for a preliminary discussion of their needs and possible eligibility for the program. If a mutual interest is established, the application procedure begins. A project director visits the company to get a better understanding of their needs and abilities. Assistance is provided in developing a business plan for submittal.

If the business plan indicates eligibility and a reasonable likelihood of success, a formal application is submitted. In both Connecticut and Iowa a non-refundable application fee of 1/4 of one percent of the money requested from the product development corporation must accompany submittal. The minimum fee is \$100.00.

Further analysis of the business plan may require additional submittals of information. The project director is responsible for helping an applicant build the strongest possible business plan and to evaluate and make recommendations to the board of directors.

Are there specific time frames or delays in processing a project?

Both Iowa and Connecticut indicate that notification of approval or disapproval usually occurs approximately three months after the submittal of a complete business plan. Availability of funding may occur as soon as one month after approval. The key to timely project completion relies on complete and accurate submittals by the company.

Are there specific problems in starting or maintaining the operation of such a program?

One state indicated problems developed during the start of the program because legal constraints had to be addressed. Constitutional authority was not available until amendment changes could be made.

Operating problems include difficulty in obtaining quorums at board meetings due to size (7 volunteer political appointments), adequate staffing to be able to provide expertise needed to analyze a variety of complex issues and interactions with legislators and economic development authorities who consider the corporation as a government agency instead of a business operation.

Are there specific recommendations that would improve upon existing product development operations?

Iowa has found that a more participative posture in relation to company operations is desirable. To satisfy this, they have included a requirement that the product development corporation must have a voting seat on the board of directors of client companies. This enables them to help guide the direction of the company and thus increase the surety of the project.

A second recommendation is that provisions for contract assistance in analyzing projects be contained in the enabling legislation. Prior experience indicates that staff, no matter how well chosen, can not be experienced or knowledgeable in all instances which arise in project review.

Are there other programs which may operate in conjunction with a product development corporation?

Since a product development corporation usually deals with established firms, Connecticut found a need to address financing for firms which have just been formed, or are in the process of formation. The state responded to this need by creating a special Start-Up Program which provides financing of products under royalty agreements for new companies.

The Connecticut Innovation Development Loan Fund is a revolving loan fund which provides low interest working capital loans to companies with innovative new products. The loans may be used to buy machinery and equipment for production of a new-product, for inventory build-up, and to introduce and sell a new product or process. Loans are available to companies located in designated long-term economically disadvantaged areas within the state.

Another program which is being tried is for the state to take an active role in the marketing of sponsored products. Connecticut represents the products as a group at national and international trade fairs. The state acts as a contact point for the client companies to establish domestic and overseas markets for the products.

What specific legislation is needed to authorize a product development corporation?

Copies of the statutory authority for Connecticut, Iowa, New Mexico, and North Carolina are included at the conclusion of this report.

SOURCES

Connecticut Product Development Corporation. (1985) Annual Report, Fiscal Year 1985, Hartford, Connecticut.

Connecticut Product Development Corporation. (1985) Background Statement to the Governor, Hartford, Connecticut.

Iowa Product Development Corporation. (1985) 1984 Annual Report, Des Moines, Iowa, Iowa Development Commission.

New Mexico Energy Research and Development Institute. (1985) Annual Report 1984-85. Santa Fe, New Mexico.

Telephone interviews with Connecticut Product Development Corporation, Iowa Product Development Corporation, New Mexico Energy Research and Development Institute, and North Carolina Technological Development Authority.

U. S. Small Business Administration. (June, 1985) State Activities in Capital Formation: Venture Capital, Working Capital and Public Pension Fund Investments. Washington, D.C., Office of Advocacy.

§ 32-23p. Loans by the authority in areas of high unemployment

The authority may determine to make long term loans approved on or after July 1, 1978, for any industrial project located in an area of high unemployment financed with the proceeds of capital reserve fund bonds at an interest rate which is substantially equal to the interest rate payable on such bonds adjusted to reflect issuance costs. The authority may also determine not to charge mortgage insurance premiums with respect to mortgage loans approved on or after July 1, 1978, for any industrial project located in an area of high unemployment the payments on which are insured pursuant to section 32-16. Any such determination shall apply to all loans made and mortgages insured during the period the determination is in force and, once applicable to a loan or mortgage, shall remain applicable for the full term of the loan or mortgage. The authority may rescind any such determination at any time if the authority finds in its sole judgment that the rescinding of the determination may be necessary in order to preserve the financial integrity of the authority or the insurance fund. This section shall not apply to any other fees or charges imposed by the authority, including without limitation application, acceptance, commitment, special purpose, bond issuance and attorney's fees, which may be charged without regard to the location of the proposed industrial project.

(1978, P.A. 78-357, § 4, eff. July 1, 1978.)

§ 32-23q. Exemption from maximum interest and charges on loans

The provisions of sections 37-4 and 37-6 shall not apply to any bond, note or other obligation issued by the Connecticut development authority, or any loan, lease, sale agreement, note or other obligation evidencing a financial obligation to the authority.

(1981, P.A. 81-384, § 10, eff. June 29, 1981.)

Library References

States ⇐121.
C.J.S. States §§ 203, 223.

§ 32-23r. Preference in employment by borrowers and mortgagees

The Connecticut development authority shall require in all instances that a borrower or mortgagee shall enter into an agreement with the authority to give preference in employment to persons as set forth herein:

(1) Where the funds involved are to be used for the purchase, lease or alteration of an existing facility which has been inoperative and the borrower or mortgagee intends to make, assemble or produce products and or services comparable to those previously made, assembled, or produced at such facility, preference shall be given to those previously employed at such facility within the twelve-month period immediately preceding its closing in the order of their total length of employment at the closed facility, provided that they can perform the work required by the borrower or mortgagee at such existing facility;

(2) Where the funds involved are to be used for the purchase, lease or alteration of an existing facility which has been inoperative and the borrower or mortgagee intends to make, assemble or produce products different than those previously made, assembled or produced at the facility, preference in employment and training shall be given to those previously employed at such facility within the twelve-month period immediately preceding its closing in the order of their total length of employment at the closed facility, provided such training shall not exceed twelve weeks; and

PRODUCT DEVELOPMENT CORP.

(3) Where the borrower or mortgagee is not the operating or producing entity at the facility being financed, the borrower or mortgagee shall be required to enter into an irrevocable agreement with the operating or producing entity containing the above requirements and proof of such agreement shall be provided to the authority before approval of any funds or insurance.

(1981, P.A. 81-384, § 11, eff. June 29, 1981.)

Library References

Civil Rights ⇐9.10.
C.J.S. Civil Rights § 59 et seq.

§ 32-23s. Interpretation of certain amendments

The amendments to sections 32-11a, 32-16, 32-23c, 32-23d, 32-23e, 32-23f and 32-23j effective on June 29, 1981 are intended and shall be construed as a clarification and expansion of the powers of the Connecticut development authority, and shall not limit or impair any obligation incurred or right exercised by the authority under its powers prior to said date.

(1981, P.A. 81-384, § 12, eff. June 29, 1981.)

CHAPTER 580

CONNECTICUT RESEARCH COMMISSION

§§ 32-24 to 32-31. Repealed. (1973, P.A. 73-599, § 39; 1974, P.A. 74-338, § 62, eff. May 31, 1974.)

CHAPTER 581

CONNECTICUT PRODUCT DEVELOPMENT CORPORATION ACT

Sec.	Short title.	Sec.	
32-32.	Short title.	32-41b.	Bond issue for high technology products. [New]
32-33.	Legislative finding.	32-42.	Annual report. Examination. Audits.
32-34.	Definitions.	32-43.	State pledge.
32-35.	Connecticut Product Development Corporation.	32-44.	Powers to be interpreted broadly.
32-36.	Perpetual succession. Termination.	32-45.	Inconsistent provisions of law.
32-37.	Board of directors.	32-46.	Tax exemption.
32-38.	President.	32-47.	Personal liability of members or persons acting on behalf of the corporation.
32-39.	Corporate purpose; powers.		
32-40.	Applications for financial aid.		
32-41.	Bond issue.		
32-41a.	Connecticut Product Development Corporation Fund. Use of funds or revenues of the corporation.		

§ 32-32. Short title

This chapter shall be known as and may be cited as the "Connecticut Product Development Corporation Act."

(1972, P.A. 248, § 1, eff. May 10, 1972.)

Notes of Decisions

1. In general

Act establishing Connecticut Product Development Corporation to provide direct financial assistance to state private enterprises contained adequate standards to guide discretion of officers of the corporation in their administration of the program, and thus was not an unconstitu-

tional delegation of legislative authority. *Wilson v. Connecticut Product Development Corp.* (1974) 355 A.2d 72, 167 Conn. 111.

Act establishing Connecticut Product Development Corporation, to provide direct financial assistance to state private enterprises, was not unconstitutional since it served a public purpose. *Id.*

§ 32-33. Legislative finding

It is found and declared that there exists in the state a great and growing need for industrial and commercial development and activity to provide and maintain employment and tax revenues; that assistance and encouragement of industrial and commercial development to provide and maintain such employment and revenues is an important function of the state; that the availability of financial assistance is an important inducement to industrial and commercial enterprises to remain or locate in this state; that there exists in the state a serious shortage of venture capital to promote the development and exploitation of invention and products; that this shortage has resulted and will result in a serious decrease in the development of new business enterprise and job opportunities in Connecticut; and, further, that providing state financial assistance for the development of products, innovation and invention for industry in this state will assist in the creation of new products and industry in this state, resulting in increased employment and public revenues; and therefore the necessity in the public interest and for the public benefit and good for the provisions of this chapter is hereby declared as a matter of legislative determination. It is further found and declared that Connecticut ranks very high among the states on a per capita basis in the amount of prime defense contracts awarded; that the economies of many areas in the state and the employment opportunities offered by many businesses in the state are heavily defense-dependent and would suffer severe adverse impacts in the event of prime defense contract cutbacks; that there exists a great and growing need for assistance to and encouragement of defense-dependent businesses and other businesses and enterprises in finding solutions for the problems related to defense conversion and in executing new technologies which will maintain employment and tax revenues in the event of prime defense contract cutbacks; that assistance and encouragement of defense-dependent businesses and other businesses and enterprises in finding solutions for the problems related to defense conversion and in executing new technologies which will maintain employment and tax revenues in the event of prime defense contract cutbacks is an important function of the state; that the availability of financial assistance is an important inducement to defense-dependent businesses and to other businesses and enterprises to remain or locate in this state and to develop non-defense-related capacities or expand their existing non-defense-related capacities; that there exists in this state a serious shortage of venture capital to promote the development and exploitation of non-defense-related invention and products; that this shortage has resulted and will result in a serious decrease in job opportunities in the event of prime defense contract cutbacks; and, further, that providing state financial assistance for the development of products, innovation and invention for defense conversion by defense-dependent businesses and other businesses and enterprises in this state

will assist in the creation of new products and industry in this state, reducing the dependency of the businesses in this state on defense contracts, and resulting in the maintenance of employment and public revenues in the event of prime defense contract cutbacks; and therefore the necessity in the public interest and for the public benefit and good for the provisions of this chapter is hereby declared as a matter of legislative determination.

(1972, P.A. 248, § 2, eff. May 10, 1972; 1980, P.A. 80-267, § 1.)

1980 Amendment

1980, P.A. 80-267, § 1, added the second sentence relating to defense contracts.

§ 32-34. Definitions

As used in this chapter, the following terms shall have the following meanings unless the context clearly indicates another meaning and intent:

(1) "Corporation" means the Connecticut Product Development Corporation as created under section 32-35;

(2) "financial aid" means the infusion of risk capital to persons for use in the development and exploitation of specific inventions and products;

(3) "invention" means any new process or new technique without regard to whether a patent has or could be granted;

(4) "person" means any individual, partnership, corporation or joint venture carrying on business, or proposing to carry on business, within the state;

(5) "product" means any product, device, technique or process, which is or may be exploitable commercially; such term shall not refer to pure research but shall be construed to apply to such products, devices, techniques or processes which have advanced beyond the theoretic stage and are readily capable of being, or have been, reduced to practice;

(6) "venture" means, without limitation, any contractual arrangement with any person whereby the corporation obtains rights from or in an invention or product or proceeds therefrom in exchange for the granting of financial aid to such person.

(1972, P.A. 248, § 3, eff. May 10, 1972.)

§ 32-35. Connecticut Product Development Corporation

(a) There is hereby created a body corporate to be known as the "Connecticut Product Development Corporation." Such corporation is constituted a quasi-public instrumentality and the exercise by the corporation of the powers conferred in this chapter shall be deemed and held to be the performance of an essential public function.

(b) The corporation shall be governed by a board of seven directors to be appointed by the governor, at least five of whom shall be knowledgeable, and have favorable reputations for skill, knowledge and experience, in the areas of the development of technological invention and one of whom shall be the commissioner of economic development, who shall serve ex officio pursuant to section 32-1c and shall have all of the powers and privileges of a member of the board of directors. The term of each director other than the commissioner of economic development shall be coterminous with the term of the governor or until a successor is chosen, whichever is later. A director shall be eligible for reappointment. The governor shall fill any vacancy for the unexpired term.

(c) The directors shall annually elect one of their number as chairman and one as secretary. The board may elect such other officers of the board as it deems proper. Members shall receive no compensation for the performance of their duties hereunder but shall be reimbursed for necessary expenses incurred in the performance thereof.

(d) Each director of the corporation before entering upon his duties shall take and subscribe the oath or affirmation required by article eleventh, section 1, of the constitution. A record of each such oath or affirmation shall be filed in the office of the secretary of the state.

(e) The corporation shall be within the department of economic development for administrative purposes only.

(1972, P.A. 248, § 4, eff. May 10, 1972; 1974, P.A. 74-273, § 1, eff. July 1, 1974; 1977, P.A. 77-614, § 288, eff. Jan. 1, 1979; 1979, P.A. 79-560, § 38, eff. July 1, 1979; 1982, P.A. 82-58, § 1, eff. July 1, 1982.)

1974 Amendment

1974, P.A. 74-273, § 1, deleted, from subsec. (b), former second sentence which provided that "On or before May 1, 1972, the governor shall so appoint six members of said board, two to serve for two years, two for four years and two for six years from July 1, 1972."; amended second sentence of subsec. (b) by substituting "July" for "May" following "On or before", by deleting "thereafter" following "even-numbered years"; and by deleting "so" following "governor shall"; and by adding subsec. (e).

1977 Amendment

1977, P.A. 77-614, § 288, eff. Jan. 1, 1979, rewrote subsec. (e) which formerly read "(e) The corporation shall be an autonomous body within the department of commerce for fiscal and budgetary purposes only."

1979 Amendment

1979, P.A. 79-560, § 38, eff. July 1, 1979, rewrote subsec. (b) which formerly read:

"(b) The corporation shall be governed by a board of six directors to be appointed by the governor, at least four of whom shall be knowledgeable, and have favorable reputations for skill, knowledge and experience, in the areas of the development of technological invention. On or before July first of the even-numbered years, the governor shall appoint directors to succeed those whose terms expire for terms of six years from July first in the year of their appointment and until their successors have been appointed. A director shall be eligible for reappointment. The governor shall fill any vacancy for the unexpired term."

§ 32-36. Perpetual succession. Termination

The corporation shall have perpetual succession and shall adopt, amend and repeal bylaws and regulations for the conduct of its affairs. Such succession shall continue until

1982 Amendment

1982, P.A. 82-58, § 1, amended subsec. (b) by adding "and one of whom shall be the commissioner of economic development, who shall serve ex officio pursuant to section 32-1c and shall have all of the powers and privileges of a member of the board of directors" following "development of technological invention", and by inserting "other than the commissioner of economic development" following "The term of each director".

1982, P.A. 82-58, § 2, provided:

"This act shall take effect July 1, 1982."

Cross References

Administrative purposes only, definition, see § 4-38f.

Notes of Decisions

1. In general

Act establishing Connecticut Product Development Corporation, to provide direct financial assistance to state private enterprises, was not unconstitutional since it served a public purpose. *Wilson v. Connecticut Product Development Corp.* (1974) 355 A.2d 72, 167 Conn. 111.

Act establishing Connecticut Product Development Corporation to provide direct financial assistance to state private enterprises contained adequate standards to guide discretion of officers of the corporation in their administration of the program, and thus was not an unconstitutional delegation of legislative authority. *Id.*

the existence of the corporation is terminated by law, provided no such termination shall affect any outstanding contractual obligation of the corporation to assist any person and the state shall succeed to the obligations of the corporation under such contract. Upon termination of the corporation its rights and properties shall pass to the state.

(1972, P.A. 248, § 5, eff. May 10, 1972.)

§ 32-37. Board of directors

The powers of the corporation shall be vested in and exercised by the board of directors. Four members of the board shall constitute a quorum and the affirmative vote of a majority of the members present at a meeting of the board shall be necessary and sufficient for any action taken by the board. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the board. Any action taken by the board may be authorized by resolution at any regular or special meeting and shall take effect immediately unless otherwise provided in the resolution. Notice of any meeting, whether special or regular, shall be given, by telephone or orally, not less than forty-eight hours prior to the meeting. The board may delegate to one or more of its members, or its officers, agents and employees such powers and duties as it may deem proper.

(1972, P.A. 248, § 6, eff. May 10, 1972.)

§ 32-38. President

The board shall appoint a president of the corporation who shall not be a member of the board and who shall serve at the pleasure of the board and shall receive such compensation as shall be determined by the board. The president shall be the chief administrative and operational officer of the corporation and shall direct and supervise administrative affairs and the general management of the corporation. The president may employ such other employees as shall be designated by the board of directors; shall attend all meetings of the board; keep a record of all proceedings and maintain and be custodian of all books, documents and papers filed with the corporation and of the minute book of the corporation and of its official seal. He may cause copies to be made of all minutes and other records and documents of the corporation and may give certificates under the official seal of the corporation to the effect that such copies are true copies, and all persons dealing with the corporation may rely upon such certificates.

(1972, P.A. 248, § 7, eff. May 10, 1972.)

§ 32-39. Corporate purpose; powers

The purpose of the corporation shall be to stimulate and encourage the development of new products within Connecticut by the infusion of financial aid for invention and innovation in situations in which such financial aid would not otherwise be reasonably available from commercial sources, and for this purpose the corporation shall have the following powers:

(1) To have perpetual succession as a body corporate and to adopt bylaws, policies and procedures for the regulation of its affairs and conduct of its businesses as provided in section 32-36;

(2) To enter into venture agreements with persons doing business in Connecticut, upon such terms and on such conditions as are consistent with the purposes of this chapter, for the advancement of financial aid to such persons for the development of specific products, procedures and techniques, to be developed and produced in this state, and to condition

such agreements upon contractual assurances that the benefits of increasing or maintaining employment and tax revenues shall remain in this state and shall accrue to it;

(3) To receive and accept aid or contributions from any source of money, property or labor or other things of value, to be held, used and applied to carry out the purposes of this chapter, subject to the conditions upon which such grants and contributions may be made, including but not limited to, gifts or grants from any department or agency of the United States or the state;

(4) With the approval of the secretary of the office of policy and management, to acquire, lease, purchase, manage, hold and dispose of real and personal property in the state of Connecticut and lease, convey or deal in or enter into contracts with respect to such property on any terms necessary or incidental to the carrying out of these purposes; provided, however, that all such acquisitions of real property shall be subject to the provisions of section 4-26b;

(5) To borrow money to the extent permitted under this chapter;

(6) To hold patents, copyrights, trademarks or any other evidences of protection or exclusivity as to any products as defined herein, issued under the laws of the United States or any state or any nation;

(7) To employ such assistants, agents and other employees, who shall be state employees in the unclassified service, and to engage consultants, attorneys and appraisers as may be necessary or desirable to carry out its purposes in accordance with this chapter;

(8) To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter;

(9) To sue and be sued, plead and be impleaded, adopt a seal and alter the same at pleasure;

(10) With the approval of the state treasurer, to invest any funds not needed for immediate use or disbursement, including any funds held in reserve, in obligations issued or guaranteed by the United States of America or the state of Connecticut and in other obligations which are legal investments for savings banks in this state, provided that the provisions of subsection (14) of section 36-96 shall not be applicable to any investment in such obligations;

(11) To procure insurance against any loss in connection with its property and other assets in such amounts and from such insurers as it deems desirable;

(12) To the extent permitted under its contract with other persons, to consent to any termination, modification, forgiveness or other change of any term of any contractual right, payment, royalty, contract or agreement of any kind to which the corporation is a party;

(13) To do anything necessary and convenient to render the bonds to be issued under section 32-41 more marketable;

(14) To do all acts and things necessary and convenient to carry out the purposes of this chapter.

(1972, P.A. 248, § 8, eff. May 10, 1972; 1975, P.A. 75-425, § 55, eff. July 1, 1975; 1977, P.A. 77-614, § 19, eff. Oct. 1, 1977; 1979, P.A. 79-231; 1979, P.A. 79-233, § 8; 1980, P.A. 80-267, § 2; 1980, P.A. 80-483, § 99, eff. June 6, 1980.)

1975 Amendment

1975, P.A. 75-425, § 55, added, to subd. (4), the proviso.

1977 Amendment

1977, P.A. 77-614, § 19, provided for change of term from "commissioner of finance and con-

trol" to "secretary of the office of policy and management".

1979 Amendments

1979, P.A. 79-231 included, in subd. (7), "attorneys".

1979, P.A. 79-233, § 8, added, at the end of subd. (10), the proviso following "legal investments for savings banks in this state."

1980 Amendments

1980, P.A. 80-267, § 2, inserted, in subd. (2), "or maintaining" following "benefits of increasing".

1980, P.A. 80-483, § 99, substituted, in subd. (10), the reference to "(14)" for "(14b)" following "the provisions of subsection".

§ 32-40. Applications for financial aid

All applications for financial aid shall be forwarded, together with an application fee prescribed by the corporation, to the president of the corporation. The president, after preparing necessary records for the corporation, shall forward each application to the staff of the corporation, for an investigation and report concerning the advisability of approving the proposed financial aid for such company and concerning any other factors deemed relevant by the corporation. Such investigation and report shall include, but shall not be limited to, such facts about the company under consideration as its history, wage standards, job opportunities, stability of employment, the extent of its dependency on defense contracts, past and present financial condition and structure, pro-forma income statements, present and future markets and prospects, integrity of management as well as the feasibility of the proposed product and invention to be granted financial aid, including the state of development of such product as well as the likelihood of its commercial feasibility. After receipt and consideration of the above report and after such other action as is deemed appropriate, the corporation shall approve or deny the application. The applicant shall be promptly notified of such action by the corporation. In making the decision as to approval or denial of an application, the corporation shall give priority to those persons (a) whose businesses are defense-dependent, or are located in municipalities which the commissioner has declared have been severely impacted by prime defense contract cutbacks pursuant to section 32-56, and (b) whose proposed product or invention is to be used to convert all or a portion of such person's business to non-defense-related industrial or commercial activity, or to create a new non-defense-related industrial or commercial business. For purposes of this section, a defense-dependent business is any business that derives over fifty per cent of its gross income, generated from operations within the state, from prime defense contracts or from subcontracts entered into in connection with prime defense contracts, a significant portion of whose facilities and equipment are designed specifically for defense production and cannot be converted to nondefense uses without substantial investment.

(1972, P.A. 248, § 9, eff. May 10, 1972; 1977, P.A. 77-77; 1980, P.A. 80-267, § 3.)

1977 Amendment

1977, P.A. 77-77 deleted the former last sentence which read, "Such approval shall be conditioned upon payment to the corporation, within such reasonable time after notification of approval as may be specified by the corporation, of a commitment fee prescribed by the corporation."

1980 Amendment

1980, P.A. 80-267, § 3, inserted, in the third sentence, "the extent of its dependency on defense contracts," following "stability of employment," and added the sixth and seventh sentences.

Library References

Words and Phrases (Perm. Ed.)

§ 32-41. Bond issue

The state bond commission shall have power in accordance with the provisions of section 3-20 to authorize the issuance of bonds of the state in one or more series and in

principal amounts not exceeding in the aggregate thirteen million dollars to carry out the purposes of sections 32-32 to 32-41, inclusive. The principal and interest of said bonds shall be payable at such place or places as may be determined by the state treasurer and shall bear such date or dates, mature at such time or times, bear interest at such rate or different or varying rates, be payable at such time or times, be in such denominations, be in such form with or without interest coupons attached, carry such registration and transfer privileges, be payable in such medium of payment and be subject to such terms of redemption with or without premium as, irrespective of the provisions of said sections 3-20, may be provided by the authorization of the state bond commission or fixed in accordance therewith. The proceeds of the sale of such bonds, after deducting therefrom all expenses of issuance and sale, shall be paid to the "Connecticut Product Development Corporation Fund". When the state bond commission has acted to issue such bonds or a portion thereof, the treasurer may, pending the issue of such bonds, issue, in the name of the state, temporary notes in anticipation of the money to be received from the sale of such bonds. In issuing the bonds authorized hereunder, the state bond commission may require repayment of such bonds by the corporation as shall seem desirable consistent with the purposes of sections 32-32 to 32-41, inclusive. Such terms for repayment may include a forgiveness of interest, a holiday in the repayment of interest or principal or both.

(1972, P.A. 248, § 10, eff. May 10, 1972; 1979, P.A. 79-476, § 2; 1982, P.A. 82-369, § 15, eff. July 1, 1982; 1983, P.A. 83-492, § 8, eff. July 1, 1983; 1984, P.A. 84-443, § 12, eff. July 1, 1984.)

1979 Amendment

1979, P.A. 79-476, § 2, substituted, at the end of the third sentence, "Connecticut Product Development Corporation Fund" for "corporation".

1982 Amendment

1982, P.A. 82-369, § 15, eff. July 1, 1983, substituted, in the first sentence, "seven" million dollars for "six" following "exceeding in the aggregate".

1983 Amendment

1983, P.A. 83-492, § 8, eff. July 1, 1983, increased the authorized aggregate amount from

seven million dollars to eleven million dollars, and substituted "sections 32-32 to 32-41, inclusive" for "this chapter" in the first and next to last sentences.

1984 Amendment

1984, P.A. 84-443, § 12, eff. July 1, 1984, substituted "thirteen million dollars" for "eleven million dollars" in the first sentence.

1984, P.A. 84-443, § 20, provides:

"This act shall take effect July 1, 1984, except section 10 shall take effect October 1, 1984."

§ 32-41a. Connecticut Product Development Corporation Fund. Use of funds or revenues of the corporation

(a) There is hereby created a "Connecticut Product Development Corporation Fund." Proceeds from the sale of bonds authorized by the state bond commission in accordance with section 32-41 and section 32-41b shall be paid directly to the treasurer of the state as agent of the corporation and the treasurer shall deposit all such amounts in the Connecticut Product Development Corporation Fund. The moneys in said fund shall be paid by checks signed by the treasurer of the state or by his deputy appointed pursuant to section 3-12 on requisition of the president of the corporation or his designee.

(b) Any funds or revenues of the Connecticut product development corporation derived from application fees, royalty payments, investment income and loan repayments received by the corporation in connection with its development and loan programs shall be held, administered and invested by the corporation or deposited with and invested by such institution, trustee, fiduciary or other custodian as may be designated by the corporation and paid as the corporation shall direct. All moneys in such accounts shall be held,

invested, used and applied to carry out the purposes of the corporation. The corporation may make payments from such accounts to the treasurer of the state for deposit in the Connecticut product development corporation fund for use in accordance with subsection (c) of this section.

(c) The moneys in the Connecticut product development fund shall be used to carry out the purposes of the corporation and for the repayment of state bonds in such amounts as may be required by the state bond commission pursuant to said section 32-41 and section 32-41b.

(1979, P.A. 79-476, § 1; 1983, P.A. 83-492, § 10, eff. July 1, 1983; 1984, P.A. 84-408, § 1, eff. July 1, 1984.)

1983 Amendment

1983, P.A. 83-492, § 10, eff. July 1, 1983, inserted "and section 9 of public act 83-492" where that term appears throughout the section.

1984 Amendment

1984, P.A. 84-408, § 1, eff. July 1, 1984, inserted the subsection designation "(a)", deleted "All moneys of the corporation, including the proceeds" and inserted "Proceeds" at the beginning of the second sentence, deleted "this act and all other income of the corporation derived from the exercise of any power granted to the corporation under this chapter," following "section 9 of" and inserted "public act 83-492", inserted subsec. (b), transposed and set out the fourth sentence of

the section as formerly written as subsec. (c), and substituted "the Connecticut product development fund" for "said fund", inserted "to carry out the purposes of the corporation and", deleted "this act and any amount in excess of that necessary for any repayment which may be used to carry out any of the powers of the corporation enumerated in section 32-39 and section 9 of this act, including payment of administrative and overhead costs" following "said section 32-41 and section 9 of" and inserted "public act 83-492".

1984, P.A. 84-408, § 2, provides:

"This act shall take effect July 1, 1984."

§ 32-41b. Bond issue for high technology products

The state bond commission shall have power in accordance with the provisions of section 3-20 to authorize the issuance of bonds of the state in one or more series and in principal amounts not exceeding in the aggregate five million five hundred thousand dollars to carry out the purposes of this section as follows: (a) loans for the development and marketing of products in the high technology field within the state, not exceeding one million five hundred thousand dollars; (b) royalty financing for start-up costs and product development costs of high technology products and procedures in the state, not exceeding four million dollars. The principal and interest of said bonds shall be payable at such place or places as may be determined by the state treasurer and shall bear such date or dates, mature at such time or times, bear interest at such rate or different or varying rates, be payable at such time or times, be in such denominations, be in such form with or without interest coupons attached, carry such registration and transfer privileges, be payable in such medium of payment and be subject to such terms of redemption with or without premium as, irrespective of the provisions of said section 3-20, may be provided by the authorization of the state bond commission or fixed in accordance therewith. The proceeds of the sale of said bonds, after deducting therefrom all expenses of issuance and sale, shall be paid to the "Connecticut Product Development Corporation Fund". When the state bond commission has acted to issue such bonds or a portion thereof, the treasurer may, pending the issue of such bonds, issue, in the name of the state, temporary notes in anticipation of the money to be received from the sale of such bonds. In issuing the bonds authorized hereunder, the state bond commission may require repayment of such bonds by the corporation as shall seem desirable consistent with the purposes of this section and section 32-41a. Such terms for repayment may include a forgiveness of interest, a holiday in the repayment of interest or principal or both.

(1983, P.A. 83-492, § 9, eff. July 1, 1983; 1984, P.A. 84-443, § 13, eff. July 1, 1984.)

1984 Amendment

1984, P.A. 84-443, § 13, eff. July 1, 1984, amended section 9 of P.A. 83-492, by substituting "five million five hundred thousand dollars" for "three million dollars", "one million five hundred thousand dollars" for "one million dollars", "four million dollars" for "two million dollars" in

the first sentence, and substituting "this section and section 32-41a" for "this act" in the fifth sentence.

1984, P.A. 84-443, § 20, provides:

"This act shall take effect July 1, 1984, except section 10 shall take effect October 1, 1984."

§ 32-42. Annual report. Examination. Audits

On September first of each year the corporation shall report on its operations for the preceding fiscal year to the governor. Such report shall include a summary of the activities of the corporation and a complete operating and financial statement. The corporation shall be subject to examination by the state treasurer. The accounts of the corporation shall be subject to annual audits by the state auditors of public accounts.

(1972, P.A. 248, § 11, eff. May 10, 1972.)

§ 32-43. State pledge

The state of Connecticut does hereby pledge to and agree with any person with whom the corporation may enter into contracts pursuant to the provisions of this chapter that the state will not limit or alter the rights hereby vested in the corporation until such contracts and the obligations thereunder are fully met and performed on the part of the corporation, provided nothing herein contained shall preclude such limitation or alteration if adequate provision shall be made by law for the protection of such persons entering into contracts with the corporation.

(1972, P.A. 248, § 12, eff. May 10, 1972.)

§ 32-44. Powers to be interpreted broadly

The powers enumerated in this chapter shall be interpreted broadly to effectuate the purposes thereof and shall not be construed as a limitation of powers.

(1972, P.A. 248, § 13, eff. May 10, 1972.)

§ 32-45. Inconsistent provisions of law

To the extent that the provisions of this chapter are inconsistent with the provisions of any general statute or special act or parts thereof, the provisions of this chapter shall be deemed controlling.

(1972, P.A. 248, § 14, eff. May 10, 1972.)

§ 32-46. Tax exemption

The corporation shall be and is hereby declared exempt from all franchise, corporate business and income taxes levied by the state, provided nothing herein shall be construed to exempt from any such taxes, or from any taxes levied in connection with the manufacture or sale of any products which are the subject of any agreement made by the corporation, any person entering into any agreement with the corporation.

(1972, P.A. 248, § 15, eff. May 10, 1972.)

§ 32-47. Personal liability of members or persons acting on behalf of the corporation

(a) Neither members of the Connecticut Product Development Corporation nor any person acting on behalf of said corporation executing any notes, bonds, contracts,

agreements or other obligations issued pursuant to this chapter shall be liable personally on such notes, bonds, contracts, agreements or obligations, or be subject to any personal liability or accountability by reason of the issuance thereof.

(b) No director shall be personally liable for damage or injury, not wanton or wilful, caused in the performance of his duties and within the scope of his employment. Any person having a complaint for such damage or injury shall present it as a claim against the state under the provisions of chapter 53.

(1978, P.A. 73-357, § 15, eff. July 1, 1978; 1979, P.A. 79-333.)

1979 Amendment

1979, P.A. 79-333 designated former section as subsec. (a); and added subsec. (b).

CHAPTER 582

SURETY BOND GUARANTEE PROGRAM FOR
SMALL CONTRACTORS

Sec.		Sec.	
32-48.	Definitions.	32-52.	Fees.
32-49.	Guarantee of surety. Eligibility.	32-53.	Small contractors' surety bond guarantee fund.
32-50.	Limits of guarantee.	32-54.	Bonds.
32-51.	Subordination of working capital loans.	32-55.	Regulations.

§ 32-48. Definitions

As used in this chapter the following words and terms have the following meanings:

(a) "Bid bond" means a bond conditioned upon the bidder on a contract entering into the contract, if he receives the award thereof, and furnishing the prescribed payment bond and performance bond.

(b) "Performance bond" means a bond conditioned upon the completion by the principal of a contract in accordance with its terms.

(c) "Payment bond" means a bond conditioned upon the payment by the principal of money due to persons under a contract with the principal.

(d) "Surety" means the person who: (1) Under the terms of a bid bond, undertakes to pay a sum of money to the obligee in the event the principal breaches the conditions of the bond; (2) under the terms of a performance bond, undertakes to incur the cost of fulfilling the terms of a contract in the event the principal breaches the conditions of the contract; or (3) under the terms of a payment bond, undertakes to make payment to all persons supplying labor and material in the prosecution of the work provided for in the contract if the principal fails to make prompt payment.

(e) "Obligee" means: (1) In the case of a bid bond, the person requesting bids for the performance of a contract; or (2) in the case of a performance bond or a payment bond, the person who has contracted with a principal for the completion of the contract and to whom the obligation of the surety runs in the event of a breach by the principal of the conditions of a performance bond or a payment bond.

§ 28.67 to 28.80. Reserved

DIVISION VIII. IOWA PRODUCT DEVELOPMENT CORPORATION

28.81. Title

This division may be cited as the "Iowa Product Development Corporation Act". Acts 1983 (70 G.A.) ch. 207, § 19, eff. June 25, 1983.

Editorial Note:

Iowa Administrative Code

Reference in this section to "this division" means §§ 28.81 to 28.94. Product Development Corporation; organization and operation; fund, 642-1.1 et seq., IAC.

28.82. Definitions

As used in this division unless the context otherwise requires:

1. "Corporation" means the Iowa product development corporation.
2. "Financial aid" means the infusion of risk capital to persons for use in the development and exploitation of specific inventions and products.
3. "Invention" means a new process or new technique without regard to whether a patent has or could be granted.
4. "Product" means a product, device, technique, or process which is exploitable commercially. The term does not mean a product in a pure research stage of development but applies to a product, device, technique, or process which has advanced beyond the theoretic stage and is readily capable of being reduced to practice.
5. "Venture" means a contractual arrangement between a person and the corporation from which the corporation obtains rights, from or in an invention, product, or the proceeds from the product or invention in exchange for granting financial aid to the person.
6. "Board" means the board of directors of the Iowa product development corporation.
7. "President" means the president of the Iowa product development corporation.

Acts 1983 (70 G.A.) ch. 207, § 20, eff. June 25, 1983.

Editorial Note:

Reference in this section to "this division" means §§ 28.81 to 28.94.

28.83. Product development corporation

1. There is created a corporate body called the "Iowa product development corporation". The corporation is a quasi-public instrumentality and the exercise of the powers granted to the corporation in this division is an essential governmental function.
2. The corporation shall be governed by a board of seven directors who shall serve a term of four years. Each term shall begin and end as provided in section 69.19. No more than a simple majority of the members of the board shall belong to the same political party as provided in section 69.16. Each director shall serve at the pleasure of the governor and shall be appointed by the governor, subject to confirmation by the senate. A director is eligible for reappointment. A vacancy on the board of directors shall be filled in the same manner as an original appointment. For the initial appointments to the board of directors, the governor shall appoint three members whose terms shall commence upon appointment and shall expire April 30, 1985, and four members whose terms shall commence upon appointment and shall expire April 30, 1987.
3. The board of directors shall annually elect one member as chairperson and one member as secretary. The board may elect other officers of the corporation as necessary. Members are entitled to receive forty dollars per diem for each day spent in performance

of duties and shall be reimbursed for necessary expenses incurred in the performance of duties from funds appropriated to the Iowa development commission.

4. Each director of the corporation shall take an oath of office and the record of each oath shall be filed in the office of the secretary of state.

5. The corporation shall receive information and cooperate with other agencies of the state and the political subdivisions of the state.

6. The corporation shall be a part of the Iowa development commission for administrative purposes only.

Acts 1983 (70 G.A.) ch. 207, § 21, eff. June 25, 1983. Amended by Acts 1984 (70 G.A.) ch. 1164, § 1.

Editorial Note:

Reference in this section to "this division" means §§ 28.81 to 28.94.

for each day spent in performance of duties and struck provision that members "shall not receive compensation but".

1984 Amendment: Added provision of subsec. 3 that members are entitled to receive per diem

28.84. Perpetual succession

The corporation has perpetual succession. The succession shall continue until the existence of the corporation is terminated by law. The termination of the corporation shall not affect an outstanding contractual obligation of the corporation to assist a person. In the event of the termination of the corporation, the contractual obligation to assist the person succeeds to the state and the rights and properties of the corporation shall pass to the state. However, debts or other financial obligations of the corporation do not succeed to the state upon termination of the corporation.

Acts 1983 (70 G.A.) ch. 207, § 22, eff. June 25, 1983.

28.85. Board of directors

The powers of the corporation are vested in and shall be exercised by the board of directors. Four members of the board constitute a quorum and an affirmative vote of at least four of the members present at a meeting is necessary before an action may be taken by the board. An action taken by the board shall be authorized by resolution at a regular or special meeting and takes effect immediately unless the resolution specifies otherwise. Notice of a meeting shall be given orally or in writing not less than forty-eight hours prior to the meeting.

Acts 1983 (70 G.A.) ch. 207, § 23, eff. June 25, 1983. Amended by Acts 1984 (70 G.A.) ch. 1079, § 1.

1984 Amendment: Substituted "at least four" for "the majority".

28.86. President

The board of directors shall appoint a president of the corporation who shall serve at the pleasure of the board and shall receive the compensation determined by the board. The president is a state employee. The president shall not be a member of the board. The president is the chief administrative and operational officer of the corporation and shall direct and supervise the administrative affairs and the general management of the corporation. The president may employ other employees as designated by the board. The president shall provide copies of all minutes, documents, and other records of the corporation and shall provide a certificate which attests to truthfulness of the copies, if requested. Persons dealing with the corporation may rely upon the certificates. The president shall keep a record of all proceedings, documents, and papers filed with the corporation.

Acts 1983 (70 G.A.) ch. 207, § 24, eff. June 25, 1983. Amended by Acts 1984 (70 G.A.) ch. 1164, § 2.

1984 Amendment: Added second sentence providing: "The president is a state employee".

8.87. Corporate purpose—powers

The purpose of the corporation is to stimulate and encourage the development of new products within Iowa by the infusion of financial aid for invention and innovation in situations in which financial aid would not otherwise be reasonably available from commercial sources. For this purpose the corporation has the following powers:

1. To have perpetual succession as a corporate body and to adopt bylaws, policies, and procedures for the regulation of its affairs and conduct of its business.
2. To enter into venture agreements with persons doing business in Iowa upon conditions and terms which are consistent with the purposes of this division for the advancement of financial aid to the persons. The financial aid advanced shall be for the development of specific products, procedures, and techniques which are to be developed and produced in this state. The corporation shall condition the agreements upon contractual assurances that the benefits of increasing or maintaining employment and tax revenues shall remain in Iowa.
3. To receive and accept aid or contributions from a source of money, property, labor, or other things of value to be used to carry out the purposes of this division including gifts or grants from a department or agency of the United States or any state.
4. With approval of the director of the department of general services to acquire, lease, purchase, manage, hold, and dispose of real and personal property and to lease, convey, or enter into contracts with respect to such property provided that all acquisitions of real property shall be as required by law.
5. To issue notes and bonds as provided under this division.
6. To hold patents, copyrights, trademarks, or other evidences of protection or exclusivity issued under the laws of this state or the United States to any products.
7. To employ assistants, agents, and other employees who shall be state employees and to engage consultants, attorneys, and appraisers as necessary or desirable to carry out the purposes of the corporation.
8. To make and enter into contracts and agreements necessary or incidental to its performance of the duties and the powers granted to the corporation.
9. To sue and be sued, plead, and adopt a seal.
10. With the approval of the treasurer of state, to invest funds which are not needed for immediate use or disbursement, including funds held in reserve, in obligations issued or guaranteed by the state or the United States.
11. To procure insurance against a loss in connection with its property and other assets.
12. To the extent permitted under a corporation contract with other persons, to consent to a termination, modification, forgiveness, or other change in the terms of a contractual right, payment, royalty, contract, or agreement.
13. To take necessary action to render bonds issued under this division more marketable.

Acts 1983 (70 G.A.) ch. 207, § 25, eff. June 25, 1983.

Editorial Note:

Reference in this section to "this division" means §§ 28.81 to 28.94.

28.88. Applications for financial aid

1. Applications for financial aid shall be forwarded, together with an application fee prescribed by the corporation, to the president of the corporation. The president, after preparing the necessary records for the corporation, shall forward each application to the staff of the corporation, for an investigation and report concerning the advisability of approving the financial aid for the company and concerning any other factors found

relevant by the corporation. The investigation and report shall include but are not limited to the following:

- a. The history of the applicant, its wage standards, job opportunities, and stability of employment.
- b. The extent of the applicant's dependence on agriculture.
- c. The applicant's past, present and future financial condition and structure.
- d. The applicant's pro-forma income statements.
- e. The present and future market prospects for the product.
- f. The feasibility of the proposed project or invention to be given financial aid and the integrity of management.
- g. The state of the project's development.

2. After receipt and consideration of the report and any other action the corporation finds necessary, the corporation shall approve or deny the application. The president shall promptly notify an applicant by certified mail of the disposition of its application. The corporation shall give priority to those applicants whose business is agriculture related or whose business is located in an area which the corporation determines has been severely adversely affected by depressed agricultural prices and whose proposed product or invention is to be used to convert all or a portion of the business to nonagriculture-related industrial or commercial activity or to create a new nonagriculture-related industrial or commercial business.

3. Notwithstanding the requirements of chapter 21, relating to open meetings, and chapter 22, relating to examination of public records, the corporation shall keep as confidential those items on the application for financial aid that the applicant has specifically requested to be held in confidence. These items shall remain confidential until the applicant says otherwise or the corporation determines the items no longer need to be held confidential.

Acts 1983 (70 G.A.) ch. 207, § 26, eff. June 25, 1983. Amended by Acts 1984 (70 G.A.) ch. 1164, § 3.

1984 Amendment: Added subsec. 3 relating to financial aid that the applicant has requested to confidentiality of items on the application for be held in confidence.

28.89. Iowa product development corporation fund

There is created an "Iowa product development corporation fund". All funds of the corporation including the proceeds from the issuance of notes or sale of bonds under this division, any funds appropriated from the general fund to the corporation, and other income derived from the exercise of powers granted to the corporation under this division shall be paid into the Iowa product development corporation fund notwithstanding section 12.10. The money in the Iowa product development corporation fund shall be paid out on the order of the person authorized by the corporation. The money in the Iowa product development corporation fund shall be used for repayment of notes and bonds issued under this division and the extension of financial aid granted by the corporation under this division, and the amount remaining may be used for the payment of the administrative and overhead costs of the corporation to the extent required. Notwithstanding section 8.33, no part of this fund shall revert at or after the close of a fiscal year unless otherwise provided by the general assembly, but shall remain in the fund and appropriated for the purposes of this division. The board shall seek to repay the state for general fund appropriations by recommending to the general assembly reversions from income received from successful ventures. The board shall recommend such action at any time when the revenue available to the board is deemed sufficient to continue existing operations.

Acts 1983 (70 G.A.) ch. 207, § 27, eff. June 25, 1983. Amended by Acts 1984 (70 G.A.) ch. 1067, § 8; Acts 1984 (70 G.A.) ch. 1164, § 4; Acts 1984 (70 G.A.) ch. 1303, § 10.

Editorial Note:

Reference in this section to "this division" means §§ 28.81 to 28.94.

The code editor furnishes the following note concerning the 1984 amendments:

84 Acts, chapter 1067, section 8 and chapter 1303, section 10 both amended the Code to change the warrant-signing officer from the treasurer of state to the state comptroller. 84 Acts, chapter 1164, section 4 made extensive changes in the section, including striking and rewriting the provision which contained the words changed in the other Acts. Therefore, the amendments cannot be harmonized in that respect. Chapter 1164 was enacted after chapter 1067, but before chapter 1303. However, the chapter 1164 amendment has been printed since it is a specific substantive change which appears to prevail under sections 4.4 and 4.7 of the Code. A bill will be proposed in the 1985 general assembly to clarify the general assembly's intent.

1984 Amendments: Acts 1984, ch. 1067 made nonsubstantive corrections.

Chapter 1164 rewrote the section which previously read:

28.90. Product development corporation notes

The corporation may issue Iowa product development corporation fund notes, the principal and interest of which shall be payable solely from the Iowa product development corporation fund established by this division. The fund notes of each issue shall be dated, shall mature at times not exceeding ten years from their dates of issue, and may be made redeemable before maturity, at the option of the corporation, at prices and under terms and conditions as determined by the corporation. The corporation shall determine the form and manner of execution of the fund notes, including any interest coupons to be attached, and shall fix the denominations and the places of payment of principal and interest, which may be any financial institution within or without the state or any agent, including the lender. If an officer whose signature or a facsimile of whose signature appears on fund notes or coupons ceases to be that officer before the delivery of the notes or coupons, the signature or facsimile is valid and sufficient for all purposes the same as if the officer had remained in office until delivery. The fund notes may be issued in coupon or in registered form, or both, as the corporation determines, and provision may be made for the registration of coupon fund notes as to principal alone and also as to both principal and interest, and for the conversion into coupon fund notes of any fund notes registered as to both principal and interest, and for the interchange of registered and coupon fund notes. Fund notes shall bear interest at rates as determined by the corporation and may be sold in a manner, either at public or private sale, and for a price as the corporation determines to be best to effectuate the purposes of the Iowa product development corporation fund. The proceeds of fund notes shall be used solely for the purposes for which issued and shall be disbursed in a manner and under restrictions as provided in this division and in the resolution of the corporation providing for their issuance. The corporation may provide for the replacement of fund notes which become mutilated or are destroyed or lost.

Acts 1983, (70 G.A.) ch. 207, § 28, eff. June 25, 1983. Amended by Acts 1984 (70 G.A.) ch. 1067, § 9; Acts 1984 (70 G.A.) ch. 1164, § 5.

"There is created and 'Iowa product development corporation fund'. All funds of the corporation including the proceeds from the issuance of notes or sale of bonds under this division, any funds appropriated from the general fund to the corporation, and other income derived from the exercise of authority granted to the corporation under this division shall be paid to the treasurer of state as an agent of the corporation and the treasurer shall deposit the amounts in the Iowa product development corporation fund. The money in the Iowa product development corporation fund shall be paid out by warrants signed by the treasurer of state on requisition of the president of the corporation. The money in the Iowa product development corporation fund shall be used for repayment of notes and bonds issued under this division, the extension of financial aid granted by the corporation under this division, and the amount remaining may be used for the payment of the administrative and overhead costs of the corporation to the extent required."

Chapter 1303 substituted "state comptroller" for "treasurer of state" as the signator on warrants drawn on the Iowa product development corporation fund.

Editorial Note:

Reference in this section to "this division" means §§ 28.81 to 28.94.

1984 Amendments: Acts 1984, ch. 1067 made nonsubstantive corrections.

Chapter 1164 substituted the "Iowa product development corporation fund" for "the housing assistance fund".

28.91. Bonds and notes

1. The corporation may issue its negotiable bonds and notes in principal amounts as, in the opinion of the corporation, are necessary to provide sufficient funds for achievement of its corporate purposes, the payment of interest on its bonds and notes, the establishment of reserves to secure its bonds and notes, and all other expenditures of the corporation incident to and necessary or convenient to carry out its purposes and powers. However, the corporation shall not have a total principal amount of bonds and notes outstanding at any time in excess of one million dollars, or the value of the aggregate assets of the corporation, as certified by an independent certified public accountant. The bonds and notes shall be deemed to be investment securities and negotiable instruments within the meaning of and for all purposes of the uniform commercial code.

2. Bonds and notes issued by the corporation are payable solely and only out of the moneys, assets, or revenues of the corporation, and as provided in the agreement with bondholders or noteholders pledging any particular moneys, assets or revenues. Bonds or notes are not an obligation of this state or any political subdivision of this state other than the corporation within the meaning of any constitutional or statutory debt limitations, but are special obligations of the corporation payable solely and only from the sources provided in this chapter, and the corporation shall not pledge the credit or taxing power of this state or any political subdivision of this state other than the corporation, or make its debts payable out of any moneys except those of the corporation.

3. Bonds and notes must be authorized by a resolution of the corporation. However, a resolution authorizing the issuance of bonds or notes may delegate to an officer of the corporation the power to negotiate and fix the details of an issue of bonds or notes by an appropriate certificate of the authorized officer.

4. Bonds shall:

a. State the date and series of the issue, be consecutively numbered, and state on their face that they are payable both as to principal and interest solely out of the assets of the corporation and do not constitute an indebtedness of this state or any political subdivision of this state other than the corporation within the meaning of any constitutional or statutory debt limit.

b. Be either registered, registered as to principal only, or in coupon form, issued in denominations as the corporation prescribes, fully negotiable instruments under the laws of this state, signed on behalf of the corporation with the manual or facsimile signature of the chairperson or president, attested by the manual or facsimile signature of the secretary, have impressed or imprinted thereon the seal of the corporation or a facsimile of it, and the coupons attached shall be signed with the facsimile signature of the chairperson or president, be payable as to interest at rates and at times as the corporation determines, be payable as to principal at times over a period not to exceed fifty years from the date of issuance, at places, and with reserved rights of prior redemption, as the corporation prescribes, be sold at prices, at public or private sale, and in a manner as the corporation prescribes, and the corporation may pay the expenses, premiums, and commissions which it deems necessary or advantageous in connection with the issuance and sale, and be issued under and subject to the terms, conditions, and covenants providing for the payment of the principal, redemption premiums, if any, interest, and other terms, conditions, covenants, and protective provisions safeguarding payment, not inconsistent with this division, as are found to be necessary by the corporation for the most advantageous sale, which may include, but are not limited to, covenants with the holders of the bonds as to:

(1) Pledging or creating a lien, to the extent provided by the resolution, on moneys or property of the corporation or moneys held in trust or otherwise by others to secure the payment of the bonds.

(2) Providing for the custody, collection, securing, investment, and payment of any moneys of or due to the corporation.

(3) Limitations on the purpose to which the proceeds of sale of an issue of bonds then or thereafter to be issued may be applied.

(4) Limitations on the issuance of additional bonds and on the refunding of outstanding or other bonds.

(5) The procedure by which the terms of a contract with the holders of bonds may be amended or abrogated, the amount of bonds the holders of which must consent to an amendment or abrogation, and the manner in which consent may be given.

(6) Vesting in a trustee properties, rights, powers, and duties in trust as the corporation determines, which may include the rights, powers, and duties of the trustee appointed for the holders of any issue of bonds pursuant to this division, in which event the provisions of that section authorizing appointment of a trustee by the holders of bonds do not apply, or limiting or abrogating the right of the holders of bonds to appoint a trustee under that section, or limiting the rights, duties, and powers of the trustee.

(7) Defining the acts or omissions which constitute a default in the obligations and duties of the corporation and providing for the rights and remedies of the holders of bonds in the event of a default. However, rights and remedies shall be consistent with the laws of this state and this division.

(8) Any other matters which affect the security and protection of the bonds and the rights of the holders.

5. The corporation may issue its bonds for the purpose of refunding any bonds or notes of the corporation then outstanding, including the payment of any redemption premiums on the bonds or notes and any interest accrued or to accrue to the date of redemption of the outstanding bonds or notes. Until the proceeds of bonds issued for the purpose of refunding outstanding bonds or notes are applied to the purchase or retirement of outstanding bonds or notes or the redemption of outstanding bonds or notes, the proceeds may be placed in escrow and be invested and reinvested in accordance with this division. The interest, income, and profits earned or realized on an investment may also be applied to the payment of the outstanding bonds or notes to be refunded by purchase, retirement, or redemption. After the terms of the escrow have been fully satisfied and carried out, any balance of proceeds and interest earned or realized on the investments may be returned to the corporation for use by it in any lawful manner. Refunding bonds shall be issued and secured and subject to this division in the same manner and to the same extent as other bonds issued pursuant to this division.

6. The corporation may issue negotiable bond anticipation notes and may renew them from time to time but the maximum maturity of the notes, including renewals, shall not exceed ten years from the date of issue of the original notes. Notes are payable from any available moneys of the corporation not otherwise pledged, or from the proceeds of the sale of bonds of the corporation in anticipation of which the notes were issued. Notes may be issued for any corporate purpose of the corporation. Notes shall be issued in the same manner as bonds, and notes and the resolution authorizing them may contain any provisions, conditions, or limitations, not inconsistent with this subsection, which the bonds or a bond resolution of the corporation may contain. Notes may be sold at public or private sale. In case of default on its notes or violation of any obligations of the corporation to the noteholders, the noteholders have all the remedies provided in this division for bondholders. Notes are as fully negotiable as bonds of the corporation.

7. A copy of each pledge agreement by or to the corporation, including without limitation each bond resolution, indenture of trust, or similar agreement, or any revisions or supplements to it shall be filed with the secretary of state and no further filing or other action under sections 554.9101 to 554.9507, article 9 of the uniform commercial code,

or any other law of the state is required to perfect the security interest in the collateral or any additions to it or substitutions for it, and the lien and trust created are binding from and after the time made against all parties having claims of any kind in tort, contract, or otherwise against the pledgor.

8. Neither the officers of the corporation nor any person executing its bonds, notes, or other obligations is liable personally on the bonds, notes, or other obligations or subject to any personal liability or accountability by reason of the issuance of the corporation's bonds or notes.

Acts 1983 (70 G.A.) ch. 207, § 29, eff. June 25, 1983.

Editorial Note:

Reference in this section to "this division" means §§ 28.81 to 28.94.

28.92. Reporting and fund solvency

The chairperson of the corporation on or before July 30 of each fiscal year shall make and deliver a report to the governor and the legislative fiscal committee. The report shall include all transactions conducted by the corporation in the preceding fiscal year. The report shall also include a balance sheet outlining the financial solvency of the Iowa product development corporation fund, a certified copy of any audits of the corporation conducted in the preceding fiscal year, and other information requested by the governor or the legislative fiscal committee.

Acts 1983 (70 G.A.) ch. 207, § 30, eff. June 25, 1983.

28.93. Audits

The auditor of state shall audit the books and accounts of the corporation at least semi-annually. One audit shall be conducted for the preceding fiscal year on or after July 1 of each fiscal year. The results of the yearly audit shall be submitted to the governor no later than December 31 of each fiscal year.

Acts 1983 (70 G.A.) ch. 207, § 31, eff. June 25, 1983. Amended by Acts 1984 (70 G.A.) ch. 1164, § 6.

1984 Amendment. Rewrote the third sentence which previously read: "The results of the yearly audit shall be certified and turned over to the governor no later than July 30 of each fiscal year".

28.94. Remedies of bondholders and noteholders

1. If the corporation defaults in the payment of principal or interest on an issue of bonds or notes after they become due, whether at maturity or upon call for redemption, and the default continues for a period of thirty days, or if the corporation fails or refuses to comply with this division, or defaults in an agreement made with the holders of an issue of bonds or notes, the holders of twenty-five percent in aggregate principal amount of bonds or notes of the issue then outstanding, by instrument filed in the office of the clerk of the county in which the principal office of the corporation is located, and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of the bonds or notes for the purposes of this section.

2. The corporation or a trustee appointed under the indenture under which the bonds are issued may, and upon written request of the holders of twenty-five percent in aggregate principal amount of the issue of bonds or notes then outstanding shall:

a. Enforce all rights of the bondholders or noteholders, including the right to require the corporation to carry out its agreements with the holders and to perform its duties under this division.

b. Bring suit upon the bonds or notes.

c. By action require the corporation to account as if it were the trustee of an express trust for the holders.

d. By action enjoin any acts or things which are unlawful or in violation of the rights of the holders.

e. Declare all the bonds or notes due and payable and if all defaults are made good then with the consent of the holders of twenty-five percent of the aggregate principal amount of the issue of bonds or notes then outstanding, annul the declaration and its consequences.

The bondholders or noteholders, to the extent provided in the resolution by which the bonds or notes were issued or in their agreement with the corporation, may enforce any of the remedies in paragraphs "a" to "e" or the remedies provided in those agreements for and on their own behalf.

3. The trustee has all powers necessary or appropriate for the exercise of functions specifically set forth or incident to the general representation of bondholders or noteholders in the enforcement and protection of their rights.

4. Before declaring the principal of bonds or notes due and payable, the trustee shall first give thirty days' notice in writing to the governor, the corporation, and the attorney general of the state.

5. The district court has jurisdiction of an action by the trustee on behalf of bondholders or noteholders. The venue of the action is in the county in which the principal office of the corporation is located.

Acts 1983 (70 G.A.) ch. 207, § 32, eff. June 25, 1983.

Editorial Note:

Reference in this section to "this division" means §§ 28.81 to 28.94.

CHAPTER 28A. OFFICIAL MEETINGS OPEN TO PUBLIC

Transferred to Chapter 21, Code 1985.

CHAPTER 28B. INTERSTATE CO-OPERATION COMMISSION

28B.1. Membership of commission

The Iowa commission on interstate co-operation is hereby established. It shall consist of thirteen members to be appointed as follows:

1. Five members of the senate to be appointed by the president thereof.
2. Five members of the house of representatives to be appointed by the speaker of the house.
3. Three administrative officers to be appointed by the governor.

Appointments shall be made prior to the fourth Monday in January of the first regular session of the general assembly. Members shall take office on February 1 following their appointment and serve for two-year terms or until their successors are appointed and take office.

The governor, the president of the senate and the speaker of the house of representatives shall be ex officio honorary nonvoting members of the commission.

The director of the legislative service bureau shall serve as secretary of the commission.

Amended by Acts 1979 (68 G.A.) ch. 3, § 14.

1979 Amendment: Rewrote unnumbered paragraph 2.

CHAPTER 28C. ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

Chapter 28C, Code 1962, Interagency Liaison Committee, consisting of § 28C.1, was repealed by Acts 1978 (67 G.A.) ch. 1104, § 3.

Provisions constituting Chapter 28C, Code 1983, Advisory Commission on Intergovernmental Relations, consisting of §§ 28C.1 to 28C.8, were enacted by Acts 1982 (69 G.A.) ch. 1252, §§ 1 to 8.

Chapter 28C, Code 1983 is repealed effective June 30, 1986. See § 28C.8.

Section	Section
28C.1. Findings and purposes.	28C.5. Staff—facilities.
28C.2. Commission created—membership.	28C.6. Reports.
28C.3. Duties.	28C.7. Information.
28C.4. Organization—meetings.	28C.8. Repealer.

28C.1. Findings and purposes

The general assembly finds that there is a need for an intergovernmental body to study and report on the:

1. Current pattern of local governmental structure.
 2. Powers and functions of local governments, including their fiscal powers.
 3. Existing, necessary, and desirable relationships among local governments and the state.
 4. Necessary and desirable allocation of state and local fiscal resources.
 5. Necessary and desirable roles of the state as the creator of local governmental systems.
 6. Special problems in interstate areas facing their general local governments, interstate regional units, and area-wide bodies, the studies, where possible, to be conducted in conjunction with studies of commissions on intergovernmental relations of other states.
- Acts 1982 (69 G.A.) ch. 1252, § 1.

Title of Act:

An Act to establish an Iowa Advisory Commission On Intergovernmental Relations. Acts 1982 (69 G.A.) ch. 1252.

28C.2. Commission created—membership

1. An Iowa advisory commission on intergovernmental relations is created.
2. The membership of the commission shall be:
 - a. Four elected or appointed state officers, four elected or appointed county officers, four elected or appointed city officers, four elected or appointed officers of school corporations, and one member or staff member of a regional council of governments established under chapter 28E, appointed by the governor.
 - b. Two state senators appointed by the president of the senate.
 - c. Two state representatives appointed by the speaker of the house of representatives.
3. In making all appointments, consideration shall be given to population factors, the representation of different geographic regions, and the demography of the state.
4. The initial chairperson of the commission shall be designated by the governor from among the commission members for a term of one year. Subsequent chairpersons shall be elected by the commission from among its membership for a term of one year. A vice chairperson may be elected by the commission from among its membership for a one-year term. In case of the absence or disability of the chairperson and vice chairperson, the

71-2-10. Construction of act.

Nothing in the Energy and Minerals Department Act shall be construed to nullify the authority which any other existing state department or agency has with respect to transportation or transmission of energy or with respect to the management, protection and utilization of the state lands and resources under its jurisdiction, or the regulation of utilities, it being the express intent of the legislature that the protection herein afforded this state and to its citizens shall be in addition to those already provided.

The provisions of Section 3 [9-5-3 NMSA 1978] and Paragraphs (5), (6) and (7) of Subsection B of Section 6 [9-5-6 NMSA 1978] of the Energy and Minerals Department Act shall not be construed to grant to the secretary any power or jurisdiction not specifically granted to the secretary by law to regulate or control the severance, production, beneficiation, distribution, use, pricing, sale or leasing of fuel, power or natural resources.

History: 1953 Comp., § 65-13-16, enacted by Laws 1975, ch. 289, § 21; 1977, ch. 255, § 108.

Effective dates. — Laws 1975, ch. 289, § 26, makes the act effective on July 1, 1975.

Saving clauses. — Laws 1975, ch. 289, § 23, provides that nothing in the Energy Resources Act is to be construed to void or amend any rules or regulations previously promulgated, and such rules or regulations are to remain in force and effect until changed as provided by law.

Severability clauses. — Laws 1975, ch. 289, § 25, provides for the severability of the act if any part or application thereof is held invalid.

Temporary provisions. — Laws 1975, ch. 289, § 22, provides that all personnel, supplies, equipment, records and funds in the hands of the oil conservation commission on the effective date of the Energy Resources Act are transferred to the energy resources

board (now energy resource and development division of the energy and minerals department).

Repealing clauses. — Laws 1975, ch. 289, § 24, repeals 65-3-1, 1953 Comp.

Energy and Minerals Department Act. — Laws 1977, ch. 255, §§ 1 to 123, enacts the Energy and Minerals Department Act, the provisions of which are presently compiled as 9-5-1 to 9-5-8, 62-5-2, 69-1-2 to 69-1-7, 69-2-1, 69-5-1, 69-9-3 to 69-9-9, 69-25-2, 69-25-3, 69-25-6, 69-25-8, 69-25-10, 69-25-13 to 69-25-18, 69-25-21, 70-2-4 to 70-2-13, 70-2-15 to 70-2-24, 70-2-26 to 70-2-29, 70-2-31, 70-2-32, 70-2-34, 70-2-35, 70-6-2, 70-6-4 to 70-6-7, 70-7-3 to 70-7-10, 70-7-12, 70-7-16, 70-7-18, 70-7-21, 71-1-1, 71-1-2, 71-2-2 to 71-2-6, 71-2-8 to 71-2-10, 71-4-3 to 71-4-6, 71-4-8, 71-5-2, 71-5-3, 71-5-6 to 71-5-11, 71-5-13 to 71-5-21, 71-5-23 and 71-5-24 NMSA 1978.

ARTICLE 3**Federal Lands Action Group**

(Repealed by Laws 1981, ch. 61, § 1.)

71-3-1 to 71-3-3. Repealed.

Repeals. — Laws 1981, ch. 61, § 1, repeals 71-3-1 through 71-3-3 NMSA 1978, relating to the federal lands action group.

Laws 1981, ch. 61, contains no effective date provision, but was enacted at the session which adjourned on March 21, 1981. See N.M. Const., art. IV, § 23.

ARTICLE 4**Energy Research and Development**

Sec.

71-4-1 to 71-4-8. Repealed.

71-4-9. Short title.

71-4-10. Finding and purpose.

71-4-11. Definitions.

71-4-12. New Mexico energy research and development institute created.

71-4-13. Board; composition; compensation.

71-4-14. Board; duties.

Sec.

71-4-15. Technical advisory committee; composition; compensation; duties.

71-4-16. Director; duties.

71-4-17. Legislative liaison office.

71-4-18. Personnel Act; exemption.

71-4-19. Energy research and development institute fund created.

71-4-20. Relationship with existing entities.

71-4-1 to 71-4-8. Repealed.

Repeals. — Laws 1981, ch. 379, § 22, repeals 71-4-1 through 71-4-8 NMSA 1978, relating to energy research and development.

Laws 1981, ch. 379, § 23, provides that the effective date of Laws 1981, ch. 379, § 22, is the first day after the date that the secretary of energy and minerals has

certified to the governor in writing that a transition plan has been fully implemented pursuant to Subsection B of Section 13 of the Energy Research and Development Institute Act.

Laws 1981, ch. 379, § 24, makes the act effective immediately. Approved April 10, 1981.

71-4-9. Short title.

Sections 1 through 13 [71-4-9 to 71-4-20 NMSA 1978] of this act may be cited as the "Energy Research and Development Institute Act."

History: Laws 1981, ch. 379, § 1.

Emergency clauses. — Laws 1981, ch. 379, § 24, makes the act effective immediately. Approved April 10, 1981.

Compiler's notes. — Section 13 of the Energy Research and Development Institute Act (Laws 1981, ch. 379, § 13) enacts a temporary provision and has therefore not been compiled. It is described in the notes following this section.

Temporary provisions. — Laws 1981, ch. 379, § 13, provides, in Subsection A, that on the first day after the date that the secretary of energy and minerals has certified to the governor in writing that the energy institute transition plan has been fully implemented: (1) the institute shall assume all functions previously performed pursuant to the Energy Research and Development Act; (2) any unexpended funds existing in the energy research and development fund shall be transferred to the energy research and development institute fund; provided that funds previously committed to individual projects shall be used for the purpose for which committed

unless projects are terminated pursuant to contract; and (3) all contracts, projects, powers and duties or records or other information undertaken or held by the energy and minerals department pursuant to former 71-1-1, 71-1-2 and 71-4-1 through 71-4-8 NMSA 1978 shall be transferred to the institute. Subsection B provides that the secretary of energy and minerals shall, no later than the first day of the second session of the thirty-fifth legislature, develop and implement an energy institute transition plan to accomplish the transfers required by Subsection A, and provides that prior to the full implementation of the transition plan and notwithstanding any provision of the Energy Research and Development Institute Act to the contrary, the secretary of energy and minerals may approve the annual operating plans required by 71-4-20 NMSA 1978, and, after approval, state funds may be disbursed for the purposes specified in that section.

Law reviews. — For article, "New Mexican Nationalism and the Evolution of Energy Policy in New Mexico," see 17 Nat. Resources J. 283 (1977).

71-4-10. Finding and purpose.

A. The legislature finds that a need exists to support energy research, development and demonstration programs; for coordination of state energy programs with those by the federal government, private corporations, foundations and universities; and for the dissemination of energy information.

B. The purpose of the Energy Research and Development Institute Act [71-4-9 to 71-4-20 NMSA 1978] is to create a New Mexico energy research and development institute in order to:

- (1) provide direction for state-funded energy research, development and demonstration projects which encourage the location of new industries in New Mexico, the expansion of existing industries and stimulate economic growth;
- (2) use the results obtained from energy research to ensure that the development of natural resources yields long-term economic stability for the state;
- (3) formulate and maintain an energy research and development plan for the state by:
 - (a) considering state energy resources;
 - (b) considering existing and projected energy needs within the state;
 - (c) identifying energy research ongoing [going on] within the state; and
 - (d) establishing energy research, development and demonstration priorities which complement ongoing research and development;
- (4) foster cooperation among government, academic and private sectors of the state concerned with energy research and development in the formation and implementation of the state energy research and development plan;

(5) coordinate the contributions of government, academic and private sectors in state-supported research and development projects in energy;

(6) encourage energy research and development funds from sources other than state government by providing seed money support for proposals initiated by the institute;

(7) collect information about ongoing energy projects which influence New Mexico's role in providing energy to the state and to the nation and to disseminate the information to the energy research and development sector of the state;

(8) monitor the progress of state-supported projects, and prepare annual reports of such projects, their status and their impact;

(9) create and encourage methods designed to provide rapid conversion of research and development project results to application, including the sponsoring of demonstration projects, dissemination of information to the public, [and] provision of information to the state's congressional delegation; and

(10) perform those functions previously exercised pursuant to the Energy Research and Development Act.

History: Laws 1981, ch. 379, § 2.

Cross-references. — For provisions relating to energy resources generally, see Article 2 of this chapter. For provisions relating to geothermal resources conservation, see Article 5 of this chapter. For provisions relating to solar energy development, see Article 6 of this chapter.

Emergency clauses. — Laws 1981, ch. 379, § 24, makes the act effective immediately. Approved April

10, 1981.

Energy Research and Development Act. — The Energy Research and Development Act, cited to in Paragraph (10) of Subsection (B), refers to Laws 1975, ch. 288, the provisions of which were compiled as 71-1-1, 71-1-2, 71-4-1, 71-4-2 and 71-4-6 to 71-4-8 NMSA 1978, and was repealed by Laws 1981, ch. 379, § 22.

71-4-11. Definitions.

As used in the Energy Research and Development Institute Act [71-4-9 to 71-4-20 NMSA 1978]:

- A. "board" means the board of directors of the institute;
- B. "committee" means the technical advisory committee;
- C. "director" means the director of the institute; and
- D. "institute" means the New Mexico energy research and development institute.

History: Laws 1981, ch. 379, § 3.

Emergency clauses. — Laws 1981, ch. 379, § 24,

makes the act effective immediately. Approved April 10, 1981.

71-4-12. New Mexico energy research and development institute created.

The "New Mexico energy research and development institute" is hereby created. The institute shall be governed by a board and shall be administratively attached, as defined in the Executive Reorganization Act [9-1-1 to 9-1-10 NMSA 1978], to the energy and minerals department.

History: Laws 1981, ch. 379, § 4.

Emergency clauses. — Laws 1981, ch. 379, § 24,

makes the act effective immediately. Approved April 10, 1981.

71-4-13. Board; composition; compensation.

A. A "board of directors of the New Mexico energy research and development institute" is created. Members of the board shall be appointed by the governor and shall serve at his pleasure. The board shall consist of seven members as follows:

- (1) the secretary of energy and minerals;
- (2) two citizens with a demonstrated interest in energy research and development;
- (3) a member of the staff of Sandia national laboratories or Los Alamos national [scientific] laboratory recommended by the respective chief operating officers, which member shall be rotated every two years between such laboratories; and

(4) a member each from three energy-related industries doing business in New Mexico, recommended by the chief operating officers of the corporations selected by the governor to represent each industry.

B. Members selected pursuant to Paragraph (4) of Subsection A of this section shall be appointed for terms of three years; provided that initial terms shall be staggered so that one term becomes vacant every year.

C. The board shall elect a chairman and such other officers as it deems necessary. The secretary of energy and minerals shall not be eligible for the position of chairman or vice chairman. The board shall meet at the call of the chairman but not less than four times per year, and shall invite representatives of the board of educational finance, the commerce and industry department and appropriate legislative committees to its open meetings for the purpose of information exchange and coordination.

D. The six public members of the board shall receive per diem and mileage as provided in the Per Diem and Mileage Act [10-8-1 to 10-8-8 NMSA 1978] and shall receive no other compensation, perquisite or allowance.

E. Board members shall not vote by proxy.

History: Laws 1981, ch. 379, § 5.
Emergency clauses. — Laws 1981, ch. 379, § 24.

makes the act effective immediately. Approved April 10, 1981.

71-4-14. Board; duties.

The board shall:

- A. be responsible for the overall operation of the institute;
- B. make a quarterly review of all expenditures made by the institute during the preceding calendar quarter and approve expenditures anticipated during the succeeding quarter;
- C. review, modify and approve the energy research and development plan generated by the director and the technical advisory committee and consider revisions of the plan annually;
- D. review and refer reports of the institute's activities to the governor, legislature and the public;
- E. review, modify and recommend to the governor and the legislature an annual budget for the institute;
- F. review, modify and approve the operating budget for the institute;
- G. with the approval of the governor and subject to confirmation by the senate, hire a director of the institute. The director shall have a proven and extensive knowledge of and experience in energy research and development activities and in the management of such activities and shall be directly responsible to the board. His compensation shall be fixed by the board, and he shall serve at its pleasure; and
- H. establish such policies, procedures and guidelines as are necessary to achieve the purposes of the Energy Research and Development Institute Act [71-4-9 to 71-4-20 NMSA 1978].

History: Laws 1981, ch. 379, § 6.
Emergency clauses. — Laws 1981, ch. 379, § 24.

makes the act effective immediately. Approved April 10, 1981.

71-4-15. Technical advisory committee; composition; compensation; duties.

A. A "technical advisory committee" to the New Mexico energy research and development institute is created. Members of the committee shall be appointed by the governor and shall serve at his pleasure. The committee shall consist of ten members as follows:

- (1) a member from the energy and minerals department;
- (2) a member each from the university of New Mexico, New Mexico state university and New Mexico institute of mining and technology, recommended by the respective presidents of those institutions;

(3) one member each from the staffs of Sandia national laboratories, Los Alamos national scientific laboratory and White Sands missile range, recommended by the respective chief operating officers; and

(4) a member each from three energy-related industries doing business in New Mexico, recommended by the chief operating officers of the corporations selected by the governor to represent each industry.

B. Members selected pursuant to Paragraph (4) of Subsection A of this section shall be appointed for terms of three years; provided that initial terms shall be staggered so that one term [position] becomes vacant every year.

C. The committee shall elect a chairman and such other officers as it deems necessary. The committee shall meet at the call of the chairman.

D. All members of the committee, except the member from the energy and minerals department, shall receive per diem and mileage as provided in the Per Diem and Mileage Act [10-8-1 to 10-8-8 NMSA 1978] and shall receive no other compensation, perquisite or allowance.

E. The technical advisory committee shall review and make recommendations to the director on proposals for energy research and development. In addition, the committee shall:

(1) at the direction of the board, assist the board in hiring the director and the other senior staff positions as are identified by the board of directors;

(2) advise the director in order to accomplish the purposes of the Energy Research and Development Institute Act [71-4-9 to 71-4-20 NMSA 1978];

(3) advise the director in formulating the energy research and development plan;

(4) advise the director in proposing policies to implement the energy research and development plan; and

(5) be concerned with demonstration and dissemination of research results for practical application, including the review and recommendation of proposals for demonstration projects, plans for information dissemination and encouragement of new energy-related industry in New Mexico.

History: Laws 1981, ch. 379, § 7.

Emergency clauses. — Laws 1981, ch. 379, § 24.

makes the act effective immediately. Approved April 10, 1981.

71-4-16. Director; duties.

The director of the institute shall be responsible for the overall supervision of institute operations in support of the purposes of the Energy Research and Development Institute Act [71-4-9 to 71-4-20 NMSA 1978] and the policies, procedures and guidelines established by the board. In addition, the director shall:

A. work with the committee in formulating an energy research and development plan for the state;

B. work with the committee in proposing policies to implement the energy research and development plan;

C. develop and be responsible for the operating and capital budgets of the institute;

D. approve proposed projects and contractual arrangements in accordance with policies, procedures and guidelines established by the board. In doing so, the director may enter into contracts with state, federal or private research entities for research, development or demonstration projects, and may apply for and accept any federal funds or grants for such projects and may accept similar donations and bequests from other sources;

E. develop requests for proposals in research areas given priority by the board in the energy research and development plan; receive and refer with commentary to the committee proposals submitted in response to requests for proposals; confer with research investigators to assist them when needed; monitor progress on state-funded research projects; maintain contact with research offices of the universities, federal laboratories and private research operations; and receive reports of individual projects.

F. develop requests for proposals in areas suitable for development as determined by the energy research and development plan; receive and refer with commentary to the committee proposals submitted in response to requests for proposals; assist in the assembly of information on development projects of interest to New Mexico; monitor progress on development projects; and maintain contact with the state's research and development community concerning results obtained from development projects;

G. generate a comprehensive list of demonstration areas consistent with the energy research and development plan where nearterm application or industrial application is possible; generate information concerning interest in and capability for carrying out demonstration projects among institutions, both public and private, and among academic, consulting and research laboratories; work with the committee on demonstration and dissemination activities in order to accomplish the purposes of the Energy Research and Development Institute Act; develop requests for proposals for demonstration and dissemination projects; monitor and receive reports on projects contracted; and work with the commerce and industry department and other appropriate entities to promote new energy industry;

H. prepare an annual report on the status of the energy research and development institute fund; the status of ongoing research, development and demonstration projects; the results obtained from completed projects; and the dissemination thereof; and other activities of the institute;

I. maintain and update records on the status of all completed and ongoing projects;

J. with the approval of the board and within the limitations of available funds, employ and fix the compensation of those persons necessary to discharge his duties; and

K. perform such other duties as are assigned to him by the board in order to further the purposes of the Energy Research and Development Institute Act.

History: Laws 1981, ch. 379, § 8.
Emergency clauses. — Laws 1981, ch. 379, § 24,

makes the act effective immediately. Approved April 10, 1981.

71-4-17. Legislative liaison office.

An office of legislative liaison shall be instituted under the director. The duty of this office shall be to work directly with members of the legislature and to respond to requests for information and to provide assistance for legislators.

History: Laws 1981, ch. 379, § 9.
Emergency clauses. — Laws 1981, ch. 379, § 24,

makes the act effective immediately. Approved April 10, 1981.

71-4-18. Personnel Act; exemption.

The director and such other employees of the institute as are identified by the board shall be exempt from the provisions of the Personnel Act.

History: Laws 1981, ch. 379, § 10.
Emergency clauses. — Laws 1981, ch. 379, § 24,
makes the act effective immediately. Approved April

10, 1981.
Personnel Act. — See 10-9-1 NMSA 1978 and notes thereto.

71-4-19. Energy research and development institute fund created.

There is created in the state treasury the "energy research and development institute fund." No money appropriated to this fund or accruing to it through gifts, grants or bequests, and no income earned on the fund shall be transferred to another fund or encumbered or disbursed in any manner except for activities conducted pursuant to the Energy Research and Development Institute Act [71-4-9 to 71-4-20 NMSA 1978]. The fund shall not revert at the end of a fiscal year. The energy research and development institute fund is appropriated to the institute. Disbursements from the fund shall be made only upon warrant drawn by the secretary of finance and administration pursuant to vouchers signed by the director

of the institute or his designee for the purpose of paying the cost of activities conducted pursuant to the Energy Research and Development Institute Act; provided that the chairman of the board may sign vouchers when the position of director is vacant.

History: Laws 1981, ch. 379, § 11.

Emergency clauses. — Laws 1981, ch. 379, § 24, makes the act effective immediately. Approved April 10, 1981.

Appropriations. — Laws 1981, ch. 379, § 21, appropriates \$2,489,100, of which \$2,451,600 is appropriated by Subsection A from the general fund to the New Mexico energy research and development institute for expenditure in the sixty-ninth and following fiscal years pursuant to the provisions of the Energy Research and Development Institute Act, to be expended as follows: (1) \$115,000 to the property control division for the development of plans, specifications and preliminary site evaluation work in preparation for the construction of a permanent building to house the New Mexico energy research and development institute; (2) \$1,390,000 to the energy research and development fund for expenditure in the sixty-ninth and following fiscal years pursuant to the provisions of the Energy Research and Development Institute Act, provided that at least seventy-five percent of the expenditures shall be for development and demonstration projects having a practical applica-

tion in New Mexico, and provided that the energy and mineral department shall provide quarterly reports to the legislative finance committee which shall include summary information on all proposed and existing projects funded by this and previous appropriations to the energy research and development fund: (3) \$675,000 to be disbursed pursuant to the provisions of Subsection A of 71-4-20 NMSA 1978 to the board of regents of New Mexico state university; (4) \$116,600 to be disbursed pursuant to the provisions of Subsection B of 71-4-20 NMSA 1978 to the board of regents of the New Mexico institute of mining and technology; and (5) \$155,000 to be disbursed to the energy and minerals department for the purpose of promoting the development and use of alcohol fuels. Laws 1981, ch. 379, § 21, Subsection B, provides that any unexpended or unencumbered balance remaining at the end of the seventieth fiscal year shall revert to the general fund.

Interest earned by the fund is accretion to principal fund, and becomes a part of the fund. 1980 Op. Att'y Gen. No. 80-17 (opinion rendered under prior law).

71-4-20. Relationship with existing entities.

A. (1) The board of regents of New Mexico state university shall continue to:

(a) test and evaluate solar energy systems so as to enhance consumer confidence in solar energy equipment;

(b) collect, develop and disseminate information and educational materials about solar energy applications and technologies to New Mexico citizens, to industry in the state and to those state agencies and organizations responsible for promoting new facilities in New Mexico; and

(c) coordinate solar energy research and demonstration efforts within the state with the institute.

(2) State funds for those activities in this subsection shall be included as a separate item in the budget of the institute. The board of regents [regents] of New Mexico state university shall develop an annual operating plan for the state funds prior to any request for appropriation of such funds. The plan shall contain the research goals and objectives as well as a statement of the operating, reporting and administrative procedures to be used in meeting the requirements of Paragraph (1) of this subsection. The board of regents and the institute shall enter into an agreement whereby, after the institute's approval of the annual operating plan, state funds shall be disbursed to the board of regents for the purpose of implementing the annual operating plan.

B. The New Mexico petroleum recovery research center shall continue to operate pursuant to Sections 70-9-1 through 70-9-4 NMSA 1978; provided that notwithstanding any provision of Section 70-9-4 NMSA 1978 to the contrary, the state funds for the center's operation shall be included as a separate item in the budget of the institute. The center shall develop an annual operating plan for the state funds prior to any request for appropriation of such funds. The plan shall contain the research goals and objectives as well as a statement of the operating, reporting and administrative procedures to be used. The board of regents of the New Mexico institute of mining and technology and the institute shall enter into an agreement whereby, after the institute's approval of the annual operating plan, state funds shall be disbursed for use by the New Mexico petroleum recovery research center for the purpose of implementing the annual operating plan.

) Abide by rules adopted by the Authority.
(c) The incubator facility and any improvements shall be owned by the State but may be leased to the corporation. Small business concern residents of the facility may be provided secretarial and other support facilities and utilities for which the corporation may charge them a part or all of the cost. No small business concern may remain in the facility for more than two years. Notwithstanding any other provision of law, the State shall not be liable for any act or failure to act of any organization granted funds under this Part, or any small business concern benefiting from the incubator facilities program. (1983, c. 899, s. 2.)

§ 143B-471.5. North Carolina Innovation Research Fund.

(a) The North Carolina Innovation Research Fund is hereby created to provide equity financing for the research activities of new and existing small business concerns in various regions of the State, including agriculture, aquaculture and forestry enterprises. This financing is designed to enable small business concerns to acquire technical and management assistance and otherwise to conduct research leading to new or improved product or service development.

(b) The fund will take an equity position in contracting concerns through the purchase of stock, the receipt of royalties, or other equity instruments.

(c) The fund will consist of appropriations from the State; moneys derived from federal, local governments and private grants; receipt of royalties and sale of equities.

(d) Awards per research project shall not exceed fifty thousand dollars (\$50,000) per fiscal year. Awards will be limited to concerns physically located in North Carolina, but the awards shall not be limited to incubator-affiliated projects.

(e) To protect its investments, the Authority shall make development agreements with contracting concerns, to ensure proper use of fund awards and the receipt of royalties, where appropriate. Development agreements shall assign all rights to abandoned projects to the Authority.

(f) Any funds received through the receipt of royalties, dividends, or the sale of equity instruments shall be deposited in the fund and are available to the Authority for use under this Part. (1983, c. 899, s. 2.)

§ 143B-472: Reserved for future codification purposes.

ARTICLE 11.

Department of Crime Control and Public Safety.

Part 1. General Provisions.

§ 143B-475. Department of Crime Control and Public Safety — functions.

(d) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1034, s. 103.

(e) The Crime Victims Compensation Commission established by Chapter 15B is vested in the Department of Crime Control and Public Safety. The Commission shall be administered as provided in Chapter 15B. (1977, c. 70, s. 1; 1981, c. 929; 1983, c. 832, s. 3; 1983 (Reg. Sess. 1984), c. 1034, s. 103.)

Only Part of Section Set Out. — As the rest of the section was not affected by the amendments, it is not set out.

Cross References. — For section providing for a deferred prosecution, community service restitution, and volunteer program, see now § 143B-475.1.

Editor's Note. — Session Laws 1983, c. 832, s. 6, provides: "This act shall become effective when funds are appropriated by the General Assembly to the Department of Crime Control and Public Safety to implement the provisions of this act. No claims may be filed under this act for any criminally injurious conduct occurring before the effective date of this act or after December 31, 1991. Moneys

remaining after payment of claims under this Chapter shall revert to the General Fund on July 1, 1993. This act is repealed effective July 1, 1993."

Session Laws 1983 (Reg. Sess., 1984), c. 1034, s. 256 is a severability clause.

Effect of Amendments. — The 1983 amendment added subsection (e).

The 1983 (Reg. Sess., 1984) amendment, effective July 1, 1984, deleted subsection (d), which read "The Department of Crime Control and Public Safety may conduct a deferred prosecution, community service restitution and volunteer program for youthful and adult offenders if funds are available."

§ 143B-475.1. Deferred prosecution, community service restitution, and volunteer program.

(a) The Department of Crime Control and Public Safety may conduct a deferred prosecution, community service restitution, and volunteer program for youthful and adult offenders. The Secretary of Crime Control and Public Safety may assign one or more coordinators to each judicial district to assure and report to the Court the offender's compliance with the requirements of the program. The appointment of each coordinator is subject to the approval of the chief district court judge. Each county must provide office space in the courthouse or other convenient place, for the use of each coordinator assigned to that county.

(b) Unless a fee is assessed pursuant to G.S. 20-179.4 or G.S. 15A-1371(i), a fee of fifty dollars (\$50.00) shall be paid by all persons who participate in the program or receive services from the program staff. If the person is convicted in a court in this State, the fee must be paid to the clerk of court in the county in which he is convicted. If the person is participating in the program as a result

§ 143B-471.1. Composition of Authority.

(a) The Authority shall be governed by a board composed of 12 members, eight of whom shall be appointed by the Governor, two of whom shall be appointed by the General Assembly upon the recommendation of the President of the Senate under G.S. 120-121, and two of whom shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121. Consideration should be given to the appointment of persons, including minorities and females, with technical expertise as well as experience in entrepreneurial business development and capital formation.

(b) Members shall serve four-year terms effective July 1, 1983, and quadrennially thereafter, except that the two members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives shall serve for two-year terms effective July 1, 1983, and biennially thereafter. No person appointed to a four-year term shall serve more than two consecutive terms.

(c) Vacancies shall be filled by the Governor to serve the remainder of the unexpired term, except that vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122. (1983, c. 899, s. 2.)

§ 143B-471.2. Officers; meetings.

(a) The Governor shall appoint from the members of the Authority a chairman. The Authority shall elect from among its members a vice-chairman and shall elect a secretary.

(b) The Authority shall meet at the call of the chairman, upon the written call of the majority of its members or upon resolution of the Authority.

(c) A quorum shall consist of seven members of the Authority. (1983, c. 899, s. 2.)

§ 143B-471.3. Compensation.

Members of the Authority shall receive per diem and necessary travel and subsistence expense in accordance with G.S. 138-5. (1983, c. 899, s. 2.)

§ 143B-471.3A. Powers.

In order to enable it to carry out the purposes of this Part, the Authority may:

- (1) Exercise the powers granted corporations under G.S. 55-17;
- (2) Employ an executive director, whose salary shall be set by the General Assembly in the Current Operations Appropriations Act. The Authority may employ such other professional staff and clerical and secretarial staff as it deems necessary within the funds available to it. The salaries of such other personnel shall be set under the State Personnel Act;
- (3) Establish an office for the transaction of its business at Raleigh;

- (4) Apply for and accept grants of money from the State of North Carolina, or any political subdivision thereof, from the United States, or from any person, corporation, foundation, trust, or business or from any foreign government for any of the purposes authorized by this Part;
- (5) Establish and administer the incubator facilities program;
- (6) Administer the North Carolina Innovation Research Fund; and
- (7) Adopt reasonable rules to effectuate the purposes of this Part. (1983, c. 899, s. 2; 1985, c. 479, s. 223.)

Editor's Note. — Session Laws 1985, c. 479, s. 1.1 provides that the act shall be known as "The Current Operations Appropriations Act of 1985."

Session Laws 1985, c. 479, s. 230 is a severability clause.

Effect of Amendments. — The 1985

amendment, effective July 1, 1985, substituted "General Assembly in the Current Operations Appropriations Act" for "Governor and the Authority, after consultation with the Advisory Budget Commission" at the end of the first sentence of subdivision (2).

§ 143B-471.4. Incubator facilities program.

(a) The Authority shall establish one or more incubator facilities within the State. An incubator facility is a building or buildings that provides space and support services for small businesses concerns which are beginning. "Small business concern" has the same meaning as that contained in Chapter 14A of Title 15, United States Code, and regulations promulgated under it.

(b) The Authority shall select sites for incubator facilities. The Authority in selecting sites shall evaluate areas for potential sites using the following criteria but is not limited to them:

- (1) The unemployment rate,
- (2) The need for industrial and economic diversification and development,
- (3) The interest by the locality in the establishment of an incubator facility in the area as manifested by grants from public and private sources and cooperation agreements between local government, business, labor and educational institutions demonstrating the probability of the success of the incubator facility.

(c) The Authority may make one-time grants to establish incubator facilities. A grant may not exceed two hundred thousand dollars (\$200,000). Local government and interests must at least equal in cash or real estate value any grant made by the Authority; Provided, however, that contributions by State agencies may not be included in the matching grant.

(d) Only nonprofit corporations which are affiliated with local universities, colleges, community colleges or technical institutes or combinations thereof to advance the educational and research programs of these institutions shall be eligible to receive a grant from the Authority. Pursuant to rules adopted by the Authority, the corporation shall:

- (1) Manage and maintain the incubator facility,
- (2) Develop a mechanism to provide technical, management and entrepreneurial expertise to resident small business concerns and to small business concerns throughout the area, and

)) May, pursuant to Article 2 of Chapter 150A of the General Statutes, adopt, alter or repeal its own bylaws, rules and regulations governing the manner in which its business may be transacted and in which the power granted to it may be enjoyed, and may provide for the appointment of any committees, and the functions thereof;

(11) May do anything necessary to accomplish the purposes of this Part.

The property of the Treatment Commission shall not be subject to any taxes or assessments.

(b) If no permit to operate a hazardous waste treatment facility has been issued to a private operator by January 1, 1986, the Treatment Commission shall actively seek communities interested in hosting hazardous waste treatment facilities and private operators of hazardous waste treatment facilities and shall present appropriate sites, as prescribed in G.S. 130A-294(g), to those operators. If no permit to operate a hazardous waste treatment facility is pending which is likely to be granted to a private operator by July 1, 1986, the Treatment Commission shall, on the basis of the criteria and procedures outlined in G.S. 130A-294(g), select appropriate site(s) and begin proceedings to purchase or if necessary condemn property for such site(s) under the State's power of eminent domain. Condemnation shall be upon the same terms and procedures as set forth in Article 9 of Chapter 136 of the General Statutes of North Carolina, except that the Treatment Commission shall have the same rights, duties, and responsibilities as set forth for the North Carolina Department of Transportation. The purposes for which the power of eminent domain is used in this section are to enable a hazardous waste treatment facility to be built which will manage hazardous waste generated by the public or by private industry in making goods for the benefit of the public, and are, therefore, public purposes for these and related purposes. The Treatment Commission shall then actively seek private operators of hazardous waste treatment facilities and shall contract with at least one operator to purchase the site and construct a hazardous waste treatment facility. If no permit to operate a hazardous waste treatment facility has been issued by January 1, 1987, the Treatment Commission shall submit to the General Assembly plans for construction of a facility on one of the sites and shall proceed to begin construction of a facility within one year and shall seek a private operator to operate the facility. If no private operator can be found, the Treatment Commission shall operate the facility.

(c) The Treatment Commission shall submit to the General Assembly by January 1, 1986, a comprehensive plan for the treatment of hazardous waste in North Carolina, including a plan to provide for a statewide hazardous waste collection system. The Governor's Waste Management Board, the Solid and Hazardous Waste Branch of the Division of Health Services of the Department of Human Resources, and other State agencies and departments shall cooperate with the Treatment Commission in preparation of the plan. If the Treatment Commission, in its report to the General Assembly, indicates that the needs of the State for treatment of hazardous waste are being met, the Treatment Commission shall cease to exist as of January 1, 1986. If not, the Treatment Commission shall report periodically to the General Assembly or, if the General Assembly is not in session, to the Joint Legislative Commission on

Governmental Operations, on progress toward meeting the State's needs. (1983 (Reg. Sess., 1984), c. 973, s. 1; 1985, c. 711.)

Effect of Amendments. — The 1985 amendment, effective July 11, 1985, in subsection (b) substituted "January 1, 1986" for "June 1, 1985" in the first sentence, substituted "is pending which is likely to be granted" for "has been issued" and "July 1, 1986" for "January 1, 1986" in the second sentence, and substituted "January 1, 1987" for "June 1, 1986" in the sixth sentence, and in subsection (c) substituted "January 1, 1986" for "May 1, 1985" in the first sentence and substituted "January 1, 1986" for "October 1, 1985" in the third sentence.

§ 143B-470.5. Issuance of bonds and notes.

(a) As a means of raising the funds needed from time to time for the acquisition, construction, equipment, maintenance or operation of any facility, building, structure or any other matter or thing which the Treatment Commission is authorized to acquire, construct, equip, maintain, or operate, all or any of them, including authorized special user projects, the Treatment Commission may borrow money and in evidence thereof may issue bonds, notes and other obligations of the Treatment Commission as provided in the Local Government Revenue Bond Act, Article 5 of Chapter 159 of the General Statutes. Bonds, notes and other obligations may also be issued to (i) establish any reserves the Treatment Commission may determine to be desirable including, without limitation, a debt service reserve fund, and (ii) provide for interest during the estimated period of construction and for a reasonable period thereafter and (iii) provide for working capital.

(b) Any obligations issued by the Treatment Commission under the provisions of this Part, their transfer and the income therefrom (including any profit made on the sale of them), shall at all times be free from taxation by the State or any local unit or political subdivision or other instrumentality of the State, except inheritance or gift taxes. (1983 (Reg. Sess., 1984), c. 973, s. 1.)

Part 12. North Carolina Technological Development Authority.

§ 143B-471. Creation of Authority.

There is hereby created the North Carolina Technological Development Authority, to increase the rate at which new jobs are created in all regions of the State, by stimulating the development of existing and new small businesses. The Authority shall be administratively located within the Department of Commerce, but shall exercise its powers independently of the head of that department, as if it had been transferred to the Department of Commerce by a Type II transfer as defined in G.S. 143A-6(b). (1983, c. 899, s. 2.)

Editor's Note. — Session Laws 1983, c. 899, s. 7, upon ratification. The act was ratified July 21, 1983.

Research Paper



BUSINESS RETENTION:

Buyer/Supplier and

Retention and Expansion Programs

Policy Analysis & Research Unit

Kansas Department
of Economic Development

400 W. 8th St.—Suite 500
Topeka, Kansas 66603-3957
913-296-3481

BUSINESS RETENTION: BUYER/SUPPLIER
AND RETENTION AND EXPANSION PROGRAMS

Prepared by: Terry E. Denker
Policy Analysis & Research Unit
Kansas Department of Economic Development
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EXECUTIVE SUMMARY

Buyer/supplier programs and retention and expansion surveys are two types of programs which are employed to assist in business retention. Buyer/supplier programs introduce potential buyers of product components to suppliers of those parts. Retention and expansion surveys are diagnostic instruments which allow an economic development professional to assess the wants, needs, and perceptions of business and industry. This report covers buyer/supplier programs in Florida and South Carolina as well as retention survey programs in New Jersey and Wisconsin.

Buyer/supplier programs are operated by state development agencies which act as matchmakers for companies who desire such a service. The agencies use manual and computer searches of manufacturing and service directories to assist companies.

Field staff can be used to visit industry to secure detailed information concerning their products and processes. This detailed information can supplement data collected by the directory surveys. Local organizations such as regional planning commissions and small business development centers can also provide valuable background information to the system.

Participation in these programs is solicited by press releases, quarterly newsletters and the availability of toll-free hotlines. Other states indicate approximately 300 companies respond to this service on an annual basis. Program costs range from \$15,000 - \$33,000 per year.

Experience indicates that the program will identify products and services which can be expanded and specific targeted industries to recruit. In addition, it is perceived that the marketing effects of state products are improved by this type of program.

Retention and expansion programs attempt to improve the competitiveness of local firms by improving their efficiency, expanding marketing programs and removing local bottlenecks to growth. A comprehensive action plan is developed by analyzing the results of the survey.

Both states which were reviewed utilize local utilities as a partner in these programs. This partnership increases the acceptance of such a program by local entities.

The actual survey is conducted by local volunteers who are selected based on their knowledge of business, economic development techniques, and community services. These volunteers have a vested interest in developing information which will lead to the economic improvement of their community.

Surveys are used to identify areas which need immediate response as well as for long term plans. Potential relocations out of the community and financial problems are more likely to be identified in time to take remedial actions. The results of such a program are higher retail sales, increased bank deposits and more personal income for the community.

INTRODUCTION

Buyer/supplier programs and retention and expansion surveys are two types of programs which are employed to assist in business retention. Both programs are designed to stimulate activities which will improve the conditions necessary for a company to remain in its present location. This report will address efforts undertaken by two states for each type of program. Part I will review South Carolina and Florida's buyer/supplier programs and Part II will address New Jersey and Wisconsin's programs of retention and expansion surveys.

PART I: BUYER/SUPPLIER PROGRAMS

What is a buyer/supplier program?

A buyer/supplier program is a plan to introduce potential buyers of product components to suppliers of those parts. For the purpose of this study, the supplier is an in-state company and the buyer may or may not be located in-state. The goal of the program is to increase business for suppliers of products and services and to assist buyers in locating in-state suppliers. This introduction hopefully will allow buyers to cut their component costs and possibly allow for growth of existing state companies.

How are these programs operated?

Both South Carolina and Florida, through their state development agencies, act as matchmakers to companies who desire this service. Florida currently uses manual searches of the states' manufacturing directory, warehouse and distribution directory, and service directory to provide these matches. South Carolina has a network of micro-computers that contain information on products, suppliers and services. Once activated, this data storage can provide a printout of available suppliers for any particular product.

What kinds of equipment needs are necessary?

South Carolina uses standard personal computers and commercial software packages to operate their program. Florida currently uses printed matter for a data source but has requested personal computers to make the process more efficient.

What are the staffing requirements for such a program?

Currently both South Carolina and Florida have only one person employed in their programs. Florida has requested one staff member for each of six regional offices plus additional data processing staff in the main office to handle their new computer system. Regional office personnel can conduct visits of manufacturers and suppliers in their regions to obtain more in-depth information for the database.

South Carolina has contracted with a private individual to provide the program services. The contractor is a retired purchasing professional who travels around the state by regions and calls on companies to obtain information and generate clients for the program. Plans call for the addition of a second contractor as the demands of the program increase. Data processing personnel already on staff handle the data storage needs along with their other program requirements.

What organizations outside the state are included in program operation?

South Carolina uses a Job Creation Network to assist in recommending clients for the program. The network consists of regional planning commissions, industrial development commissions, incubator facilities, small business development centers, vocational schools, counties, and municipalities. These groups are more familiar with circumstances on a local basis and can provide valuable background information to the system.

Florida relies on commercial trade shows and vendor listings as additional data sources. Additionally, Small Business Association (SBA) procurement conferences are attended to stimulate activity for the program.

What is the approximate budget for such programs?

Florida authorizes a portion of one staff person's salary to this program as well as money for attending one procurement conference and maintenance of library materials. Exact dollar figures were not available but it was estimated to be less than \$15,000 allotted to the program.

South Carolina contracts with the designated individual for \$33,000 annually to perform the program functions. Administrative costs such as data processing and travel are additions to the program costs.

How do companies participate in these programs?

Florida uses a toll free phone number, word-of-mouth, and procurement conferences to market their program. It was indicated that participation by the companies during the first year of operation is by their own initiative. The program hopes to be able to solicit more participation with the addition of regional staff.

South Carolina announces their buyer/supplier program through press releases, quarterly newsletters (similar to KDED's Developing Kansas), trade shows, and letters of introduction to specific companies. The previously mentioned Job Creation Network also highlights the program. Through the use of a traveling contractor, the state is able to personally visit companies and solicit involvement.

What kind of record or success do these programs have?

Florida began their program less than one year ago. No formal accounting of program results has been maintained although an information paper is being drafted to outline the program adoption. Estimates place the number of company requests for assistance at approximately 300 during the eight months of existence. Staff indicated that dollar amounts for new supplier contracts is impossible to obtain because the deals take place after the state has performed its duty as match maker. Often these contracts are proprietary and not available for public release of information.

South Carolina has visited 312 companies on site since the beginning of their program on July 1, 1984. No information on company requests was available although staff indicated that Fortune 500 companies have realized \$3-4 million of new contracts because of the buyer/supplier match.

Are there other benefits from these programs?

Both states indicate that the original purpose was to match potential buyers with possible suppliers. This has led to a recognition that the states are deficient in plants that produce certain product components. Florida has not developed a plan to address this situation. South Carolina, on the other hand, has begun efforts to target suppliers which may be recruited to locate in the state. Additionally, staff has been able to encourage existing plants with the necessary equipment to expand into production of supplies which are in high demand or not produced.

South Carolina also indicates that more product lines and supplies can be identified by these personal visits. This adds to the data base and improves the perception of the state in the eyes of foreign countries and companies who wish to do business in the state. Although no figures are available, it is perceived that the marketing efforts of state products is improved by the buyer/supplier program.

PART II. RETENTION AND EXPANSION SURVEYS

What are retention and expansion surveys?

Retention and expansion surveys are diagnostic instruments which allow an economic development professional to assess the wants, needs, and perceptions of business and industry. By analyzing these results, a comprehensive action plan or program can be established to help improve the operating environment for these business firms. When performed on a local basis it encourages community involvement in solving employment problems which can affect the economic well-being of the town.

Almost all retention and expansion programs attempt to improve the competitiveness of local firms by improving their efficiency, by expanding their marketing programs, or by removing local bottlenecks to growth. The surveys are the initial instrument which help focus the program. These surveys are conducted by business visitation teams composed largely of local volunteers.

There are five objectives of the business visitation teams which conduct the surveys. They are:

- 1) Demonstration of the community's pro-business attitude and appreciation of the contribution of the firm.
- 2) Assistance in solving local problems or working with local governments, thus cutting the costs of doing business.
- 3) Help in using state and federal programs, especially those that improve the efficiency of the firm in either production or marketing.
- 4) Development of a data base for local economic strategic planning, thus improving the climate for growth.
- 5) Establishment of an early warning system for plant closures, allowing communities to adjust to these changes as rapidly and painlessly as possible.

How are these programs operated?

Both New Jersey and Wisconsin operate their business retention and expansion programs in a joint effort with local telephone utilities. In Wisconsin, the utility pays most of the administrative costs for running the program. The state agency is taking over the database part of the program, thus allowing them to use the data for statewide planning purposes. At present, the utility provides all the staff support for program presentations and project assistance.

New Jersey's state development agency has a more active role. They work in an equal partnership with New Jersey Bell Telephone to provide program assistance to local communities. Costs for operating the program are split between the two entities. The state pays for promotional literature and for completion of a fiscal report. The utility pays for meetings with communities and some supplies.

New Jersey felt it was extremely important to have the partnership between public and private entities because there is better acceptance by the local economic developers and businesses. Having someone from the community (utility) telling them what needs to be done is sometimes preferable to the state agency advocating a program.

Who works in these programs?

The actual survey is conducted by local volunteers who are selected based on their knowledge of business, economic development techniques, and community services. Local volunteers have a vested interest in developing accurate information that will lead to the creation of beneficial programs. Part of the success of such programs can be attributed to the fact that these "private sector" volunteers can interface with local business and industry officials and overcome some of the natural barriers which exist between industry and government. Sometimes it requires the volunteers to be salespersons with a positive attitude toward the effort and their community. Both states indicate that the local volunteer aspect is absolutely necessary for this type of program to work.

What is the process used in conducting surveys?

Initially, a community must express a desired interest to participate in such a program. In New Jersey this is accomplished by the Mayor of the community committing personal support to the effort. The next step is to form a business retention and expansion task force and identify a chairperson. The task force oversees the operation of the program and insures that completion of all tasks occur. Membership on the task force should include:

- 1) Members of the municipal administration.
- 2) Representatives from private business.
- 3) Chamber of Commerce executives.
- 4) Representatives of the educational community (colleges, universities and technical schools).
- 5) Representatives of the private industry council and industrial development organization.

In addition to the task force, a program sponsor should be identified. As the name implies, the program sponsor is not a working group but rather an organization which lends its name as a support or endorsement to the effort. Most commonly, this is a chamber of commerce or non-profit group such as an industrial development organization.

Once these procedural steps are accomplished, it is time to perform the set of tasks necessary to complete the program. The task force must identify all firms located within the community who are to be called upon. This list should include addresses, telephone numbers, executive officers and type of product or service for each firm.

Next, the group of volunteers must be identified. It is best not to average over four interviews per volunteer. Anything over this will cause the volunteers to lose interest or feel overworked.

A complete set of survey questions must be compiled. A draft copy of a survey document is included at the conclusion of this report. It is important to be conscious of what the purpose of the survey is and not to develop questions which solicit unnecessary information.

Upon completion of the survey, a letter from the Mayor is sent to all the firms announcing the program and indicating that a volunteer will contact them for further information.

The last step before actually conducting the survey is to train the volunteers on how to conduct the interviews. During this phase, representatives of the state development agency and the utility explain the exact role of the volunteers and what is to be accomplished from the results of the survey. Materials to be used in the interview are distributed and assignments are made regarding firms to contact.

How is the information obtained from surveys made useful?

Survey results are returned to the state or utility for analysis. New Jersey contracts with Rutgers University to perform analysis of each cities' results. The purpose is to identify areas which need immediate response. These may include firms contemplating relocation or problems related to marketing, finances or governmental paperwork requirements. The objective is to follow up these situations with remedial actions which will assist the economic well-being of the company.

An oral presentation and a written report provided to the community will serve as a master plan and recommendation for structuring programs to help existing firms stay and grow. State collections of these reports are valuable tools for developing state-wide programs to help all industry. Identification of the problem is vital to designing cures for poor economic conditions.

What kind of results can be expected from this type of program?

Data to specify jobs saved or increased investment is nearly impossible to determine. It is hard to specifically relate a new product developed to the assistance given by this program. Given the difficulty of establishing a cause and effect relationship, states have opted to identify relocations which occur because a community didn't at least try this program or businesses which have gone broke in part because they didn't have assistance.

New Jersey uses a comparison which shows the value of having a retention and expansion program.

100 Factory Jobs Mean

- 1) 68 Employed in non-manufacturing
- 2) 79 school children
- 3) 97 households
- 4) 351 people supported
- 5) 1 retail establishment
- 6) \$2,200,000 personal income per year
- 7) \$1,200,000 in retail sales
- 8) \$1,000,000 in bank deposits

Those who administer the New Jersey and Wisconsin programs say that perhaps the most important result is getting the community involved in the development of their own business and industry. By facilitating and motivating the local involvement, the program helps the community develop a personal investment in their own economic future.

What does this program cost in terms of time and money?

To the state and community, it requires about 6 to 9 months to complete a study. In terms of dollars and cents, Wisconsin spends very little at the state level. The utility spends approximately \$2,500 per project on supplies and material and 3 staff salaries of about \$60,000 annually. In the future, Wisconsin's state agency will spend money on data processing and storage but no figures have been developed.

New Jersey Department of Commerce spends approximately \$75,000 annually for promotional materials, preparation of reports and one staff salary. New Jersey Bell pays for meetings at restaurants and some staffing, but no figures were available from that source.

SOURCES

New Jersey Department of Commerce. (1985) Business Retention and Expansion Profile, Trenton, New Jersey.

New Jersey Conference of Mayors. (1984) NJCM Conference Quarterly Newsletter, Third Quarter 1984, Trenton, New Jersey.

North Central Regional Center for Rural Development. (December, 1985) Rural Development News, Ames, Iowa, Iowa State University.

Wisconsin Bell. (May, 1984) Wisconsin Industrial Business Retention and Expansion Study-Oshkosh, Appleton, Wisconsin.

Telephone interviews with Florida Department of Commerce (Small Business Assistance Section), New Jersey Department of Commerce and Economic Development, South Carolina State Development Board (Business Assistance and Services Information Center), and Wisconsin Bell Telephone Company.

STRIAL SURVEY FORM:
STRIAL COMPANIES ONLY

NEW JERSEY
BUSINESS RETENTION AND EXPANSION PROGRAM
INTERVIEW SCHEDULE

FIRM NAME AND ADDRESS: _____

FIRM CEO AND TITLE: _____

INTERVIEWER: _____

INTERVIEW DATE: _____

SIC DESCRIPTION: _____

SIC CODE: _____

ID NUMBER: _____

TO THE INTERVIEWER:

To ensure the success of this business retention effort, make sure you explain to your respondent that:

1. This business retention and expansion program is sponsored by the Town Administration, and involves many firms and many volunteer interviewers.
2. The purpose of this effort is to identify the objectives of the local business sector and to assist in achieving those.
3. Personal contact is the only reliable way to obtain the information needed to fulfill this purpose.
4. Specific identities of respondents and their firms will be kept strictly confidential by the interviewers and the Town Administration; survey responses will be presented to the public only in aggregate form.

Town: _____

Firm: _____

SIC Code: _____

I. LOCATION AND NATURE OF YOUR BUSINESS

1. Where is your firm's corporate headquarters located? Is it:

In this Town Another State
Another Town Overseas
in New Jersey

2. Does your firm have multiple locations?

No Yes

▶ How many other New Jersey locations does the firm have? _____

▶ In which towns are those? _____

▶ 3. In what year was your firm established? _____

4. In what year did you start doing business in this location? _____

5. What is the nature of your business? Is it:

Manufacturing Retail Service Other (Specify): _____

6. How do you normally receive your materials or components? By:

Truck Rail Air

7. How do you normally transport your finished products? By:

Truck Rail Air

8. For each of the following factors, please indicate whether it is having a great impact, a moderate impact, or little impact on the current and future development of your business.

	GREAT IMPACT	MODERATE IMPACT	LITTLE IMPACT
o Foreign Competition	3	2	1
o Domestic Competition	3	2	1
o Energy Costs	3	2	1
o Materials Shortages	3	2	1
o Labor Force	3	2	1
o Antiquated Machinery	3	2	1
o Insufficient Space	3	2	1
o Transport Problems	3	2	1
o Inflation, Market Condition	3	2	1

9. Is your business organized as a:

Corporation Partnership Family Firm Other

II. PHYSICAL SPECIFICATIONS

1. Do you own or lease this location? Own Lease

When does your lease expire?
 (Month) _____
 (Year) _____

2. What is the property size of this location? _____ acres

3. About how large is your building? _____ square feet

4. Do you utilize all the space you lease or own?

Yes No
 Are there any future plans to utilize the vacant space?
 Yes No

5. To your knowledge, is there leasable space in your building?

Yes No

6. Do you prefer to lease or own? Lease Own

III. MARKETS, CUSTOMERS AND COMPETITION

1. Where are most of your customers located? Are they:

Within This Town Statewide Overseas
 Within This County In Other States

2. Do you supply any product(s) directly to the government?

Yes No

3. Do you supply any products to a prime contractor who, in turn, sells to the government?

Yes No

4. Where are most of your competitors located? Are they:

Within This Town Statewide Overseas
 Within This County In Other States

5. At the moment, which of the following is the most accurate statement about your competitors? Are they:

- a. making significant inroads into your business?
- b. making no inroads now, but may in the future?
- c. making no inroads now, and are no future threat?

IV. FUTURE PLANS

1. Do you currently have any plans to move? No Yes
- Where is the location to which you will move? Is it:
- Within Town Within New Jersey
- Within This County Out of State
- When do you plan to move? _____
- What is the primary reason for your relocation? _____
2. Have you ever considered moving in the past? No Yes
- Where was your intended location? Was it:
- Within Town Within New Jersey
- Within This County Out of State
- When were you planning this move? _____
- What was the reason you decided not to relocate? _____
3. Have you ever been contacted personally by the representative of another state about relocating there? Yes No
4. Have you ever been contacted by mail by the representative of another state about relocating there? Yes No
5. Within the next year, are you definitely planning any or all of the following:
- o to acquire property for expansion? Yes No
 - o to buy/build a new building? Yes No
 - o to modernize your current building? Yes No

V. LABOR AND MANPOWER MATTERS

1. About how many full-time employees are on your current payroll? _____
2. How many full-time employees do you estimate you will have on your payroll next year? _____
3. About what is your annual % of employee turnover? _____
4. Do you have any problems obtaining replacement employees?
- No Yes
- What is your major problem in this regard? _____
5. How do you generally obtain replacement employees?
- | | | |
|---------------|----------------------------|---------------------|
| Word-of-mouth | Private Employment Service | Place Sign in Front |
| Newspaper Ads | State Employment Service | Vocational School |
| Union Hall | Other | |
6. About what % of your employees reside within Town limits? _____
7. Is there public transportation available for your employees?
- No Yes
- Is it adequate? No Yes
8. How do most of your employees get to work? By means of:
- | | | | | |
|-----|----------------|-----|-------|-------|
| Car | Car, Van Pools | Bus | Train | Other |
|-----|----------------|-----|-------|-------|
9. Do your employees require any "special" training? No Yes
- How is this training usually accomplished? By:
- | | | |
|---------------------|----------------|-------|
| On-the-job Training | Union Programs | Other |
| Vocational School | Trade School | |

10. Has your firm ever taken advantage of any "jobs development program" sponsored by the county, state or federal government?

No Yes
What is your opinion of that program?
Favorable No Opinion Unfavorable
Would you be interested in doing so? No Yes

VI. ASSESSMENT OF GOVERNMENT SERVICES AND PROGRAMS

1. Is the water pressure and supply provided to your building adequate?
Yes No

2. Are you satisfied with the sanitary sewer services provided by the Town?
Yes No
Why not? _____

3. Has your firm been the target of vandalism within the last twelve months?
No Yes
Estimate the Damages: _____

4. Has your firm been burglarized within the last twelve months?
No Yes → Estimate the Losses: _____

5. Have you or any of your employees been the victim of a crime on or near your business premises within the last twelve months?
No Yes

6. Are you satisfied with the public safety services offered by the Town?
No Yes

7. Are you having any parking problems for your employees or your customers?
No Yes
What are they? _____

8. Are you satisfied with the present configuration of traffic lights, one-way streets and stop signs?
Yes No
What would you like to see changed? _____

9. Have you experienced any fire damage at your premises during the last twelve months?
No Yes
Estimate the Damages: _____

10. Are there pot holes in the pavement adjacent to your building?
No Yes

11. Do you experience flash flooding?
No Yes
What would you like the Town to do about this? _____

12. Are your streets cleaned regularly? No Yes

13. Are you satisfied with garbage collection services you currently receive from the Town?
Yes No
What would you like to see changed? _____

14. Have you ever had any applications before either the Planning Board or Board of Adjustment?
No Yes → Were you satisfied with the outcome?
Yes No → Why not? _____

15. Are you satisfied with the code enforcement efforts of your Town? Yes No → Why not? _____

16. How would you rate the Town's economic development efforts?
 Excellent Good Fair Poor No Opinion

17. Have you ever obtained new employees from any of the following institutions?
- o Your Local High School? Yes No
 - o Your County Technical Institute? Yes No
 - o Your Vocational and Technical High School? Yes No
 - o Your County College? Yes No

VII. TECHNOLOGY AND FINANCING

1. Are there technological innovations that would enable you to keep pace with or improve your competitive position or improve your firm's earnings, if you were able to employ them?

No Yes
 ↓
 What are those? _____

2. How would your firm pay for the items described above, or any new or expanded facilities you may have in mind?

- | | | |
|------------------------|------------------------|-----------------|
| Conventional Financing | Federal/State Programs | Venture Capital |
| Through Parent Company | Cash Flow | Other |
- Specify: _____

3. Would you be interested in learning more from the New Jersey Department of Commerce and Economic Development about any of the following financing programs?

(OVER)

- o State Industrial Development Bonds? Yes No
- o The Direct Loan Program of E.D.A.? Yes No
- o The Local Development Financing Fund? Yes No
- o S.B.A. 503 Loans? Yes No
- o Urban Development Action Grants? Yes No
- o Small Cities Block Grants? Yes No

4. For each of the following, please tell us whether it is having a very negative impact, a very positive impact, or no discernible impact on your firm's current financial condition.

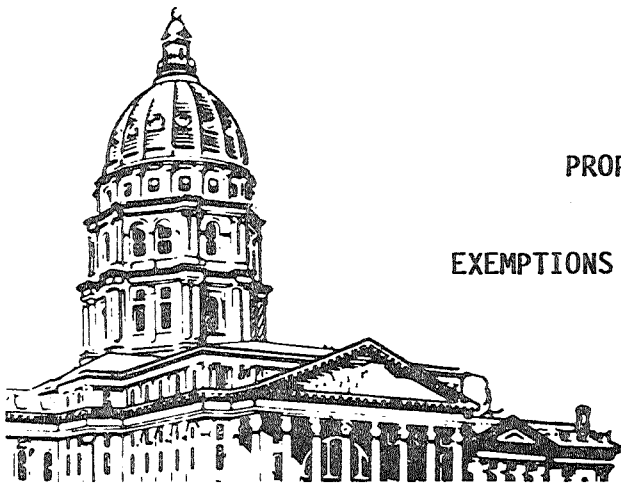
	VERY POSITIVE IMPACT	NO GREAT IMPACT	VERY NEGATIVE IMPACT
o Local Property Taxes	3	2	1
o State Corporate Income Taxes	3	2	1
o Energy Costs	3	2	1
o Labor Costs	3	2	1
o Labor Supply	3	2	1
o Transportation	3	2	1
o Interest Rates	3	2	1
o Materials Costs	3	2	1

5. Where do you do most of your banking?
 In Town In County In New Jersey Out of State

VIII. COMMUNITY LINKAGES

- 1. Is your firm a member of the Chamber of Commerce? No Yes
- 2. Is your firm a member of any other business organizations?
 No Yes

Research Paper



PROPERTY TAX ABATEMENTS
AND
EXEMPTIONS (EXCLUDING IRB OPTIONS)

Policy Analysis & Research Unit

Kansas Department
of Economic Development

400 W. 8th St.—Suite 500
Topeka, Kansas 66603-3957
913-296-3481

PROPERTY TAX ABATEMENTS AND
EXEMPTIONS (EXCLUDING IRB OPTIONS)

Prepared by: Terry E. Denker
Policy Analysis & Research Unit
Kansas Department of Economic Development
February 28, 1986

EXECUTIVE SUMMARY

This research paper identifies states and programs which provide property tax abatements or exemptions by methods other than those associated with industrial revenue bonds. Surveys indicate twenty-four (24) states offer a total of thirty-six (36) separate options for these exemptions. Criteria used to determine the applicability for an exemption includes the creation of employment and the potential economic benefit to a community.

Approximately half of the programs identified allow for these exemptions anywhere within the state. Other programs allow for exemptions to be granted only in designated zones or areas such as enterprise zones and rehabilitation areas. Two states make provisions for granting exemptions in the development of economic or industrial development sites that are used to attract industry.

Exemptions are granted for varying lengths of time dependent on the decision of the granting authority. The most common length is from one to ten years with the maximum being twenty-five years in our neighboring state of Missouri. Three states allow the option of extending the exemption past the original deadline.

Twenty-two (22) of the states allow an abatement or exemption for manufacturing operations and thirteen (13) states provide for exemptions to commercial establishments. Only two states exclude manufacturing facilities from receiving any type of exemption identified in this study.

A majority of the states provide for a decrease in the rate of exemption as the term of the exemption increases. Other alternatives of abatement include stabilization of taxes and payments in lieu of taxes. Only four states offer a complete 100% exemption from property taxes regardless of the circumstances surrounding the location or expansion of an industry.

The majority of the exemption options are determined by local governing boards or taxing authorities. Two states grant exemptions through their state economic development agency and two other states require voter approval of a referendum prior to granting property tax exemptions. In most of the cases, the exemption is not automatic for any company who requests it, even though they meet the criteria required to qualify for the abatement.

The following report and table describes the previously mentioned concepts in greater detail.

INTRODUCTION

This study identifies the states which have made constitutional or statutory provisions for the abatement or exemption of property taxes by methods other than those associated with industrial revenue bonds. In addition, the paper describes the types of companies or facilities which are eligible for property tax exemptions as well as details about the exemptions, themselves. Individual cases are highlighted when they vary from the norm exhibited by the majority of examples.

The common justification for providing property tax abatements or exemptions is to encourage the development of new industry in the state as well as enhance the expansion of existing industry. Criteria which are used to determine the appropriateness of granting exemptions include:

- 1) creation of employment
- 2) effect of exemption on the tax base
- 3) consistent with the taxing policy of the governing body
- 4) area of proposed location or expansion
- 5) history of the requesting company

Each of the states is identified in a table which summarizes the scope of work for this report. Concepts associated with the table are described in the following narrative.

What states provide an exemption or abatement from property taxes?

Research of national development organization studies and telephone inquiries have identified twenty-four states which provide an abatement or exemption of property taxes. These abatements are exclusive of those which are associated with industrial revenue bonds. Within these states, thirty-six separate types or programs, for abatement are listed. The table lists each state and the separate abatement programs.

A majority of the states (17) are located east of the Mississippi River. State development agency sources indicate the concept was began in the southern states and gradually spread northward. Missouri and Iowa are the only neighboring states to Kansas which have this type of program.

Are specific areas of a state designated for this exemption?

Sixteen of the programs identified allowed for the abatement or exemption of property tax on a statewide level. This exemption is almost always at the discretion of city or county authorities and provides a necessary check to allow for protection of the tax base. The remainder of the twenty-four states grant exemptions or abatements in special zones or under certain circumstances. These types of zones include enterprise zones, industrial development districts, plant rehabilitation districts, urban redevelopment districts, and historical districts. Three states (Connecticut, Maryland, and Missouri) indicated exemptions which applied only to facilities locating in enterprise zones. These zones are not numerous in any of the three states so the exemption is not widely available. Connecticut limits the number of enterprise zones to six, three in municipalities over 80,000 population and three under 80,000. Maryland currently has eleven enterprise zones and Missouri limits by statute the number of zones to twenty eight.

Connecticut, Missouri, and Pennsylvania made specific provisions for property tax abatement in areas designated as distressed, blighted or deteriorating. These

types of areas are generally defined as zones with characteristics of obsolescence, inadequate or outmoded design, physical deterioration or contributing to the economic or social liability of the city or county.

In a similar type of designation, eight programs specifically exempt facilities who locate or expand in economic or urban revitalization zones. The zones are usually targeted because they have led to a decline in employment and tax revenues. Many times the buildings in these areas display the same characteristics as those in blighted areas.

Massachusetts and Mississippi have designated economic or industrial development sites to be exempt from property taxes. This abatement allows industrial development organizations to develop sites necessary to attract industry and not be taxed during this period.

How long of an exemption is granted?

Length of exemption varies in most cases according to the decision of the exempting body. The most common length is from one to ten years although one state will allow exemptions up to twenty-five years for redevelopment corporations. At least three states also allow the option of extending the exemption past the original deadline. In many of the cases, the level of exemption declines as the term of exemption increases. This will be discussed in a further section of the report.

Louisiana, Maryland, Minnesota, Mississippi, and North Dakota have programs which do not specify a length of exemption. These programs are associated with development of industrial sites and renovation of facilities. Usually, the abatement lasts until the building is completed or occupied. This allows the development entity to concentrate on construction and saves the taxing provision until a revenue-producing company takes possession of the facility.

What kinds of companies are allowed this exemption?

Most of the states (22) indicated that manufacturing companies are allowed a property tax abatement or exemption depending upon which type of program is utilized. Most of the states described manufacturing as any operation which assembles, fabricates, manufactures, mixes or processes a product. Mississippi is so specific in it's definition that a complete list of applicable facilities is contained in their state statutes. Alabama is very similar, however the statute contains a provision which allows for the manufacture of any trade or commercial article. Only two of the states studied excluded manufacturing from this exemption and that was because the type of exemption given was for property development organizations.

Thirteen states included commercial establishments in their exemption programs. In some cases, a separate tax exemption provision was enacted and in others, they are applicable under the same criteria and conditions as the manufacturing plants.

Michigan and North Dakota made specific statutory provisions for warehouse and distribution facilities to be included in property tax exemptions. Interviews with several other states indicated that these types of facilities could be included at the discretion of the local taxing authority.

What level of exemption is allowed?

There is a large variance in the level or amount of exemption which is allowed by the twenty-four states. Only four states offer a complete 100% exemption from property taxes regardless of the circumstances with a particular industry. Several states offer a 100% exemption excluding the school district portion of the property tax assessment. Others exclude either the city portion or the county portion in conjunction with the school district share. Louisiana offers a 100% exemption of special service district taxes for as long as the company will provide for their own utilities, road maintenance, and police and fire protection. Illinois allows a 100% exemption of taxes but limits the total amount of abatement during the term of exemption to less than one million dollars.

A majority of the states provide for a variable percent of reduction in taxes on the increased value of the improvements to land. This, in effect, means the company must still pay full tax on the value of the land, but can gradually start shouldering the tax responsibility on improvements made to the facility.

Another popular concept is to decrease the rate of exemption as the term of exemption increases. Some states begin with a 100% exemption and decrease to 0% while others start at 80% or 50% and decrease to 0%. This is most important to new companies which may not have a strong capital base during their initial start-up of operations.

Stabilization of taxes is another method of providing abatement to companies. Rhode Island and Vermont allow for tax rates to be stabilized over a negotiated timeframe. Vermont uses four methods to set a stabilized rate:

- 1) Fix and maintain the value of real and personal property,
- 2) Fix and maintain the tax rate,
- 3) Fix and maintain the actual amount of taxes,
- 4) Fix the tax applicable to such property at a percentage of the annual tax.

The net result of this option is to guarantee a fixed tax payment while other companies will have to deal with the potential rise in tax assessments over a period of time.

Another concept employed by the state of New Jersey is an annual payment in lieu of taxes. There are three methods that may be used by a company to compute this payment:

- 1) 2% of the cost of the project,
- 2) 15% of the annual gross revenues of the project,
- 3) A phase-in of the tax
 - 1st year: 0%
 - 2nd year: 20%
 - 3rd year: 40%
 - 4th year: 60%
 - 5th year: 80%
 - 6th year on: 100%

The first method has the same effect as stabilizing a tax rate in that it guarantees an identical payment for five years. The second method allows for the payment of taxes to be matched with the economic well-being of the company. The third method would be most appropriate for young companies with minimum base capital to start operations. Any method of payment must be determined by a written agreement between the governing body and the requesting company. No combination of methods may be used to determine the payment in lieu of taxes.

Who makes the decision to grant exemptions?

A majority (28) of the exemption options are determined by the local city or county governing board or taxing authority. Requests for these exemptions must be presented to the local governing body and appropriate public hearings and comment periods established. In many cases, a written contract or agreement is drawn between the local body and the requesting company.

Connecticut and Louisiana offer exemptions which must be approved by the state economic development agency. Rules and regulations for the granting of exemptions are established by the state agency. In Louisiana, the exemption can be granted only if the agency and the Governor determine such an exemption is in the best interest of the state. Examples of rules and regulations that must be adhered to include the use of in-state contractors, laborers, suppliers and manufacturers when establishing or expanding a facility.

Florida and Vermont provide exemptions only after local voters have approved referendums to authorize the granting in individual cases. Florida only allows referendums for this purpose to be called once in any 12 month period per locality.

Massachusetts has established specific statutes which mandate the granting of property tax exemptions for economic development corporations. As long as the company can meet the requirements of that statute, the exemption is automatically granted. The state agency responsible for taxation monitors the use of this exemption.

The granting of an exemption from property taxes is not automatic in most of the cases identified. Only four states (Massachusetts, Missouri, New York and Texas) have programs which require that an exemption or abatement be given if the company meets necessary criteria and requests the exemption. The remainder of the states rely on local discretion and review for the granting of these exemptions.

The following table on Property Tax Abatement or Exemption Programs highlights the discussion of the previous sections.

TABLE. PROPERTY TAX ABATEMENT AND EXEMPTION PROGRAMS

State	Types of Companies Eligible for Exemption	Areas Eligible for Exemption	Length of Exemption	Level of Exemption	Exemption Decision Authority	
Alabama	Manufacturing	Statewide	0-10 years	100% of taxes, except school district share	County or City	
Connecticut	Manufacturing	Distressed urban areas	5 years	80%	State Department of Economic Development	
	Manufacturing	Enterprise Zones	5 years	80%	State Department of Economic Development	
Florida	Business	Statwide	0-10 years	100% of taxes, except school district share	Local voter approval	
Illinois	Commercial or Industrial	Statewide	0-10 years	100% of taxes; total abatement not to exceed \$1 million	Local taxing authority	
Indiana	Manufacturing	Economic Revitalization Area	3-6-10 years	(1) For deductions allowed over a three year period.	Town Council or Commission	
				YEAR OF DEDUCTION		PERCENTAGE
				1st		100%
				2nd		66%
				3rd		33%
				(2) For deductions allowed over a six year period.		
				YEAR OF DEDUCTION		PERCENTAGE
				1st		100%
				2nd		85%
				3rd		66%
				4th		50%
				5th		34%
				6th		17%
(3) For deductions allowed over a ten year period.						
YEAR OF DEDUCTION	PERCENTAGE					
1st	100%					
2nd	95%					
3rd	80%					
4th	65%					
5th	50%					
6th	40%					
7th	30%					
8th	20%					
9th	10%					
10th	5%					
Iowa	Commercial & Manufacturing	Statwide	5 years	Exemption applies only to value added: 1st year 75% 2nd year 60% 3rd year 45% 4th year 30% 5th year 15%	Cities or Counties	
	All types of development	Urban Revitalization Areas	3 years or 10 years	100% of value added for 3 years; or partial exemption over 10 yrs. declining from 80% in 1st year to 20% in 9th and 10th years.	City Councils	

State	Types of Companies Eligible for Exemption	Areas Eligible for Exemption	Length of Exemption	Level of Exemption	Exemption Decision Authority
Louisiana	Industrial	Special Industrial Areas	Indefinite ²	100% of special service district taxes.	Parish Boards
	Manufacturing	Statewide	5 years + 5 year renewal	100% of taxes on buildings, equipment, machinery and improvements to land.	State Board of Commerce & Industry
Maryland	All types of property	Historical Realty	Length of Restoration	10% of restoration costs	Counties and Municipalities
	Trade or Business	Enterprise Zones	5 years	80% of taxes on eligible assessment.	Local Governments
Massachusetts	Economic Development Corporations	Realty owned by Economic Development Corporations	7 years	100%	State Statute
Michigan	Manufacturing, Research and Development, Warehousing and Distribution	Plant Rehabilitation Districts or Industrial Development Districts	0-12 years	100% on value of improvements for restoration of existing plant; 50% on value of improvements for expansion of existing plant or a new plant.	Local Government and State Tax Commission
	Commercial	Commercial Redevelopment Districts	0-12 years	100% of value of improvements for restoration of obsolete facilities; 50% on value of construction for new or replacement construction.	Local Government
Minnesota	Property Developers	Industrial Development Districts or Redevelopment Projects	Until building is 50% completed	100%	Local Government
Mississippi	Manufacturing or Business	Statewide	0-10 years	100% of municipal and county taxes, but not school district tax.	County Boards of Supervisors and Municipal Authorities
	Privately-owned Structures	Central Business Districts	0-7 years	100% of municipal taxes (may apply to county taxes also), but	Municipal Authorities and County Boards of Supervisors
	Non-Profit Associations, corporations or industrial foundations	Industrial Development Sites	Until building is erected on property	100%	Cities and Counties
Missouri	Urban Redevelopment Corporations	Blighted Areas	25 years	Valued at unimproved value for first 10 years and taxed at 50% of assessed value of land improvements for last 15 years.	City Council
	Revenue-producing Enterprise	Enterprise Zones	10-25 years	50% abatement of taxes resulting from development for 10 years; option to abate 100% of additional taxes for up to 25 years.	Local Governments

State	Types of Companies Eligible for Exemption	Areas Eligible for Exemption	Length of Exemption	Level of Exemption	Exemption Decision Authority
Montana	Manufacturing	Statewide	5-10 years	50% exemption on improvements for the first 5 years, then: 6th year 40% 7th year 30% 8th year 20% 9th year 10% 10th year 0%	Local Governing Bodies
	Remodeled Structures	Statewide	4 years	1st year 80% 2nd year 60% 3rd year 40% 4th year 20% Exemption applies to increased valuation due to remodeling.	Local Governing Bodies
New Jersey	Commercial and Manufacturing	Urban Aid Cities	5 years	Annual payment in lieu of property taxes computed by one of the following formulas: A) 2% of the cost of the project B) 15% of the annual gross revenues of the project C) A phase-in of the tax - 1st year 0% 2nd year 20% 3rd year 40% 4th year 60% 5th year 80%	Municipalities
New York	Industrial & Commercial	New York City	5-10-20 years	For new or reconstructed industrial facilities, or for rebuilt commercial facilities designated as specially needed, the exemption is 95% the first year and declines by 5% in each of the succeeding 19 years. Exemption for new commercial facilities designated as specially needed is 50% of any increase in value and declines by 5% in each of the succeeding 9 years. Exemption for new commercial facilities not designated as specially needed is 50% the first year and declines by 10% in each of the succeeding 4 years.	City Tax Commission
	Commercial & Industrial	State Outside New York City	10 years	If cost is more than \$10,000, exemption is 50% of any increase in value for the first year and declines by 5% in each of the succeeding 9 years.	Local Taxing Authorities
North Dakota	Manufacturing, Warehousing and Distribution	Statewide	0-5 years	100% of increased value	State Board of Equalization and cities or counties
	Local Development Corporations or Realtors	Statewide	Until building is occupied	Full or partial exemption on new buildings, structures or improvements.	Municipalities

State	Types of Companies Eligible for Exemption	Areas Eligible for Exemption	Length of Exemption	Level of Exemption	Exemption Decision Authority
Ohio	Commercial & Industrial	Community Reinvestment Areas	New construction is 15 years and remodeled structures (over \$5,000) & 12.	100% of taxes on any increase valuation resulting from new construction or remodeled structures.	Municipalities Corporations and counties
Pennsylvania	Commercial & Industry	Deteriorating Areas	0-10 years	100% of assessed value of improvements	Local Taxing Authorities
Rhode Island	Commercial & Manufacturing	Statewide	0-10 years	100% of tax may be exempted or a stabilized rate of tax may be improved.	Town Councils if voters have given prior authority to to the council
South Carolina	Manufacturing	Statewide	5 years	100% of county tax for facilities with capital expenditures of \$50,000 or more (new or expanded). Exemption does not apply to municipal or school taxes.	County Taxing Authorities
South Dakota	Commercial & Industrial	Statewide	5 years	Exemption is 75% for the first year, 50% for the second, and 25% for the third through fifth years. Applicable to new structures or additions to existing structures valued at more than \$30,000 and renovated structures to which \$10,000 or more in value is added.	County Boards of Tax Commissioners
Texas	Industrial	Reinvestment Zones	0-15 years	Up to 100% of tax	All taxing authorities with jurisdiction inside the zone
Vermont	Manufacturing	Statewide	0-10 years	100% of investment in excess of \$1,000	Town Voters
	Commercial & Industrial	Statewide	0-10 years	For new or expanding operations, an agreement to stabilize tax rates may be used. Allowable methods are: A) Fix and maintain value of real and personal property B) Fix and maintain tax rate C) Fix and maintain actual amount of taxes D) Fix the rate applicable to such property at a percentage of the annual tax.	Town Voters

- Generally defined as any company who assembles, fabricates, manufactures, mixes or processes a product.
- 2 Defined as the timeframe in which an industry provides its own utilities, road maintenance, police and fire protection, and other services.
 - 3 The eligible assessment is the difference between the base year assessment (taxable assessment on the property in the taxable year immediately preceding enterprise zone designation) and the actual assessment as determined by the Department of Assessments and Taxation for the applicable tax year in which the tax credit is provided.

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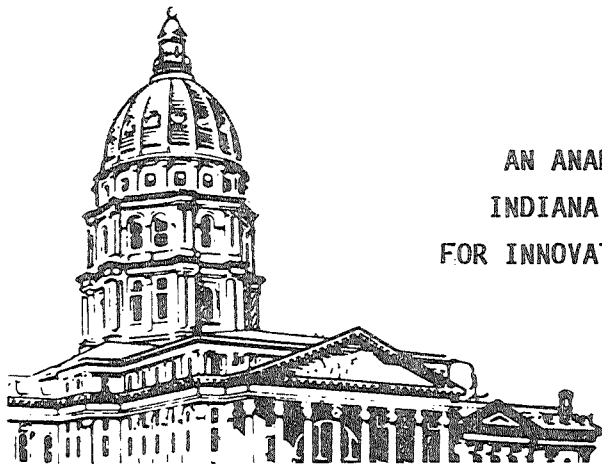
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Research Paper



AN ANALYSIS OF THE
INDIANA CORPORATION
FOR INNOVATION DEVELOPMENT

Policy Analysis & Research Unit

Kansas Department
of Economic Development

400 W. 8th St.—Suite 500
Topeka, Kansas 66603-3957
913-296-3481

AN ANALYSIS OF THE INDIANA CORPORATION

FOR INNOVATION DEVELOPMENT

Prepared by: Terry E. Marlin
Policy Analysis & Research Unit
Kansas Department of Economic Development
March 7, 1986

EXECUTIVE SUMMARY

The Corporation for Innovation Development is a privately owned venture capital investment corporation established by the State of Indiana. Its purpose is to encourage research and development activities, capital investment, and the establishment or expansion of business and industry. CID is governed by a seven-member board of directors; three are appointed by the Lieutenant Governor, and the remainder are selected by the private investors in the Corporation.

The capital for the fund is provided by private companies that have major interests in the state: banks, utilities, insurance companies, and industrial corporations. The fund currently has \$10 million of capital. Investors are eligible for an income tax credit equal to 30% of the amount of capital contributed within a tax year. CID is exempt from state general tax levies, but is required to contribute at least 5% of its net income to state university research.

The enabling legislation restricts CID to making investments in companies doing business primarily in Indiana. The Corporation is interested in firms operating in technology-oriented growth industries, or other companies with special research skills, proprietary products, or market niches. So far, it has invested a total of \$5 million in 10 companies. These companies vary greatly in terms of size, stage of development, level of technology, and industry maturity.

Because of the long term nature of its investments, CID seeks to maintain a partner-like relationship with the companies it finances. It does not want control, but it expects open lines of communication with management. Where appropriate, it will provide advisory support.

1. What is the Nature and Purpose of the Corporation for Innovation Development?

The Corporation for Innovation Development is a privately owned venture capital investment corporation established by the State of Indiana in 1982. The purpose of the Corporation is to encourage capital investment in the state of Indiana, the establishment or expansion of business and industry, provide additional job opportunities within the state, and encourage research and development activities within the state.

2. Are There Other States That Have an Entity Like the CID?

No other state has replicated this entity exactly. However, Maine has an organization - The Maine Capital Corporation - which has a similar structure. The primary difference is that Maine's is not particularly oriented to technology based firms or industries. Also, it does not have to contribute part of its net income to university research as does Indiana's CID.

3. What is the Organizational Structure of CID?

CID is governed by a seven-member board of directors. Three members are appointed by the Lieutenant Governor, and the others are chosen by the private investors. (The Lieutenant Governor is in charge of Indiana's economic development program.) The staff consists of three high level professionals, plus clerical support. It is based in Indianapolis and serves the whole state. The enabling legislation provides for the establishment of only one such corporation.

4. What is the Source of its Funding?

The funds, other than some minor costs associated with setting up the organization, were raised from private sources. The Lieutenant Governor was active in getting private corporations to invest capital in CID during the initial stage. The investors include banks, insurance companies, utilities, and other companies that have major stakes in the Indiana economy. The private investors are motivated by the prospect of long term capital appreciation, as well as a desire to improve the economic climate of Indiana. Investment credits are also a factor. The initial required capitalization was \$2 million; CID now has \$10 million of capital.

5. What Kind of Tax Incentive is Offered to Investors?

Private investors obtain a tax credit equal to 30% of the amount of capital contributed within a tax year. If the credit exceeds the taxpayer's state tax liability in a particular year, the unused portion may be utilized in succeeding years until the end of 1986. The investment must be maintained for a minimum of five years, or the tax credit will be disallowed. The legislation also establishes a ceiling of \$5 million in credits taken by all taxpayers in all years.

The Corporation itself is exempt from all state tax levies except for employment taxes. It is liable for county and municipal taxes. Also, CID must contribute at least 5% of its net income (as determined for Federal income tax purposes) to the state universities for research that would enhance the business and industry of the state. The allocation of funds among the universities will be determined by the commission for higher education.

6. What are the Investment Guidelines?

The enabling legislation allows the Corporation to provide financing to entities doing business primarily in Indiana to be used solely for the purpose of enhancing the productive capacity of an entity, or the ability of an entity to do business in Indiana. The financing may include any combination of equity investments, loans, guarantees, and commitments. In practice, the typical investment ranges between \$250,000 and \$500,000.

In addition to the general guidelines contained in the legislation, the Board of Directors have set more specific criteria for investment decisions. CID is most interested in companies operating in technology oriented growth industries. However, it will consider established firms in low growth or cyclical industries if they possess special research skills, proprietary products, or dominance in particular market segments. In all cases there must be a strong management team in place, or one to be assembled in connection with the financial package.

CID is also seeking to diversify its investments with respect to the developmental stage of its portfolio companies. Accordingly, it is investing in the following types:

1. Emerging growth companies which need capital to commercialize an already developed product or process
2. Later stage growth companies which need additional capital to expand
3. Mature businesses which need an infusion of capital in order to make an ownership change or to develop new products.

7. What Kind of Process is Used to Analyze Investment Proposals?

In order to receive serious consideration, a company must submit a complete business plan to CID. The business plan must include the following elements: a summary of the company's history and future plans, description of its products and strategy, profile of the industry and competition, description of the management team and the organizational structure, past financial results and future projections, and the use of the proposed financing. The staff reviews the plan and conducts on-site visits if necessary. The review process takes from 3-10 weeks.

The form of investment, and specific terms are determined through negotiations.

8. What Kind of Relationship Exists Between CID and its Portfolio Companies?

Because of the long term nature of its investments, CID seeks to maintain a partner-like relationship with the companies that it finances. It expects open lines of communication with the management in addition to periodic financial and operating reports. In some cases, it may want representation on the Board of Directors. However, it does not want control of the company, nor does it want to participate in operational decisions. The staff and Board of CID serve as a sounding board for the management. This advisory role could take the form of helping revise strategies, helping to obtain additional capital, providing information on particular issues, monitoring ongoing results to spot potential problems or opportunities.

9. How Successful is CID?

CID became fully operational in the middle of 1983. It has raised \$10 million of capital, and has invested a total of \$5 million in 10 companies. These companies vary greatly in terms of size, stage of development, level of technology, and industry maturity. Since these investments are intended to remain in place for 5-7 years, it is too early to make a definitive judgement about them. One positive sign is the fact that there have been no write offs, or serious problems with any of the deals thus far. Because the fund is privately owned, it does not release specific financial details to the public; nor does it track job creation or retention resulting from its investments.

10. Has the Kansas Legislature Considered Establishing an Entity Like CID?

In 1982, Senators Morris, Montgomery, Thiessen, and Vidricksen introduced Senate Bill No. 712 which would have authorized the creation of a corporation for innovation development and provided tax credits for qualified investments. The bill was patterned on the Indiana model with the only difference being that the Governor was empowered to form the corporation and appoint the first three board members; Indiana's legislation gave this authority to the Lieutenant Governor. The bill died in committee. Apparently, it would be unconstitutional under the internal improvements prohibition.

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Chapter 5. Investment Credits.

Sec.		Sec.	
6-3.1-5-1	Purposes of chapter	6-3.1-5-8	State corporation; duties and powers of lieutenant governor
6-3.1-5-2	Definitions	6-3.1-5-9	State corporation; tax exemption
6-3.1-5-3	Purchase of qualified investment in qualified entity; entitlement years	6-3.1-5-10	Tax exemption; income received by reason of ownership of qualified investment
6-3.1-5-4	Amount of credit; determination steps	6-3.1-5-11	Exempt taxpayer
6-3.1-5-5	Carryover of excess credit	6-3.1-5-12	Redemption of qualified investment by qualified entity; disallowance of credit
6-3.1-5-6	Total amount of credits allowed; limitation	6-3.1-5-13	Order of application of credit
6-3.1-5-7	Corporation for Innovation Development; incorporation; purpose; directors; authority; transaction of business; contribution to state universities; name	6-3.1-5-14	Claiming of credit; filing of form with annual state tax return
		6-3.1-5-15	Forms; contents; filing; copies
		6-3.1-5-16	Exemptions of 6-3.1-5-9, 6-3.1-5-10 and 6-3.1-5-11; modification

6-3.1-5-1 Purposes of chapter

Sec. 1. The purposes of this chapter are:

- (1) to encourage capital investment in Indiana;
- (2) to encourage the establishment or expansion of business and industry;
- (3) to provide additional jobs within Indiana; and
- (4) to encourage research and development activities within Indiana.

As added by P.L.51-1984, SEC.1.

1984 Enactment. P.L. 51-1984, Sec. 1, emerg., eff. Jan. 1, 1984, added this article.

Section 5(a) of P.L. 51-1984 provided that Section 1 of this act affects taxable years that begin after Dec. 31, 1983.

For provisions relating to carry back or carry forward of credits earned before Jan. 1, 1984, see note under section 6-3.1-1-1.

Formerly:
IC 6-3-3.4-1.

Library References
Taxation ☞1047.
C.J.S. Taxation § 1098.

6-3.1-5-2 Definitions

Sec. 2. As used in this chapter:

"New partnership interest" means either a general or a limited partnership interest in a limited partnership if the interest is acquired by the taxpayer from the limited partnership.

"New stock" means a share or shares of stock of a corporation if the stock, when purchased by the taxpayer, is authorized but unissued.

"Qualified entity" means the state corporation, and any other corporation or limited partnership in which the state corporation purchases, before January 1, 1984, new stock or a new partnership interest under section 7(d) of this chapter.

"Qualified investment" means new stock or a new partnership interest in a qualified entity, which stock or interest is purchased by the taxpayer solely for cash.

"State corporation" means the corporation organized under sections 7 and 8 of this chapter.

"State tax liability" means a taxpayer's total tax liability that is incurred under:

- (1) IC 6-2.1 (the gross income tax);
- (2) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
- (3) IC 6-3-8 (the supplemental net income tax);
- (4) IC 6-5-10 (the bank tax);
- (5) IC 6-5.1 (the intangibles tax);
- (6) IC 6-5-11 (the savings and loan association tax); and
- (7) IC 27-1-18-2 (the insurance premiums tax);

as computed after the application of the credits that, under IC 6-3.1-1-2, are to be applied before the credit provided by this chapter.

"Taxpayer" means any person, corporation, partnership, or other entity that has any state tax liability. *As added by P.L.51-1984, SEC.1.*

Formerly:
IC 6-3-3.4-2.
P.L.23-1983, SEC.6.

Library References
Taxation ☞1047.
C.J.S. Taxation § 1098.

6-3.1-5-3 Purchase of qualified investment in qualified entity; entitlement years

Sec. 3. Subject to section 6 of this chapter, a taxpayer is entitled to a credit against any state tax liability which may be imposed on the taxpayer for a particular taxable year that begins after December 31, 1981, if the taxpayer purchases a qualified investment in a qualified entity. However, a taxpayer may only receive a credit for qualified investments purchased during calendar years 1981, 1982, and 1983. *As added by P.L.51-1984, SEC.1.*

Formerly:
IC 6-3-3.4-3.

Library References
Taxation ☞1047.
C.J.S. Taxation § 1098.

6-3.1-5-4 Amount of credit; determination steps

Sec. 4. Subject to section 6 of this chapter, the amount of the credit that a taxpayer may receive under this chapter for a particular taxable year is equal to the lesser of the taxpayer's state tax liability for that taxable year, or the amount determined in STEP THREE of the following steps:

STEP ONE: Add the consideration paid for all qualified investments the taxpayer purchased during that taxable year.

STEP TWO: Multiply the amount determined in STEP ONE by three-tenths (0.3).

STEP THREE: Add the product determined in STEP TWO to the credit carryover, if any, to which the taxpayer is entitled for the taxable year under section 5 of this chapter.

As added by P.L.51-1984, SEC.1.

Formerly:
IC 6-3-3.4-4.

Library References
Taxation ☞1047.
C.J.S. Taxation § 1098.

6-3.1-5-5 Carryover of excess credit

Sec. 5. (a) If the amount determined under STEPS ONE through THREE of section 4 of this chapter for a particular taxpayer and a particular taxable year exceeds the taxpayer's state tax liability for that taxable year, then the taxpayer may carry the excess over to the immediately succeeding taxable years. However, the credit carryover may not be used for any taxable year that begins on or after January 1, 1987. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year.

(b) A credit based on a qualified investment purchased during 1981 shall be a credit carryover to taxable years that begin after December 31, 1981. *As added by P.L.51-1984, SEC.1.*

Formerly:
IC 6-3-3.4-5.

Library References
Taxation ☞1047.
C.J.S. Taxation § 1098.

6-3.1-5-6 Total amount of credits allowed; limitation

Sec. 6. (a) The total amount of credits allowed under this chapter may not exceed in the aggregate five million dollars (\$5,000,000) for all taxpayers and all taxable years.

(b) The aggregate amount of consideration paid by all taxpayers for qualified investments in a particular qualified entity, other than the state corporation, which may be used by all those taxpayers as a basis for credits under this chapter, may not exceed an amount equal to five (5) times the amount of consideration paid by the state corporation for new stock or a new partnership interest in the qualified entity.

(c) The state corporation shall administer the provisions of this section and shall issue the forms required by section 15 of this chapter only to the extent consistent with the limits in this section.

(d) If aggregate consideration paid for qualified investments which would otherwise qualify for the credit provided by this chapter exceeds the limits imposed by this section, the credit shall be allowed to taxpayers in the order of the time of the purchase of the qualified investments. *As added by P.L.51-1984, SEC.1.*

Formerly:
IC 6-3-3.4-6.

Library References
Taxation ☞1047.
C.J.S. Taxation § 1098.

6-3.1-5-7 Corporation for Innovation Development; incorporation; purpose; directors; authority; transaction of business; contribution to state universities; name

Sec. 7. (a) To carry out the purposes of this chapter, the state corporation shall be formed under IC 23-1-1 through IC 23-1-12 (the Indiana general corporation act). The

articles of incorporation of the state corporation shall comply with the provisions set forth in subsections (b) through (i).

(b) The purpose of the state corporation shall be solely to raise funds which shall be used to make investments in qualified entities described in subsection (d) and to:

- (1) provide financing to Indiana business firms described in subsection (e) in a manner that will encourage capital investment in Indiana;
- (2) encourage the establishment or expansion of business and industry in Indiana;
- (3) provide additional jobs within Indiana; and
- (4) encourage research and development activities.

(c) The directors need not be shareholders in the state corporation, and there shall be not less than three (3) nor more than seven (7) directors, three (3) of whom shall be persons who have been nominated to be directors by the lieutenant governor.

(d) The state corporation may purchase new stock in a corporation organized under IC 23-1-1 through IC 23-1-12 (the Indiana general corporation act) or may purchase a new partnership interest in a limited partnership that has its principal office located in Indiana if the corporation or partnership:

- (1) has received a license or a statement of intent to license as a small business investment company from the Small Business Administration of the United States under the Small Business Investment Act of 1958, as amended;¹ and
- (2) is organized and operated solely for the purpose of performing the functions and conducting the activities contemplated by the Small Business Investment Act of 1958, as amended.

(e) The state corporation may provide financing to entities doing business primarily in Indiana, including but not limited to minority businesses, corporations and partnerships, to be used solely for the purpose of enhancing the production capacity of the entity or the ability of the entity to do business in Indiana. The financing may include any combination of equity investments, loans, guarantees, and commitments for financing, and the amount of financing is unlimited.

(f) The state corporation may borrow from the industrial development fund created by IC 4-4-8-2.

(g) No business shall be transacted or indebtedness incurred, except such as shall be incidental to the state corporation's organization or to obtaining subscriptions to or payment for its shares, until consideration for such shares equal to at least two million dollars (\$2,000,000) shall have been paid in, which amount paid in shall be the initial stated capital of the state corporation.

(h) Not less than five percent (5%) of the net income of the state corporation for federal income tax purposes shall be contributed to state universities to be used by the universities for research for the purpose of developing business and industry in the state of Indiana. The allocation of funds among the universities shall be directed by the commission for higher education, which shall determine the universities and the amounts in its discretion.

(i) The name of the state corporation shall be "Corporation for Innovation Development". *As added by P.L.51-1984, SEC.1.*

1. 15 U.S.C.A. § 661 et seq.

Formerly:
IC 6-3-3.4-7.
P.L.23-1983, SEC.15.

Library References
Taxation ☞1047.
C.J.S. Taxation § 1098

6-3.1-5-8 State corporation; duties and powers of lieutenant governor

Sec. 8. (a) The lieutenant governor shall cause the state corporation to be formed, and he shall designate the incorporators and the first three (3) members of the first board of directors, no more than two (2) of which may be members of the same political party.

(b) The lieutenant governor may expend such funds as he deems appropriate for the purpose of organizing the state corporation and marketing the securities thereof. *As added by P.L.51-1984, SEC.1.*

Formerly:
IC 6-3-3.4-8.

Library References
Taxation ☞1047.
C.J.S. Taxation § 1098.

6-3.1-5-9 State corporation; tax exemption

Sec. 9. The state corporation is exempt from any and all state tax levies including, but not limited to, the gross income tax (IC 6-2.1), state gross retail tax (IC 6-2.5), use tax (IC 6-2.5-3), adjusted gross income tax (IC 6-3-1 through IC 6-3-7), supplemental net income tax (IC 6-3-8), and intangibles tax (IC 6-5.1). However, the state corporation is not exempt from employment taxes or any taxes imposed by a county or by a municipal corporation. *As added by P.L.51-1984, SEC.1.*

Formerly:
IC 6-3-3.4-9.

Library References
Taxation ☞1047.
C.J.S. Taxation § 1098.

6-3.1-5-10 Tax exemption; income received by reason of ownership of qualified investment

Sec. 10. (a) Except as provided in subsection (b), income that is received by a taxpayer by reason of ownership of a qualified investment is exempt from gross income tax (IC 6-2.1), adjusted gross income tax (IC 6-3-1 through IC 6-3-7), and supplemental net income tax (IC 6-3-8).

(b) The exemption provided under subsection (a) shall not apply to any income realized by reason of the sale or other disposition of the qualified investment. *As added by P.L.51-1984, SEC.1.*

Formerly:
IC 6-3-3.4-10.

Library References
Taxation ☞1047.
C.J.S. Taxation § 1098.

6-3.1-5-11 Exempt taxpayer

Sec. 11. Any taxpayer is exempt from any tax to the extent that the tax is based on or measured by a qualified investment, including, but not limited to, any tax which might otherwise be imposed with respect to the qualified investment under the intangibles tax (IC 6-5.1), the bank tax (IC 6-5-10), and the savings and loan association tax (IC 6-5-11). *As added by P.L.51-1984, SEC.1.*

Formerly:
IC 6-3-3.4-11.
P.L.88-1983, SEC.7.

Library References
Taxation ☞1047.
C.J.S. Taxation § 1098.

6-3.1-5-12 Redemption of qualified investment by qualified entity; disallowance of credit

Sec. 12. (a) If a qualified investment which is the basis for a credit under this chapter is redeemed by the qualified entity within five (5) years of the date it is purchased, the credit provided by this chapter for the qualified investment shall be disallowed, and any credit previously claimed and allowed with respect to the qualified investment so redeemed shall be paid to the department of revenue with the appropriate return of the taxpayer covering the period in which the redemption occurred.

(b) When payments are made to the department under this section, the amount collected shall be handled in exactly the same manner as if no credit had been allowed. *As added by P.L.51-1984, SEC.1.*

Formerly:

IC 6-3-3.4-12.

Library References

Taxation ☞1047.

C.J.S. Taxation § 1093.

6-3.1-5-13 Order of application of credit

Sec. 13. (a) A credit to which a taxpayer is entitled under this chapter shall be applied against taxes owed by the taxpayer in the following order:

- (1) First, against the taxpayer's gross income tax liability (IC 6-2.1) for the taxable year.
- (2) Second, against the taxpayer's adjusted gross income tax liability (IC 6-3-1 through IC 6-3-7) for the taxable year.
- (3) Third, against the taxpayer's supplemental net income tax liability (IC 6-3-8) for the taxable year.
- (4) Fourth, against the taxpayer's intangibles tax liability (IC 6-5.1) for the taxable year.
- (5) Fifth, against the taxpayer's bank tax liability (IC 6-5-10) or savings and loan association tax liability (IC 6-5-11) for the taxable year.
- (6) Sixth, against the taxpayer's insurance premiums tax liability (IC 27-1-18-2) for the taxable year.

(b) Whenever the tax paid by the taxpayer under any of the tax provisions listed in subsection (a) is a credit against the liability or a deduction in determining the tax base under another Indiana tax provision, the credit or deduction shall be computed without regard to the credit to which a taxpayer is entitled under this chapter. *As added by P.L.51-1984, SEC.1.*

Formerly:

IC 6-3-3.4-13.

P.L.88-1983, SEC.8.

Library References

Taxation ☞1047.

C.J.S. Taxation § 1093.

6-3.1-5-14 Claiming of credit; filing of form with annual state tax return

Sec. 14. To receive the credit provided by this chapter, a taxpayer must:

- (1) claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department of state revenue; and
- (2) file with the department and with the taxpayer's annual state tax return or returns a copy of the form issued by the state corporation as to the qualified investment by the taxpayer, which shall include an undertaking by the taxpayer to report to the department of revenue any redemption of the qualified investment, if the redemption is covered by section 12 of this chapter.

As added by P.L.51-1984, SEC.1.

Formerly:

IC 6-3-3.4-14.

Library References

Taxation ☞1047.

C.J.S. Taxation § 1093.

6-3.1-5-15 Forms; contents; filing; copies

Sec. 15. (a) The state corporation shall complete forms prescribed by the department which shall show as to each qualified investment in any qualified entity the following:

- (1) The name, address, and employer identification number of the qualified entity.

(2) The name, address, and identification number of the taxpayer who purchased the qualified investment.

(3) The extent of the qualified investment purchased by the taxpayer and the amount paid for it.

(b) The forms required to be filed with the department shall be filed by the state corporation on or before the fifteenth day of the second month following the month in which the qualified investment is purchased.

(c) Copies of the forms shall be mailed to the taxpayer and, where the qualified entity is not the state corporation, the qualified entity on or before that same date. *As added by P.L.51-1984, SEC.1.*

Formerly:

IC 6-3-3.4-15.

Library References

Taxation ☞1047.

C.J.S. Taxation § 1093.

6-3.1-5-16 Exemptions of 6-3.1-5-9, 6-3.1-5-10 and 6-3.1-5-11; modification

Sec. 16. The tax exemptions contained in sections 9, 10, and 11 of this chapter may be repealed or modified by the general assembly of the state of Indiana. *As added by P.L.51-1984, SEC.1.*

Formerly:

IC 6-3-3.4-16.

Library References

Taxation ☞1047.

C.J.S. Taxation § 1093.

03/17/86

Institute for Public Policy and Business Research

Recommendation #1. Establish a Task Force on Agriculture
Development and Marketing

I. INTRODUCTION

Currently the economic problems of Kansas agriculture are negatively impacting individual farmers, agribusiness and related industries and the state economy as a whole. Investigation into agricultural diversification and value-added production is proposed as a means of revitalizing the agricultural sector of the Kansas economy. In order to implement successful diversification and value-added programs, technical assistance for production and market development must be made available to farmers and agribusiness.

II. OVERVIEW

The following information is drawn from material provided by Dean Woods, College of Agriculture, at Kansas State University.

1. What would a Task Force on Agriculture Development and Marketing do?

Develop a research and implementation strategy to study and possibly implement programs such as agricultural diversification into new products, applying technology to value added processing of Kansas commodities and the provision of technical assistance for production processing and market development to Kansas farmers and businesses.

2. What is "diversification?"

Diversification of an agricultural base may take two forms:

- a. Individual farmers incorporate a larger number of commonly grown crops and/or animals into the farming operation.
- b. Individual farmers add new enterprises to their farming operation.

3. How could diversification be studied?

An economic and market analysis team could staff centers to conduct analyses with the help of consultants who have technical expertise. A steering committee would oversee these operations.

4. Who might be part of a committee to establish the analysis team's priorities?

- Director of Agricultural Experiment Station
- Chairman of Regents Committee on Agriculture and Economic Development
- Chairman or designee of Senate Ag Committee
- Chairman or designee of House Ag Committee
- Chairman or designees from four Kansas Commodity Commissions
- Chairman of KSU Ag Council
- Member at large--one each designated by Kansas Chamber of Commerce, Kansas Farm Bureau, Kansas Bankers Associations, Kansas Livestock Association, and Kansas Pork Producers Council

5. How much would this diversification program cost?

Dean Woods, Kansas State University, requested annual operating expenses for a proposed three year period to maintain an economic and market analysis team the amount of \$393,940. Funding for technological research through an internal grants program, guided by the steering committee, was also suggested. The research would provide information needed by the analysis team and provide required data to determine the competitive potential for new agricultural enterprises. Grant applications would be solicited throughout the Kansas Experiment Station and

would amount to \$450,000.

6. What is "value-added" production?

Value-added production is the adding of labor services to Kansas produced agricultural commodities and includes activities such as conditioning, storing, packaging and processing. The major benefit would be the employment of local people in processing facilities.

7. What are some potential value-added products that could be developed from current Kansas products?

- Food coatings-Kansas wheat could be used in this billion dollar industry.
- Restructured meat products-The trend toward convenience foods has created a market for restructured, pre-cooked and portioned controlled meat items.
- "Lite" foods-Consumers are more diet and nutrition conscious. This provides an opportunity to combine meat and fiber products into healthier foods that meet this demand.
- Extusion foods-Extusion technology combines cereal and meat products into snack foods. Such Foods represent a \$25.2 billion industry.
- Wheat and sorghum uses-Create new uses by separating grains into components.

8. How much would it cost to support value-added research?

Dean Woods has requested an annual budget of \$342,000.

9. How would diversification and value-added programs be implemented?

The success of these programs requires the extension of this technology to farmers and agribusiness. A small team would be formed to provide the technical assistance needed for diversification and value-added production and market development.

10. How much would such technical assistance cost?

An annual budget of \$207,370 was requested by Dean Woods for this purpose.

III. OTHER STATES

1. Are other agricultural states doing this type of research?

Nebraska created the Nebraska Food Processing Center at the University of Nebraska Institute of Agriculture and Natural Resources. The center is a non-profit consortium of specialists and has the following functions:

- a. Coordinates processing of crops and livestock into foods and food ingredients through commodity development.
- b. Makes R & D and systems evaluation affordable for small scale food processors.
- c. Operates a product referral system which links the state's food processors with food brokers and distributors.

In Nebraska, research has led to new vegetable production technology. New public-private enterprises called 'rural ventures' have been started by Control Data to allow small farmers to form cooperatives to grow specialty crops. Eight rural venture cooperatives in the country produce meat, vegetables, dairy, and fiber. They consist of 20-30 small farms (80-120 acres) and require low per farm capital investment.

Iowa is establishing a "Task Force on Agricultural Diversification" with subcommittees on specific crops or products. The Task Force will be a council similar to the High-

Tech Council and will be funded from the lottery. The Agricultural Task Force's mission will be to identify possible diversification into products or crops using existing capabilities and then inquire into potential markets and production costs. Once a realistic opportunity is identified, individual entrepreneurs will be encouraged to develop it with seed capital from the Iowa Product Development Corporation.

The Iowa State Board of Regents funded agricultural experiments at Iowa State University for value-added research at a cost of \$200,000.

Elizabeth Elsey
Research Assistant
Institute for Public Policy
and Business Research
March 4, 1986

Institute for Public Policy and Business Research

Recommendation #2 Sales Tax Exemption on All New Machinery and
Equipment Used in Manufacturing and On
Computers for Business Use

INTRODUCTION

Kansas does not currently allow a sales/use tax exemption on all new machinery and equipment used in manufacturing or on computers used in business. Kansas only allows refunds for sales tax paid on machinery and equipment for firms located in an Enterprise Zone who qualify for job and investment tax credits. This is a serious anomaly in the Kansas tax structure. Business leaders in Kansas have noted in interviews that the sales tax on machinery and equipment is a major disadvantage to economic development within the state. Allowing the exemption to also apply to computers used in business could lead to more jobs in the service and high-technology sectors.

EFFECT ON THE BUSINESS CLIMATE

Several business studies have shown that the presence of a sales tax on machinery and equipment used in manufacturing contributes to a state having a reputation for having a poor business tax climate. Kansas has suffered in these climate rankings as a result of a number of tax impediments, including the sales tax on machinery and equipment. Separate studies done by both ASLAN and the Advisory Commission on Intergovernmental Relations indicate Kansas has a relatively poor business tax climate. Both of these studies have cited the sales tax on

machinery and equipment as a problem in the business tax structure of Kansas.

In a recent interview with a Kansas business leader, it was said that Westinghouse Corporation had an opportunity to increase its investment in Salina but did not do so because the machinery needed would have been subject to the sales tax. The sales tax, evidently, did not apply in another state where Westinghouse ultimately expanded. This example shows that in some instances the sales tax issue can be very important to economic development in Kansas.

The economic effect of assessing a sales tax on new machinery and equipment when other states exempt these items is to raise the relative price of capital in Kansas. This is particularly disadvantageous to new capital intensive industries and existing capital intensive industries seeking to apply new and innovative techniques in production, i.e., computers, robotics, etc. This results in an overall lower level of use of capital in the state. In addition, the present sales tax on machinery and equipment hinders the development of science and technology in the state.

COST

The Kansas Department of Revenue has estimated the cost to the state of exempting all new machinery and equipment used in manufacturing in FY1987 at approximately \$15.8 million. The cost in FY1986 of the existing refund for sales tax paid on the

purchases of manufacturing machinery and equipment by firms located in an Enterprise Zone and who qualify for the job and investment tax credit is zero. This is due to the fact that no firms have qualified for this sales tax refund.

OTHER STATES

Currently there are thirty-nine states which exempt some or all new machinery and equipment from the sales/use tax. Five of these states assess a sales tax lower than the normal rate at which other items subject to the sales tax are assessed. These states are Alabama, Minnesota, Mississippi, North Carolina, and Texas. Of the seven states in this region, which include Arkansas, Colorado, Iowa, Kansas, Missouri, Nebraska, and Oklahoma, only Kansas does not exempt all new machinery and equipment used in manufacturing from the sales tax. Iowa has recently repealed the sales tax on all industrial machinery and equipment used in manufacturing and computers used in business.

The following states currently exempt some or all new machinery and equipment used in manufacturing from the state sales tax:

Alabama - The state exempts purchases of equipment and materials by barges or vessels; vessels, barges, and railroad cars; aircraft moves to another state after delivery, trucks leased for highway operation; vehicles leased or rented between regulated motor carriers; railroad equipment or vessels in interstate or foreign commerce; warranted replacement parts; and materials for repairing watercraft from the state sales tax. Other purchases of

than the normal 4% tax.

Alaska - No state sales tax.

Arizona - Machinery and equipment used in the manufacturing process, the production and transmission of electricity, or drilling for oil and gas are exempt from the sales tax.

Arkansas - Machinery and equipment used in manufacturing, processing, assembling, fabricating, finishing, or packaging any commercial products at in-state plant and vessels, towboats, and barges of more than 50 tons' load displacement, as well as expenses for their repair or construction are exempt from the sales tax.

Colorado - The state exempts all machinery and equipment purchased by a Colorado manufacturer to be used exclusively in manufacturing, providing the purchase is over \$1,000, but does not exceed \$500,000 per year.

Connecticut - The state exempts machinery used in manufacturing or agricultural production, any replacement parts for machinery sold to businesses located in designated enterprise zones, and flyable aircraft sold by Connecticut aircraft manufacturers to be used as carriers in interstate or foreign commerce, or for use outside the state.

Delaware - No state sales tax.

Florida - The state exempts machinery and equipment purchased by new or expanding manufacturers, as long as production is increased by at least 10%, and all industrial machinery and equipment used in the production of electrical or steam energy

equipment used in the production of electrical or steam energy under specified circumstances for the manufacturing process.

Georgia - All sales of machinery and equipment to be used directly in the manufacturing process are exempt from the sales and use taxes.

Idaho - An exemption from the sales and use tax is allowed for personal property used in broadcasting or producing television and radio programs, motor vehicles and trailers delivered in state for use out of state, and motor vehicles and unlicensed equipment used as log loaders and log jammers.

Illinois - The state exempts machinery and equipment used primarily to assemble or manufacture tangible personal property for sale or lease and machinery and equipment used for graphic arts purposes.

Indiana - All manufacturing machinery used in manufacturing or producing tangible personal property is exempt from the state sales tax.

Iowa - The state recently exempted all industrial machinery, equipment, and computers from the state sales tax.

Kansas - The state allows refunds for sales taxes paid on the purchase of manufacturing machinery and equipment for use in a plant facility if at least \$50,000 has been expended for such purchases, and at least two new full-time production employees were added for each \$50,000 of expenditure and for sales taxes paid on the purchases of machinery, equipment and certain other tangible property for businesses located within a state

designated Enterprise Zone and who qualify for job and investment tax credits.

Kentucky - Machinery acquired for new and expanding industries is exempt from the state sales tax.

Louisiana - The State Board of Commerce and Industry, after approval from the Board of Tax Appeals and the governor, may enter into a contract with a new business locating in the state for the exemption of certain taxes in order to equalize the state and local tax burden for the new facility with that of a competing state. The exemptions allowed include the sales and use taxes on machinery and equipment to be used in manufacturing.

Maine - Exemptions from the sales and use taxes include sales of new machinery and equipment for use by the purchaser directly and primarily in the production of tangible personal property, which property is intended to be sold or leased ultimately for final use or consumption.

Maryland - The state exempts all manufacturing machinery and equipment.

Massachusetts - Machinery, equipment, replacement parts, materials, tools, and fuel used directly and exclusively in an industrial plant, in furnishing power to an industrial plant or a corporation primarily engaged in research and development, and in agricultural production and commercial fishing are exempt from sales and use taxes.

Michigan - The state exempts machinery and equipment used in manufacturing and certain machinery and equipment used in

Minnesota - A refund of the 6% sales tax is provided for capital equipment placed in service in connection with the construction or expansion of a manufacturing facility in a distressed county. Also, the purchase or lease of capital equipment and machinery by new or expanding industries may qualify for a 2% refund of the 6% sales tax paid.

Mississippi - The state assesses a 1 1/2% sale tax instead of the normal 6% on sales to manufacturers of manufacturing machinery used directly and exclusively in the line of process at the plant site and air and water pollution control equipment used at the plant site.

Missouri - The state exempts machinery and equipment purchased for use in manufacturing or processing enterprises.

Montana - No state sales tax.

Nebraska - The state exempts machinery and equipment purchased for use in manufacturing or processing enterprises.

New Hampshire - No state sales tax.

New Jersey - The state exempts the following from sales and use taxation: machinery and equipment used or consumed for manufacturing, refining, assembling, or processing, machinery and equipment used or consumed by utilities to generate, distribute and transmit their products, machinery and equipment used to transmit or receive telegraph or telephone communication and machinery and equipment used in the production of newspapers.

New Mexico - An investment credit against the sales tax or the withholding tax is available for the installation of

manufacturing machinery and equipment purchased outside the state and installed in a new manufacturing operation. The credit is for 3 3/4% of the value of the equipment. The sales tax rate on machinery and equipment is 3 3/4%.

New York - The state exempts machinery, equipment and tools used directly and predominantly in manufacturing, mining, agriculture, and experimental research and development.

North Carolina - Manufacturing machinery is allowed a preferential sales tax rate of 1% rather than the normal 3%, with a maximum tax of \$80 per article.

Ohio -The state provides exemptions from the sales and use taxes for the following: machinery and equipment used to manufacture tangible personal property; machinery and equipment used to package products; handling and transportation equipment, other than licensed motor vehicles, used in manufacturers, refiners, processors, or assemblers in the production process within a plant or among plants, if the plants are owned by the same taxpayer; and machinery and handling and transportation equipment used to transfer or ship eggs being prepared for sale, except licensed motors vehicles.

Oklahoma - The state exempts machinery and equipment purchased and directly used in establishing new manufacturing or processing plants and in the operation of existing manufacturing plants (including replacement parts).

Oregon - No state sales tax.

Pennsylvania - All manufacturing machinery is exempt from the

states sales and use tax.

Rhode Island - All manufacturing machinery and equipment is exempt from the state sales and use tax.

Tennessee - The state exempts industrial machinery sold, transferred, or leased between a parent company and a wholly owned subsidiary if sales or use taxation has previously been paid by the parent or subsidiary.

Texas - The state allows an exemption for equipment with useful life of less than six months and assesses a 4% sales tax on all manufacturing machinery and equipment rather than the normal 4 1/8% tax.

Utah - The state allows an exemption on manufacturing machinery and equipment for all new and expanding firms.

Vermont - A sales tax exemption is provided for machinery and equipment used or consumed in manufacturing tangible personal property for sale.

Virginia - The state exempts machinery, tools, repair parts used in manufacturing, mining, refining, harvesting of timber, or by commercial fishermen, or for making feed for sale.

West Virginia - Purchases of machinery and equipment by manufacturers are exempt from the state sales tax.

Wisconsin - The state exempts machinery and equipment and replacements or repair parts used exclusively by manufacturers.

Laurian Elizabeth Casson
Research Assistant
Institute for Public Policy
and Business Research
March 4, 1986

Institute for Public Policy and Business Research

Recommendation #17 Sponsor or Organize a Financial Symposium
for Kansas Companies

PURPOSE

Kansas venture capital markets are small with relatively little information being passed between funding sources and potential borrowers. In many instances promising companies leave Kansas to find funding in other states, or if the company particularly wants to stay in Kansas fundings from outside the state is found. Some mechanism needs to be found to facilitate the linkage between Kansas companies and the type of funding that is appropriate and available in private markets.

There are several ways in which this could be accomplished. Financial symposiums and venture capital networks are among several different strategies that have been tried and seem to meet the need of developing the information flow in the Kansas venture capital market.

SYMPOSIUM

A financial symposium is a meeting of businesses with financing needs with those who have funds to invest. Companies with new products, processes, or other high growth potential present their business plans to an assembly of venture capitlists, investment bankers, and other investors (such as pension funds, utilities, insurance companies, etc.). After the presentations, investors are given a chance to meet privately with a certain number of companies. A chance for co-operative

financial packaging is a big advantage in these meetings. A company may want too much to make it feasible for one lender, but several lenders together may be able to negotiate joint financing. Approximately 20-40 companies over a two-three day period would be involved.

Most financial symposiums or "venture capital fairs" are patterned after the American Electronics Association annual conference in Monterrey, California. The meeting was started in 1976 and has grown into two three-day sessions with about 60 companies at each. It is larger than most and has no trouble attracting high quality firms or investors. No statistics are kept on how many deals have been financed or how successful they have been, but the continued growth of the conference would suggest that investors have been pleased with the results.

The University of Michigan's Institute of Science and Technology sponsors an annual Growth Capital Symposium that has been in operation about six years. Around 70 percent of the attendees have been successful in raising over \$80 million in capital at the conference. They sponsor 25 companies over a two day period. The School of Business Administration of the University provides those companies who request it help with their business plans and critiques of taped practice presentations. In the six years of operation the number of venture capital firms in Michigan has gone from three to twenty and that the year-round network is becoming efficient enough so that the conference may not be required in a few years.

There are many conferences each year primarily where venture capital markets are already operating at least to some extent. Some conferences have not been successful, but many more succeed. Reasons for failure are many. Some could be poor quality companies or poor preparation by organizers. The state of Washington attempted to organize a symposium, but investors feel that it failed due to poor planning.

NETWORKS

A complimentary strategy to establish a more efficient venture capital markets in Kansas is linkage between a financial symposium and a venture capital network.

These networks are computer data bases to match private investors and entrepreneurs. Private investors do not have a systematic process to learn about companies needing financing. At the same time they do not want to be publicly available to everyone. Through a network, investors can receive brief descriptions of companies that match their preferences. More information is made available if the investor is interested. The network can be financed by fees charged to businesses to be listed or by charging a small percent of the final loan. Normally these networks are non-profit and have been set up by universities, state government, or some association between a private industry association and a government unit. New Hampshire, Oklahoma, Texas, Indiana, and Florida are in various stages of operation of these networks.

FUNDING REQUIREMENTS

Estimates of funding requirements per conference vary from \$9,100 to \$60,000. In Nevada, it was proposed to spend \$10,000 for an annual conference, but the symposium has not yet been formally organized. The University of Michigan which provides more extensive technical assistance for companies before the conference estimated the cost between \$40-60,000 per year which was partly recovered from attendance fees.

Sources

Asinof, Lynn, "Rapidly Growing Venture - Capital Fairs Evolve Into a Potent Force in the Industry," Wall Street Journal, April 10, 1984, p. 31.

Jacobs, Sanford L., "This Network Links Investors and Cash Hungry Businesses," Wall Street Journal, June 3, 1985, p. 21.

Literature from Fourth Annual Financial Symposium for Emerging Companies.

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University of Michigan Institute of Science and Technology. Telephone conversation with Downs Herold.

University of Michigan School of Business Administration. Telephone conversation with Professor David Gorphy.

Venture Capital Network, Inc., New Release, Concord, NH, April 16, 1984.

Catherine Shenoy
Research Associate
Institute for Public Policy
and Business Research
March 4, 1986

Institute for Public Policy and Business Research

Background Paper

Recommendation #27. Review the constitutional prohibition on internal improvements to determine if it should be modified or repealed.

Also relates to recommendations #13, 14, 15, 16, 18, 28, 29, and 32.

Introduction

Several recommendations contained in the Kansas Economic Development Study may not be workable in Kansas as their implementation would violate the Internal Improvements Prohibition of the Kansas Constitution.

Article 11, Section 9 states that

"The state shall never be a party in carrying on any work of internal improvement except that: (1) it may adopt, construct, reconstruct and maintain a state system of highways, but no general property tax shall ever be laid nor general obligation bonds issued by the state for such highways; (2) it may be a party to flood control works and works for the conservation or development of water resources; (3) it may, whenever any work of internal improvement not authorized by (1) or (2) is once authorized by a separate bill passed by the affirmative vote of not less than two-thirds of all members then elected (or appointed) and qualified to each house, expend or distribute funds received from the federal government therefore and may participate with the federal government therein by contributing any state funds appropriated in accordance with the law for such purpose in any amount not exceeding the amount received from the federal government for such improve-

ment, but no general property tax shall ever be laid nor general obligation bonds be issued by the state therefor; and (4) it may expend funds received from the federal government for any public purpose in accordance with the federal law authorizing the same."

Historic and Current Rationale for the Constitutional Prohibition

The state legislative department determines what governmental functions the state shall undertake. In doing so, they may exercise such powers as are not prohibited by the federal constitution or by the state constitution. Acts of internal improvement are not prohibited by the federal constitution. Therefore, in order to preclude the Kansas legislature from acts of internal improvement, a state constitutional prohibition was necessary.

The rationale for such a prohibition stems from the financial crisis many states were experiencing around 1837. In State ex rel. Coleman v. Kelly, 71 Kan. 811 (1905), the Kansas Supreme Court quoted from a Michigan case that traced the events leading to the prohibitive sentiment:

"The War of 1812 demonstrated the great need for a better system of intercommunication between the various portions of the country. The condition of the highways, both land and water, was such that troops and provisions could be moved but slowly and at great expense. This was also true of the products of the country. Succeeding the war of 1812, the state of New York entered upon the construction of the Erie Canal. Its construction was doubtless of great benefit to the agricultural and commercial interests of the

state, and especially to the city of New York. Other states were prompted to follow the lead of New York, and projected the digging of canals, the improvement of waterways, and the construction of railroads. Nearly all the state constitutions adopted between 1830 and 1850 either gave the legislature permission, or made it mandatory, to 'encourage internal improvements within the state.' Many enterprises of this character were entered upon which were ill-advised. So many of them were undertaken, many of the states incurred obligations they were unable to meet. The rate of interest in these new countries was much higher than capital commanded in Europe. Money from there after 1830 was furnished almost without limit, to be invested in the various projects devised by the several states. The state debts increased from \$13,000,000 in 1830 to \$100,000,000 in 1838. After the financial crisis of 1837 came, foreign capitalists who sought to draw out this money were unable to do so. An effort to collect these obligations proved abortive. Upon one pretext or another, many of the states repudiated their debts made for internal improvements. The states most disastrously affected were Maryland, Pennsylvania, Indiana, Illinois, Louisiana, Mississippi, and our own state [Michigan]." Id. at 831-32.

With these events in mind, the Kansas Supreme Court, in State ex rel. Coleman v. Kelly, 71 Kan. 811 (1905), set out the basic rationale for the prohibition:

"This constitutional provision is a limitation placed by the people in their paramount law upon the power of the legislature, preventing it from diverting the energies of the state from public and governmental functions into private and business enterprises. No circumstances can arise which will justify its violation by any governmental department." 71 Kan. at 829.

Constitutionality of Economic Development Recommendations

tions

Eight of the thirty-four recommendations contained in the study are likely to be challenged as unconstitutional under the internal improvements prohibition if they are put into effect. These are the finance recommendations, numbers 13, 14, 15, 16, and 18, recommendations for state support of incubators, numbers 28 and 29, and state CDBGs, number 32.

The first issue to address in determining constitutionality is whether the establishment of the recommendation in question would constitute a work of internal improvement. Here, the courts have distinguished unconstitutional internal improvements from constitutional public improvements. Article 11, Section 6 of the Kansas Constitution allows the state to contract public debts for the purpose of making public improvements:

"For the purpose of defraying extraordinary expenses and making public improvements, the state may contract public debts; but such debts shall never, in the aggregate, exceed one million dollars, except as hereinafter provided. Every such debt shall be authorized by law for some purpose specified therein, and the vote of a majority of all the members elected to each house, to be taken by the yeas and nays, shall be necessary to the passage of such law; and tax sufficient to pay the annual interest of such debt, and the principal and interest; and such appropriation shall not be repealed nor the taxes postponed or diminished, until the interest and principal of such debt shall have been wholly paid."

In State ex rel. Boynton v. State Highway Commission, 138 Kan. 913, 919, the court discussed the difference between internal and public improvements:

"It is clear the framers of our constitution used the term 'public improvements' in section 5 [now section 6] as meaning something entirely distinct from what was meant by 'internal improvements' used in section 8 [now section 9], for the one was permitted, the other prohibited. Although not as full as they might be, the debates in the constitutional convention disclosed this: The term 'public improvements,' used in section 5, meant public buildings which the state should need in carrying on its functions, such as the state house, state penal, educational and eleemosynary institutions (Wyandotte Constitutional Convention, p. 327), while the term 'internal improvements,' used in section 8, applied to turnpikes, canals and the like. (Wyandotte Constitutional Convention, p. 329; State v. Kelly, 71 Kan. 811)" (p. 919)

In Leavenworth County v. Miller, 7 Kan. 479, 493, Chief Justice Valentine discussed this subject and quoted from an Alabama case:

"The state, as a state, is absolutely prohibited from engaging in any works of internal improvement. We will concede that this prohibition does not extend to the building of a statehouse, penitentiary, state university, and such other public improvements as are used exclusively by and for the state, as a sovereign corporation; but it does extend to every other species of public improvement. It certainly extends to the construction of every species of public improvement which is used, or may be used, by the public generally--by any and every private individual who may choose to use it--such as public roads, bridges, etc. Wetumpka v. Winter, 29 Ala. 660.

If it is determined that a proposal would constitute an internal improvement, then the next issue

becomes whether the state is a party to the work of internal improvement. In discussions on this point Kansas courts have allowed state expenditures on internal improvements as long as the outlays are for inspection, supervision, or regulation and do not involve direct expenditures by the state in carrying on the work of internal improvement. In State ex rel. Hopkins v. Raub, 106 Kan. 196, the court discussed the State's role in highway construction before the internal improvements prohibition was amended to allow for a state-constructed system of highways:

"The fact that state funds are expended for inspection and regulation does not make the state a party to the business or the work carried on. In the building of roads and bridges the state neither buys nor furnishes any material, and does not directly invest any money in that work. The state highway commission is performing a very important work in an educational and regulatory way and in coordinating the efforts of the communities and municipalities of the state to build and maintain trunk and lateral highways throughout the state, but important as the work is, it does not furnish a basis for the complaint that the state itself is engaged in carrying on a work of internal improvement." 106 Kan. at 202.

Attorney General Opinion No. 84-102 generalizes the Raub decision:

"The decision of State ex rel. v. Raub, 106 Kan. 196 (1920), indicates that the state must have more than a supervisory role over a project to invoke the provisions of the section. The state must itself be engaged in

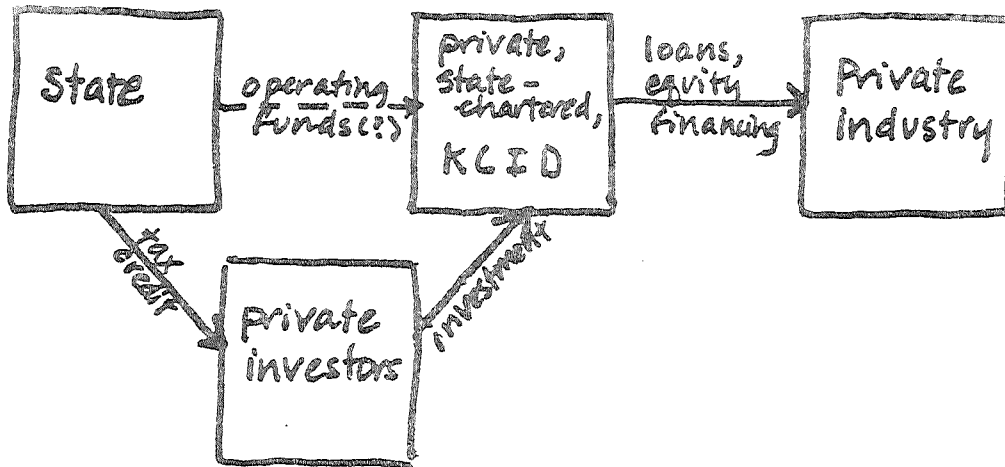
carrying on the work; it must expend state moneys in a role more substantial than that of a coordinator, supervisor or regulator. Accordingly, where the expenditure of funds occurs at the county or city level (which entities are not bound by the limits of Article 11, Section 9), with the state's role confined to that of inspector or coordinator, the section's provisions are never triggered."

Kansas courts have not yet ruled directly on the types of improvements specified in the recommendations. In this memorandum we examine each of the eight recommendations that are likely to be questioned for constitutionality with respect to the internal improvements prohibition.

#13. Establish a Kansas Corporation for Innovation Development (KCID).

The flow chart in figure one pictorializes the financing arrangements contemplated in recommendation 13. The KCID is a private, state-chartered organization. The states involvement with the KCID is limited to organizational concerns and may include some initial funding for start-up of operations. A tax credit will provide an incentive for private investment in the KCID. The KCID will provide loans or equity financing to businesses and SBICs.

Figure 1.



The KCID would be an internal improvement, as opposed to a public improvement, since it is not "to be used exclusively by and for the state." (State ex rel. Boynton v. State Highway Commission, 38 Kan. 913, 919.) Kansas courts have stated that the internal improvements prohibition was designed to avoid involving the state "in a purely private business enterprise," (State v. Kelly, 71 Kan. 811) and that "economic distress is not justification for ignoring the Constitution itself" (State v. Atherton, 139 Kan. 197).

However, internal improvements are not unconstitutional per se. For unconstitutionality it must be shown that the state is a party to the work of internal improvement. Article 11, Section 9, only prohibits the state as a state from engaging in works of internal improvements (Leavenworth County v. Miller, 7 Kan. 479 (1871)). In State ex rel. Tomasic v. Kansas City, Kansas Port Authority, 230 Kan. 404 (1981), the court

said that "the state may authorize public or private corporations or individuals to construct internal improvements." In State ex rel. Hopkins v. Raub, 106 Kan. 196 (1920), the court said, "The fact that state funds are expended for inspection and regulation does not make the state a party to the business or the work carried on." The KCID should survive a constitutional challenge, even though the purpose of the organization is directed specifically towards internal improvements, as long as state funds are not expended for other than the inspection or the regulation of the CID. Unfortunately, the wording of the recommendation is ambiguous on this point.

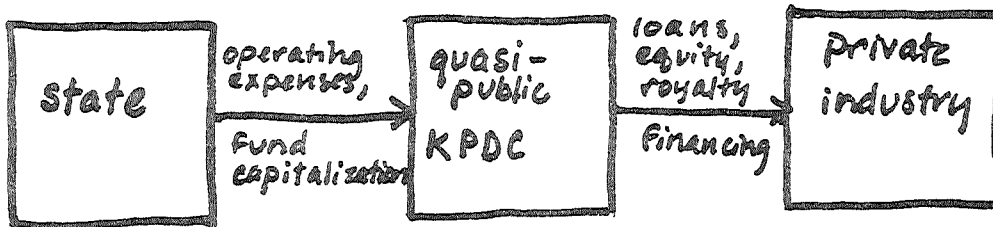
The recommendation calls for a tax credit to provide private investment, but the final sentence states that "further leveraging of state funds would occur if the KCID required that all its investments be matched with funds from the private sector." There is no other reference to state funding in this recommendation. Readers are confused as to whether public as well as private funding is contemplated, or whether this is a reference to state revenues foregone by the tax credit. In light of the express statements calling for state funding under other recommendations, we should not leave it to be implied in this instance. This important point should be clarified in the final draft since

constitutionality of the KCID may be determined by the existence of state funding.

#14. Establish a Kansas Product Development Corporation.

The flow chart in figure two depicts the funding arrangements called for in this recommendation. The KPDC is a quasi-public institution. The state would temporarily finance the KPDC's operating expenses and fund capitalization. The KPDC will provide loans, equity financing, or financing through royalty agreements, to entrepreneurs with viable ideas.

Figure 2.



If the KPDC, a quasi-public institution, acts as an arm or agency of the state, then the flow of funds that is relevant to the internal improvements prohibition is not from the state to the KPDC (as it was from the state to the KCID), rather, it is from the KPDC to the entrepreneurs.

The funding of private enterprise called for in this recommendation would constitute an internal, as opposed to a public, improvement. (State ex rel. Boynton v. State Highway Commission, 138 Kan. 913; State v. Kelly, 71 Kan. 811).

As to whether the direct state funding of private enterprise (the entrepreneurs) would make the state a party to an internal improvement, a negative inference can be drawn from State ex rel. Hopkins v. Raub, where the court found that the state may regulate and coordinate local highway projects since "[the state] does not directly invest any money in that work" (106 Kan. 196, at 202). The KPDC would make the state a party to works of internal improvement by making direct investments in private business enterprise.

It is possible that the structure of the KPDC's investment could make a difference in the constitutionality argument. Other states' case law seems to indicate that internal improvement investments in the form of loans may be constitutionally permissible. (In Wisconsin: State v. Nusbaum, 208 N.W.2nd 635; In re Advisory Opinion, 158 N.W.2nd 416.) This may be because the state does not owe money, rather someone owes the state money. Equity financing and royalty agreements are more constitutionally suspect than loans since there is no legal guarantee for a certain

return on (or of) the state's money and these arrangements must therefore be viewed as unconditional outlays of state funds, more like outright purchases of internal improvements. While most product development companies structure their investments as royalty agreements, perhaps the KPDC could avoid unconstitutionality if it restricted the form of its investments to loan financing.

#15. Establish a state fund to match federal Small Business Innovation Research grants to Kansas small business.

The flow chart set out in figure three shows the funding arrangement called for by recommendation #15. The federal SBIR program makes grants to small firms. The state would match these grants.

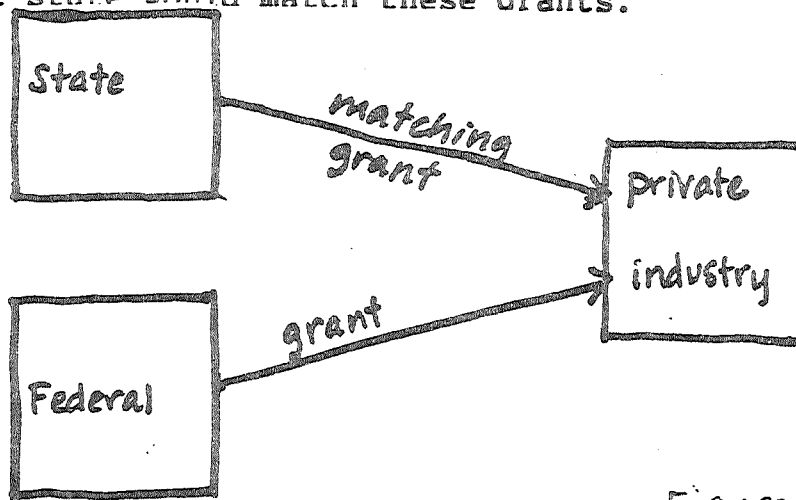


Figure 3

Following the analysis set out in #14 above, the constitution would prohibit direct state funding of private enterprise called for by an SBIR matching grant program. However, Subsection (3) of Article 11,

Section 9 is an exception to the internal improvements prohibition which does allow the state to make expenditures to match federal funds:

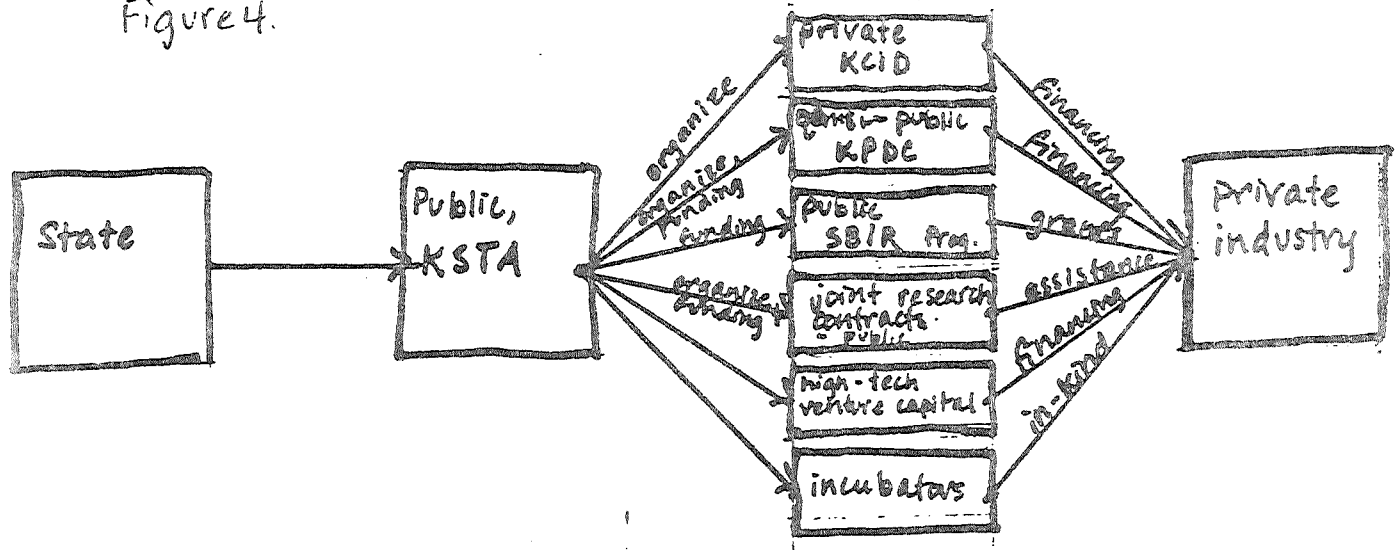
"(3) [The state] may . . . expend or distribute funds received from the federal government [for internal improvements] and may participate with the federal government therein by contributing any state funds appropriated in accordance with the law for such purpose in any amount not exceeding the amount received from the federal government for such improvement, . . ."

Unfortunately, the SBIR matching grant program would not qualify as an exception to the internal improvements prohibition under this subsection. The exception contemplates state distribution of federal funds and this does not occur under the federal SBIR program. Under the federal program, funds are distributed directly from the federal government to the SBIR grant recipient. The state has no part in distribution of the federal funds. Also, the contribution of state funds must be made "in accordance with the law for such purpose." "The law" referred to is the federal law governing state matching of federal program funds. (See Attorney General Opinion 83-61 where the state matches Federal loan guarantees for railroad rehabilitation.) The federal SBIR legislation contains no provisions for state matching grants. The State SBIR matching grant program would therefore be in violation of the internal improvements prohibition.

#16. Establish a Kansas Science and Technology Authority.

The flow chart in figure 4 shows the relationships created by the Kansas Science and Technology Authority. The Authority would be a public organization in charge of operating several different economic development programs.

Figure 4.



The organizational and managerial function of the Kansas Science and Technology Authority would not violate the constitution. The Authority would be analogous to the State Highway Commission situation in State ex rel. Hopkins v. Raub, 106 Kan. 196 (1920), where the court said: "The fact that state funds are expended for inspection and regulation does not make the state a party to the business or the work carried on."

However, for some programs, the Science and Technology Authority does more than coordinate, supervise,

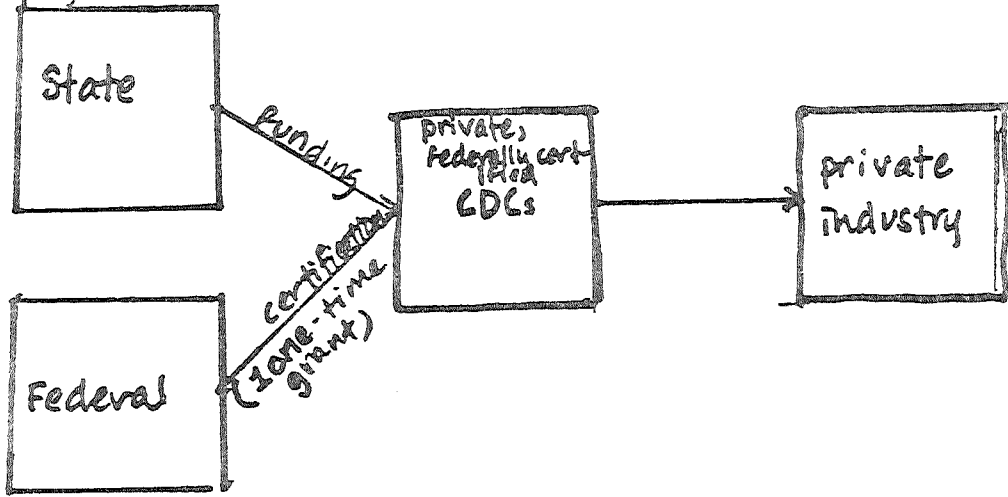
or regulate. In some cases the Authority channels state funds to the program. The Authorities involvement with each of these programs must be distinguished on the basis of its constitutionality. The organization by the Authority of a Kansas Corporation of Innovation Development would be constitutional, only so long as the Authority does not pass state funds to the KCID. (See discussion on recommendation #13, above.) The solicitation and facilitation of joint research contracts and grants between state universities, businesses and government would be constitutional based on State v. Raub supra since the Authority would only be spending money to coordinate the work to be carried on.

It may be constitutional for the Authority to pass state funds to the Kansas Product Development Corporation since the KPDL is a quasi-public and not a private industry. However, the further channeling of those state funds from the KPDC to private industry would still be unconstitutional (see #14 above) making grants of state money through the Kansas SBIR Program would be unconstitutional (see #15 above). The constitutionality of managing a high tech venture capital fund, and constructing and operating incubators would depend on the degree of the Authority's involvement with those operations and this has not been specified at this time.

#18. Provide temporary state funding for Certified Development Companies.

The flow-chart in figure 5 maps the relationships between the federal government, the state government and private industry which would be created by state funding of CDCs.

Figure 5.

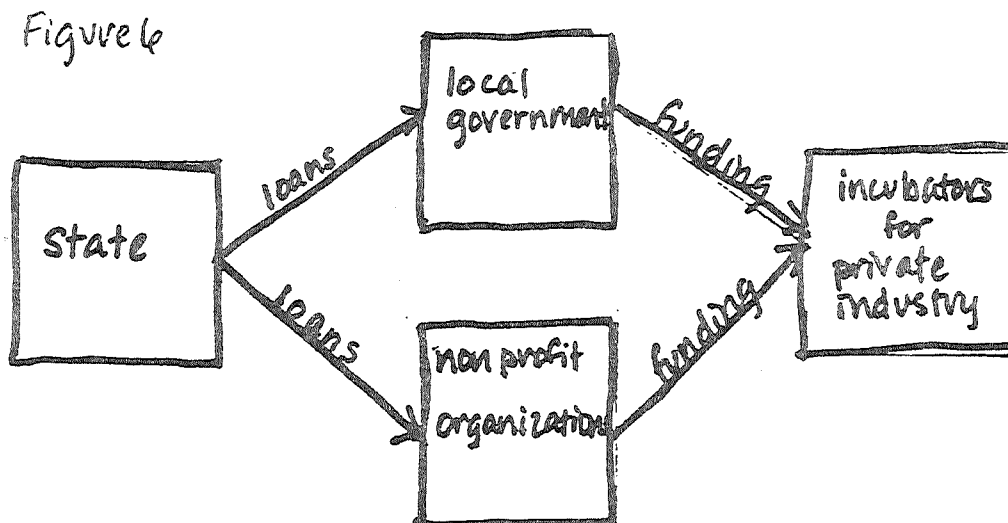


The CDCs would be characterized as internal improvements because they are not institutions "which the state should need in carrying on its functions." (State ex rel. Boynton v. State Highway Commission, 138 Kan. 913.) The direct funding called for in this recommendation would make the state a party to the work of internal improvement. However, the fact that the state has already provided some funding to CDCs by awarding onetime grants of \$40,000 to two Kansas CDCs is evidence that the current arrangement does not violate the internal improvements prohibition. If direct funding of the CDCs is not in violation of the prohibition

then the reason is that the funding is "appropriated in accordance with the law for such purpose in [an] amount not exceeding the amount received from the federal government for such improvement". Article 11, Section 9, Subsection 3. Increased funding for CDCs would be constitutional as long as the net amount of funding does not exceed direct funding received from the federal government.

#28. Provide low or no-interest matching loans to local governments and nonprofit organizations to facilitate the establishment of incubators.

The flow chart in figure 6 depicts the flow of funds contemplated under recommendation #28.



The incubators proposed in this recommendation are physical structures which would clearly be classified as internal improvements since they are not "public buildings which the state should need in carrying on

its functions." (State ex rel. Boynton v. State Highway Commission, 138 Kan. 913). Under this arrangement the local communities would be doing the contracting for the internal improvement and the state would not be a party to that contract. Arguably, the state is therefore not a party to an act of internal improvement. In State ex rel. Tomasic v. Kansas City, Kansas Port Authority, the court agreed that the state may authorize public or private corporations to construct internal improvements (230 Kan. 404 (1981)). But that case is distinguishable since the state only authorized the Port Authorities and did not provide them any financial assistance. In our case there is the issue of state funding of the local community with directions that the funding be used for economic development. "[W]here the expenditure of funds occurs at the county or city level (which entities are not bound by the limits of Article 11, Section 9), with the state's role confined to that of inspector or coordinator, the section's provisions are never triggered." (Attorney General Opinion 84-102) (our emphasis). This state funding also calls to mind the general principle of law that one cannot do through another what one is forbidden to do oneself.

It is possible, however, that since the state funding contemplated under this recommendation is in

the form of a loan, it would not constitute a direct state investment and the state would therefore not be a party to the internal improvement. (See analysis of recommendation #14 above.)

#29. A general loan pool for infrastructure development should be available for use by communities to promote economic development.

The flow chart in figure 7 sets out the funding arrangements for recommendation #29.

Figure 7



The types of infrastructure specified in recommendation #29--"roads, sewers, water lines and other improvements"--would be internal improvements. (State ex rel. Boynton v. State Highway Commission, 138 Kan. 913.) As in #28 above, the tough question is whether the state is a party to the internal improvement. An analysis of this section for constitutionality would be identical to the analysis of recommendation #28 above.

#32. A state community development block grant program should be established and targeted to economic development.

The flow chart in figure 8 shows the flow of funds called for by recommendation #32.

Figure 8.



The grants called for under this recommendation are to be used by the local communities for infrastructure improvements (roads, sewers, water lines etc.), incubators and industrial parks. These constructions would be internal improvements. (State ex rel. Boynton v. State Highway Commission, 138 Kan. 913). The determination of whether the state is a party to these works of internal improvement would follow the analysis set out under #28 and #29 above. The local community would actually be contracting for the internal improvement. However, the state is funding these improvements by grants to the local community with instructions that the grants be targeted to the improvements. Again, this seems to violate the general principle of law that one cannot do through another that which one is forbidden to do oneself.

One difference between the analysis of recommendation #32 and recommendations #28 and #29 is that since #32 calls for a state grant and not a state loan, it

loans from other forms of financing. (See recommendation #14 above.)

Shirley Klenda Sicilian,
Research Economist
Institute for Public Policy
and Business Research

Institute for Public Policy and Business Research

Recommendation #28 Facilitate the Development of Incubators

I. INTRODUCTION

Incubators are receiving attention from state and local governments as a means of encouraging small business development. As of Winter 1984, over 75 incubators were operating across the country. In 1985, 40 more were expected to begin operation. Many incubators are linked to state and local small business support networks and technological innovation programs. A number of state and local governments are formulating incubator policies with encouragement from the federal government.

Local communities in the state of Kansas have shown an interest in incubator development. However, the financial resources and technical assistance needed for incubator development is lacking. Local community economic development activities in this area are therefore difficult to get started.

What are incubators?

The incubator approach to small business development is based on multi-tenant buildings. Publicly supported small business incubators, 1) provide low rent, 2) provide a set of business development services to profit-oriented tenants, and 3) have entry and exit policies and procedures.

Why are incubators helpful to small business development?

New businesses are typically in negative cash flow circumstances so low rent is important. Business assistance and

services are helpful to new entrepreneurs who may not have all of the business knowledge and skills necessary to operate a business. Tenants typically share common business services such as word processing, a receptionist and mail. Other needed services include help with business plans, financial plans, employee benefit plans, etc. Entry and exit rules assure compliance with public policy purposes so that space can be made available to new and promising entrepreneurs.

What are the different types of incubator facilities?

In general there are three types of incubator facilities: product development, manufacturing, and mixed use. Product development facilities are usually near universities so as to take advantage of university facilities and technical personnel. Tenants are in the early product development stages of prototype, pilot or technical feasibility.

Manufacturing incubators can be located anywhere and are usually offshoots of industrial parks and large manufacturing facilities. Vacant facilities are divided up for new start-up manufacturers.

Mixed use facilities have a variety of tenants including product development, manufacturing, non-profit organizations and retail, wholesale consultant and professional services.

What are important public policy issues associated with incubator development?

Publicly supported incubators are not developed with the

intention of competing against private, commercial and industrial space. The purpose is to assist entrepreneurs who need help starting a business with the intention that the business will relocate in the local community. The benefit of the incubator will only be realized after firms leave the incubator and expand into the community. Charges of unfair competition may be avoided if an advisory board is set up to set policy and oversee operations.

Other critical issues to consider are:

- How long should a tenant be allowed to stay? Should any permanent tenants be allowed if they provide services to other tenants?
- What services should be provided to tenants--a basic package of services, business development services or both?
- Should any type of firm be excluded from an incubator such as retail, wholesale and personal service firms which have short start-up periods and minimal service needs?
- What financial services should be provided to tenants? Can financial assistance be provided?

II. COSTS

How much are states committing to incubator development?

Illinois - committed \$1 million in first-year funding for incubators.

Michigan - \$3,500 for a 1985 pilot program and \$250,000 for fiscal 1986.

Pennsylvania - \$17 million Small Business Incubator Loan Program in 1984.

North Carolina - \$200,000 for an Incubator Facilities Program started in 1984.

III. OTHER STATES

Are other states promoting incubator development?

As of July 1985, it was estimated by the Small Business Administration that eleven states had passed incubator legislation, with five being active, four being developed and two being inactive. The active programs share two characteristics,, 1) they help write-down the cost of facility development, 2) they require a strong local commitment. Incubator promotion ranges from stating support for the concept, to orienting existing programs to incubators, to direct funding and operation of facilities.

States involved in incubator promotion include:

Pennsylvania - Has the largest, publicly supported incubator development effort and began developing facilities as early as 1980. Support is given by the state established Small Business Incubator Loan Program.

North Carolina - Began an Incubator Facilities Program in 1984 run by the North Carolina Technological Development Authority.

Iowa - Iowa Development Commission was allocated lottery funds to help with business incubator development.

Illinois - Under the "Build Illinois Act," a \$380 million economic development program, the program to fund incubators will make low or no-interest forgivable matching loans and grants available to local governments and non-profit organizations for incubator establishment.

Michigan - The incubator program will allow the state to subsidize the incubator operating expenses of incubators located in vacant or nearly vacant buildings for up to three years.

Elizabeth Elsey
Research Assistant
Institute for Public Policy
and Business Research
March 4, 1986

03/17/86

Institute for Public Policy and Business Research

Recommendation #29 Infrastructure Loan Pool for Economic
Development at the Community Level

I. INTRODUCTION

After surveying prominent Kansans from all parts of Kansas about economic development, the issue of infrastructure was mentioned again and again. Local communities do not have the resources necessary to make much needed improvements in existing infrastructure or to develop new infrastructure. Infrastructure is a major concern to local communities that wish to promote economic development.

What is infrastructure?

Infrastructure includes public road, water, sewer facilities and other improvements associated with economic development purposes such as site development, industrial parks, and incubators.

What is the significance of infrastructure improvements to economic development efforts?

Public infrastructure improvements help facilitate the expansion of existing businesses and attract new businesses thus creating new jobs and stimulating investment in the community.

Why do communities need additional infrastructure funds from the state?

Public infrastructure improvements are costly. Oftentimes, a locality is not able to pay the full cost of improvements. Businesses are therefore faced with the underwriting of these

improvements. If the business cannot afford to pay for needed infrastructure improvements, it may locate in a state that is able to provide the public infrastructure needed.

What criteria should be considered in determining a community's eligibility for an infrastructure development loan?

1. The number of new permanent jobs created.
2. The amount of private sector investment in new facilities and equipment.
3. The significance of the assistance to the investor's decision to relocate or expand.
4. The importance of the investment to economic development goals.
5. The community's economic need.
6. Determination that without the assistance the community will not be able to meet the needs of new or expanding business and the project will not proceed.

II. OTHER STATES

Do other states give local communities infrastructure development support?

Oregon-Recommended that an "Oregon Infrastructure Revolving Fund" be established through a onetime \$20 million General Fund appropriation. The fund would cover off-site infrastructure costs necessary for a committed industrial user. Funds would be provided to eligible localities in the form of direct grants. Repayment to the fund would be made through a tax increment return of the industrial user's corporate income taxes.

Indiana-Implemented an Industrial Development Infrastructure Program. Any legally constituted city, town or county in Indiana

is eligible to apply for industrial development assistance in the form of grants or loans.

Iowa-Established a "Community Economic Betterment" account with lottery revenue funding in the amount of \$10,000,000 plus 50 percent of any excess. The uses of this fund include:

- Site development or infrastructure costs directly related to a project resulting in new employment.
- Road construction projects.

Elizabeth Elsey
Research Assistant
Institute for Public Policy
and Business Research
March 6, 1986

03/17/86

Institute for Public Policy and Business Research

Recommendation #34 Provide State Funding for the State Business Development Center Network to Expand Technical Assistance to Kansas Small Business

I. INTRODUCTION

Small business plays an important role in the economic development of local communities. A need exists in small businesses for management and technical assistance to continue operations. State universities have been able to provide this assistance through the Kansas Small Business Development Centers (SBDCs). In 1985, Kansas was mentioned in Washington hearings as an example of effective technical assistance to small businesses. Increased recognition of these Centers' valuable services, awareness of the limited funding growth potential through the U.S. Small Business Administration and a realization that the universities should not and cannot bear the costs of meeting increased demand for services has prompted a request for direct state funding initiated by business owners, the business community, state legislators and members of the state SBDC Advisory Council.

What are the Small Business Development Centers of Kansas?

The eight Small Business Development Centers sponsored by major academic institutions in Kansas are a state-wide network organized to provide advice, seminars, and training sessions to existing or potential Kansas businesses. The Centers have been in

existence for more than two years serving over 211 Kansas cities and towns.

Who are the sponsoring institutions?

Six of the Regent's institutions are part of the SBDC network. In addition, Washburn University and Johnson County Community College also sponsor a SBDC. These SBDCs are an example of cooperation among Kansas' academic institutions.

II. COST

How much state funding has been requested?

The requested amount as of November, 1985 is approximately \$300,000 (about \$40,000 per SBDC).

Why is state funding needed?

Currently SBDCs are funded 50 percent by the SBA (about \$50,000 per SBDC) and 50 percent by the university. If effective operations are to continue and community requested expansion of the Centers are to take place, then additional funding must come from the state. The Small Business Administration places a limit on funding available to each state (and Kansas is at the "peak"), and the sponsoring institutions do not have the resources to provide additional funds.

III. OTHER STATES

Do other states have state funded SBDCs?

At the end of 1985, 41 state SBDCs were in operation. These state SBDCs have been in existence anywhere from 1 month to 9

years. Twenty-seven (63 percent) of the 41 state SBDCs have state funding above the provided university cash match. Of the 16 state SBDC that do not receive state funding, 8 are currently applying for state funding. During the second or third year of operation, the majority of these SBDCs received state funding. State funding can be as little as 5 percent to as much as 60 percent of a state funded SBDC's total budget. Kansas SBDCs are currently in their third year of operation.

What states support a SBDC network?

Alabama*	Neveda
Arkansas	New Hampshire*
California*	New Jersey*
Connecticut*	New York
Delaware*	North Carolina
District of Columbia	Ohio
Florida*	Oklahoma*
Georgia*	Oregon*
Illinois*	Pennsylvania*
Indiana	Rhode Island*
Iowa*	South Carolina*
Kansas	South Dakota*
Kentucky*	Tennessee*
Louisiana*	Texas*
Maine*	Utah
Massachusetts*	Vermont*
Michigan*	Wasington*
Minnesota	West Virginia
Mississippi*	Wisconsin
Missouri	Wyoming
Nebraska*	

*Indicates some state funding is received in addition to University matching.

Elizabeth Elsey
Research Assistant
Institute for Public Policy
and Business Research
March 13, 1986