

Approved: March 20, 1996  
date

MINUTES OF THE SENATE COMMITTEE ON COMMERCE.

The meeting was called to order by Chairperson Alicia Salisbury at 8:00 a.m. on March 19, 1996 in Room 123-S of the Capitol.

Members present: Senators Salisbury, Burke, Downey, Gooch, Harris, Jordan, Petty, Ranson, Reynolds, and Steffes.

Committee staff present: Lynne Holt, Legislative Research Department  
Jerry Donaldson, Legislative Research Department  
Bob Nugent, Revisor of Statutes  
Betty Bomar, Committee Secretary

Conferees appearing before the committee:  
Mary Faye LaFaver, Director, Community Development Division, Department of  
Commerce and Housing  
Paul Bicknell, Chief of Contributions, Department of Human Resources

Others attending: See attached list

Upon motion by Senator Downey, seconded by Senator Burke the Minutes of the March 18, 1996 meeting were unanimously approved.

**HB 3040: Strategic planning assistance extended an additional year**

The Committee continued its consideration of HB 3040. The information requested by the Committee of Mary Faye LaFaver, Director, Community Development Division was discussed. The Committee questioned the feasibility of limiting the time in which metropolitan counties are able to obtain action grants. Ms. LaFaver stated her concern is the lack of coordination within the counties. Ms. LaFaver stated it was possible to monitor the process closer without this legislation; however, the legislation would allow the Division to review the programs and establish uniformity in the planning and grant process. (Attachment 1)

Senator Ranson moved, seconded by Senator Downey, that **HB 3040** be amended on line 23 by striking the number "1997" and inserting in lieu thereof the number "1998". The voice vote was in favor of the motion.

Senator Ranson moved, seconded by Senator Reynolds, that **HB 3040** be further amended by inserting the **HB 2827, transfer of administration of vocational education instructional equipment aid program to department of commerce and housing**. The voice vote was in favor of the motion.

Senator Gooch moved, seconded by Senator Reynolds, that **HB 3040** be recommended favorable for passage as amended. The recorded vote was in favor of the motion.

**HB 2988: Correcting federal conformity issues**

Paul Bicknell, Chief of Contributions, Department of Human Resources (DHR), testified in support of HB 2988. Mr. Bicknell stated HB 2988 makes four amendments to the employment security law:

Section 1 clarifies that a retroactive election to become a reimbursing employer may not be earlier than January 1 of the year the election is filed. Clarifies the effective date for both the agency and the employer.

Section 2 repeals the provision on protection against self-incrimination. The self-incrimination provision creates problems for DHR when administering the law inasmuch as it encourages taxpayers to claim the privilege even when it is not applicable. K.S.A. 44-714(j) was derived from a similar provision about self-incrimination in the National Security Act. Providing a broad grant of immunity in employment security law is not appropriate because the agency's work is primarily in the area of civil matters not criminal cases; and DHR investigates questions of importance to individual employers and employees, and not matter of natural security

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON COMMERCE, Room 123-S Statehouse, at 8:00 a.m. on March 19, 1996.

Section 3 amends the present statute to conform with federal law requiring states to deduct and withhold federal income tax from unemployment insurance benefits if the individual so elects.

Section 4 provides for establishment of an overpayment to be collected by the claimant for such weeks the individual received remuneration in the form of a back-pay award and from the employer when the employer chooses to withhold the amount of unemployment insurance benefits paid the claimant before they pay the back-pay award to the individual.

Mr. Bicknell stated the four amendments received unanimous support of the Employment Security Advisory Council. (Attachment 2)

Senator Burke moved, seconded by Senator Ranson, that **HB 2988** be amended on Page 11, Line 11 following the "period (.)" by inserting the following language: "Each such member shall serve a four year term. On July 1, 1996, the secretary shall designate term length for seated members of the council. One-half of the seated members representing employers, one-half of the seated members representing employees, and one-half of the seated members representing the public shall be designated by the secretary to serve two year terms. The remaining seated members of the council shall be designated to serve four year terms. When the term of any member expires, the secretary shall appoint the members successor to a four year term. If a position on the council becomes vacant prior to the expiration of vacating member's term, the secretary may appoint an otherwise qualified individual to fulfill the remainder of such unexpired term." The voice vote was in favor of the motion.

Senator Burke moved, seconded by Senator Reynolds, that **HB 2988** be further amended by inserting **SB 664 exempting direct sellers from employment security taxes**. The voice vote was in favor of the motion.

Mr. Burke moved, seconded by Senator Reynolds, that **HB 2988** be recommended favorable for passage as amended. The recorded vote was in favor of the motion.

**HB 2817: Reemployment of members of national guard after called to duty**

The Committee considered HB 2817, determined it did not desire to create an unfunded mandate by requiring the district and county attorneys to represent persons claiming to be entitled to reemployment benefits as a result of the employees service with the National Guard.

Senator Ranson moved, seconded by Senator Harris, that **HB 2817** be amended on Page 3, subsection (d) by striking any reference to "county or district attorney" and insert in lieu thereof the "Attorney General". The voice vote was in favor of the motion.

Senator Harris moved, seconded by Senator Ranson, that **HB 2817** be recommended favorable for passage as amended. The recorded vote was in favor of the motion.

The Committee adjourned at 8:45 a.m.

The next meeting is scheduled for March 20, 1996.



# KANSAS

DEPARTMENT OF COMMERCE & HOUSING



March 11, 1996

Bill Graves, Governor  
Gary Sherrer, Secretary

The Honorable Alicia Salisbury  
Kansas State Senate  
State Capitol  
Topeka, Kansas 66613

Dear Senator Salisbury:

As requested by members of your committee, I have prepared a summary of the progress to date for the Strategic Planning Program. I appreciate the concerns of the Senators and welcome this opportunity to outline the program status.

In summary:

- \* The level of grant funding in the Governor's budget for FY 1997 is \$250,000. In addition, there remains another round for action grant applications in FY 1996 of \$108,000 for metro projects and \$162,138 for non-metro projects. This round is scheduled for April 1996.
- \* With no statutory change, the projected funding through FY 1997 would allow for three more rounds of action grant awards to metropolitan areas and one more round for non-metropolitan areas.
- \* Senator Ranson asked why we should continue the non-metropolitan program for another year. The level of funding for action grants and the staffing (one person) has limited our ability to reach all the non-metropolitan areas that have developed their plans. We have provided action grants to approximately 60% of the 100 counties who are eligible to receive them. In addition, Enterprise Zone (EZ) status is linked to counties having a current strategic plan and we are assisting a number of non-metropolitan counties in revising their plans to retain their EZ status.
- \* KDOCH remains committed to the importance of local planning efforts. We believe with metropolitan community and non-metropolitan county input we can develop the appropriate continuation of the planning process. With or without this statutory change, it would be our intention to work with these constituents to outline the planning needs.

*Senate Council Committee*

COMMUNITY DEVELOPMENT DIVISION

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*March 19, 1996*

*Attachment 1 thru 1-10*

they face and the appropriate role for State government to assist in that process. This will allow us to allocate both human and financial resources within the Division to better meet these needs.

Enclosed with this letter are:

- \* The Community Strategic Planning Assistance Program 1995 Annual Report
  - Page 2 lists the planning and action grant awards in non-metropolitan counties
  - Page 3 lists the planning grant awards in metropolitan areas
  - Page 4 summarizes the activities undertaken with action grants in the non-metropolitan counties
  - Appendix A provides a County Strategic Planning Status Report
- \* A listing of the FY 1996 action grants in non-metropolitan counties, metropolitan areas. Summaries of the proposed use of funds for these awards are attached.
- \* A listing of the status of planning grants in metropolitan areas and summaries of the plan areas.
- \* A draft monograph from the Kansas Center for Community Economic Development (KCCED) reporting on the progress through 1993 on the Program. This monograph does not include data on the metropolitan program since it was not initiated until 1994.

If I can provide any additional information, please let me know. I will be available to discuss these issues at the committee's convenience.

Sincerely,



Mary Faye LaFaver, Director  
Community Development Division

cc: Secretary Gary Sherrer

## Awards Summary FY 1995

In FY 1995 the Strategic Program received twenty-one non-metropolitan applications and awarded twenty grants. Four were planning grants, and sixteen were action grants. The program received fifteen metropolitan applications and awarded fourteen grants. All of the metropolitan awards were for planning grants.

### Non-Metropolitan Planning Grants

County	Award
Comanche	\$ 10,000
Hodgeman	10,296
Marshall	15,000
Morton	15,000
Total Planning Grants	\$ 50,296

### Non-Metropolitan Action Grants

County	Award
Barton	\$ 25,000
Bourbon	25,000
Brown/Nemaha	23,000
Cheyenne	23,303
Hamilton	22,500
Hodgeman	25,000
Jackson	25,000
Kingman	25,000
Lane	14,862
Linn	15,200
Morton	25,000
Osage	11,580
Sheridan	13,970
Stafford	25,000
Stanton	25,000
Wichita	17,425
Total Action Grants	\$ 341,840

## Metropolitan Planning Grants

City		Award
Topeka:		
Central Topeka Area	\$	14,200
East Topeka Area		14,200
Wichita:		
SANCHO, 21st & Oliver Area		12,280
Wichita CDC Area		15,000
Kansas City:		
Chelsea Area		11,720
7th & Central Avenue Area		14,200
South Central Avenue Area		14,200
North Central Avenue Area		14,200
Leavenworth Road Assn. Area		15,000
Rosedale Development Assn. Area		15,000
Economic Opportunity Foundation Area		15,000
10th to 18th Street Area		15,000
18th & Quindaro Area		15,000
Near Downtown Area		15,000
Total Planning Grants		\$ 200,000

### Action Grant Projects Funded For FY 1995

Business Development, Retention & Expansion	9
Housing Study/Survey	8
Tourism	6
Promotional Brochure/Material	5
Industrial Development	3
Retail & Downtown Development	3
Leadership	3
Workforce Training	2
Start Local Economic Development Committee (Employ E.D. Director)	1
Economic Development Education Program	1
Revise Current Strategic Plan	1
Community Development	1
Physician Recruitment	1
Local Business Survey	1
Develop Value-Added Agriculture	1
Telecommunications Project	1

The projects funded show several things about the program which were touched on earlier in the report. The number of business and housing surveys that were funded with action grants show that communities are organized and want objective information to use as a basis for their economic development initiatives. Three counties are currently in the process of hiring economic development directors as a result of the work of the strategic planning committees or local economic development groups, and one is starting the process with action grant funds.



## County Strategic Planning Status

<u>County(ies)</u>	<u>Status</u>	<u>Planning Grant</u>	<u>Action Grant</u>
Allen/Coffey/Woodson	Has Plan	1991	92&94
Anderson	Has Plan	1991	1992
Atchison	Has Plan	No	1993
Barber/Harper	Has Plan	1991	1994
Barton	Has Plan	1991	93&95
Bourbon	Has Plan	1991	92&95
Brown/Nemaha	Has Plan	No	92&95
Butler	Has Plan	No	No
Chase/Lyon	Has Plan	1991	1993
Chautauqua	Has Plan	No	No
Cheyenne	Has Plan	No	93&95
Clark	Has Plan	1994	No
Clay	Has Plan	No	No
Cloud/Ottawa	Has Plan	1991	1994(Ottawa)
Coffey/Allen/Woodson	Has Plan	1991	92&94
Comanche	Has Plan	1995	No
Cowley	Has Plan	1991	1992
Crawford	Has Plan	1992	No
Decatur	Has Plan	1993	No
Dickinson	Has Plan	No	No
Doniphan	Has Plan	1992	93&94
Douglas (Metro County)	N/A	N/A	N/A
Edwards	Has Plan	No	1994
Elk	Has Plan	1992	1993
Ellis	Has Plan	No	No
Ellsworth/Rice	Has Plan	1991	1994(Rice)
Finney	Has Plan	No	92&94
Ford	Has Plan	1991	1992
Franklin	Has Plan	1991	No
Geary	Has Plan	1991	92&94
Gove/Logan/Trego	Has Plan	1993	No
Graham/Rooks	Has Plan	1992	No
Grant	Has Plan	No	No
Gray/Haskell/Meade	Has Plan	1992	1993(Meade)
Greeley/Wallace	Has Plan	1991	No
Greenwood	Has Plan	No	No

County Strategic Planning Status

<u>County(ies)</u>	<u>Status</u>	<u>Planning Grant</u>	<u>Action Grant</u>
Hamilton	Has Plan	1992	1995
Harper/Barber	Has Plan	1991	1994
Harvey	Has Plan	No	1994
Haskell/Gray/Meade	Has Plan	1992	1993(Meade)
Hodgeman	Has Plan	1995	1995
Jackson	Has Plan	1993	94&95
Jefferson	Has Plan	No	No
Jewell	Has Plan	No	No
Johnson (Metro County)	No Plans	No	No
Kearny	Has Plan	1994	No
Kingman	Has Plan	1993	94&95
Kiowa	Has Plan	No	No
Labette	Has Plan	1991	No
Lane	Has Plan	No	1995
Leavenworth (Metro)	No Plans	No	No
Lincoln/Mitchell	Has Plan	1991	1993
Linn	Has Plan	No	94&95
Logan/Gove/Trego	Has Plan	1993	No
Lyon/Chase	Has Plan	1991	1993
McPherson	Has Plan	1992	1994
Marion	Has Plan	1991	1992
Marshall	Has Plan	1995	No
Meade/Gray/Haskell	Has Plan	1992	1993(Meade)
Miami	Has Plan	1991	1993
Mitchell/Lincoln	Has Plan	1991	1993
Montgomery	Has Plan	1993	No
Morris	Has Plan	No	1991
Morton	Has Plan	1995	1995
Nemaha/Brown	Has Plan	1991	92&95
Neosho/Wilson	Has Plan	1992	1994(Neosho)
Ness	Has Plan	No	No
Norton	Has Plan	1993	No
Osage	Has Plan	No	93&95
Osborne	Has Plan	No	No
Ottawa/Cloud	Has Plan	1991	1994(Ottawa)
Pawnee	Has Plan	No	No

County Strategic Planning Status

<u>County(ies)</u>	<u>Status</u>	<u>Planning Grant</u>	<u>Action Grant</u>
Phillips	Has Plan	1991	No
Pottawatomie	Has Plan	No	No
Pratt	Has Plan	No	1993
Rawlins	Has Plan	1993	No
Reno	Has Plan	1991	92&94
Republic	No Plan	No	No
Rice/Ellsworth	Has Plan	1991	1994(Rice)
Riley	Has Plan	No	1994
Rooks/Graham	Has Plan	1992	No
Rush	Has Plan	1994	No
Russell	Has Plan	1993	No
Saline	Has Plan	No	No
Scott	Has Plan	No	1994
Sedgwick(Metro)	Two Areas	1995	No
Seward	Has Plan	No	1991
Shawnee(Metro)	Two Areas	1995	No
Sheridan	Has Plan	1993	1995
Sherman	Has Plan	1992	No
Smith	Has Plan	1993	No
Stafford	Has Plan	1992	93&95
Stanton	Has Plan	No	1995
Stevens	Has Plan	No	1991
Sumner	Has Plan	1991	1993
Thomas	Has Plan	1992	No
Trego/Gove/Logan	Has Plan	1993	No
Wabaunsee	No Plan	No	No
Wallace/Greeley	Has Plan	1991	No
Washington	Has Plan	No	1994
Wichita	Has Plan	1993	1995
Wilson/Neosho	Has Plan	1992	1994(Neosho)
Woodson/Allen/Coffey	Has Plan	1991	92&94
Wyandotte(Metro)	Ten Plans	1995	No

**Metropolitan Strategic Planning and Action Grant Status  
(as of March, 1996)**

**Topeka**

Central Topeka, Topeka Turnaround Team

Plan Status: Plan complete; will apply for action grant April 1, 1996

Plan Summary: Improve housing; enforce zoning and code enforcement; expand community policing; establish distinct neighborhood character

East Topeka, Topeka CDC

Plan Status: Plan complete; will apply for action grant April 1, 1996

Plan Summary: Create jobs and encourage local businesses; take advantage of Oakland Expressway; improve image; work for decent housing for residents

**Wichita**

SANCHO, 21st and Oliver Area

Plan Status: Plan complete; revising it for April 1 grant application. Received a \$2,000 action grant in October 1995 to organize and start a local merchants association for businesses in the area

Plan Summary: Hold businesses in area after anchor stores have left local shopping center; start local youth center; develop local shopping so residents won't have to leave area to shop; market empty buildings in shopping center

Wichita CDC, SW from 21st and Oliver Area

Plan Status: Finishing plan; anticipate applying for an action grant April 1, 1996

**Kansas City**

Chelsea Coalition, Chelsea Area

Plan Status: Plan complete; will apply for action grant April 1, 1996

Plan Summary: Promote jobs and local businesses; improve law enforcement and reduce crime; encourage more community involvement by residents

Central Avenue Betterment Association West, and

Central Avenue Betterment Association East

Plan Status: Completing plans for both areas; not ready for action grants until Fall 1996

Economic and Community Development Corporation, 18th & Quindaro Area

Plan Status: Finishing plan; may apply for action grant April 1, 1996

Economic and Community Development Corporation, 10th to 18th Area

Plan Status: Plan complete; applied for action grant in October 1995 and were declined; will apply again in April 1996

Economic and Community Development Corporation, Near Downtown Area

Plan Status: Finishing plan; may come in for action grant April 1996

Economic Opportunity Foundation

Plan Status: Completing plan; won't apply in April; ready in Fall 1996

Leavenworth Road Association, Central Leavenworth Road Area

Plan Status: Plan complete; received a \$25,000 action grant in October 1995. The action grant is to start a seniors/youth employment coordination program through which teenagers work for retired or semi-retired people in the area who have small or part-time businesses.

Plan Summary: Improve image of area; bring in shopping, service and recreational opportunities; strengthen local businesses

Rosedale Development Association, Rosedale Area

Plan Status: Completing plan; won't apply in April; ready in Fall 1996

United Way of Wyandotte County, Heights & Hills Area, NE Kansas City

Plan Status: Plan complete; will apply for action grant in April 1996

Plan Summary: Improve neighborhood safety; bring businesses back to area; market diversity of area -- European, Hispanic and Black Cultures

## *Testimony*

*H.B. 2988 - Concerning the Employment Security Law  
March 19, 1996*

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Good morning Madam Chairperson and members of the Committee. My name is Paul Bicknell and I am the Chief of Contributions with the Kansas Department of Human Resources. I appear before you this morning to report on H.B. 2988 which makes four amendments to the Employment Security Law.

Section 1 amends K.S.A. 44-710(e)(1)(D) on page 5, lines 36 and 37, to clarify that a retroactive election to become a reimbursing employer may not be earlier than January 1 of the year such election is filed. The allowed reimbursing employer payment option election first became available effective January 1, 1972. K.S.A. 44-710(e)(1)(D) was written to insure that no election could be any earlier than with respect to benefits paid after December 31, 1971. Since 1972, the department has for good cause shown, allowed the time period to be extended as to when such election is filed and has allowed a retroactive election, but no earlier than January 1 of the year such election was received. This amendment merely clarifies the effective date for both the agency and the employer.

Section 2 amends K.S.A. 44-714(j) on page 14, lines 38 through 43, and page 15, lines 1 through 9, by repealing the subparagraph on protection against self-incrimination. In the department's experience, this provision is both unnecessary and counterproductive.

This provision creates problems for our agency as we administer the law, because it encourages taxpayers to claim the privilege even when it is not applicable. When this occurs, our staff attorneys must either litigate the question whether the privilege is applicable or excuse the taxpayer from the subpoena. Granting the requested immunity is seldom a viable option.

*Senate Commerce Committee  
March 19, 1996  
Attachment 2, then 2-4*

Under the Fifth Amendment to the U.S. Constitution, an individual can claim a privilege against self-incrimination whenever their testimony is being compelled and the individual believes their testimony might lead to criminal penalties. The fifth amendment privilege allows an individual to refuse to answer questions about his or her business documents, such as whether any documents exist, whether the documents belong to that individual, and whether the documents are accurate. However, the privilege can be claimed only by individuals and cannot be used by an individual to refuse to produce documents belonging to a corporation, partnership, or other artificial entity. Unfortunately, K.S.A. 44-714(j) suggests that any "person" can claim the privilege and that all types of documents are subject to the privilege.

Our research shows that the language of K.S.A. 44-714(j) was derived from a similar provision about self-incrimination in the National Security Act. That Act allows the U.S. Government to grant broad immunity to individuals when necessary to investigate matters of national security. In such cases, the interests of the nation are paramount and a broad grant of immunity may be required to speed the investigation and protect the public from danger.

However, in our employment security law, a broad grant of immunity is not appropriate because we normally work on civil matters not criminal cases and we investigate questions of importance to individual employers and employees, rather than questions of national security.

In addition, our agency does not have sufficient authority to grant the broad immunity from "prosecution," "penalty," or "forfeiture" contemplated by K.S.A. 44-717(j). We have no power to charge individuals with crimes, so we cannot grant immunity from criminal prosecution without the blessing of the U.S. Attorney, the Kansas Attorney-General, the local district attorney, or other prosecuting authority.

Finally, without a full investigation, criminal prosecutors are unwilling to grant blanket immunity to anyone. Prosecutors are normally willing to grant immunity only for narrowly defined, limited purposes, after a full investigation of the facts of a particular case. Thus, in most cases, we cannot offer immunity to an employer in order to obtain their compliance with our agency subpoena. The federal constitution and the existing case law already offer adequate protection for individuals who wish to invoke their fifth amendment privilege.

Section 3 amends K.S.A. 44-718 on page 20, lines 1 through 21, by adding a new subparagraph (e) that provides that an individual claiming unemployment compensation may elect to have federal income taxes withheld from the individual's payment of unemployment compensation. The withholding of income tax from unemployment compensation was mandated by amendments made by Public Law 103-465, commonly known as the legislation on "GATT," the General Agreement on Tariffs and Trade. Under this legislation, states will be required to deduct and withhold federal income tax from unemployment insurance benefits if the individual so elects. This amendment is required to be in place for benefit payments made on and after January 1, 1997.



Section 4 amends K.S.A. 44-706(s) on page 30, lines 7 through 16. This subsection was added to the law in 1989 and allows the department to allocate back-pay awards during the period when wages would have been paid and also sets-up a disqualification for benefits of those individuals receiving a back-pay award. This amendment adds two subparagraphs and provides for establishment of an overpayment to be collected from the claimant for such weeks the individual received remuneration in the form of a back-pay award and from the employer when the employer chooses to withhold the amount of UI benefits paid the claimant before they pay the back-pay award to the individual. All collection remedies authorized under K.S.A. 44-717 are available in securing the withheld UI benefit amount.

In closing, I might add these four changes were brought before the Employment Security Advisory Council and received unanimous support.

Madam Chairperson, this concludes my testimony. I will be pleased to answer any questions you may have at this time.