Approved: January 21, 1999
Date

MINUTES OF THE HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT.

The meeting was called to order by Chairman William Mason at 3:30 p.m. on January 19, 1999 in Room 522-S of the Capitol.

All members were present except: None

Committee staff present: Lynne Holt, Legislative Research Department
April Holman, Legislative Research Department
Renae Jefferies, Office of Revisor of Statutes
Rose Marie Glatt, Committee Secretary

Conferees appearing before the committee: Joe Birmingham, Assistant Commissioner
State Department of Education

Others attending: See Attached

Chairman Mason welcomed the committee to the 1999 Session and asked them to introduce themselves, and tell the committee about their experience with economic development and their thoughts and desires for the committee. He asked that the members bring to leadership any ideas on bills or initiatives for consideration. There will be briefings this week and next, followed by a hearing on HCR No. 5002, a resolution relating to exemption of property used for oil and gas development, exploration and production purposes. There are two issues important to the economic development of the state, airline traffic in and out of Kansas, and the tax implications of Internet and catalog sales that the committee will address.

Lynne Holt gave her legislative background and introduced the committee staff. She briefed the committee on the activities of the Joint Committee of Economic Development. She provided a summary presentation (Attachment 1) on the Report of the Joint Committee on Economic Development(Attachment 2).

The five major committee reports from the Joint Committee are: Subcontractors' workers compensation coverage, customized employee training courses, electric generation capacity constraints, Kansas tourism promotion and development and sales tax exemption certificates for projects. She briefed the committee on each report, giving the background, post audit issues, activities, and conclusions and recommendations. Documentation for the reports was given to the committee including three letters on customized training, electric generation capacity and sales tax exemption (Attachment 3) and a memorandum concerning customized and technical training courses (Attachment 4).

Joe Birmingham, State Department of Education, briefed the committee on Customized and Technical Training Courses (Attachment 5). He addressed workforce development, specifically the guidelines for customized training course approval and the new workforce training program. He reviewed the concerns and department procedures as referred in the Post Audit Report and recommendations. Discussions followed regarding administration of the program, needs for specialized training and misuse of the program. Chairman Mason referred to other related issues and invited Mr. Birmingham to appear before the committee at a future date.

Following Ms. Holt's review there was discussion on issues relating to electric generation capacity and tax percentages on motels. Ms. Holman agreed to research the actual percentage of tax and report back to the committee on Thursday.

Chairman Mason reminded the committee of Thursday's agenda and adjourned the meeting at 4:45 p.m. The next meeting is January 21, 1999.

HOUSE ECONOMIC DEVELOPMENT COMMITTEE
COMMITTEE GUEST LIST

DATE: January 19, 99

NAME	REPRESENTING
Stacey Soldan	Hein & Weir Chtd.
Sheila Frahm	KACCT
Roger Franzke	KGC
Alex A. Kotoyantz	J.C./Geary Co Convention Bureau
Joe Birmingham	KSDE
Larry Kleeman	League of KS. Municipalities
Hilary Menz	Intern - Rep. Dan Thimesch
Joe Lawhon	Legislative Post Audit
Mary Lou McPhail	KDOCH -

COMMITTEE REPORTS

Topics

- Subcontractors' workers compensation coverage
- Customized employee training courses
- Electric generation capacity constraints
- Kansas tourism promotion and development
- Sales tax exemption certificates for projects

Subcontractors' Workers Compensation Coverage

- The Committee heard a status report.
- The Committee made no recommendations.

Economic Development Co.
1-19-99
Attachment 1

1

Customized Employee Training Courses

- Post Audit Report – *Reviewing Issues Related to Community Colleges' Customized Employee Training Courses*
  - To what extent are the state's community colleges offering customized training courses for businesses essentially at no cost?
  - What effect have customized training courses provided to companies or businesses had on community colleges' state aid?

Customized Employee Training Courses

Actions Taken

- September 1998 – Dodge City Community College discontinued financial arrangements with two beef processing firms (Excel and National Beef) in which College and companies realized a profit.
- November 1998 - State Board of Education adopted guidelines for customized training course approval.

Committee Recommendations – Customized Training

- Endorsed guidelines proposed by the State Board of Education
- Reaffirmed and agreed with the guideline requiring businesses and organizations to pay tuition and fees
- Commended Dodge City Community College for terminating its controversial financial arrangements with Excel and National Beef

Committee Recommendations – Customized Training

- Recommended Chairperson Ranson send a letter to Kansas Workforce Investment Partnership (KWIP) Council
  - Underscore importance of workforce training to the Kansas economy
  - Request Council to address certain issues on technical training
- Council to address the Chairperson's letter at a meeting on January 22, 1999

Electric Generation Capacity Constraints

Summer 1998 – Western Resources' Actions:

- **Requested 59 *interruptible*** commercial and industrial customers to reduce electric consumption for 51 hours over an 8-day period
- **Requested 100 largest *firm*** customers to voluntarily reduce consumption on four days
- **Requested *all*** customers to conserve energy on July 20 and 21

Purpose of Joint Committee Hearing – Capacity Constraints

To explore reasons for electric capacity shortages in the Midwest

To identify the potential short-term and long-term effects of those shortages

Kansas Corporation Commission Action – Capacity Constraints

Issued an order initiating an investigation of the future of Kansas electric generation capacity (November 4, 1998)

Impact on Certain Industrial Customers – Capacity Constraints

- Changes to employees' schedules (Boeing/Raytheon)
- Very expensive to purchase power (Vulcan Chemicals/Farmland)
- Inefficient use of electricity in production processes (Vulcan Chemicals)
- Unable to meet all needs of certain customers (Vulcan Chemicals)

Committee Recommendations – Capacity Constraints

- Chairperson Ranson to write a letter to KCC Chairperson, John Wine, relaying Committee's concern about implications of capacity constraints for economic development in Kansas
- KCC encouraged to periodically update the Legislature on Commission proceedings on generation capacity and Farmland complaint re: interruptible contracts

Kansas Tourism Promotion and Development

- State Tourism Fund established statutorily in 1997
- 1998 bills considered to capitalize the Fund; not passed
- No moneys have been credited to the Fund to date, nor have expenditures been made from the Fund to date

Committee Recommendations – Tourism Promotion and Development

- Introduce legislation (1999 H.B. 2016; referred to House Tourism Committee)
  - Transfers moneys in excess of $50 million in amount of $2 million or 25%, whichever is less, from State Gaming Revenues Fund to State Tourism Fund

Committee Recommendations – Tourism Promotion and Development

- Requires Council on Travel and Tourism to approve all expenditures from State Tourism Fund
- Exception – Secretary of KDOCH may approve up to $50,000 without Council's consent
- Recommend 1999 Tax Committees consider several tax issues related to Kansas hotels and motels

Sales Tax Exemption Certification for Projects

Confusion with the Kansas statutes re: exemptions

- Problem for exempt entities – can mistake contractor for retailer;
- Problem for contractors and retailers – on what basis to submit taxes?

Recommendation – Sales Tax Exemption Certification for Projects

- Department of Revenue to convene a group to identify possible solutions to problems associated with sales tax exemption certification for projects
  - Group to consist of representatives of League of Kansas Municipalities, KCCI, very small companies, Revisor of Statutes Office

Reports of the Joint Committee on Economic Development to the 1999 Kansas Legislature

CHAIRPERSON: Senator Pat Ranson

VICE-CHAIRPERSON: Representative William Mason

OTHER MEMBERS: Senators Jim Barone, U. L. "Rip" Gooch, Nick Jordan, and Alicia Salisbury; Representatives Barbara Allen, John Edmonds, Broderick Henderson, Annie Kuether, Peggy Palmer, Ethel M. Peterson, and John Toplikar

STUDY TOPICS

Subcontractors workers compensation coverage
Customized employee training courses
Electric generation capacity constraints
Kansas tourism promotion and development
Sales tax exemption certification for projects

December 1998

Economic Development Comm
1-19-99
Attachment 2

JOINT COMMITTEE ON ECONOMIC DEVELOPMENT

WORKERS COMPENSATION SUBCONTRACTOR ISSUES

CONCLUSIONS AND RECOMMENDATIONS

The Committee concluded in its review of the topic that there is not a need for legislation at this time.

BACKGROUND

During the 1997 Session the Workers Compensation Act was amended to cover self-employed subcontractors. Such coverage was excluded under prior case law, *Allen v. Mills*, 11 Kan. App. 2nd 415 (1986). Until the passage of 1997 H.B. 2011 self-employed subcontractors were not required to get workers compensation for themselves. They could, however, file an election to come under the Act and purchase insurance coverage. If they did not file an election, they were not covered by the Act. The subcontractor's employees were covered by the Act if the payroll for all employees exceeded $20,000 a year. This latter situation has not changed. What did change was that as of July 1, 1997, all self-employed subcontractors performing work for a contractor came under the definition of worker and were covered under the Act.

In 1998, H.B. 2591 repealed the pertinent part of 1997 H.B. 2011 which related to self-employed subcontractors. It returned the law to its status prior to July 1, 1997. The 1998 legislation codified prior case law, cited above, that a self-employed subcontractor cannot be a statutory employee of a general contractor. So, under current law self-employed contractors are not required to provide workers compensation insurance for themselves, but may still elect to do so. If the payroll exceeds $20,000 annually, the self-employed subcontractor is required to maintain insurance coverage for the benefit of any employees. An additional feature of the 1998 legislation was to prohibit the assessment of any fine against a self-employed subcontractor who failed to secure workers compensation coverage during the time frame in which the requirement for self-employed subcontractor coverage was in effect.

COMMITTEE ACTIVITIES

Appearing before the Committee were individuals who are or have been involved in the building trades and an insurance agent. The following suggestions were offered for the Committee's consideration:

- the law should be amended to protect the general contractor from liability when the subcontractor does not provide coverage for the employees of the subcontractor;
- when a supposedly valid certificate of insurance is presented to the general contractor, the general contractor should be afforded some protection from liability;
- insurers should be responsible to one who relies on a certificate of insurance for notification if the policy is canceled or lapsed; and
- self-employed contractors who did obtain insurance coverage for the months that the requirement was in effect should be afforded some relief for the expense involved.

Conclusions and Recommendations

At the conclusion of the hearing on this topic, the Committee did not elect to make any recommendations for further legislation at this time.

Customized Employee Training Courses

Conclusions and Recommendations

The Committee endorses the guidelines proposed by the State Board of Education for customized training course approval. The Committee recommends the Board update specified standing legislative committees during the 1999 Session on the disposition of the guidelines and on any additional policies adopted and implemented with respect to customized training. The Committee commends Dodge City Community College for its action to terminate its controversial customized training agreements with the meat processing companies. The Committee recommends a letter be sent to the Kansas Workforce Investment Partnership Council, underscoring the importance of workforce training for the state's economy, and requesting that the Council address certain issues on technical training, including customized training.

Background

The Committee addressed several policy issues related to customized vocational training courses offered by community colleges in Kansas. These courses are approved by the Department of Education as part of the Department's Business and Industry Service Program. For credit bearing courses, community colleges may receive state aid. The process for course approval is streamlined to respond expeditiously to the specific training needs of a business or provider of professional or occupational services and courses are either modified or created to meet those needs—thus the term "customized."

On August 18, 1998, the Legislative Division of Post Audit issued a report titled *Reviewing Issues Related to Community Colleges' Customized Employee Training Courses*. This report resulted from legislative concerns raised during the 1998 Legislative Session, which focused on certain customized training courses, and the associated financial arrangements, that were offered by Dodge City Community College to two beef processing plants—Excel and National Beef. This customized training was provided by company employees at their plants and not by College instructors. Moreover, the plants were using their own equipment. For its part, the College charged the companies for tuition at $30 per credit hour for each worker. The companies charged the College the same amount in aggregate for use of their equipment and facilities. Consequently, the companies paid nothing for tuition. In addition, the College received almost $1.6 million in credit hour state aid in FY 1997 and paid the companies almost $600,000 of that total. Therefore, both the College and the two companies profited from these financial arrangements.

The Post Audit report posed two questions:

- To what extent are the state's community colleges offering customized training courses for businesses essentially at no cost?
- What effect have customized training courses provided to companies or businesses had on community colleges' state aid?

One of the recommendations in the Post Audit report requested the Joint Committee on Economic Development to consider various policy issues and questions raised in the report to ensure the Business and Industry Service Program was operated as intended by the Legislature. Specifically, the Committee was requested to consider whether customized training courses should be funded with credit hour and out-district state aid or some other source; how much the Legislature wants to spend on such courses; what types of courses can be offered with subsidized state funding; which agency should administer the program; and whether the program should be established statutorily. The Post Audit report also suggested that the Committee receive testimony from the Departments of Education and Commerce and Housing, the community colleges, and the businesses that have participated in the program. The Post Audit report included other recommendations pertaining to operational, compliance, approval process, and hiring procedures.

COMMITTEE ACTIVITIES

The Committee devoted its entire meeting in August and a portion of its September and October meetings to consideration of issues related to customized training. At the August meeting, the Committee reviewed the Post Audit report; was informed about the course approval process used by the Department of Education for customized training courses; heard presentations on the workforce training programs administered by the Department of Commerce and Housing and the Department of Human Resources; received information about customized training courses offered by Pratt Community College, Dodge City Community College, Butler County Community College, and Johnson County Community College; and heard testimony from several businesses in Kansas about their particular training needs, use of vocational training courses, and financial arrangements with community colleges providing the training.

At the September meeting, staff of the Kansas Legislative Research Department furnished the Committee a memorandum which both identifies various policy questions and presents an option for addressing long-term, more regionally-based business needs for customized training. The State Board of Education reported at the Committee's October meeting on its proposed guidelines for customized training course approval. The Board noted that these guidelines would be acted upon at the Board's meeting on November 3-4. These guidelines articulate a policy for course offerings, recommend that customized training by community colleges be offered on a contact hour basis (not a credit hour basis as is currently the case), and require businesses and organizations receiving customized training to pay tuition and fees. The proposed guidelines prohibit the community college or vocational school or technical college which provides the training from offsetting the amount paid for tuition with amounts generated through other agreements, such as rent for use of the institution's facilities, equipment, supplies, or instructional services. Also in October, the President of Dodge City Community College informed the Committee that, as of the middle of September, the College had discontinued its customized training activities under the previous financial arrangements. The Committee learned that both meat packing companies have some employees enrolled in regular campus courses at the College.

CONCLUSIONS AND RECOMMENDATIONS

The Committee endorses the guidelines proposed by the State Board of Education for customized training course approval. The Committee recommends the Board update the 1999 House and Senate Education Committees, the House Economic Development Committee, and the Senate Commerce Committee on the Board's actions with respect to the proposed guidelines and any additional policies adopted and implemented with respect to customized training courses offered by community colleges, area vocational schools, area vocational-technical schools, and technical colleges.

The Committee also reaffirms and agrees with the guideline proposed by the Board requiring businesses and organizations to pay tuition and fees, not to be offset by other agreements which would in any way reduce those payments.

The Committee commends Dodge City Community College for its action to terminate its controversial financial arrangements with Excel and National Beef.

Finally, the Committee recommends that Chairperson Ranson send a letter to the Kansas Workforce Investment Partnership Council prior to the 1999 Session, underscoring the importance of workforce training for the state's present and future economy, and requesting that the Council address certain observations made by Committee members in the course of their deliberations on workforce training, including customized training. The Committee observed that: no coherent policy appears to exist with respect to delivery of workforce training services in Kansas; there appears to be little coordination among workforce training service providers; and certain types of businesses and professions in various regions of the state experience difficulty in accessing needed training, particularly in health and computer-related areas. The Committee also suggests the Council address the most appropriate means of providing training to meet businesses' critical needs throughout the state and determine the appropriate funding mechanism for such training. In particular, the Committee was concerned with funding customized training offered by community colleges with credit hour state aid. As a departure point for further discussion, the Committee recommends the Council review a memorandum by staff of the Kansas Legislative Research Department (September 22, 1998), which explores several of the issues outlined above.

Electric Generation Capacity Constraints

Conclusions and Recommendations

The Committee recommends the Chairperson of the Committee write a letter to Chairman John Wine and the other Commissioners of the Kansas Corporation Commission, with a copy to be forwarded to the Governor. This letter should encourage the Commission to proceed expeditiously with its investigation of the adequacy of future Kansas electric generation capacity. In addition, this letter should relay the Committee's concerns about the implications of energy capacity constraints for economic development in Kansas. The Committee also encourages the Commission to periodically update the Legislature on the Commission's proceedings on generation capacity and the complaint filed by Farmland Industries requesting an investigation of interruptible contracts.

Background

During the Summer of 1998, many electric utilities in the Midwest experienced electric capacity shortages. In Kansas, these shortages caused Western Resources to request its 59 commercial and industrial customers with interruptible contracts to reduce their electrical consumption for 51 hours spread over an eight-day period. Western Resources requested its 100 largest customers, even those with firm contracts, to voluntarily reduce electric consumption on four days. (Customers with interruptible contracts pay considerably less than customers with firm contracts in exchange for accepting a lower priority of service; if curtailments are necessary, interruptible customers will be asked to reduce consumption before firm customers.) On July 20 and 21, Western Resources asked all its customers to conserve energy because of concerns about rotating electric outages. Ultimately, no outages occurred although the threat of outages and the requests for reduced consumption caused considerable hardship for certain industrial customers, particularly those served by Western Resources (KGE) in Wichita. The Committee held a hearing on November 6 to explore the reasons for the electric capacity shortages in the Midwest, including Kansas, and to identify the potential short-term and long term effects of those shortages.

Committee Activities

The Committee heard presentations from the Chief Electric Engineer of the Kansas Corporation Commission (KCC); the Vice President of Southwest Power Pool (SPP); the Director of Rates, Western Resources; and spokespersons for four large industrial companies which purchase electricity from Western Resources—Farmland Industries, Boeing, Vulcan, and Raytheon. The Committee was informed about the factors contributing to the electric capacity constraints; the SPP's regional planning activities; the KCC's actions to address this issue; Western Resources' plans for expanded capacity; and the represented industries' experiences with the mid-summer shortages.

Factors Contributing to Electric Capacity Constraints. The following is a list of several factors that might have contributed to Western Resources' electric capacity constraints during the Summer of 1998. This list is a synthesis of various conferees' perspectives.

- *Wholesale Electricity Market.* The wholesale electricity market is largely deregulated and the transition from regulation to deregulation has occurred much more quickly than had been anticipated. The wholesale market, in this context, refers to electric power transactions between a utility and another utility or an independent power plant or between a utility and a governmental entity. In 1992, Congress ordered federally regulated electric utilities to allow any wholesaler to use the transmission lines. To implement this mandate, utilities have separated control of transmission lines from control of power generation. This mandate has also led to the entrance of new nonutility marketers, many of whom only deal in financial transactions. However, since many of the transactions are not backed by the ability to physically deliver power, pricing has become increasingly volatile, as was evident in the Summer of 1998. The entities controlling the transmission system have the power to limit or stop electricity from flowing, regardless of contractual agreements between a buyer and seller. Consequently, purchases from one utility to another can be suddenly curtailed, creating immediate and unexpected reliability problems. Deregulation in the wholesale market has resulted in greater uncertainty in commodity pricing and greater unreliability in wholesale purchases.

- *Mixture of Wholesale and Retail Electricity Markets.* Even though wholesale markets operate with few price constraints and no utility service obligations beyond contractual agreements between buyers and sellers, retail markets are fully regulated and utilities are therefore still obligated to serve retail customers at fixed rates. If utilities must purchase electricity on the wholesale (spot) market and pay very high prices to meet retail obligations, utilities could realize major financial losses. The coexistence of a largely deregulated wholesale market and a largely regulated retail market has created problems for utilities in balancing supply (some of it is dependent on wholesale purchases in the largely deregulated market) and demand from firm retail customers (in the regulated market). Transmission systems were not designed to accommodate dynamic competition in the wholesale market, thus causing an increasing number of transmission constraints. In addition, several states have introduced retail wheeling before the system to effectively coordinate the wholesale market has evolved.
- *Generation Capacity.* Utilities, such as Western Resources, must rely on the restructuring wholesale market if their own generating capacity is insufficient to meet peak demand —the maximum hourly amount of energy demanded during the year. Several factors affect a utility's capacity to meet that demand —some are circumstantial and some are systemic. With respect to Western Resources' capacity constraints in the Summer of 1998, the circumstantial factors included: unusually hot weather which caused air conditioners to run for long periods of time; unscheduled unit outages, such as Western Resources' Lawrence and La Cygne plants; and the shut down of several large nuclear plants in the upper Midwest which contributed to shortages in the entire region. Systemic factors include:

  - A greater increase in peak demand obligations than Western Resources had projected.
  - Conservative projected electric capacity margins set by the SPP, a regional reliability council. In addition to other functions, the SPP establishes the minimum standards for energy resources needed (capacity margin) to ensure reliable electric transmission and generation in this region. The SPP's capacity margin is based on aggregate forecasting projections submitted by regional utilities. Utilities are required to reserve a percentage of capacity, determined by the SPP, above their peak responsibility level; however, actual growth in peak demand has exceeded projected growth in each of the past ten years and reserve margins will be dangerously low within two years if this pattern of understated growth projections continues.
  - Insufficient generating capacity owned by Western Resources to meet summer peak demand in the future (addressed below).
  - The lack of an overarching body to determine, and enforce compliance with, uniform standards, criteria (such as capacity margin criteria), and procedures to ensure reliability of the North American interconnected electric system. Western Re-

sources and other utilities, state and federal regulatory agencies, and nonutility power plants are members of the SPP, but policies adopted by that council differ from decisions made by reliability councils in other regions. This raises the question of how to ensure reliability on the system beyond the immediate region since transmission of power can affect multiple regions. Despite their necessary dependence on an interconnected system, utilities have become increasingly self-sufficient in meeting their own energy resource needs due to the lack of transmission system reliability.

SPP's Regional Planning Activities. The SPP is the oldest of the ten regional reliability councils which currently comprise the North American Electric Reliability Council. The SPP coordinates, promotes, and communicates about maintaining the critical and delicate balance between electric system reliability and economic and equity issues. The SPP helps to reduce transmission capacity constraints, identifies and attempts to correct weak links in the transmission system connecting utilities, and invokes emergency procedures to prevent cascading blackouts or reduce power due to an unanticipated shutdown of a regional generating facility. One of its other responsibilities, as noted above, is the determination of electric generation capacity margins. The minimum SPP capacity margin was 13 percent for years through 1998. That percentage has been reduced to 12 percent in 1999. This number is based on the projected occurrence of power outages for any particular area once every ten years within the region.

The SPP issued a report in July 1998, which indicates a decrease from 1997 in forecasted capacity margin for Kansas utilities with a potential generation shortfall in Kansas by 2002. An analysis by the KCC staff reveals that Kansas utilities lowered from 1997 both their anticipated peak summer demand forecasts for future years and their planned capacity resources. The Vice President of the SPP informed the Committee that the reserve capacity margin in the region could be as low as 3.8 percent in 2001, assuming peak demand growth of 4 percent. For each of the past ten years, peak demand has been greater than forecasted. For example, the summer peak growth in 1998 was 5-7 percent for the region although only 2-3 percent had been projected.

Why Utilities Do Not Build Plants. Electric utilities have been reluctant in recent years to build new power plants, due to a concern of stranded investments in a restructuring environment. A long lead time is needed for plant construction; however, growth in customer load (electric consumption at any given time) is very uncertain, particularly when the "rules" governing wholesale and retail power transactions are in a state of flux. Because utilities are interconnected, they have been more inclined in recent years to purchase power, as needed, from other providers. However, capacity constraints occur when demand exceeds supply and there is no more available power or no affordable power to purchase.

Limitations of Reliability Councils' Powers. Utilities are voluntary members of the reliability councils. Several councils do not impose penalties on member utilities which are in noncompliance with the capacity margin requirements. Nonmembers may elect not to reserve capacity. Moreover, utilities may opt to leave reliability councils which further complicates those councils' efforts to project capacity margins with any accuracy. Another factor complicating regional forecasting by reliability councils, which also contributes to understated projections, is that utilities do not plan for interruptible demand in determining capacity reserves. Therefore, this type of demand is not reflected in the councils' respective regional projections. Finally, nonmembers need not submit data on their capacity projections to reliability councils, thus making the councils' regional projections less accurate. As noted, capacity margin criteria and penalties for utility noncompliance with required reserve capacity margins are not uniform among reliability councils. This limitation prevents councils from effectively coordinating efforts to realize the advantages and cost efficiencies of an interconnected transmission system.

KCC's Plans. To address several of the issues outlined above, the KCC issued an order initiating an investigation of the future of Kansas electric generation capacity (November 4, 1998). Specifically, the Commission indicated plans to investigate the capacity margin projected for Kansas utilities for the years 1998 through 2007. The initial phase of this proceeding is the collection of information on demand forecasts and planned capacity resources from both Kansas electric utilities belonging to the SPP and Kansas electric utilities that do not. Two sets of questions for each type of utility (SPP members and nonmembers) are appended to the order. The Commission directed staff to compile a summary of responses to these questions. Based on the summary of responses, the Commission indicated its intent to issue an order establishing further proceedings, including, but not limited to, roundtable discussions involving interested parties.

Western Resources' Plans for Expanded Capacity. The Director of Rates, Western Resources, informed the Committee that the company recognized the need for additional capacity even earlier than Summer 1998. KPL has not built a new power plant since 1983 and KGE since 1985, when Wolf Creek was completed. During the Summer of 1999, Western Resources intends to restore KGE's nonoperational Neosho power plant to service. In addition, the company plans to build three combustion turbines, to be partly operational in the Spring of 2000 and fully operational in the Spring of 2001. These turbines will add approximately 300 MW of peaking, gas-fired generating capacity to the company's capacity resource complement. Both KPL and KGE will take shares of the new capacity, which amounts to a 5 percent increase in the total capacity owned by Western Resources. As peaking capacity, the new turbines are expected to operate less than 10 percent a year. The plants will be located at KGE's Gordon Evans plant site near Colwich, northwest of Wichita. The direct cost is estimated at $120 million and, with additional facilities, $140 million. The Committee learned that the company did not view this additional capacity as a long-term solution for meeting customers' electric power needs. Finally, the Committee was informed that the company planned to submit to the Legislature proposals relating to tax incentives and streamlining or eliminating the Siting Act. From the company's perspective, these measures would reduce the company's exposure to investment risks in light of a transforming industry over the next several years.

Kansas Industry Experiences with Mid-Summer Shortages. The Committee received testimony from spokespersons from The Boeing Company, Farmland Industries, Vulcan Chemicals, and Raytheon Aircraft Company.

- Boeing's testimony raised concerns about the justification for Western Resources' off-system contractual obligations when firm customers, such as Boeing, in the utility's certificated areas were being asked to reduce consumption. The power shortages affected 1,000 company employees who had to switch their work hours because of requested load shedding.
- In addition to sharing Boeing's concerns about off-system contracts, Farmland Industries' spokesperson questioned whether KGE's action to curtail its interruptible customers in June 1998 was warranted given its acceptable reserve margin (assumed to be 27.45 percent) at the time.
- An interruptible customer like Farmland Industries, Vulcan Chemicals was without power for five days during the Summer. The company was able to purchase very expensive power on three days but it was insufficient to meet the company's needs. Vulcan's testimony outlined three concerns:
    - the company was forced to be very inefficient in its use of electricity given its production process;
    - the company was forced to inform some of its customers it could not meet all of their needs because of power constraints; and
    - the future reliability of Western Resources power delivery is unclear given the recent events.

Also emphasized were the adverse economic development implications of these capacity constraints. Vulcan proposed retail wheeling as a solution for reducing uncertainty of large energy users.

- Like Boeing, Raytheon Aircraft had to change production schedules to comply with the request for consumption curtailment. Like Boeing, Raytheon is a firm customer. The company shared the same concerns with the other companies regarding Western Resources' accommodation of out-of-state off-system companies when its firm in-state industrial customers were threatened with blackouts. The company suggested that costs for the new turbines proposed by Western Resources be borne by off-system wholesale customers.

Conclusions and Recommendations

The Committee recognizes that Kansas has fared better than many states in terms of meeting capacity requirements. Moreover, the Committee understands that uncertainties in power supply and transmission are regional, as well as national problems. Nonetheless, a company's lack of access to reliable and affordable energy is an economic development issue. Potential economic growth will be impeded in terms of industrial relocation and expansion plans, if businesses cannot rely on their electric utilities to supply them with contractually promised power. The power shortages experienced by certain large commercial and industrial customers during the Summer of 1998 had adverse impacts on their production cycles, employee schedules, and finances.

This situation deserves serious scrutiny from the KCC so that measures can be taken to prevent a recurrence of power curtailments. The Commission, the industrial consumers, and the electric utilities in Kansas need to carefully assess all the economic development implications of power curtailment measures and develop a strategy to ensure that there will be adequate capacity in future years.

To that end, the Committee recommends the Chairperson of the Committee write a letter to Chairman John Wine and the other Commissioners of the KCC, with a copy to be forwarded to the Governor. This letter should encourage the Commission to proceed expeditiously with its investigation of the adequacy of future Kansas electric generation capacity. In addition, this letter should relay the Committee's concerns about the implications of energy capacity constraints for economic development in Kansas. The Committee also encourages the Commission to periodically update the Legislature on the Commission's proceedings on generation capacity and the complaint filed by Farmland Industries requesting an investigation of interruptible contracts.

The Executive Director also testified about the Association's concerns related to both the Department of Revenue's interpretations with respect to transient guest tax collection and the use of economic development incentives, such as tax abatements, to foster development of businesses that compete with existing lodging facilities in Kansas.

Council on Travel and Tourism. The Chairperson of the Council on Travel and Tourism testified that the Council recommended an additional allocation of $500,000 for tourism promotion in FY 2000. The Council also recommended the structure of the Division of Travel and Tourism Development be retained as currently organized in KDOCH. Finally, the Council recommended amending the enabling legislation for the State Tourism Fund. Specifically, the Council suggested that grant criteria and a selection process be included in statute so that the Legislature would not have to approve each grant as a separate line item appropriation.

The Council distributed draft legislation for the Committee's review. In their presentation to the Committee, several conferees supported the establishment of criteria for tourism grants, such as the Director of the Lawrence Convention and Visitors Bureau, the Director for Tourism in Liberal, and the Executive Director of the Kansas Lodging Association. The Committee asked the Secretary of KDOCH to comment on the Council's proposed legislation. Upon review, the Secretary expressed certain reservations with the proposed language. The Committee requested the Secretary return in October with a revised version of the Council's draft bill incorporating any changes needed to allay his concerns. The Committee subsequently reviewed the version of the draft bill submitted by the Secretary and used that version as the basis for the legislation recommended below.

CONCLUSIONS AND RECOMMENDATIONS

The Committee recommends the introduction of legislation submitted by the Secretary of KDOCH which would amend certain provisions in existing law concerning the State Tourism Fund. The legislation would amend existing law to provide the Council with more authority in the tourism grant selection process. Specifically, the Council on Travel and Tourism would be authorized to approve any expenditures from the State Tourism Fund except that the Secretary of KDOCH may approve projects for amounts equal to or less than $50,000 without the Council's approval. Moreover, the Secretary could only approve aggregate project expenditures not in excess of 20 percent of total expenditures from the Fund in any fiscal year. The Council also would be authorized to review rules and regulations promulgated by the Secretary establishing criteria for obtaining grants from the Fund and other related matters.

The legislation also would secure a reliable stream of funding for the grants, assuming that gaming proceeds exceed the statutorily-prescribed amount of $50 million that may be credited to the State Gaming Revenues Fund in any given fiscal year. An annual transfer to the State Tourism Fund of the lesser amount of $2 million or 25 percent of all amounts credited to the State Gaming Revenues Fund in excess of the $50 million cap would be authorized. Without the latter provision, all amounts in excess of the cap would be transferred to the State General Fund, as is currently the case.

Finally, the Committee recommended the Chairperson of the Committee write to the LCC requesting the LCC to refer the issues included in the Kansas Lodging Association's testimony to the standing House and Senate Taxation Committees for their respective deliberation and consideration. This letter was subsequently forwarded to the LCC.

HOUSE BILL No. 2016

By Joint Committee on Economic Development

12-30

AN ACT concerning the state tourism fund; amending K.S.A. 79-4801 and K.S.A. 1998 Supp. 74-9003 and repealing the existing sections; also repealing K.S.A. 1998 Supp. 74-9004 and 74-9005.

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

Section 1. K.S.A. 79-4801 is hereby amended to read as follows: 79-4801. There is hereby created the state gaming revenues fund in the state treasury. All moneys credited to such fund shall be expended or transferred only for the purposes and in the manner provided by this act and all expenditures from the state gaming revenues fund shall be made in accordance with appropriation acts. All moneys credited to such fund shall be allocated and credited monthly to the funds and in the amounts specified by this act except that the total of the amounts credited to such funds in any one fiscal year pursuant to this act shall not exceed $50,000,000. All amounts credited to such fund in any one fiscal year which are in excess of $50,000,000 shall be transferred and credited *as follows:*

(a) The amount equal to $2,000,000 or 25% of the amount credited to the state gaming revenues fund each year in excess of $50,000,000, whichever is less, shall be transferred and credited to the state tourism fund on June 25, 1999 and each year thereafter on June 25;

(b) the remainder of such funds in excess of $50,000,000 shall be credited to the state general fund on ~~July 15, 1996, and~~ June 25, ~~1997~~ *1999*, and each year thereafter on June 25.

Sec. 2. K.S.A. 1998 Supp. 74-9003 is hereby amended to read as follows: 74-9003. (a) There is hereby established in the state treasury the state tourism fund. All moneys credited to the state tourism fund shall only be used for expenditures for the purposes of developing new tourism attractions in Kansas and to ~~significantly~~ expand existing tourism attractions in Kansas. Both public and private entities shall be eligible to apply for funds under the provisions of this act.

(b) The secretary of commerce and housing shall administer the provisions of this act. The secretary ~~may~~ *shall* adopt rules and regulations establishing criteria for obtaining grants and other expenditures from such fund and other matters deemed necessary for the administration of this act, *subject to review by the council on travel and tourism.*

(c) All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the *director of* accounts and reports issued pursuant to vouchers approved by the secretary of commerce and housing or the secretary's designee.

~~(d) The secretary of commerce and housing shall prepare and submit budget estimates for all proposed expenditures from the state tourism fund in accordance with the provisions of K.S.A. 75-3717 and 75-3717b and amendments thereto. Such budget estimates shall include detailed information regarding all proposed expenditures for programs, projects, activities and other matters and shall set forth separately each program, project, activity or other expenditure for which the proposed expenditures from the state tourism fund for a fiscal year are for an amount that is equal to $50,000 or more. Appropriations for the department of commerce and housing of moneys in the state tourism fund for each program, project, activity or other expenditure for a fiscal year for an amount that is equal to $50,000 or more shall be made as a separate item of appropriation.~~

~~(e) The legislature shall approve or disapprove of any itemized expenditure from the state tourism fund.~~

(d) Any expenditure from the state tourism fund shall be approved by the council on travel and tourism, except that the secretary may approve projects equal to the amount of $50,000 or less without the consent of the council. Aggregate expenditures for projects approved solely by the secretary of commerce and housing shall not exceed 20% of total expenditures from the fund in any fiscal year.

~~(f)~~ *(e)* On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the state tourism fund established in subsection (a) interest earnings based on:

(1) The average daily balance of moneys in the state tourism fund for the preceding month; and

(2) the net earnings rate of the pooled money investment portfolio for the preceding month.

Sec. 3. K.S.A. 79-4801 and K.S.A. 1998 Supp. 74-9003, 74-9004 and 74-9005 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the Kansas register.

Sales Tax Exemption Certification for Projects

Conclusions and Recommendations

The Committee recommends the Committee Chairperson send a letter to the Kansas Department of Revenue, encouraging the Secretary of Revenue to convene a group of individuals representing, among others, the League of Kansas Municipalities, the Kansas Chamber of Commerce and Industry, very small companies, and the Revisor of Statutes Office. This group should identify possible solutions to problems related to sales tax exemption certificates for projects involving contractors and retailers, including legislative proposals, to address those problems, and submit these proposals to the 1999 Legislature. Moreover, this group should look at other causes of taxpayer confusion regarding sales tax exemption certificates, including the treatment of churches and religious organizations that are exempt from direct sales tax but not indirect sales tax.

Background

Genesis of Request for Interim Study. The Committee reviewed several problems associated with the Kansas Department of Revenue's implementation of the statutes related to sales tax exemption certificates for projects. This review was requested by Representative Bill Mason, Vice Chairperson of the Committee, because several of his constituents had experienced problems with interpreting the statutes and corresponding regulations promulgated by the Kansas Department of Revenue. The background information below is summarized from a presentation by staff of the Kansas Department of Revenue.

Confusion with the Statutes. Political subdivisions, the federal government, and certain hospitals, schools, and educational institutions are exempt from paying sales tax on their purchases. These entities are statutorily authorized to have both a direct and an indirect sales tax exemption. The direct exemption applies to direct purchases from a retailer (a person who sells a product and installs it). The indirect exemption allows the entity to "pass through" its exemption to a contractor, such as a repair person, so that the contractor can purchase materials exempt from tax on behalf of the exempt entity. Exempt entities need to issue project exemption certificates when a contractor is making an indirect purchase on their behalf. (A project exemption certificate is the piece of paper a contractor shows a vendor to indicate the sale is on behalf of an exempt entity and should be tax exempt.) However, exempt entities are not required to issue a project exemption certificate when the work is being completed by the retailer, who only needs to show his or her own resale exemption certificate to buy materials exempt. In addition, many contractors also sell products at retail. Because these two occupations —contractors and retailers—are treated differently in state tax law, the following problems have resulted:

- *Problem for Exempt Entities.* When a repair is needed, it is often unclear whether the person performing the job is acting as a contractor (repair person) or a retailer (salesperson/installer). The Department of Revenue has promulgated new regulations to authorize refunds, upon application, in cases of "mistaken identity," when an exempt entity mistakes a contractor for a retailer and does not issue a project exemption certificate. Nonetheless, the burden still lies with the exempt entity in making the distinction.
- *Problem for Contractors and Retailers.* Contractors pay tax on their purchases of materials. Retailers do not pay tax on their purchases of materials. Instead, they collect tax when they sell their materials. Many contractors in the electrical, plumbing, heating, and similar businesses also operate retail stores. They do not always know whether they should remit tax based on their cost of mate-

rials (like a contractor) or based on the price they sell their materials (like a retailer). This issue is only relevant for transactions with nonexempt entities. (If contractors sell to exempt entities, provided there is a project exemption certificate, no tax is required.) In transactions with nonexempt entities, the contractor/retailer needs to know whether to pay tax on the cost of the materials or collect tax on material sales. Whenever labor must be taxed, such as on commercial remodeling projects, it is not clear how contractors should break out taxable labor from tax-paid materials. When contractors are dealing with entities that have direct exemption but no indirect exemption, such as churches and religious organizations, the distinction could govern whether they have to remit tax at all. (With respect to churches and religious organizations, a contractor would have to remit taxes.)

- *Administrative Procedures.* Prior to enactment of the Taxpayer Fairness Act, exempt entities, such as political subdivisions, considered it to be an administrative burden to obtain a project exemption certificate from the Kansas Department of Revenue for each project involving a contractor. Exempt entities are now authorized to apply for "agency status" and issue their own project exemption certificates rather than receiving them from the Department. Since this process was implemented on July 1, 1997, 59 entities have applied for "agency status" and all applications have been approved. Regulations which codified this process were adopted on June 26, 1998.

Committee Activities

The Committee held a hearing on November 6 on the issue of sales tax exemption certificates. Conferees included Shirley Sicilian, the Director of the Office of Policy and Research, Kansas Department of Revenue, Dr. Jackie Vietti, the President of Butler County Community College, Joyce Rush, the owner of a plumbing and heating company in El Dorado, and Don Moler, Attorney, League of Kansas Municipalities. Written testimony was submitted by the City of El Dorado.

Ms. Sicilian provided the Committee with background information. Her presentation, a portion of which is summarized above, identified certain problems taxpayers have with the statutes on sales tax exemptions related to contractors and retailers. She indicated the Department would like to work with the League of Kansas Municipalities, the Kansas Chamber of Commerce and Industry, and others, on legislative proposals that will resolve these problems. According to Ms. Sicilian some legislation will be needed to "fix" the problems because there are statutory inconsistencies. However, most of the changes can be realized through Department regulations.

Dr. Vietti recounted the Community College's problem with handling sales tax exemption certificates for unplanned construction and remodeling projects. Dr. Vietti also noted that the College elected not to seek "agency status" to issue its own certificates because of concern of an increase in required paperwork. Dr. Vietti proposed three solutions:

- establish the definition of "project," so that repair work is not included and therefore not subject to the requirement of seeking and obtaining prior approval for sales tax exemptions;
- create a structure for blanket approval of sales tax exemptions for maintenance and repair work provided to entities with a tax identification number; and
- set a dollar amount for construction and remodeling projects that require sales tax exemption certificates.

Ms. Rush explained the problem her company had with the processing of sales tax on indirect sales made to exempt entities and her discussions with the Department of Revenue staff concerning interpretations of the statutes. She observed that the statutes imposed a bookkeeping burden on her company and, like Dr. Vietti, suggested blanket approval of the sales tax exemption for maintenance and repair work provided to eligible entities. Mr. Moler also acknowledged the burdensome bookkeeping involved with these sales tax exemptions and observed that the complexity of the process results in noncompliance, especially if the project is small in scope.

CONCLUSIONS AND RECOMMENDATIONS

The Committee commends the Kansas Department of Revenue for being cooperative and helpful in its efforts to assist taxpayers in resolving their problems with sales tax exemption certificates. Nonetheless, as acknowledged by the Department's staff and other conferees, problems remain and the statutes are in conflict. Therefore, the Committee recommends the Committee Chairperson send a letter to the Department, encouraging the Secretary of Revenue to convene a group of individuals representing. among others, the League of Kansas Municipalities, the Kansas Chamber of Commerce and Industry, very small companies affected by these issues, and the Revisor of Statutes Office. This group should identify possible solutions to the problems outlined above, including legislative proposals, and submit these proposals to the 1999 Legislature. Moreover, this group should look at other causes of taxpayer confusion regarding sales tax exemption certificates, including the treatment of churches and religious organizations that are exempt from direct sales tax but not indirect sales tax.

KANSAS SENATE

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LOCAL GOVERNMENT
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December 18, 1998

Karla Pierce, Acting Secretary
Kansas Department of Revenue
Room 216-N—Docking State Office Building
915 Southwest Harrison
Topeka, Kansas 66612-1588

Dear Secretary Pierce:

On November 6, 1998, the Joint Committee on Economic Development held a hearing on the issue of sales tax exemption certificates for projects. The Committee was favorably impressed with the Department's cooperative and helpful efforts to assist taxpayers in resolving problems with these certificates. These problems specifically relate to the different treatment in Kansas law accorded contractors and retailers with respect to sales tax exemptions. According to Shirley Sicilian, exempt entities, such as community colleges, bear the burden of making the distinction between contractors and retailers even though the capacity in which such individuals perform their jobs may be unclear (many contractors sell products at retail). Contractors who also are retailers encounter problems in transactions with nonexempt entities with respect to sales tax recovery, especially since two statutes—K.S.A. 79-3602(r) and K.S.A. 79-3603(l)—appear to be in conflict. Finally, several conferees at the public hearing observed that the bookkeeping involved with sales tax exemptions for maintenance and repair work is complex and burdensome.

Nonetheless, despite the Department's commendable assistance efforts, the Committee concluded that the problems outlined above still remain. Therefore, the Committee encourages you to convene a group of individuals representing, among others, the League of Kansas Municipalities, the Kansas Chamber of Commerce and Industry, very small companies affected by these issues, and the Revisor of Statutes Office. The Committee recommended this group identify possible solutions to the problems outlined above, including legislative proposals, and submit these proposals to the 1999 Legislature. Moreover, the Committee suggested this group look at other causes of taxpayer confusion regarding sales tax exemption certificates, including the treatment of churches and religious organizations that are exempt from direct sales tax but not indirect sales tax.

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Attachment 3

For your information, I am enclosing a list of all the Committee members. Should you have any questions about these requests, please feel free to call me at (316) 838-3066.

Sincerely,

Pat Ranson
for

Senator Pat Ranson, Chairperson
Joint Committee on Economic Development

PR/sp

Enclosure

cc: Shirley Sicilian

#26006.01(12/18/98{9:08AM})

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December 18, 1998

John Wine, Chairperson
Kansas Corporation Commission
1500 Southwest Arrowhead Road
Topeka, Kansas 66604-4027

Dear Commissioner Wine:

On November 5, 1998, the Joint Committee on Economic Development held a hearing on electric generation capacity constraints. At that meeting, the Committee heard presentations from: Larry Holloway; Nick Brown, Southwest Power Pool; Earnie Lehman, Western Resources; and conferees from Farmland Industries, Boeing, Vulcan, and Raytheon.

Mr. Holloway reviewed for the Committee the order issued by the Commission on November 4, initiating an investigation of the future of Kansas electric generation capacity. On behalf of the Committee, I would strongly urge Commissioners Moline, Claus, and you to proceed expeditiously with your investigation. The Committee was very concerned about the projections for reserve capacity margins in the region based on information relayed by both Mr. Holloway and Mr. Brown. Of particular note was Mr. Brown's projection that the reserve capacity margin in the region could be as low as 3.8 percent in 2001, assuming peak demand growth of 4 percent. The Committee learned that for each of the past ten years, peak demand has been greater than forecasted. For example, the summer peak growth in 1998 was 5-7 percent for the region although only 2-3 percent had been projected. These projections, coupled with the power curtailments of large Kansas commercial and industrial customers this past summer, raised questions about whether the existing and planned capacity of Kansas utilities will adequately meet growth demands in the state over the next ten years.

Also of concern to the Committee was Western Resources' request to its firm customers within its certified service territories to "shed load" on June 25-26 and July 21-22. The Committee heard several presentations from KGE customers that raised the issue of Western Resources' obligations, when confronted with power constraints, to retail customers within its certified service territories and its obligations to wholesale customers, especially out-of-state wholesale customers. The Committee encourages the Commission to consider in its deliberations whether the utility proceeded correctly in its treatment of retail customers and wholesale customers during those four days in June and July.

The Committee was particularly concerned about the implications of energy capacity constraints for economic development. If large companies, especially firm customers, cannot rely on their electric company for the requisite amount of power needed to meet their needs, they could decide to generate their own electricity, thus increasing the burden on other ratepayers, including residential ratepayers. Unreliable power supply can affect a company's plans to relocate to Kansas, expand in Kansas, or even remain in Kansas. Therefore, the Committee would encourage you in your deliberations about the adequacy of capacity to carefully analyze the assumptions underlying the demand forecasts and planned capacity resources. Consistently understated demand forecasts and resource planning intended to meet only identified existing needs may have adverse long-term implications for economic development in Kansas.

The Committee requests that the Commission periodically update the Legislature on the Commission's proceedings on this investigation and the complaint filed by Farmland Industries requesting an investigation of interruptible contracts.

Should you have any questions about these requests, please feel free to call me at (316) 838-3066.

Sincerely,

Pat Ranson

Senator Pat Ranson, Chairperson
Joint Committee on Economic Development

PR/sp

cc: Governor Bill Graves
Commissioner Brian Moline
Commissioner Cynthia Claus
Larry Holloway

#26008.01(12/18/98{8:52AM})

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December 18, 1998

Mr. David P. Thomas
Director of Community Affairs
Sprint Corporation
2330 Shawnee Mission Parkway
Westwood, Kansas 66205

Re: Kansas Workforce Investment Partnership (KWIP) Council

Dear Mr. Thomas:

I was asked by the Joint Committee on Economic Development, which I chair, to request the KWIP Council's assistance in gathering and analyzing information on a matter of great importance to all of us–workforce training.

The Joint Committee on Economic Development devoted its meeting on August 26-27, 1998, and portions of meetings in September and October, to consideration of issues related to customized workforce training. An examination of these issues was prompted by the release of a report on August 18, 1998 titled *Reviewing Issues Related to Community Colleges' Customized Employee Training Courses*. At the August meeting, the Committee heard presentations from: several state agencies that administer workforce training programs (Kansas Department of Education, Kansas Department of Commerce and Housing, and Kansas Department of Human Resources); several Kansas community colleges that provide customized training courses; and several businesses that have benefitted from customized training.

In its deliberations on workforce training issues, the Committee acknowledged the importance of workforce training for economic development in Kansas. However, certain problems, in the Committee's view, could reduce the overall effectiveness of individual state-supported workforce training programs and initiatives. Based on information presented at the meetings, the Committee observed that: no coherent policy appears to exist with respect to delivery of workforce training services in Kansas; there appears to be little coordination among workforce training service providers; and certain types of businesses and professions in various regions of the state experience difficulty in accessing needed training, particularly in health and computer related areas.

The membership of the Council represents business, education, labor, and government. Moreover, one of the Council's missions is to review and provide feedback to the Governor and the Legislature, among other parties, regarding the adequacy of state programs, plans, and budgets in meeting employment and training needs in Kansas. In light of the Council's membership and mission, the Committee concluded that the Council would be the most appropriate organization to:

- consider the extent to which activities of workforce training providers are coordinated; and
- assess their capacity to respond expeditiously to businesses and professional service providers that have critical short-term and ongoing training needs.

The Committee requested that the Council identify the training needs of Kansas businesses and professions that are either inadequately addressed or not addressed at all. For example, the Committee heard a presentation from a spokesperson for Hutchinson Hospital. She noted a shortage of surgical technical and professional staff in the United States and discussed the training efforts in Kansas, particularly in Hutchinson, to respond to that shortage. In addition, the Committee requested that the Council determine the most appropriate means of providing training to meet critical business and professional needs and the appropriate funding mechanisms for such training. In particular, the Committee was concerned with funding customized training offered by community colleges with credit hour state aid.

As a departure point, the Committee suggested the Council review a memorandum by staff of the Kansas Legislative Research Department (September 22, 1998), enclosed with this letter, which explores several of the issues outlined above. The second part of that memorandum includes a possible strategy for meeting critical business needs.

For your information, I also am enclosing a list of all the Committee members. Should you have any questions about these requests, please feel free to call me at (316) 838-3066.

Sincerely,

Pat Ranson KH

Senator Pat Ranson, Chairperson
Joint Committee on Economic Development

PR/mkl

Enclosure

cc: Governor Bill Graves
Deann Tiede, KWIP Administrative Coordinator
Secretary Wayne Franklin, Kansas Department of Human Resources

#26004.01(12/18/98{9:05AM})

. ANSAS LEGISLATIVE RESEARCH DEPARTMENT Rm. .5N-Statehouse, 300 SW 10th Ave.
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September 22, 1998

CUSTOMIZED AND TECHNICAL TRAINING COURSES
Policy Questions

Part I of this memorandum concerns customized training courses provided by post-secondary institutions in Kansas. Part II presents an option for addressing long-term, more regionally-based business needs for technical training. The latter issue was raised several times at the Committee's August meeting. The option presented in Part II is not intended to be a replacement for customized training courses as customized training and technical training responding to a business' long-term needs are two separate issues. Customized training is supposed to respond expeditiously to a specific business' training needs. The option in Part II responds to multiple business' ongoing and anticipated needs for technical training.

PART I

A. State Role and Mission

1. **What is meant by "customized training courses"?** The following attributes describing such courses are listed in the Kansas State Board of Education's *Report and Recommendations Regarding Business and Industry Courses Offered by Community Colleges, Technical Colleges and Area Vocational Technical Schools*. I have generalized them to a limited extent. Customized training courses should:

    - be designed to address a specific training need requested by business or industry;
    - be normally taught to a group of employees in a classroom or laboratory setting or in a work center setting;
    - have the intent of upgrading the employees' technical skills and knowledge;
    - have a competency-based course outline or syllabus;
    - be developed collaboratively by the training provider and the business to address a specific set of skills or knowledge;
    - be an organized, structured, and formally approved set of learning activities;
    - have approved evaluation methods and be competency based;

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- be reviewed, approved, or disapproved by the administering agency; and

- be audited annually by the administering agency to ensure compliance with regulations.

2. The state currently supports customized training through several programs—the Kansas Industrial Training (KIT) Program; the Kansas Industrial Retraining (KIR) Program; and the SKILL component of the Investments in Major Projects and Comprehensive Training (IMPACT) Program. (See Attachment 1 for a brief description of these programs.) These three programs are administered by the Kansas Department of Commerce and Housing (KDOCH). The fourth customized training program receiving state support is the Business and Industry Service Program administered by the Kansas State Department of Education (KSDE). **Disregarding specific features of these three programs, should the state continue to subsidize customized training?**

3. Assuming state support continues to be provided, do you agree that customized training courses should have the attributes described in KSDE's *Report and Recommendations*? Should any of the above attributes be modified or deleted; should any be added?

B. Retention of Business and Industry Service Program

The following set of questions assumes retention of the Business and Industry Service Program in KSDE.

1. **Courses.** Customized training courses in the Business and Industry Service Program currently may receive credit hour reimbursement if provided by a community college and contract hour reimbursement if offered by an AVTS or technical college. If state funding is involved, the KSDE staff must approve the courses. Approval is based on certain criteria, including: a letter of request from the business or industry; a proposed course syllabus; a specified evaluation method to assess students' progress; measurable competencies students are expected to achieve; whether the course is vocational; whether the course is on the master course list; whether the course is directed at employees of business and industry requesting the training; whether the instructor is eligible to teach the course; whether the requested course is offered under a KDOCH program; and whether the course meets the credit hour guidelines. In the *State Plan for Kansas Community Colleges*, one college credit is based on the learning expected from not less than 900 minutes (15 hours) of classroom instruction with credits for laboratory instruction, internships, and clinical experience determined by the institution. Specifically, if a course entails less than 8 hours of training, it would not be credit-bearing since 0.5 credit hours (the smallest increment in which credit may be awarded under the Business and Industry Service Program) is equivalent to at least 8 hours of training. KSDE approval is not required if a customized training course involves no state aid and is not offered for credit.

    - **Should community college credit continue to be provided for customized training?**

    - **If credit continues to be provided, should the funding of customized training courses be at a different rate than the rate for academic courses?**

- **If credit continues to be given for customized training, should the same criteria, as are currently adhered to by KSDE, be applicable?**

- **Should other criteria govern a credit-bearing course (*e.g.*, a course should not be remedial or part of an adult basic education curriculum; a course should not be offered to satisfy internal or external requirements, such as OSHA)?**

- **Alternatively, should the existing criteria be reviewed and, if needed, revised by the KSDE study committee with input from the Joint Committee on Economic Development or standing Education committees?**

- **If it is determined that community colleges should be authorized to continue offering credit for customized training, should the definition of "credit hour" in K.S.A. 71-601 be amended to better accommodate the time frame in which customized training could be offered? (See Attachment 2.)**

2. **Training Recipients.** Recipients of customized training courses in the Business and Industry Service Program may include a wide array of entities: manufacturing companies; nonprofit and for-profit associations and organizations, including health related providers; unions; local units of government, including schools; state agencies; federal agencies; retail establishments; and service industries.

   - **Should restrictions apply to the type of recipients of customized training provided under the Business and Industry Service Program? If yes, how?**

   - **Alternatively, should the KSDE study committee make this determination with input from the Joint Committee on Economic Development or standing Education committees?**

3. **Mission Statement.** The mission statements of community colleges were most recently approved by the Kansas Board of Education in October 1986. One of the missions of the community college system is to provide access to "technical and consulting services to business and industry and to local agencies to promote the economic development of their service areas." **Should the mission statement be changed in terms of the types of services to be offered, the recipients of such services, or the geographical region to be affected by promotion of economic development?** Another mission statement requires the community college system to provide access to "customized educational and training programs and courses to assist business and industry to train their employees in job-related skills." **Should the mission statement be changed in terms of the recipients of such services, *e.g.*, expanded to organizations and government agencies? Should the mission statement explicitly capture the need for retraining?**

4. **Recipients' Contributions.** Of the four customized training programs discussed above, only the KIR program requires a dollar-for-dollar matching contribution from the business. The KIT program does not have this requirement although many companies provide matching funds. The SKILL program also does not require matching funds but companies often provide

a match. Community colleges, through the Business and Industry Service Program, provide customized training at no cost, partial cost, or full cost to recipient businesses.

- **Should recipient businesses of customized training provided under the Business and Industry Service Program be required to pay a portion, if not all, of actual training costs?**

- **If a determination is made to continue state subsidization, should that subsidy be based on factors such as size of the business, the business' ability to pay, whether training adds value to a process or product, or type of course (*i.e.*, a course requiring more expensive equipment and a specialist with higher salary requirements might exact a state subsidy)?**

- **Should customized training courses offered on an ongoing basis (annually) to companies be subsidized under the Business and Industry Service Program? If yes, under what conditions?**

5. **Form of State Funding.** The four customized training programs are financed differently. KIT and KIR are financed through appropriations from the Economic Development Initiatives Fund (EDIF). The FY 1998 appropriation for these programs totaled $3.25 million and the FY 1999 appropriation was $3.85 million. The SKILL/IMPACT program is funded from tax-exempt bond proceeds which are indirectly retired by the withholding taxes created by new jobs. Total FY 1997 revenues for state aid (credit hour and out-district) to community colleges under the Business and Industry Service Program totaled $2,058,961. Community colleges receive credit hour state aid. Credit hour state aid for approved vocational classes is paid at 1.5 times the rate paid for academic classes. If a community college is designated as an AVTS, the credit hour state aid is twice the rate paid for academic classes. Five community colleges—Cowley County, Johnson County, Hutchinson, Dodge City, and Pratt —are currently entitled to the higher rate for vocational classes. Other state aid available to community college includes out-district state aid and general state aid. Unlike community colleges, AVTSs and technical colleges receive state funding on a clock-hour formula basis. In FY 1997, AVTSs provided customized training to 148 companies and expended a total of 285,719 instructional hours. Clock revenue generated for that training was $1,772,546 in state aid and student tuition.

   - **Should customized training courses provided by community colleges be funded on the basis of clock hours rather than credit hours if such courses receive no credit?** (See recommendation of the study committee organized by KSDE, Attachment 3.)

   - **Should customized training courses be funded through an allocation made on a regional basis? If annual funding runs out, businesses must pay for the entire cost of training or wait until the following year. This is the Utah model cited in the Post Audit report, p. 15.**

   - **Should customized training courses be funded by an increase in business licensing fees, as suggested by Pratt Community College?**

- **Alternatively, should the Joint Committee on Economic Development request the KSDE study committee or another entity to propose several options for funding customized training, outlining the implications of each option and report its findings to the 1999 standing Education and Economic Development committees?**

6. **Procedure to Ensure Appropriate Operation of Customized Training Programs.** The Post Audit Report *Reviewing Issues Related to Community Colleges' Customized Employee Training Courses* identified several recommendations to address deficiencies in KSDE's oversight process. These are listed in Numbers 2, 3, and 4 in Attachment 4 of this memorandum. KSDE's response reflected the agency's agreement to comply with those recommendations. With respect to No. 5 (employment relationship of customized training instructor to community college), KSDE agreed with the recommendation in its response to the report but essentially requested greater flexibility. "However, in creating a partnership training agreement, the college and the company may consider and choose other alternatives that better meet the needs of the companies and their role in workforce development." (See Attachment 5.)

   - **To what extent does the Board of Education control contractual agreements between community colleges and businesses? If there appears to be some ambiguity with respect to that relationship, should the statutes be clarified?**

   - **To what degree should community colleges and AVTSs have flexibility in developing partnership agreements with businesses pertaining to the employment of part-time instructors for customized training courses? (KSDE's response to Recommendation No. 4 of the Post Audit report—Attachment 5.)**

   - **If the Joint Committee on Economic Development agrees (with or without modifications) with Post Audit's recommendations and KSDE's response, should the Committee request KSDE to report back to the standing Education and Economic Development committees on measures taken to effectuate change?**

C. Transfer of Customized Training Responsibilities

The following questions assume that the Business and Industry Service Program in KSDE will be terminated and all responsibilities for customized training will be transferred to KDOCH. This policy change also assumes that no credits will be offered for customized training. The emphasis of the customized training programs administered by KDOCH is on primary industry and the creation of "net" new jobs, not replacement jobs. KIT and KIR contracts are typically written directly with a company. If a school provides training services, the company pays the school and then requests reimbursement from KDOCH. Unlike KIT and KIR funding, all SKILL training funds are statutorily required to flow through a local educational institution. The school is responsible for paying training expenses from SKILL funds. Nonetheless, community colleges are not necessarily recipients of these programs' training funds. According to Mr. Jack, KDOCH, 29 percent of companies receiving KIT, KIR, or SKILL funds have used community colleges to administer at least part of their training. Technical schools, universities, consultants, equipment vendors, and company production supervisory staff provided the remainder of training under these three programs.

- **Should the Legislature appropriate additional funding for customized training from the Economic Development Initiatives Fund (EDIF) to augment KIT, KIR, and SKILL?**

- **If yes, should such funds be used only for a company's creation of net new jobs? Alternatively, could the funds be used for replacement jobs?** (In contrast to KIT's approval process, KSDE's approval process is not based on how the job evolved.)

- **If yes, should such funds be applied exclusively to primary industries, such as manufacturing and technical services? Alternatively, should recipient businesses also include retail, service industries, nonprofit organizations, and government agencies?**

- **Should the Legislature create a separate program in KDOCH for customized training and retraining that would allow companies to apply for funding to train employees in replacement jobs and/or nonprimary industries?**

- **If a new customized training program were to be created, a determination might need to be made with respect to: the need for matching funds (type and percentage); type of training allowed; size of business; ability to pay; number of jobs created or retained; and need for additional KDOCH staff.**

PART II

What is the State's Role With Respect to Meeting Long-Term Business Needs?

This is a difficult question because many people will argue that long-term business needs, as opposed to the customized training needs addressed in Part I, cannot be determined with any certainty. Correspondingly, the training delivery system in Kansas is primarily reactive—an observation of Dr. Charles Krider in 1986, that continues to apply today. One of Dr. Krider's recommendations to the Task Force on Business Training in 1986 called for a review of existing vocational/technical training programs to insure they are technologically current and include new areas required by business. One of the options he identified under that recommendation would be to establish a high level advisory board to the Department of Education to provide advice on both the scope and quality of training programs. It appears that most workforce training stems from business requests to community colleges or technical schools. While this method of requesting assistance is understandably locally-based, there is no mechanism to ensure that training is provided on a regional basis to meet a broader set of business needs. Training in both information technology and medically-related areas, in particular, may be deficient to meet existing needs in certain regions of the state. Examples in the area of information technology include computer analysts, network systems analysts, and computer repair personnel. Examples in medically-related areas include training for dental hygienists, surgical technologists, physical therapist assistants, respiratory therapists, medical lab technologists, nurses aides, computer repair personnel, and other technicians. In certain cases, such training could require considerable expense for the purchase of equipment and employment of specialized instructors. The existing system might meet the training demand of businesses on a local basis but it arguably does not meet a more regionally-based demand because all incentives are directed at the local level and not at the state level. Moreover, any individual postsecondary institution might not have adequate enrollment to justify the cost of such training but a collaborative approach might be more affordable.

The Kansas Department of Human Resources (KDHR) collects massive quantities of employment data, some of which has been compiled in reports like the *Kansas Occupational Outlook 2005* (May 1996) and the *Kansas Wage Survey* (January 1996). KDHR staff anticipates that an updated version of these reports will be published in the next six to eight months. KSDE collects data on technical training of vocational programs by community college/AVTS in an annual report called the Kansas Training Information Program. This report identifies enrollment completers, placement data (including average salaries), employer rating of employee job skills. The most recent report (February 1998) addresses 1996 technical training and 1997 placement rates and average salaries.

There is no mechanism, on a statewide basis, to analyze the data and elicit responses from businesses throughout the state concerning training needs. There is no incentive (arguably, mostly disincentives) for postsecondary institutions offering technical training to collaborate with each other to provide training. Below is an option to redirect some technical training efforts to a more regional or statewide basis, encourage collaboration among Kansas postsecondary institutions, and address employment shortages in certain occupations, particularly those related to information technology and health care. Targeting funding to skills shortages is not a new idea. At least two states—Minnesota and Texas—target workforce training subsidies to businesses that are experiencing skill shortages. **This option presents an incremental approach which essentially moves toward a regional education system using the existing governance structure, although this approach could work with another governance structure with certain modifications.**

An Option for Training to Meet Critical Business Needs

1. Create a high-level advisory board to report to Kansas Board of Education and the Board of Regents to report on the scope and quality of existing training programs. In addition, this board should recommend training needs that are either inadequately addressed or not addressed at all. The board should be composed of representatives of all types of business and industry, including manufacturing, professional services, and retail establishments. Alternatively, the responsibilities of an existing entity, such as the Kansas Workforce Investment Partnership (KWIP) Council, could be restructured. KWIP was established by Governor Graves in Executive Order 96-3. One of KWIP's duties is to "review and provide feedback to the Governor, the Legislature, other state agencies, and the public regarding the adequacy of state programs, plans and budgets in meeting employment and training needs in Kansas." Staff from the KSDE (see No. 2 below) would furnish the board or KWIP with relevant information. Staff from KDHR and KDOCH would provide assistance, as requested.

2. Establish a position in KSDE to analyze all relevant existing occupational data compiled in KSDE and KDHR. That position would be responsible for analyzing occupational trends in

the nation and adjacent states. That position also would gather needs assessments from the higher education regional consortia (see No. 3) and analyze that information. Based on this analysis, this position should identify the "gaps" in training in Kansas postsecondary institutions and report those findings no later than October 15 to the advisory board or KWIP.

3. There are six higher educational regional consortia: South Central Higher Education Consortium; Northeast Regional Consortium; Western Higher Education Regional Consortium; North Central Regional Consortium; Heartland Alliance; and Southeast Kansas Higher Education Consortium. Each of these consortia would appoint a small task force to conduct a regional needs assessment of businesses and industries and transmit its findings to the KSDE analyst. A uniform needs assessment survey could be developed by KSDE. Funding will be appropriated for the annual needs assessment in the KSDE budget.

4. The advisory board or KWIP would transmit by December 1 the "gaps" analysis, coupled with its own findings, to the Board of Education and the Board of Regents. No later than January 15 of each year, the boards will hold a joint meeting to determine which occupational training programs need to be offered or modified to meet a broad-based training need. A list of the most critically needed programs, compiled as a joint effort by KSDE and Board of Regents staff (using the findings from the advisory Board or KWIP) will be developed for review at that meeting. The Board of Education will make final decisions on the programs needed by February 15.

5. A specified amount of money will be appropriated annually to fund ____ proposals for collaborative training programs on the list. Proposals may be submitted between February 22 and April 1. Each proposal must involve at least two Kansas postsecondary institutions and specify the use of advanced telecommunications technology to provide technical training on a regional or statewide basis. For example, courses may be delivered through the use of a high-speed transmission medium using the Internet or two-way interactive video. Each proposal must identify the courses to be offered in the program; the need for the courses; the skills to be developed or enhanced; the outcomes for evaluating skill acquisition; the projected number of enrollees by county; the businesses or professional entities that would derive benefit from the courses; any external funding or in-kind external support that could be committed to the courses; and the projected economic development impact of the courses. Each proposal must include a budget. As part of the proposal, the applicant must agree to report the documented outcomes to KSDE upon completion of training.

6. Funds may be used for reductions in telecommunications rates and to defray some of the costs associated with curriculum development, accreditation, instructional salaries, implementation of an interactive television delivery system, and capital outlay. Funding will be allocated to the participating institutions in accordance with the submitted proposal budget. Any remaining amounts not covered by the grants for program course delivery must be recovered through tuition and other sources of institutional funding.

7. Priority will be given to programs designed predominantly to address business needs in rural or distressed urban parts of the state, or to programs that provide training for positions that pay an average annual wage of at least 115 percent of the state private-sector wage. (In Kansas, this would be equivalent to $28,259. This concept was derived from a customized training program in Florida.) Priority also will be given to proposals submitted by existing higher education regional consortia. Allocations to institutions will assume the form of competitive grants. Credit may be awarded for courses offered under approved programs.

Although proposals may be approved for programs involving participation from out-of-state postsecondary institutions, the majority of participating institutions must be Kansas based. In addition, no portion of funding for an approved program may be used to defray costs incurred by an out-of-state postsecondary institution.

8. Proposals for the upcoming academic year will be approved no later than April 15 by the Kansas Board of Education, with input and recommendation from the Kansas Board of Regents.

9. The Boards of Education and Regents will be requested to review and propose necessary amendments to all statutes and rules and regulations that might impede cost-effective and expeditious delivery of courses on a regional and multi-state basis. This review also should include statutes related to K.S.A. 74-3249 through K.S.A. 74-3253.

WORKFORCE TRAINING

INVESTMENTS IN MAJOR PROJECTS AND COMPREHENSIVE TRAINING (IMPACT)

The IMPACT program has two major components: State of Kansas Investments in Lifelong Learning (SKILL) and the Major Project Investment fund (MPI). SKILL funds are used for workforce training programs. MPI covers other expenses associated with business expansion.

STATE OF KANSAS INVESTMENTS IN LIFELONG LEARNING (SKILL)

The SKILL program is primarily targeted to large firms and projects involving several smaller firms that have formed training groups to address common skill requirements. This program allows employers to establish training projects for new employees by covering instructor salaries, curriculum development, travel, materials, equipment, facilities and administrative costs. Training costs are financed through tax-exempt, public-purpose bonds issued as needed by the Kansas Development Finance Authority.

MAJOR PROJECT INVESTMENT (MPI)

This fund covers relocation expenses, labor recruitment, building purchases and equipment. To be eligible, the employer must spend more than two percent of payroll on workforce training or utilize funds from the SKILL program.

KANSAS INDUSTRIAL TRAINING (KIT)

The Kansas Industrial Training program provides training assistance to manufacturing, distribution and regional or national service firms in the process of adding five or more new jobs to a new or existing Kansas facility. KIT will pay the negotiated cost of pre-employment, on-the-job and classroom training expenses. Training expenses include instructor salaries, travel expenses, minor equipment, training aids, textbooks, supplies and materials, as well as curriculum planning and development.

KANSAS INDUSTRIAL RETRAINING (KIR)

The Kansas Industrial Retraining program provides retraining assistance to employees of restructuring industries who are likely to be displaced because of obsolete or inadequate job skills. Eligible industries include those restructuring their operations through incorporation of existing technology, development and incorporation of new technology, diversification of production or development and implementation of new production activities. KIR requires matching funds from the participating company.

TRAINING EQUIPMENT GRANT PROGRAM

This program provides community colleges and area technical schools and colleges an opportunity to purchase instructional equipment to train or retrain Kansas workers. Grant amounts are based on the condition of existing equipment and the potential for stimulating economic growth and enhancing employment opportunities.

HIGH PERFORMANCE INCENTIVE PROGRAM (HPIP)

The High Performance Incentive Program provides tax and other incentives to companies that pay above average wages and have a strong commitment to skills development for their workers. This program recognizes the need for Kansas companies to remain competitive through capital investment in facilities and technology and continued training and education for their employees. A substantial investment tax credit for new capital investment in Kansas is the primary benefit of this program.

ATTACHMENT 1

Statute 71-601

Chapter 71.--SCHOOLS--COMMUNITY COLLEGES

Article 6.--STATE AID AND FISCAL PROVISIONS

71-601. Credit hour defined. "Credit hour" means one hour of instruction per week for 18 weeks or the equivalent thereof in a subject or course at a level not higher than those subjects or courses normally offered to freshmen and sophomores in four-year institutions of postsecondary education which subject or course is approved by the state board. Credit hour does not include within its meaning any hour of instruction in a subject or course taken by a student enrolled for audit or in any subject or course not approved by the state board. The state board, in consultation with the state board of regents, shall determine whether the subjects and courses offered in the community colleges are at the level of freshmen and sophomore subjects and courses offered in the state institutions of postsecondary education and shall not approve any subject or course offered at a higher level.

History: L. 1961, ch. 363, & 1; L. 1963, ch. 390, & 1; L. 1965, ch. 417, & 17; L. 1968, ch. 211, & 13; L. 1969, ch. 310, & 42; L. 1970, ch. 286, & 1; L. 1973, ch. 274, & 12; L. 1978, ch. 278, & 2; L. 1980, ch. 208, & 1; L. 1980, ch. 209, & 2; L. 1986, ch. 256, & 5; July 1. Cross References to Related Sections:

Out-district tuition, see 71-301 et seq. Research and Practice Aids:

Colleges and Universities West Key 4.

C.J.S. Colleges and Universities S. 9.

ATTACHMENT 2

4 - 11

Summary of Recommendations

The Study Committee for the Business and Industry Service Program requests State Board endorsement of the following recommendations. The Committee also recommends that this report, including the recommendations, be submitted to appropriate legislators and legislative committees.

1. The State Board of Education reaffirms its commitment to the value and benefits of customized training for the businesses, industries, and other employers in Kansas. Customized training for business and industry contributes to a vigorous economy in Kansas through workforce development, which results in more effective, productive, and skilled employees. The philosophy of providing customized training to business and industry is consistent with other economic development strategies and public policies approved by the legislature, including the KIT, KIR, and IMPACT training programs. The State Board of Education encourages legislative recognition and endorsement of this valuable program for Kansas' employers and employees.

2. The State Board of Education proposes to the Kansas Legislature that community colleges be authorized to offer, and receive state funding for, business and industry training courses on a contact-hour basis. Contact-hour funding would be in addition to the existing state aid for credit-hour, business and industry training.

3. The State Board of Education directs the staff of the Kansas State Department of Education to revise procedures such that instructors in business and industry courses must clearly be responsible to the institution in respect to policies and procedures that relate to part-time faculty of the institution. Procedures should indicate that all instructors in business and industry courses sign an employment contract for part-time instructors, <u>or</u>, if the institution has a general contract with a business, such general contract must clearly state that instructors are subject to all policies and procedures that relate to employment of part-time instructors.

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ATTACHMENT 3

Conclusion

The absence of good controls over—or oversight of—the Business and Industry Service Program being operated by the community colleges, has left that Program subject to abuse. In part, the Program initially was approved as a way to help colleges fund customized training for Kansas business and industry, and thus provide needed training to companies at a somewhat reduced cost. Today, however, Dodge City Community College's program has become a moneymaker for both the College and the companies. That's true to a much lesser extent at a few other colleges as well.

This audit has raised numerous questions. Should colleges be allowed to provide customized training at no cost to companies? Should the State subsidize on-the-job training that companies normally would provide anyway? What types of courses should be allowed to get credit-hour and outdistrict aid under this program? Should they get State funding through a different mechanism, as some other states have done? If the program's purpose is primarily economic development, should it be administered by the Department of Commerce and Housing?

The Legislature should play an active role in addressing these policy issues to ensure that customized training is being provided—and taxpayer moneys are being spent—in ways that are reasonable and appropriate.

Recommendations

1. To ensure that the Business and Industry Service program is operated as the Legislature would intend, the Joint Committee on Economic Development should consider the policy issues and questions raised in this report. Among other things, it should consider whether customized training courses should be funded with credit hour and out-district State aid or some other source, how much the Legislature wants to spend on such courses, what types of courses can be offered with subsidized State funding, which agency should administer this program, and whether the program should be made into law. In its deliberations, the Joint Committee should receive testimony from the Departments of Education and Commerce and Housing, the community colleges, and the businesses that have participated in this program.

2. To ensure that these programs are being operated appropriately, the Department of Education should do the following:

a. clarify formal written policies and procedures to clearly spell out what types of courses can be offered under this program, what types of financial arrangements are appropriate, and what requirements the colleges, companies, and instructors must meet. The Department should distribute that document to each community college, and should encourage college officials to contact Department officials whenever questions arise.

b. conduct periodic reviews of each community college's Business and Industry program to ensure that those programs are being operated in compliance with the established policies and procedures.

3. To ensure that its approval process for customized training courses is efficient, consistent, and well documented, the Department should do the following:

   a. develop a checklist or other documentation to ensure that all necessary criteria for each course approval have been thoroughly evaluated.

   b. institute an internal review process to ensure that Department staff have been consistent in their approval and disapproval of proposed courses.

   c. seek input from Department staff and community college officials to determine whether the course approval process is operating in an effective and efficient manner, and implement changes as necessary.

4. To ensure that community colleges comply with the Department's requirements relating to hiring teachers for customized training classes, the Department should notify all colleges that the instructors they use for customized training classes must be hired by and paid directly by the colleges.

Recommendation #4: *"To ensure that community colleges comply with the Department's requirements relating to hiring teachers for customized training classes, the Department should notify all colleges that the instructors they use for customized training classes must be hired by and paid directly by the colleges."*

Response to #4: The issue in question relates to a part-time faculty member, who may also be an employee of the company. In particular, the employment relationship in respect to duties and responsibilities of this part-time instructor with the college must be clear. The Department agrees that the preferred method for employment of part-time faculty for customized training services is through use of a normal part-time faculty contract with payment for instructional services directly to the part-time faculty member. This method makes the employment relationship unquestionably clear.

However, in creating a partnership training agreement, the college and the company may consider and choose other alternatives that better meet the needs of the companies and their role in workforce development. In this situation, the Department believes that a written agreement should exist between the college and the company, and such agreement should state that the instructor of the course is subject to compliance with all applicable policies, rules, and regulations of the college, just like all other part-time faculty for the college.

(ct:response-pa)

ATTACHMENT 5

Kansas State Department of Education

120 S.E. 10th Avenue
Topeka, Kansas 66612-1182

Date: January 19, 1999

To: House Economic Development Committee

From: Joe Birmingham, Assistant Commissioner
State Department of Education

Re: Workforce Development
- Guidelines for Customized Training Course Approval
- New Workforce Training Program

<u>Background</u>

<u>Workforce Development in Area Technical Schools, Technical Colleges and Community Colleges.</u> Kansas's area technical schools, technical colleges and community colleges provide skill training for those preparing for vocational and technical careers. The institutions also provide training for employees of organizations.

In 1986, a legislative task force report discussed the need for educational institutions to be responsive to the needs of business. In response, the State Board of Education in 1989 approved the Business and Industry Service Program. The program was created to allow and encourage postsecondary institutions to develop and provide customized training services for Kansas' businesses, industries, and other organizations for their employees. The primary new components of the new program were to provide a quick response mechanism and, in community colleges, to allow for approvals of credit courses for .5 credit hours. No new special funding was provided. Institutions provide this training through regular funding for vocational and technical education.

During the 1998 legislative session, concerns were raised about how some colleges provide customized training. These concerns resulted in a post audit report, which was released in August 1998.

In November 1998 the State Board of Education Guidelines for Customized Training Course

Division of Lifelong Learning
785-296-3047 (phone)
785-296-3523 (fax)
785-296-6338 (TTY)
www.ksbe.state.ks.us

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Attachment 5

were approved. In summary, the proposed guidelines:

- have a policy regarding general purposes of the program
- have clearly stated sections, including policy, definitions, application guidelines, standards for course approval, limitations, and program administration
- address concerns about department procedures as referred to in the Post Audit Report recommendations, including the following topics:
    - distribution of the guidelines to institutions and an annual orientation to them
    - periodic audit reviews of the institutions regarding adherence to the guidelines
    - creation of checklists to ensure guidelines have been met for course approval
    - an internal review process to ensure consistency in course approvals
    - assessments by institutions to determine if the course approval process is operating efficiently and effectively
    - a requirement that businesses or organizations pay for the courses offered to employees
    - a prohibition of permitting an institution from creating an "offset" agreement in exchange for tuition
    - a requirement that faculty who teach courses have a signed employment agreement with the institution

The Guidelines for Customized Training Course Approval were implemented January 1, 1999. Dodge City Community College discontinued its financial agreements with the two meat packing plants in mid-September 1998.

These changes address the primary concerns that have been expressed about administration of the Business and Industry Services program. Employee training is a critical activity for the overall future economic and workforce development for Kansas and warrants continued support and enhancement by the State of Kansas.

A New Workforce Development/Employee Training Program

Availability of skilled workers is one of the primary interests of employers. A skilled workforce means a more productive and profitable businesses in Kansas, which leads to a more vibrant, growing economy.

Kansas's community colleges, area technical schools and technical colleges are committed to provide employee training for businesses and organizations in their areas. A committee composed of representatives of the area technical schools, technical colleges, and community colleges has been meeting to develop a new workforce training program.

New aspects of the program under development:

Training sessions approved for this program would be short-term in respect to time.

- Employee training in this new program would be funded on a clock-hour basis, not college credit hour.
- Approval for employee training sessions would be approved based essentially on the same guidelines approved by the State Board for customized training, with appropriate revisions made.
- The program would be a partnership between the institution and the employer. Although details have not been finalized, discussions are that the state component would be 70 percent and the employee tuition 30 percent of a predetermined, instructional cost per clock hour. The costs per instructional hour would be based on the existing model used for area technical schools and technical colleges, which the state currently funds at an 85 percent basis and the student pays 15 percent in tuition. The costing model would be the same for all 30 institutions under the State Board.
- The funding for the program would be equitable among the institutions, even though no legislative funding request has been finalized.
- Other employee training programs that are for college credit or in an approved program in an area school or college would be of longer duration and expected to be for a certificate in an area of study.

Other changes would occur to existing programs to accommodate the new training program.

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