

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairperson Karin Brownlee at 8:35A.M. on February 16, 2005 in Room 123-S of the Capitol.

All members were present.

Committee staff present:

Susan Kannarr, Kansas Legislative Research Department
Kathie Sparks, Kansas Legislative Research Department
Helen Pedigo, Revisor of Statutes
Jackie Lunn, Committee Secretary

Conferees appearing before the committee:

Jerry Lonergan, President, Kansas, Inc.
Patti Bossert, Co-Chair, Kansas, Inc.

Others attending:

See attached list.

Chairperson Brownlee opened the meeting by introducing Helen Pedigo, Revisor of Statutes, to explain **SB 260**. Ms. Pedigo stated **SB 260** is to abolish Kansas, Inc. She reviewed the bill by each line that was changed and explained in detail. She referred to written copy of the new Section 27. (Attachment 1) Ms. Pedigo also referred to the statutes repealed in abolishing Kansas, Inc. (Attachment 2) In closing Ms. Pedigo stated that the duties of Kansas, Inc. will be distributed to the Department of Revenue, Department of Commerce and the Division of Post Audit.

Upon completion of Ms. Pedigo's explanation, there was discussion on the fiscal note for **SB 260** with some concern regarding the cost of adding more duties to these departments. The Committee discussed the fact that the jobs would be transferred and if employees would be added or let go. Chairperson Brownlee stated it should not cost more and stated part of the effort was some of the duties of Kansas, Inc. were going to be shifted to Department of Revenue anyway. There also was discussion about Kansas, Inc. not doing their job and the fact legislation was passed last year thinking Kansas, Inc. would be able to obtain all information needed to do their job..

Upon the conclusion of discussion Chairperson Brownlee introduced Kathie Sparks, Legislative Research to walk the Committee through the annual 2004 report from Kansas, Inc. (Attachment 3) Ms. Sparks gave an overview of the complete report. She also referred the Committee to the "Sales Tax Exemptions and Income Tax Credits for Economic Development" a report for the tax year 2002. (Attachment 4) Ms. Sparks summarized this report referring the Committee to the note from the Board of Director and the Key Findings at the very beginning of the report. Ms. Sparks summarized the report.

Chairperson Brownlee noted on page 2 of the report Legislative history indicated in 1994 legislation was passed giving Kansas, Inc. the responsibility to prepare an annual report evaluating the costs effectiveness of specific income tax credits and sales tax exemptions enacted to encourage economic development within the state.

There was discussion by the Committee and Ms. Sparks regarding the concern that businesses are leaving the state because the taxes are so high compared to other states. Senator Reitz made reference to a report which was presented to the Committee regarding that same subject. Senator Reitz asked to be presented with factual information regarding the economy and the number of businesses leaving Kansas.

Chairperson Brownlee opened the hearing on **SB 260** by stating to the Committee there were no proponents for this bill and she and Senator Jordan had met with Secretary Fricke and Lt. Governor John Moore before they went forward with this bill and had their go ahead. The Department of Commerce was appearing as a neutral party.

Chairperson Brownlee introduced Jerry Lonegrin, President, Kansas, Inc. to give his testimony. President Lonegrin submitted written testimony (Attachment 5) and stated he would give a brief summary. President

CONTINUATION SHEET

MINUTES OF THE Senate Commerce Committee at 8:35A.M. on February 16, 2005 in Room 123-S of the Capitol.

Lonegren stated his testimony demonstrates what a hard working staff and dedicated board can accomplish in a short period of time. What is noted repeatedly is Kansas Inc. has never had the access data necessary to accurately evaluate economic impact on the tax incentives. President Lonegrin will be leaving Kansas, Inc. at the end of the month. He feels that funds are now in place and Kansas, Inc. will move forward with implementing the 2004-2005 research agenda. He stated that he did not know why past efforts of Kansas, Inc. have not been at a level that was expected. In closing, President Lonegrin stated the mistake would be, after supporting an entity that in the past may have underperformed to close the door on an organization so close to becoming what the state wanted and still needs.

Chairperson Brownlee introduced Patti Bossert, Co-Chair for Kansas, Inc. to give her testimony. Ms. Bossert strongly opposes **SB 260**. She feels that Kansas, Inc.'s was created by legislation in 1986 with it's primary mission to serve as the state's economic development "think tank" and to evaluate the state's economic development programs. As a private business owner she has a vested interest in ensuring that the economy in Kansas continues to improve and that the economic development programs and incentives within the state are fairly and accurately evaluated. She urges the Committee not to vote for **SB260**. Ms. Bossert offered written testimony. (Attachment 6) In closing Ms. Bossert stated that there were questions about that Sales Tax Exemption report and she just wanted to add they could have submitted a report based on the information they had and not alerted the legislature there were problems still needing to be addressed. But they took a hard stand and said we need to tell the truth. She feels Kansas, Inc. wouldn't have been there today to testify on **SB 260** if they had just turned in a report.

The Committee had discussion with Ms. Clark regarding the assignment of duties if Kansas, Inc. is abolished. The Department of Commerce will not be evaluating their own program. The department of Revenue is to collect the data and some of the evaluations and some duties would go to Post Audit. There was also discussion regarding the organization being 20 years old and still is unable to do the work they were suppose to do. Ms. Clark feels the board has totally turned around. She stated the board has become very engaged and is on the edge of realizing the fruits of their labor of this past year.

Further discussion regarding the visionary planning for the state of Kansas which is a duty of Kansas, Inc. and what steps Kansas, Inc. has taken to complete this duty. The last update was due in 2004 and was not completed as of this date.

Chairperson Brownlee asked Mr. Lonegren and Ms. Bossert to come back at a later date. With that, Chairperson Brownlee closed the hearing on **SB 260**.

Meeting was adjourned at 9:30 a.m. with the next meeting scheduled for Thursday, February 17, 2005 at 8:30 a.m. in room 123S.

PROPOSED AMENDMENT
SENATE COMMERCE COMMITTEE
SB 260
February 16, 2005

New Section 27. In addition to the other powers and duties of the department of commerce, the department shall:

- (a) Undertake ongoing strategic analysis in order to determine the state's areas of potential and continuing competitive economic advantage and disadvantage;
- (b) oversee the formulation of economic development policy and strategic planning for the state;
- (c) oversee the targeting of scarce state resources by size and sector of economic activity and by geographic location within the state in order to enhance the state's potential comparative economic advantages;
- (d) undertake continuing strategic planning for the improvements of the state's tax, regulatory and expenditure policies to enhance the state's potential comparative economic advantages;

Assume central responsibility to develop, with the guidance of both the private and public sectors, all facets of a comprehensive long term economic development strategy;

- (e) coordinate the strategy development with all other state and local agencies and offices and state educational institutions which do research work, develop materials and programs, gather statistics, or which perform functions related to economic development; and such state and local agencies and offices and state educational institutions shall advise and cooperate with the department in the planning and accomplishment of the strategy;
- (f) evaluate and analyze the state's economy to guide the direction of future public and private actions, and report and make recommendations to the governor, the standing committee on commerce of the senate, the standing committee on economic development of the house of representatives and the joint committee on economic development with respect to the state's economy.

The report to the committee on commerce of the senate, the committee on economic development of the house of representatives and the joint committee on economic development under this subsection shall be made either (1) by publishing such report on the internet and by notifying each member of the committees that the report is available and providing, as part of such notice, the uniform resource locator (URL) at which such report is available, or (2) by submitting copies of such report on CD-ROM or other electronically readable media to such committees;

- (g) oversee and evaluate the state's economic development activities on an ongoing basis through the establishment of goals, priorities performance standards and the periodic program audit of those goals, priorities and performance standards;
- (h) compile an annual report detailing community and economic development grants or loans made by state agencies, including the identity of the recipient of such loans or grants, and submit the report to the governor, the standing

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committee on commerce of the senate and the standing committee on economic development of the house of representatives. As used in this subsection "state agency" means any state office or officer, department, board, commission, institution, bureau or any agency, division or unit within any office, department, board, commission or other state authority or any person requesting a state appropriation; and

(i) publish in its annual report:

- (1) an analysis of the current state of and emerging trends in the Kansas economy over the next decade;
- (2) an evaluation of the effectiveness of state economic development policies and programs in meeting the goals of the state economic plan by size of enterprise, sector of economic activity and location within Kansas, and in comparison with other states; and
- (3) a listing in order of priority of recommendations for initiatives that will further the effective implementation of the state economic development plan.

New Section 28. In addition to the other powers and duties of the division of post audit, the division shall review and evaluate the Kansas technology enterprise corporation, the major programs and activities of the department of commerce, the statewide risk capital system and the investments in research and development activities tax credit.

New Section 29. The secretary of revenue shall prepare an annual report evaluating the cost effectiveness of the various income tax credits and sales tax exemptions enacted to encourage economic development within this state and submit the same to the standing committees on taxation and economic development of the house and assessment and taxation and commerce of the senate at the beginning of each regular session of the legislature. The secretary of revenue, in consultation with the president of Kansas, Inc., shall develop a questionnaire on the utilization of state income tax credits and sales tax exemptions that shall be completed by all corporate taxpayers that:(1) Are subject to state income tax and (2) utilize any of the state income tax credits and exemptions described in subsections (a) through (j) below that shall be submitted to the department concurrently with the filing of an annual corporate income tax return. The completed questionnaires shall be used in the preparation of such annual report. The questionnaire shall require respondents to indicate utilization of the following credits, exemptions and bond financing:

- (a) Income tax credits authorized under the provisions of the job expansion and investment credit act of 1976 and amendments thereto;
- (b) income tax credits for expenditures in research and development activities authorized by K.S.A. 79-32,182, and amendments thereto;
- (c) income and financial institutions privilege tax credits for cash investment in stock of Kansas Venture Capital, Inc. authorized by K.S.A. 74-8205 and 74-8206, and amendments thereto;
- (d) income tax credits for cash investment in certified Kansas venture capital companies authorized by K.S.A. 74-8304, and amendments thereto;

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- (e) income tax credits for cash investment in certified local seed capital pools authorized by K.S.A. 74-8401, and amendments thereto;
- (f) income tax credits for investment in the training and education of qualified firms' employees authorized by K.S.A. 74-50,132, and amendments thereto;
- (g) sales tax exemptions for property or services purchased for the purpose of and in conjunction with constructing, reconstructing, enlarging or remodeling a business, or retail business meeting the requirements of K.S.A. 74-50,115, and amendments thereto, and machinery and equipment for installation at such business or retail business authorized by subsection (cc) of K.S.A. 79-3606, and amendments thereto;
- (h) sales tax exemptions for machinery and equipment used directly and primarily for the purposes of manufacturing, assembling, processing, finishing, storing, warehousing or distributing articles of tangible personal property in this state intended for resale by a manufacturing or processing plant or facility or a storage, warehousing or distribution facility;
- (i) distribution from the special economic revitalization fund pursuant to the provisions of the economic revitalization reinvestment act, K.S.A. 2004 Supp. 74-50,136, and amendments thereto; and
- (j) special obligation bonds authorized by K.S.A. 12-1774, and amendments thereto.

Sec. 30. K.S.A. 79-1119 is hereby amended to read as follows:79-1119 (a) All reports, statements, lists and returns required under the provisions of article 11 of chapter 79 of the Kansas Statutes Annotated shall be preserved for three (3) years and thereafter until the director of taxation orders them to be destroyed.

(b) Except in accordance with proper judicial order, or as provided in subsection (c) of this section, subsection (g) of K.S.A. 17-7511 or 46-1106, it shall be unlawful for the director of taxation, or any deputy, agent, clerk or other officer, employee or former employee of the department of revenue or any other state officer or employee or former state officer or employee to divulge, or to make known in any way, the amount of income or any particulars set forth or disclosed in any report, statement, list, return, federal return or federal return information required under the provisions of article 11 of chapter 79 of the Kansas Statutes Annotated; and it shall be unlawful for the director of taxation, or any deputy, agent, clerk or other officer or employee of the department of revenue engaged in the administration of the tax imposed under the provisions of article 11 of chapter 79 of the Kansas Statutes Annotated to engage in the business or profession of tax accounting or to accept employment, with or without consideration, for any person, firm or corporation for the purpose, directly or indirectly, or preparing tax returns or reports required by the laws of the state of Kansas, by any other state or by the United States government, or to accept any employment for the purpose of advising, preparing material or data, or the auditing of books or records to be used in an effort to defeat or cancel any tax or part thereof that has been assessed by the state of Kansas, any other state or by the United States government.

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(c) Nothing herein shall be construed to prohibit the publication of statistics, so classified as to prevent the identification of particular reports or returns and the items thereof, or the inspection of returns by the attorney general or other legal representatives of the state. Nothing in this section shall prohibit the post auditor from access to all statements, lists, reports or returns in accordance with and subject to the provisions of subsection (g) of K.S.A. 46-1106. Any person receiving information under the provisions of this subsection shall be subject to the confidentiality provisions of subsection (b) of this section and to the penalty provisions of subsection (d) of this section.

(d) Any violation of subsections (b) or (c) of this section shall be a class B misdemeanor; and if the offender be an officer or employee of the state, ~~he or she~~ *the offender* shall be dismissed from office.

(e) Notwithstanding the provisions of this section, the secretary of revenue may, in ~~his or her~~ *the secretary's* discretion, permit the commissioner of internal revenue of the United States, or the proper official of any state imposing an income tax or privilege tax on financial institutions, or the authorized representative of either, to inspect the reports, statements, lists or returns made under the provisions of article 11 of chapter 79 of the Kansas Statutes Annotated and the secretary of revenue may make available or furnish to the taxing officials of any other state or the commissioner of internal revenue of the United States or other taxing officials of the federal government, or their authorized representatives, information contained in statements, lists, reports, or returns or any audit thereof or the report of any investigation made with respect thereto, filed pursuant to any of the provisions of article 11 of chapter 79 of the Kansas Statutes Annotated, as the secretary may consider proper, but such information shall not be used for any other purpose than that of the administration of tax laws of such state or of the United States.

~~(f) Notwithstanding the provisions of this section, the secretary of revenue may provide such information to the president of Kansas, Inc. as required by K.S.A. 1997 Supp. 74-8017, and amendments thereto. The president and any employees or former employees of Kansas, Inc. receiving any such information shall be subject to the confidentiality provisions of subsection (b) and to the penalty provisions of subsection (d).~~

Sec. 31. K.S.A. 2004 Supp. 79-3234 is hereby amended to read as follows: 79-3234. (a) All reports and returns required by this act shall be preserved for three years and thereafter until the director orders them to be destroyed.

(b) Except in accordance with proper judicial order, or as provided in subsection (c) or in K.S.A. 17-7511, subsection (g) of K.S.A. 46-1106, K.S.A. 46-1114, or K.S.A. 79-32,153a, and amendments thereto, it shall be unlawful for the director, any deputy, agent, clerk or other officer, employee or former employee of the department of revenue or any other state officer or employee or former state officer or employee to divulge, or to make known in any way, the amount of income or any particulars set forth or disclosed in any report, return, federal return or federal return information required under this act; and it shall be unlawful for the director, any deputy, agent, clerk or other officer or employee

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engaged in the administration of this act to engage in the business or profession of tax accounting or to accept employment, with or without consideration, from any person, firm or corporation for the purpose, directly or indirectly, of preparing tax returns or reports required by the laws of the state of Kansas, by any other state or by the United States government, or to accept any employment for the purpose of advising, preparing material or data, or the auditing of books or records to be used in an effort to defeat or cancel any tax or part thereof that has been assessed by the state of Kansas, any other state or by the United States government.

(c) Nothing in this section shall be construed to prohibit the publication of statistics, so classified as to prevent the identification of particular reports or returns and the items thereof, or the inspection of returns by the attorney general or other legal representatives of the state. Nothing in this section shall prohibit the post auditor from access to all income tax reports or returns in accordance with and subject to the provisions of subsection (g) of K.S.A. 46-1106 or K.S.A. 46-1114, and amendments thereto. Nothing in this section shall be construed to prohibit the disclosure of taxpayer information from income tax returns to persons or entities contracting with the secretary of revenue where the secretary has determined disclosure of such information is essential for completion of the contract and has taken appropriate steps to preserve confidentiality. Nothing in this section shall be construed to prohibit the disclosure of job creation and investment information derived from tax schedules required to be filed under the Kansas income tax act to the secretary of commerce. Nothing in this section shall be construed to prohibit the disclosure of income tax returns to the state gaming agency to be used solely for the purpose of determining qualifications of licensees of and applicants for licensure in tribal gaming. Any information received by the state gaming agency shall be confidential and shall not be disclosed except to the executive director, employees of the state gaming agency and members and employees of the tribal gaming commission. Nothing in this section shall be construed to prohibit the disclosure of the taxpayer's name, last known address and residency status to the department of wildlife and parks to be used solely in its license fraud investigations. Nothing in this section shall prohibit the disclosure of the name, residence address, employer or Kansas adjusted gross income of a taxpayer who may have a duty of support in a title IV-D case to the secretary of the Kansas department of social and rehabilitation services for use solely in administrative or judicial proceedings to establish, modify or enforce such support obligation in a title IV-D case. In addition to any other limits on use, such use shall be allowed only where subject to a protective order which prohibits disclosure outside of the title IV-D proceeding. As used in this section, "title IV-D case" means a case being administered pursuant to part D of title IV of the federal social security act (42 U.S.C. § 651 et seq.) and amendments thereto. Any person receiving any information under the provisions of this subsection shall be subject to the confidentiality provisions of subsection (b) and to the penalty provisions of subsection (d).

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(d) Any violation of subsection (b) or (c) is a class B nonperson misdemeanor and, if the offender is an officer or employee of the state, such officer or employee shall be dismissed from office.

(e) Notwithstanding the provisions of this section, the secretary of revenue may permit the commissioner of internal revenue of the United States, or the proper official of any state imposing an income tax, or the authorized representative of either, to inspect the income tax returns made under this act and the secretary of revenue may make available or furnish to the taxing officials of any other state or the commissioner of internal revenue of the United States or other taxing officials of the federal government, or their authorized representatives, information contained in income tax reports or returns or any audit thereof or the report of any investigation made with respect thereto, filed pursuant to the income tax laws, as the secretary may consider proper, but such information shall not be used for any other purpose than that of the administration of tax laws of such state, the state of Kansas or of the United States.

(f) Notwithstanding the provisions of this section, the secretary of revenue may:

(1) Communicate to the executive director of the Kansas lottery information as to whether a person, partnership or corporation is current in the filing of all applicable tax returns and in the payment of all taxes, interest and penalties to the state of Kansas, excluding items under formal appeal, for the purpose of determining whether such person, partnership or corporation is eligible to be selected as a lottery retailer; *and*

(2) communicate to the executive director of the Kansas racing commission as to whether a person, partnership or corporation has failed to meet any tax obligation to the state of Kansas for the purpose of determining whether such person, partnership or corporation is eligible for a facility owner license or facility manager license pursuant to the Kansas parimutuel racing act; *and*

~~(3) provide such information to the president of Kansas, Inc. as required by K.S.A. 74-8017, and amendments thereto. The president and any employees or former employees of Kansas, Inc. receiving any such information shall be subject to the confidentiality provisions of subsection (b) and to the penalty provisions of subsection (d).~~

(g) Nothing in this section shall be construed to allow disclosure of the amount of income or any particulars set forth or disclosed in any report, return, federal return or federal return information, where such disclosure is prohibited by the federal internal revenue code as in effect on September 1, 1996, and amendments thereto, related federal internal revenue rules or regulations, or other federal law.

Sec. 32. K.S.A. 79-3614 is hereby amended to read as follows: 79-3614. All information received by the director from returns filed under this act, or from any investigations conducted under the provisions of this act, shall be confidential, except for official purposes, and it shall be unlawful for any officer or employee of such director to divulge any such information in any manner, except in accordance with a proper judicial order, or as provided in K.S.A. 74-2424, and amendments thereto. The post auditor shall have access to all such information in accordance with and subject to the provisions of subsection (g) of K.S.A. 46-

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1106, and amendments thereto. Nothing in this section shall be construed to prohibit the disclosure of taxpayer information from sales tax returns to persons or entities contracting with the secretary of revenue where the secretary has determined disclosure of such information is essential for completion of the contract and has taken appropriate steps to preserve confidentiality.

~~Notwithstanding the provisions of this section, the secretary of revenue may provide such information to the president of Kansas, Inc. as required by K.S.A. 1997 Supp. 74-8017, and amendments thereto.~~ Any person receiving any such information pursuant to this section shall be subject to the same duty of confidentiality imposed on officers and employees of the department of revenue by this section and shall be subject to any civil or criminal penalties imposed by law for violations of such duty of confidentiality.

And renumber the remaining sections.

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confidential communication shall apply to investigations or proceedings conducted pursuant to this section. The behavioral sciences regulatory board and its employees, agents and representatives shall keep in confidence the content and the names of any clients or patients whose records are reviewed during the course of investigations and proceedings pursuant to this section.

(e) In all matters pending before the behavioral sciences regulatory board, the board shall have the power to revoke the license or registration of any licensee or registrant who voluntarily surrenders such person's license or registration pending investigation of misconduct or while charges of misconduct against the licensee are pending or anticipated.

(f) In all matters pending before the behavioral sciences regulatory board, the board shall have the option to censure the licensee or registrant in lieu of other disciplinary action.

History: L. 1980, ch. 242, § 8; L. 2001, ch. 154, § 1; L. 2004, ch. 16, § 6; July 1.

Law Review and Bar Journal References:

"A Species unto themselves: Professional disciplinary actions," Mary Feighny and Camille Nohe, 71 J.K.B.A. No. 6, 29 (2002).

Article 80.—KANSAS, INC.

74-3001. Kansas, Inc.; membership; appointive members, qualifications, terms, vacancies. (a) There is hereby created a body politic and corporate to be known as Kansas, Inc. Kansas, Inc. is hereby constituted a public instrumentality and the exercise of the authority and powers conferred by this act shall be deemed and held to be the performance of an essential governmental function. Kansas, Inc. shall consist of 17 predominately private sector members as follows:

- (1) The governor of Kansas;
- (2) the secretary of the Kansas department of commerce;
- (3) nine members who are appointed by the governor, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto. Except as provided by K.S.A. 46-2601, and amendments thereto, no person appointed pursuant to this paragraph shall exercise any power, duty or function as a member of Kansas, Inc. until confirmed by the senate. Such members shall be appointed as follows:

(A) One member from each of the primary economic sectors in the state—agriculture, oil and

gas, and aviation—who are recognized for outstanding knowledge and leadership in their fields;

(B) one member from one other primary, job creating, value added business sector who is recognized for outstanding knowledge and leadership in the member's field;

(C) two members from the private financial sector, one of whom shall have experience in the area of high-risk venture investments, and one of whom shall have commercial banking experience in an industry of special importance to the Kansas economy, and both of whom are recognized for outstanding knowledge and leadership in their fields;

(D) one member representing labor who is recognized for outstanding knowledge and leadership in the member's field;

(E) one member from the professional and business services sector who is recognized for outstanding knowledge and leadership in the member's field;

(F) one member who owns a small business and who is recognized for outstanding knowledge and leadership in that community of interest;

(4) one member who serves as the commanding general of the Kansas cavalry;

(5) one member who is appointed by the state board of regents from a Kansas university and who is recognized for outstanding knowledge and leadership in the field of economic development;

(6) the speaker of the house, the house minority leader, the president of the senate, and the senate minority leader or legislators who are appointed to represent them and who will provide continuity by virtue of their membership on the standing committee on commerce of the senate, the standing committee on economic development of the house of representatives or the joint committee on economic development.

(b) (1) State officers who are designated as members of Kansas, Inc. under subsection (a)(1), (2), (4) and (6) shall serve by virtue of office or position.

(2) Members appointed under subsection (a)(6) shall be appointed for a term ending on the first day of the regular legislative session in odd-numbered years.

(3) Except as provided by paragraph (5) of this subsection, the member appointed under subsection (a)(5) shall serve for a term of four years.

(4) Members appointed under subsection (a)(3) shall serve for a term of four years, except

that, of the members first appointed, two shall serve for a term of two years, three shall serve for a term of three years, and two shall serve for a term of four years.

(5) The terms of members appointed under paragraphs (3) and (5) of subsection (a) and who are serving on Kansas, Inc. on the effective date of this act shall expire on January 15, of the year in which such member's term would have expired under the provisions of this section prior to amendment by this act. Thereafter, members shall be appointed for terms of four years and until their successors are appointed and confirmed.

(6) In case of a vacancy in the appointive membership of Kansas, Inc., a successor shall be appointed in like manner and subject to the same qualifications and conditions as the original appointment of the member creating the vacancy.

History: L. 1986, ch. 298, § 2; L. 1993, ch. 136, § 9; L. 1995, ch. 241, § 16; L. 1996, ch. 88, § 7; L. 2003, ch. 154, § 68; July 1.

74-8002. Purpose. (a) The purpose of Kansas, Inc. shall be to:

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

(2) oversee the formulation of economic development policy and strategic planning for the state;

(3) oversee the targeting of scarce state resources by size and sector of economic activity and by geographic location within the state in order to enhance the state's potential comparative economic advantages;

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

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

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

(7) provide appropriate oversight to ensure the successful implementation of Kansas Venture Capital, Inc.;

(8) forge a supportive partnership with the standing committee on commerce of the senate, the standing committee on economic development of the house of representatives and the joint

committee on economic development, the governor and the secretary of commerce, the Kansas technology enterprise corporation, Kansas Venture Capital, Inc., Kansas certified development companies, Kansas small business development centers, Kansas public and private educational institutions, and other appropriate private and public sector organizations in achieving the economic goals of the state;

(9) establish goals, priorities and program standards, and evaluate the effectiveness of state economic development programs and policies according to the goals, priorities and standards established;

(10) institutionalize ongoing means of collaboration between the executive and legislative branches, the business, agricultural and financial sectors, educational institutions and local communities to create a developing Kansas economy the increasing innovation, creativity, diversity and productivity of which is greater than any one sector can achieve acting alone; and

(11) review and evaluate the Kansas technology enterprise corporation, the major programs and activities of the department of commerce, the statewide risk capital system, the venture capital tax credit, and the investments in research and development activities tax credit.

History: L. 1986, ch. 298, § 1; L. 1990, ch. 283, § 1; L. 1993, ch. 136, § 10; L. 1996, ch. 88, § 8; L. 2003, ch. 154, § 69; July 1.

Attorney General's Opinions:

Secretary of Transportation may delegate to assistant duty of attending meetings of board of INK; c.f. 2002-52A. 2002-52.

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74-8004. Duties in achieving purpose; advice from public and professional entities; cooperation and assistance of state agencies.

(a) In order to achieve its purpose as provided in this act, Kansas, Inc. shall:

(1) Serve in an advisory capacity to the governor, the Kansas department of commerce and the standing committee on commerce of the senate, the standing committee on economic development of the house of representatives and the joint committee on economic development.

(2) Assume central responsibility to develop, with the guidance of both the private and public sectors, all facets of a comprehensive long term economic development strategy.

(3) Coordinate the strategy development with all other state and local agencies and offices and

state educational institutions which do research work, develop materials and programs, gather statistics, or which perform functions related to economic development; and such state and local agencies and offices and state educational institutions shall advise and cooperate with Kansas, Inc. in the planning and accomplishment of the strategy.

(4) Evaluate and analyze the state's economy to guide the direction of future public and private actions, and report and make recommendations to the governor, the department of commerce, and the standing committee on commerce of the senate, the standing committee on economic development of the house of representatives and the joint committee on economic development with respect to the state's economy. The report to the committee on commerce of the senate, the committee on economic development of the house of representatives and the joint committee on economic development under this subsection shall be made by Kansas, Inc., either (A) by publishing such report on the internet and by notifying each member of the committees that the report is available and providing, as part of such notice, the uniform resource locator (URL) at which such report is available, or (B) by submitting copies of such report on CD-ROM or other electronically readable media to such committees.

(5) Oversee and evaluate the state's economic development activities on an ongoing basis through the establishment of goals, priorities performance standards and the periodic program audit of those goals, priorities and performance standards.

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

(7) Provide appropriate oversight to ensure the successful implementation of Kansas Venture Capital, Inc.

(8) Oversee the targeting of scarce state resources by size and sector of economic activity and by geographic location within the state in order to enhance the state's potential comparative economic advantages.

(9) Review and evaluate the annual reports of the department of commerce, Kansas technology enterprise corporation and Kansas Venture Capital, Inc. Kansas, Inc., shall transmit recommendations concerning the agencies' activities to the governor and the legislature no later than September 1 of each year.

(10) Evaluate and report on the effectiveness of the activities of the Kansas bioscience authority as provided in K.S.A. 2004 Supp. 74-99b09.

(b) Kansas, Inc., shall seek advice from the general public and from professional associations, academic groups and institutions and individuals with knowledge of and interest in areas of economic development and planning.

(c) The department of commerce and all other interested state agencies shall cooperate with Kansas, Inc., in providing information and other assistance as may be requested for the performance of its duties with respect to the state's economic development plan.

History: L. 1986, ch. 298, § 4; L. 1990, ch. 283, § 2; L. 1993, ch. 136, § 11; L. 1996, ch. 88, § 9; L. 2002, ch. 151, § 7; L. 2003, ch. 154, § 70; L. 2004, ch. 112, § 53; July 1.

74-8005. Chief executive officer, selection, qualifications, employment agreement, compensation, powers and duties; employees; contracts; gifts, donations and grants; inapplicability of state purchasing laws. (a) Kansas, Inc., subject to the approval of the governor, shall hire a person to serve as chief executive officer and president of Kansas, Inc. Kansas, Inc. shall conduct a national search and select a corporation president who meets a national standard of experience, ability and initiative for similar positions. The president shall be in the unclassified service under the Kansas civil service act and shall serve at the pleasure of Kansas, Inc. Kansas, Inc. may negotiate and enter into an employment agreement with the individual selected as corporation president which may provide for such compensation and such provisions for allowances, benefits and expenses as may be included in such agreement. Kansas, Inc. is authorized to make all payments and payroll deductions as may be required under such agreement.

(b) The president shall direct and supervise the general management of the corporation and a small core staff of analysts. The president:

(1) May employ and terminate such other employees as designated by the members of Kansas, Inc. Such employees shall be in the unclassified service under the Kansas civil service act;

(2) shall attend board meetings; and

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

(c) Kansas, Inc. is hereby authorized to negotiate and enter into contracts for professional consulting and research services, and may enter into such contracts jointly with the department of commerce.

(d) Kansas, Inc. is authorized to accept gifts, donations and grants.

(e) Kansas, Inc. is not subject to state purchasing laws.

History: L. 1986, ch. 298, § 5; L. 1987, ch. 317, § 7; L. 1993, ch. 136, § 12; L. 1995, ch. 255, § 3; L. 1996, ch. 88, § 10; L. 2003, ch. 154, § 71; July 1.

Attorney General's Opinions:

Secretary of Transportation may delegate to assistant duty of attending meetings of board of INK; c.f. 2002-52A. 2002-52.

74-3006. Annual report; contents; transmittal to governor and legislature. Kansas, Inc. shall publish an annual report for the governor, legislature, citizens and media of Kansas. The report shall include:

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

(b) An evaluation of the effectiveness of state economic development policies and programs in meeting the goals of the state economic plan by size of enterprise, sector of economic activity and location within Kansas, and in comparison with other states.

(c) A listing in order of priority of recommendations for initiatives that will further the effective implementation of the state economic development plan.

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

(e) The report shall be transmitted annually to the governor and the legislature on October 1 in coordination with the Kansas technology enterprise corporation and the department of commerce.

History: L. 1986, ch. 298, § 6; L. 1996, ch. 88, § 2; L. 2003, ch. 154, § 72; July 1.

74-3007. Staff and assistance. The secretary of commerce shall provide to Kansas, Inc. such staff and other assistance as may be requested thereby.

History: L. 1986, ch. 298, § 7; L. 1996, ch. 88, § 3; L. 2003, ch. 154, § 73; July 1.

74-3009a.

Attorney General's Opinions:

Secretary of Transportation may delegate to assistant duty of attending meetings of board of INK; c.f. 2002-52A. 2002-52.

74-3010. Review and evaluation of state economic development programs and activities; recommendations to legislature. (a) Kansas, Inc. shall review and evaluate the effectiveness of economic development programs and activities within the state, including, but not by way of limitation, the Kansas technology enterprise corporation programs and activities, the major programs and activities of the department of commerce, the statewide risk capital system, the venture capital tax credit, and the research and development activities tax credit. The effectiveness of the research and development activities tax credit shall be measured by the extent to which the tax credit encourages innovation and development of new value-added products and processes which will lead to the commercialization of new products and processes by primary job creating Kansas businesses.

(b) Kansas, Inc. shall periodically conduct a review and evaluation of economic development programs and activities. The review and evaluation should include:

(1) A performance analysis of the extent to which the purposes of the acts providing for the programs and activities have been achieved; and

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

(c) Based on the findings of its review and evaluation, Kansas, Inc. will recommend to the legislature the continuation in effect, modification, or repeal of the acts providing for the programs and activities.

History: L. 1986, ch. 298, § 10; L. 1996, ch. 88, § 5; L. 2003, ch. 154, § 74; July 1.

74-3017. Annual report evaluating cost effectiveness of tax credits and exemptions; submission to legislature; questionnaires. On and after January 1, 2003, it shall be the duty of Kansas, Inc. to prepare an annual report evaluating the cost effectiveness of the various income tax credits and sales tax exemptions enacted to encourage economic development within this state and submit the same to the standing committees on taxation and economic development of the house and assessment and taxation and commerce

of the senate at the beginning of each regular session of the legislature. The secretary of revenue, in consultation with the president of Kansas, Inc., shall develop a questionnaire on the utilization of state income tax credits and sales tax exemptions that shall be completed by all corporate taxpayers that: (1) Are subject to state income tax and (2) utilize any of the state income tax credits and exemptions described in subsections (a) through (i) below that shall be submitted to the department of revenue concurrently with the filing of an annual corporate income tax return. The secretary shall provide the completed questionnaires to Kansas, Inc. for use in the preparation of such annual report. The questionnaire shall require respondents to indicate utilization of the following credits and exemptions:

(a) Income tax credits authorized under the provisions of the job expansion and investment credit act of 1976 and acts amendatory thereof and supplemental thereto;

(b) income tax credits for expenditures in research and development activities authorized by K.S.A. 79-32,182, and amendments thereto;

(c) income and financial institutions privilege tax credits for cash investment in stock of Kansas Venture Capital, Inc. authorized by K.S.A. 74-8205 and 74-8206, and amendments thereto;

(d) income tax credits for cash investment in certified Kansas venture capital companies authorized by K.S.A. 74-8304, and amendments thereto;

(e) income tax credits for cash investment in certified local seed capital pools authorized by K.S.A. 74-8401, and amendments thereto;

(f) income tax credits for investment in the training and education of qualified firms' employees authorized by K.S.A. 74-50,132, and amendments thereto;

(g) sales tax exemptions for property or services purchased for the purpose of and in conjunction with constructing, reconstructing, enlarging or remodeling a business, or retail business meeting the requirements of K.S.A. 74-50,115, and amendments thereto, and machinery and equipment for installation at such business or retail business authorized by subsection (cc) of K.S.A. 79-3606, and amendments thereto;

(h) sales tax exemptions for machinery and equipment used directly and primarily for the purposes of manufacturing, assembling, processing, finishing, storing, warehousing or distributing articles of tangible personal property in this state

intended for resale by a manufacturing or processing plant or facility or a storage, warehousing or distribution facility. The secretary of revenue shall provide the completed questionnaires and copies of sales tax exemption certificates to Kansas, Inc. for the preparation of such report;

(i) distribution from the special economic revitalization fund pursuant to the provisions of the economic revitalization reinvestment act, K.S.A. 2004 Supp. 74-50,136, and amendments thereto; and

(j) special obligation bonds authorized by K.S.A. 12-1774, and amendments thereto.

History: L. 1994, ch. 188, § 1; L. 2001, ch. 164, § 1; L. 2002, ch. 99, § 1; L. 2003, ch. 153, § 2; L. 2004, ch. 180, § 12; July 1.

Revisor's Note:

Section was amended twice in 2003 session, see also 74-8017a.

74-8017a.

History: L. 1994, ch. 188, § 1; L. 2001, ch. 164, § 1; L. 2002, ch. 99, § 1; L. 2003, ch. 97, § 7; Repealed, L. 2004, ch. 180, § 18; July 1.

Article 81.—KANSAS TECHNOLOGY ENTERPRISE CORPORATION

74-8101. Kansas technology enterprise corporation; creation; board of directors, membership, qualifications, terms, compensation and expenses; meetings; transaction of business; corporate president; executive committee, membership, duties. (a) There is hereby created a body politic and corporate to be known as the Kansas technology enterprise corporation. The Kansas technology enterprise corporation is hereby constituted a public instrumentality and the exercise of the authority and powers conferred by this act shall be deemed and held to be the performance of an essential governmental function.

(b) The corporation shall be governed by a board of 20 directors who shall be residents of this state. The board shall consist of (1) the governor or, at the discretion of the governor, the secretary of the department of commerce, (2) the secretary of agriculture, (3) four directors who are members of the legislature appointed as provided in subsection (d)(1), (4) four directors who are appointed by legislative officers as provided in subsection (d)(2), and (5) ten directors appointed by the governor subject to senate confirmation as provided in K.S.A. 75-4315b, and amendments

(6) In case of a vacancy in the appointive membership of Kansas, Inc., a successor shall be appointed in like manner and subject to the same qualifications and conditions as the original appointment of the member creating the vacancy.

History: L. 1986, ch. 298, § 2; L. 1993, ch. 136, § 9; L. 1995, ch. 241, § 16; L. 1996, ch. 88, § 7; July 1.

Attorney General's Opinions:

Kansas, Inc. and KTEC are state agencies subject to state governmental ethics laws. 97-59.

74-8002. Purpose. (a) The purpose of Kansas, Inc. shall be to:

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

(2) oversee the formulation of economic development policy and strategic planning for the state;

(3) oversee the targeting of scarce state resources by size and sector of economic activity and by geographic location within the state in order to enhance the state's potential comparative economic advantages;

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

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

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

(7) provide appropriate oversight to ensure the successful implementation of Kansas venture capital, Inc.

(8) forge a supportive partnership with the standing committee on commerce of the senate, the standing committee on economic development of the house of representatives and the joint committee on economic development, the governor and the secretary of commerce and housing, the Kansas technology enterprise corporation, Kansas venture capital, Inc., Kansas certified development companies, Kansas small business development centers, Kansas public and private educational institutions, and other appropriate private and public sector organizations in achieving the economic goals of the state;

(9) establish goals, priorities and program standards, and evaluate the effectiveness of state economic development programs and policies according to the goals, priorities and standards established;

(10) institutionalize ongoing means of collaboration between the executive and legislative branches, the business, agricultural and financial sectors, educational institutions and local communities to create a developing Kansas economy the increasing innovation, creativity, diversity and productivity of which is greater than any one sector can achieve acting alone; and

(11) review and evaluate the Kansas technology enterprise corporation, the major programs and activities of the department of commerce and housing, the statewide risk capital system, the venture capital tax credit, and the investments in research and development activities tax credit.

History: L. 1986, ch. 298, § 1; L. 1990, ch. 283, § 1; L. 1993, ch. 136, § 10; L. 1996, ch. 88, § 8; July 1.

Attorney General's Opinions:

Kansas, Inc. and KTEC are state agencies subject to state governmental ethics laws. 97-59.

74-8003. Officers; meetings; expenses of members. (a) The governor shall serve as co-chair of Kansas, Inc. The other co-chair shall be elected from among the private sector members.

A vice-chair shall be elected from among all the members. Kansas, Inc. shall meet at least once each calendar quarter and at such other times designated upon the call of the governor or determined by the board of directors.

(b) Members of Kansas, Inc. attending meetings thereof, or attending a subcommittee meeting thereof authorized by Kansas, Inc., shall be paid amounts provided in subsection (e) of K.S.A. 75-3223 and amendments thereto.

History: L. 1986, ch. 298, § 3; L. 1996, ch. 88, § 1; July 1.

Attorney General's Opinions:

Kansas, Inc. and KTEC are state agencies subject to state governmental ethics laws. 97-59.

74-8004. Duties in achieving purpose; advice from public and professional entities; cooperation and assistance of state agencies.

(a) In order to achieve its purpose as provided in this act, Kansas, Inc. shall:

(1) Serve in an advisory capacity to the governor, the Kansas department of commerce and housing and the standing committee on com-

merce of the senate, the standing committee on new economy of the house of representatives and the joint committee on economic development.

(2) Assume central responsibility to develop, with the guidance of both the private and public sectors, all facets of a comprehensive long term economic development strategy.

(3) Coordinate the strategy development with all other state and local agencies and offices and state educational institutions which do research work, develop materials and programs, gather statistics, or which perform functions related to economic development; and such state and local agencies and offices and state educational institutions shall advise and cooperate with Kansas, Inc. in the planning and accomplishment of the strategy.

(4) Evaluate and analyze the state's economy to guide the direction of future public and private actions, and report and make recommendations to the governor, the department of commerce and housing, and the standing committee on commerce of the senate, the standing committee on new economy of the house of representatives and the joint committee on economic development with respect to the state's economy. The report to the committee on commerce of the senate, the committee on new economy of the house of representatives and the joint committee on economic development under this subsection shall be made by Kansas, Inc., either (A) by publishing such report on the internet and by notifying each member of the committees that the report is available and providing, as part of such notice, the uniform resource locator (URL) at which such report is available, or (B) by submitting copies of such report on CD-ROM or other electronically readable media to such committees.

(5) Oversee and evaluate the state's economic development activities on an ongoing basis through the establishment of goals, priorities performance standards and the periodic program audit of those goals, priorities and performance standards.

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

(7) Provide appropriate oversight to ensure the successful implementation of Kansas venture capital, Inc.

(8) Oversee the targeting of scarce state resources by size and sector of economic activity and by geographic location within the state in order to

enhance the state's potential comparative economic advantages.

(9) Review and evaluate the annual reports of the department of commerce and housing, Kansas technology enterprise corporation and Kansas venture capital, Inc. Kansas, Inc., shall transmit recommendations concerning the agencies' activities to the governor and the legislature no later than September 1 of each year.

(b) Kansas, Inc., shall seek advice from the general public and from professional associations, academic groups and institutions and individuals with knowledge of and interest in areas of economic development and planning.

(c) The department of commerce and housing and all other interested state agencies shall cooperate with Kansas, Inc., in providing information and other assistance as may be requested for the performance of its duties with respect to the state's economic development plan.

History: L. 1986, ch. 298, § 4; L. 1990, ch. 283, § 2; L. 1993, ch. 136, § 11; L. 1996, ch. 88, § 9; L. 2002, ch. 151, § 7; July 1.

74-3005. Chief executive officer, selection, qualifications, employment agreement, compensation, powers and duties; employees; contracts; gifts, donations and grants; inapplicability of state purchasing laws. (a) Kansas, Inc., subject to the approval of the governor, shall hire a person to serve as chief executive officer and president of Kansas, Inc. Kansas, Inc. shall conduct a national search and select a corporation president who meets a national standard of experience, ability and initiative for similar positions. The president shall be in the unclassified service under the Kansas civil service act and shall serve at the pleasure of Kansas, Inc. Kansas, Inc. may negotiate and enter into an employment agreement with the individual selected as corporation president which may provide for such compensation and such provisions for allowances, benefits and expenses as may be included in such agreement. Kansas, Inc. is authorized to make all payments and payroll deductions as may be required under such agreement.

(b) The president shall direct and supervise the general management of the corporation and a small core staff of analysts. The president:

(1) May employ and terminate such other employees as designated by the members of Kansas, Inc. Such employees shall be in the unclassified service under the Kansas civil service act;

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(2) shall attend board meetings; and

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

(c) Kansas, Inc. is hereby authorized to negotiate and enter into contracts for professional consulting and research services, and may enter into such contracts jointly with the department of commerce and housing.

(d) Kansas, Inc. is authorized to accept gifts, donations and grants.

(e) Kansas, Inc. is not subject to state purchasing laws.

History: L. 1986, ch. 298, § 5; L. 1987, ch. 317, § 7; L. 1993, ch. 136, § 12; L. 1995, ch. 255, § 3; L. 1996, ch. 88, § 10; July 1.

Attorney General's Opinions:

Kansas, Inc. and KTEC are state agencies subject to state governmental ethics laws. 97-59.

74-3006. Annual report; contents; transmittal to governor and legislature. Kansas, Inc. shall publish an annual report for the governor, legislature, citizens and media of Kansas. The report shall include:

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

(b) An evaluation of the effectiveness of state economic development policies and programs in meeting the goals of the state economic plan by size of enterprise, sector of economic activity and location within Kansas, and in comparison with other states.

(c) A listing in order of priority of recommendations for initiatives that will further the effective implementation of the state economic development plan.

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

(e) The report shall be transmitted annually to the governor and the legislature on October 1 in coordination with the Kansas technology enterprise corporation and the department of commerce and housing.

History: L. 1986, ch. 298, § 6; L. 1996, ch. 88, § 2; July 1.

74-3007. Staff and assistance. The secretary of commerce and housing shall provide to Kansas, Inc. such staff and other assistance as may be requested thereby.

History: L. 1986, ch. 298, § 7; L. 1996, ch. 88, § 3; July 1.

74-3008.

History: L. 1986, ch. 298, § 8; Repealed, L. 1996, ch. 88, § 11; July 1.

74-3009.

History: L. 1986, ch. 298, § 9; L. 1988, ch. 311, § 1; Repealed, L. 1990, ch. 283, § 6; July 1.

74-3009a. Declaration as public-private partnership; financing of annual budget; authorization to contract, receive donations, contributions and grants; monthly report of private fund expenditures; annual financial report. (a) Kansas, Inc. is a public-private partnership. The state shall provide an annual appropriation to fund the salaries and operating expenses of the agency, as well as research and evaluation activities conducted at the request of the executive or legislative branches. Private funds shall be raised to support the economic development research and education programs and related activities.

(b) Kansas, Inc. is authorized to enter into contracts with, and to receive donations, contributions and grants from individuals, corporations, private foundations and other governmental and non-governmental entities for the purpose of fulfilling its mission and duties. It may also receive in-kind contributions in the form of personnel, services, equipment or other items of value.

(c) The president of Kansas, Inc. shall provide a monthly report on the expenditure of private funds to the division of accounts and reports. An annual financial report shall be made to the board of directors which itemizes and accounts for the receipt and expenditure of all non-state funds and contributions received.

History: L. 1990, ch. 283, § 3; L. 1996, ch. 88, § 4; July 1.

74-3010. Review and evaluation of state economic development programs and activities; recommendations to legislature. (a) Kansas, Inc. shall review and evaluate the effectiveness of economic development programs and activities within the state, including, but not by way of limitation, the Kansas technology enterprise corporation programs and activities, the major programs and activities of the department of commerce and housing, the statewide risk capital system, the venture capital tax credit, and the research and development activities tax credit. The

effectiveness of the research and development activities tax credit shall be measured by the extent to which the tax credit encourages innovation and development of new value-added products and processes which will lead to the commercialization of new products and processes by primary job creating Kansas businesses.

(b) Kansas, Inc. shall periodically conduct a review and evaluation of economic development programs and activities. The review and evaluation should include:

(1) A performance analysis of the extent to which the purposes of the acts providing for the programs and activities have been achieved; and

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

(c) Based on the findings of its review and evaluation, Kansas, Inc. will recommend to the legislature the continuation in effect, modification, or repeal of the acts providing for the programs and activities.

History: L. 1986, ch. 298, § 10; L. 1996, ch. 88, § 5; July 1.

74-8011. Review and evaluation of Kansas, Inc. by joint legislative committee on economic development. The joint legislative committee on economic development shall review and evaluate the effectiveness of Kansas, Inc. The effectiveness of Kansas, Inc. shall be measured by the extent to which it achieves the purposes ascribed to it by this act.

History: L. 1986, ch. 298, § 11; L. 1990, ch. 283, § 5; L. 1996, ch. 88, § 6; July 1.

74-8012. Employees of Kansas, Inc. (a) Except as provided in subsection (b) of K.S.A. 74-8003 and amendments thereto, for members of Kansas, Inc., the provisions of article 32 of chapter 75 of the Kansas Statutes Annotated, any acts amendatory thereof or supplemental thereto, and any rules and regulations adopted thereunder, shall not apply to officers or employees of Kansas, Inc. Subject to policies established by Kansas, Inc., the president of Kansas, Inc. or the president's designee shall be authorized to approve all travel and travel expenses of such officers and employees.

(b) Nothing in this act or the act of which it is amendatory shall be construed as placing any officer or employee of Kansas, Inc. in the classified service under the Kansas civil service act.

History: L. 1987, ch. 317, § 2; L. 1995, ch. 255, § 4; Dec. 17.

Attorney General's Opinions:

Kansas, Inc. and KTEC are state agencies subject to state governmental ethics laws. 97-59.

74-8013. Moneys of Kansas, Inc.; disposition. (a) All state appropriations to or grants of state appropriations to Kansas, Inc. shall remain in the state treasury until expended or transferred to other state agencies pursuant to the Kansas, Inc. act.

(b) Except as provided in subsection (a), all moneys received by Kansas, Inc. from gifts, donations, grants or any other source outside the state treasury may be placed in the state treasury or may be maintained in interest-bearing accounts in Kansas banks or Kansas savings and loan associations until expended or otherwise disposed of pursuant to the Kansas, Inc. act.

History: L. 1987, ch. 317, § 3; April 30.

Attorney General's Opinions:

Kansas, Inc. and KTEC are state agencies subject to state governmental ethics laws. 97-59.

74-8014. Citation of act. K.S.A. 74-8001 through 74-8014 and any amendments thereto shall be known and may be cited as the Kansas, Inc. act.

History: L. 1987, ch. 317, § 1; April 30.

74-8015. Reports of community and economic development grants or loans. (a) As used in this section "state agency" means any state office or officer, department, board, commission, institution, bureau or any agency, division or unit within any office, department, board, commission or other state authority or any person requesting a state appropriation.

(b) On October 1, 1990, and annually thereafter, state agencies making community and economic development grants or loans shall submit to Kansas, Inc., in a form prescribed by Kansas, Inc., reports detailing community and economic development grants or loans made by such state agencies. Such reports shall include the identity of the recipient of such loans or grants. Kansas, Inc., shall provide annually, to the governor and the legislature, a compilation of such reports.

History: L. 1990, ch. 294, § 1; July 1.

74-8016. Cost-benefit model for property tax exemptions. Subject to appropriations, Kansas, Inc. shall develop, adapt or adopt a uniform cost-benefit model for purposes of statewide

KTEC

data collection and for evaluating industrial revenue bond and economic development property tax exemptions. The model shall be made available to all cities and counties free of charge.

History: L. 1994, ch. 70, § 1; July 1.

Law Review and Bar Journal References:

"Avoiding Economic Injury: Considerations in the Application of the Economic Development Exemption," J. K. Wilson, 4 Kan. J.L. & Pub. Pol'y, No. 2, 51, 52 (1995).

74-8017. Annual report evaluating cost effectiveness of tax credits and exemptions; submission to legislature; questionnaires; procedures for disclosure of taxpayer information. On and after January 1, 2003, it shall be the duty of Kansas, Inc. to prepare an annual report evaluating the cost effectiveness of the various income tax credits and sales tax exemptions enacted to encourage economic development within this state and submit the same to the standing committees on taxation and economic development of the house and assessment and taxation and commerce of the senate at the beginning of each regular session of the legislature. The secretary of revenue, in consultation with the president of Kansas, Inc., shall develop a questionnaire on the utilization of state income tax credits and sales tax exemptions that shall be completed by all corporate taxpayers subject to state income tax that shall be submitted to the department of revenue concurrently with the filing of an annual corporate income tax return. The secretary shall provide the completed questionnaires to Kansas, Inc. for use in the preparation of such annual report. The questionnaire shall require respondents to indicate utilization of the following credits and exemptions:

(a) Income tax credits authorized under the provisions of the job expansion and investment credit act of 1976 and acts amendatory thereof and supplemental thereto;

(b) income tax credits for expenditures in research and development activities authorized by K.S.A. 79-32,182, and amendments thereto;

(c) income and financial institutions privilege tax credits for cash investment in stock of Kansas Venture Capital, Inc. authorized by K.S.A. 74-8205 and 74-8206, and amendments thereto;

(d) income tax credits for cash investment in certified Kansas venture capital companies authorized by K.S.A. 74-8304, and amendments thereto;

(e) income tax credits for cash investment in certified local seed capital pools authorized by K.S.A. 74-8401, and amendments thereto;

(f) income tax credits for investment in the training and education of qualified firms' employees authorized by K.S.A. 74-50,132, and amendments thereto;

(g) sales tax exemptions for property or services purchased for the purpose of and in conjunction with constructing, reconstructing, enlarging or remodeling a business, or retail business meeting the requirements of K.S.A. 74-50,115, and amendments thereto, and machinery and equipment for installation at such business or retail business authorized by subsection (cc) of K.S.A. 79-3606, and amendments thereto; and

(h) sales tax exemptions for machinery and equipment used directly and primarily for the purposes of manufacturing, assembling, processing, finishing, storing, warehousing or distributing articles of tangible personal property in this state intended for resale by a manufacturing or processing plant or facility or a storage, warehousing or distribution facility. The secretary of revenue shall provide the completed questionnaires and copies of sales tax exemption certificates to Kansas, Inc. for the preparation of such report.

History: L. 1994, ch. 188, § 1; L. 2001, ch. 164, § 1; L. 2002, ch. 99, § 1; July 1.

Revisor's Note:

Section was also amended by L. 2001, ch. 133, sec. 1, but that version was repealed by L. 2001, ch. 164, sec. 2.

Article 81.—KANSAS TECHNOLOGY ENTERPRISE CORPORATION

Cross References to Related Sections:

Legislative standing and joint committees on economic development, see 46-1801 et seq.

Department of commerce and housing, see ch. 74, art. 50.

Kansas, Inc., see ch. 74, art. 80.

Kansas Venture Capital, Inc., see ch. 74, art. 83.

Kansas statewide risk capital system, see ch. 74, art. 82.

Statewide planning and research, see ch. 75, art. 48.

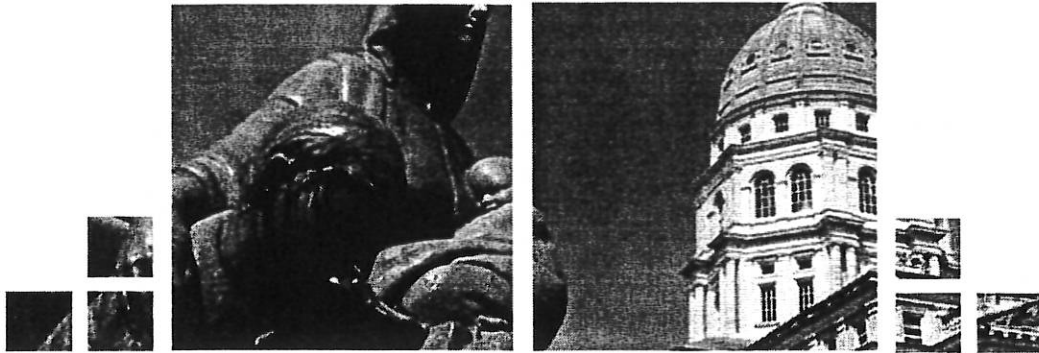
Research and development activities tax credit, see 79-32,182.

Kansas economic opportunity initiatives fund, see 74-50,151.

Law Review and Bar Journal References:

"Private Financing For Small Businesses," Charles D. Lee, 58 J.K.B.A. No. 9, 15 (1989).

74-8101. Kansas technology enterprise corporation; creation; board of directors, membership, qualifications, terms, compensation and expenses; meetings; transaction of



Senate Commerce Committee

2-16-05

Attachment

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Tradition to Tomorrow
Kansas, Inc. 2004 Annual Report

Kansas, Inc. Staff

Jerry Lonergan
President

Debby Fitzhugh
Director of Operations

Sean P. Tomb
Research Analyst

Ann Marshall
Office Assistant

Senate Commerce Committee

2-16-05

Attachment

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KANSAS

OFFICE OF THE GOVERNOR

KATHLEEN SEBELIUS, GOVERNOR



Greetings:

The Annual Report for 2004 from Kansas, Inc. has a theme of tradition. Tradition in the sense that, the state and her citizens, have from the first risk takers seeking to settle Kansas to today's emerging entrepreneurs chose to assume the challenge of battling great odds to reach goals many think unobtainable. Our traditions include that spirit of testing our imagination, strength, and resolve to help this state reach its potential.

I believe we must take risks and think outside the box to succeed. Kansas, Inc., is committed to both by:

- Implementing a research agenda that addresses issues critical to our future;
- Addressing tough and controversial issues; and,
- Conducting research that provides a more in-depth understanding of our economy and trends.

Along with Jerry Lonergan, former Kansas, Inc. board member Jerry Karr served a valuable role guiding a group of dedicated Kansans in addressing the difficult and highly charged issue of incorporating wind development in one of our state's most unique and ecologically sensitive areas—the Flint Hills.

In my role as co-chair of Kansas, Inc., I see an organization that draws on the tradition of embracing change and providing a framework for state leaders to move successfully to tomorrow.

A handwritten signature in cursive script that reads "Kathleen Sebelius".

Kathleen Sebelius
Governor of Kansas

Capitol, 300 SW 10th Ave., Ste. 2125 Topeka, KS 66612-1593
Voice 785-296-3232 Fax 785-296-7973 www.ks.gov/governor.gov

Senate Commerce Committee

2-16-05

Attachment 3-3

*Welcome to the 2004
Annual Report from Kansas, Inc.*

To all Kansans:

Fiscal Year 2004 has been one of transition and growing as Kansas, Inc. began the year searching for a President. With the hiring of Jerry Lonergan, the organization began the process, as noted in the Fiscal Year 2003 annual report, of "Building on a Foundation" to create an increased awareness of Kansas, Inc. and its potential to be an active and imaginative leader of the state's economic development effort.

Much activity has occurred over the past year designed to again have Kansas, Inc. serve as the initiator of big ideas, questioner of the status quo, and leader in recognizing emerging trends that will impact the state. Many people and organizations played significant roles in this process. The Governor's invitation to serve as co-chair of the Wind and Prairie Task Force established a renewed prominence to Kansas, Inc. and fully engaged us in an important and controversial issue.

Lieutenant Governor John Moore, in his role as Secretary of Commerce, and Tracy Taylor, President of Kansas Technology Enterprise Corporation have been instrumental in fostering a cooperative partnership among the state's three principal economic development organizations that is necessary for our state's success. Both in program development and budget planning, the three entities are seeking to present a coordinated front.

The Legislature's enhancement of the Kansas, Inc. budget for expansion of its research program will assist in the review of existing and proposed programs. In enabling legislation for the two major economic development initiatives, Bioscience Authority and Entrepreneurship Center, the Legislature assigned Kansas, Inc. the responsibility of evaluating the effectiveness of these actions. We view the passage of these economic development bills as the most important economic development legislation since the 1980's.

Last, but not least, there is increased support by the private sector in again partnering in the research, strategic planning, and evaluation roles that have traditionally been Kansas, Inc.'s focus. We have every confidence that the commitment we made to the Legislature to leverage state monies for research (\$100,000) with private sources will be met.

The support has been exceptional and we thank all those that have helped provide the opportunity for Kansas, Inc. to develop and now implement a research program that will move Kansas forward.

Lawrence L. McCants, Co-Chair

Jerry Lonergan, President

Senate Commerce Committee

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Kansas, Inc. is...

Created by the 1986 Legislature, Kansas, Inc. is an independent, objective, and non-partisan organization designed to conduct economic development research and analysis with a goal of crafting policies and recommendations to insure the state's ongoing competitiveness for economic growth.

To attain our mission, we undertake four primary activities: 1) developing and implementing a proactive and aggressive research agenda; 2) identifying and promoting strategies and policies from the research; 3) conducting evaluation reviews and oversight of economic development programs; and, 4) collaboration with economic development entities and outreach to potential partners.

Kansas, Inc. is governed by a predominately private sector 17-member, board of directors; co-chaired by the Governor. Other members, as mandated by legislation, include four members of the Legislative Leadership, a

representative from the Board of Regents, the Secretary of Commerce, the Commanding General of the Kansas Cavalry, a representative from labor, and eight members from the private sector representing key Kansas industrial sectors. Private sector members are appointed by the Governor and confirmed by the Kansas Senate.

Since 1987, Kansas, Inc. research reports have covered such diverse topics as: aviation, value-added agriculture, business taxation, interstate banking, oil and gas, business financing, workforce training, rural development, and education. Through analysis and open dialogue, Kansas, Inc. identifies policy options and builds the consensus essential for concerted action on vital economic issues. Kansas, Inc. is designed to be a public-private partnership with expectations that state investments are leveraged with other funds to maintain a strong research portfolio.



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Kansas, Inc. 2004 Activities

In mid-September 2003 the Kansas, Inc. board of directors welcomed Jerry Lonergan as the organization's fourth president. The focus of the remaining nine months of the state fiscal year was re-establishing a stronger presence of Kansas, Inc. throughout the state. Outreach efforts, centered on extensive statewide travel, discussions and listening to organizations and individuals to understand the issues impacting the state. As part of organization

outreach, towards the end of Fiscal Year 2004, the Kansas, Inc. board planned a meeting in Winfield that was to include a tour of board member Stan Ahlerich's farm operation. A lesson in the challenges of Kansas agriculture was learned when a May hail storm caused significant damage to wheat crops in South Central Kansas necessitating moving the board meeting to July, the first month of Fiscal Year 2005.

2004 – 2005 Research Prospectus: A first major focus as new leadership came to Kansas, Inc. was to engage in extensive discussions to define a set of research topics critical to the state. Eight are identified, that will involve outside expertise and contracting; they are the focus of efforts for outside financial support and are:

- **Economy of Minority/Immigrant Populations**
- **Economy of Aging Population**
- **Competitive Challenge for the Future of Agriculture Commodities**
- **Bioscience Authority and Entrepreneurship Center Evaluation Planning**
- **Energy/Renewable Energy Strategies**
- **Healthcare Issues**
- **Understanding Entrepreneurship and the Challenges**
- **Assessment of the Motor Sports Racing Industry.**

(complete descriptions are at the Kansas, Inc. website – www.kansasinc.org)

Internally, Kansas, Inc. staff will focus research in six areas, largely related to employment and urban/rural development issues.

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Business Taxes and Costs – A Cross-State Comparison:

Kansas, Inc. issued an update of its research comparing business taxes and costs in Kansas with five surrounding states. The update by the University of Kansas – Policy Research Institute continued research that since 1988 has been conducted every two to three years to monitor and compare costs and profits for a selected set of industries.

From the beginning, the basic tenant is that a strategic goal for Kansas is to be cost and tax competitive in the region with a tax level that is neutral as a location and retention factor coupled with superior quality public services. Analyzing industries that range from capital-intensive manufacturing to research and development firms, Kansas total business cost was consistently in the mid-range of the region (Colorado, Iowa, Missouri, Nebraska, and Oklahoma).

One interesting point was the contrast between being the lowest tax and business cost state did not necessarily translate into performance. Colorado, which

the model identifies as the highest cost state, actually enjoyed the greatest employment growth over the past ten years, as its total employment grew by 32.8%. Kansas had employment growth of 20.2%. In contrast, Missouri, frequently represented as a major Kansas competitor with much lower taxes, grew by just over 12% in the same time period.

Kansas, Inc. will continue to monitor the tax and cost area to insure business can continue to have success in this state. A goal of future research is to expand the analysis to more states.

A Permanent Presence of the Film Industry in Kansas:

During the 2004 Legislative session a subcommittee of the House Economic Development Committee asked Kansas, Inc. to review the film industry and trends, proposals that had been received for promoting film in Kansas, and possible next steps for advancing the industry in Kansas.

The film industry nationally is undergoing significant international challenges from Canada and Eastern European countries that offer much lower costs and substantial incentives to attract film productions. This "runaway" film production is forcing states to seek new and innovative ways to attract film - increasing the overall competitiveness for having films made in a state.

New Mexico, direct investment in films and Louisiana innovative tax incentives are seen as strong examples of state innovation. While Texas, and in particular Austin, is presented as relying on a strategy of home-growing its own industry.



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Kansas, Inc. recommended that based on the breadth of policy issues, coupled with a rapidly changing technology outlook, the state should take a longer term look at how best to attract a permanent presence of the film industry and will conduct further research prior to the 2005 Legislative session.

Additional Kansas, Inc. research work in 2004

2002 Vitality and Distress Report

Grants and Loans: Report for Fiscal Year 2003

Sales Tax Exemption and Income Tax Credit Report for Tax Year 2002

(full reports and descriptions of planned research are available at the organization's website):

Governor's Wind & Prairie Task Force

Kansas, Inc. played a major role making a substantial time commitment to one of the more important issues impacting Kansas. The Governor asked Jerry Lonergan and former Kansas, Inc. board member Jerry Karr to serve as co-chairs of the Wind and Prairie Task Force. Over the first five months of 2004 a task force and advisory group of 24 Kansans met to respond to the Governor's charge to "develop recommendations that will help decision-makers find an appropriate balance that promotes our state's wind-energy potential and preserves those natural ecosystems and places of scenic beauty, like the Flint Hills and Tallgrass Prairie."

The task force, included among others ranchers, developers, policy-makers, and technical experts from the diverse groups represented in the debate of development and preservation. It met eight times,

created three committees and held two public forums for input. The final report contained 10 recommendations and a matrix display of primary points of divergence between preservationist and wind developers.

The Wichita Eagle in a June 17th editorial noted the Governor gave the task force "a complicated and unenviable task ... the group issued its report – and it is a good first step in finding a balance and providing sensible guidelines"

The reformulated Kansas Energy Council has adopted and is promoting the 10 recommendations. The task force through difficult negotiations delivered a report that is being used and contributes to the state dialogue on this important issue.

Senate Commerce Committee

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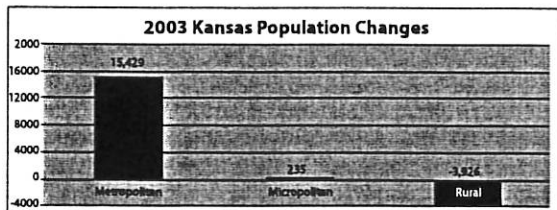
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The Kansas Economy

POPULATION

The Kansas population in 2003 was estimated by the U.S. Census Bureau to have reached 2,723,507, an increase of 0.4% from the 2002 estimate. Nationally the population increased 1% in 2003 and only eight states had population growth rates lower than Kansas. For comparison, Kansas, Inc. has historically examined Kansas along with a region that contained Arkansas, Colorado, Iowa, Missouri, Nebraska, and Oklahoma. In 2003, the collective population in the region increased by 0.7%. Iowa was the only state to have population growth slower than Kansas with an increase of 0.3%. However, with the exception of Colorado at 1.1%, the other states in the region had population growth rates comparable to Kansas.



Historic population trends continued in Kansas during 2003 with population growth centering in urban areas. Johnson County recorded a population of 486,515 in 2003, an increase of 10,506 people or 2.2%, the highest population growth rate in the state. Ness County (Southwest Kansas region) recorded the largest percentage loss among counties at 3.9%, while Wyandotte County recorded the highest number reduction in population, losing 624 people in 2003.

The 17 Metropolitan counties had an estimated population increase of 15,429 people. This is a

percentage gain of 0.9%, inline with the national average. Micropolitan counties increased by 235 people, and rural counties collectively lost 3,926 people. Eight rural counties gained population in 2003; four of these counties are located in and around the Dodge City/Garden City/Liberal triangle in Southwest Kansas.

WORKFORCE

Private Sector Employment Preliminary data for the first half of 2004 is encouraging regarding Kansas turning around its private sector employment. The Bureau of Labor Statistics private sector employment data for Kansas in July 2004 shows 1,079,700 Kansans were employed, over 11,000 higher than July 2003. It marks the first time in three years that July totals in a current year were greater than the July total in the previous year. The increase of 1.1% is an indication of an improving jobs outlook and an encouraging sign that Kansas is positioned to continue the economic recovery in the second half of 2004 and poised for more robust growth in 2005. Similar results were found in each state in the region as well as nationally, indicating a more sustained economic recovery may be taking place.

While the first six months of 2004 have been positive, the annualized data for 2003 detailed how Kansas was continuing to be impacted by the national economic slowdown reported in last year's report. The economic slowdown continued in 2003 as Kansas lost employment for the third consecutive year. The Kansas annual average employment shows a private sector job loss of 38,200 (3.5% decline since 2000). While disheartening, these rates are comparable to the region's 3.3% job loss. Nationally, in the same time period, 2.6 million private sector jobs have been lost (2.4% decline).

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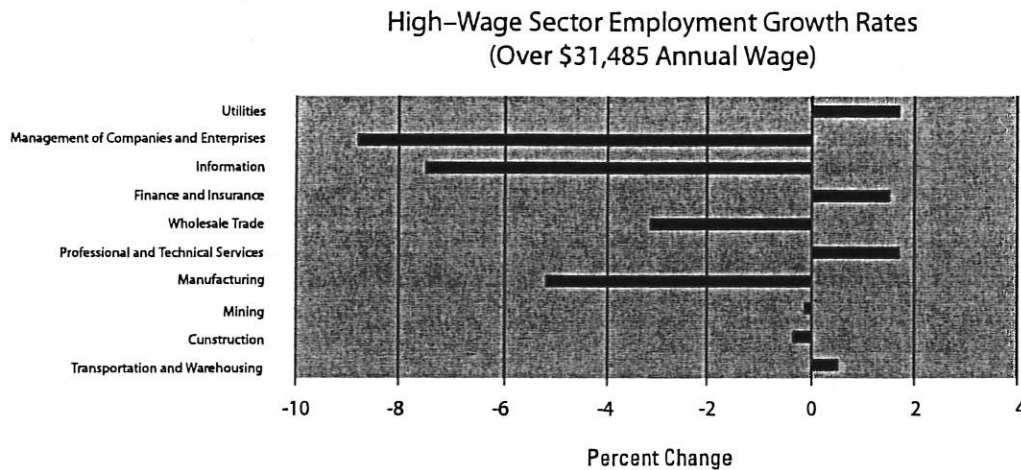
Employment by Industry Sector

In an effort to understand the quality of job creation in the state for 2003, Kansas, Inc. introduces a section reviewing job creation by 20 major industry sectors comparing job change in the ten higher paying industry sectors to the 10 lower paying sectors using the state average wage rate of \$31,485.

Kansas Department of Labor industry sector employment shows from 2002 to 2003, ten of the 20 industry sectors experienced an increase in employment levels. This compares to only seven sectors with job gains from 2001 to 2002.

High-Wage Employment Levels

In the major ten industry sectors with wages above the state average – four sectors had job increases adding 1,973 new high-wage jobs, led by the Professional and Technical Services sector with a 1.7% increase or 845 new jobs. Six sectors did lose jobs as major shakeouts continue in durable goods production, management services, and information technology. The Manufacturing sector, one of the highest paying in Kansas had the largest numerical job loss, loosing 9,454 jobs in 2003, mirroring national trends where 4.8% of manufacturing jobs were lost.



Low-Wage Employment Levels

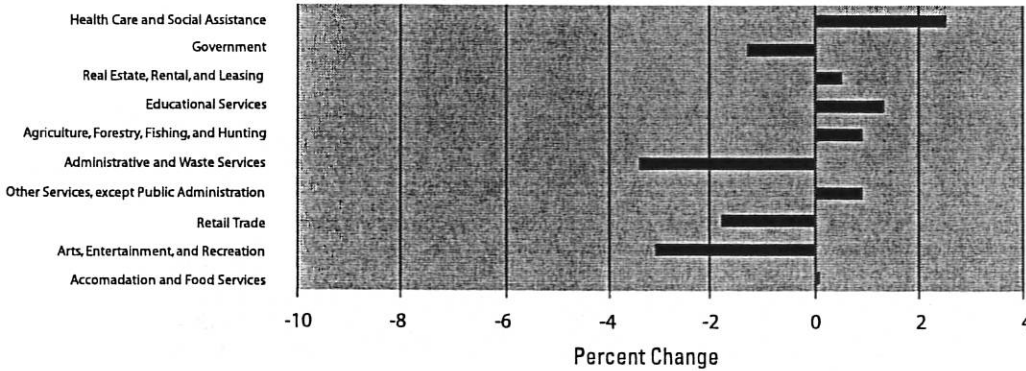
The Health Care and Social Assistance sector had the highest employment growth of all 20 sectors, growing by 2.5%, gaining nearly 3,500 jobs. Most important is that this substantial jobs growth was in the sector with average wages (\$30,413) just under the state average.

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Six of the ten industry groups below the state average in wages increased employment. As Kansas moves out of the economic slowdown it will be important to monitor where that employment growth is occurring and how Kansas can effectively target all jobs but with a focus on the higher paying employment.

**Low-Wage Sector Employment Growth Rate
(Under \$31,485 Annual Wage)**



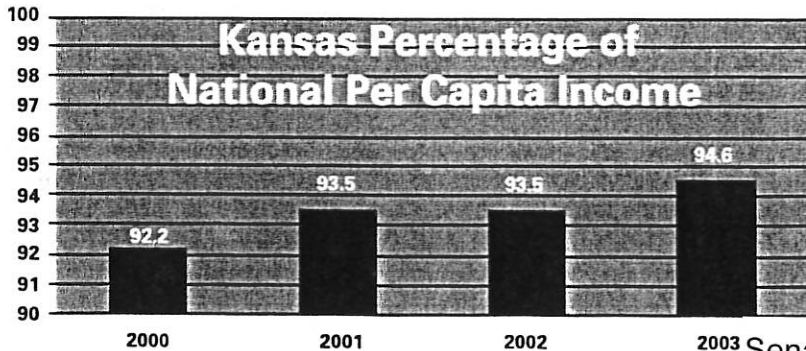
Unemployment Levels

The unemployment rate in Kansas has consistently been below national averages and comparable to the region. The 2003 Kansas unemployment rate was 5.4%. While an increase of 0.3% over 2002, in the region, only Iowa and Nebraska had lower 2003 annual unemployment rates at 4.5% and 4.0% respectively.

Reflecting the positive direction the Kansas economy was heading since the start of 2004, the July 2004 unemployment rate for Kansas was 4.7%, a significantly decrease from last July's 5.7%.

INCOME

In 2003, per capita income in Kansas grew by 3.6% to \$29,935. Kansas had the seventh highest per capita income growth in the nation. This increase in per capita income helped Kansas close the gap between its per capita income and the national average. In 2002 per capita income in Kansas was 93.5% of the national average and in 2004 it improved to 94.6% of the national average continuing a four-year trend of improving the state's position relative to the nation.



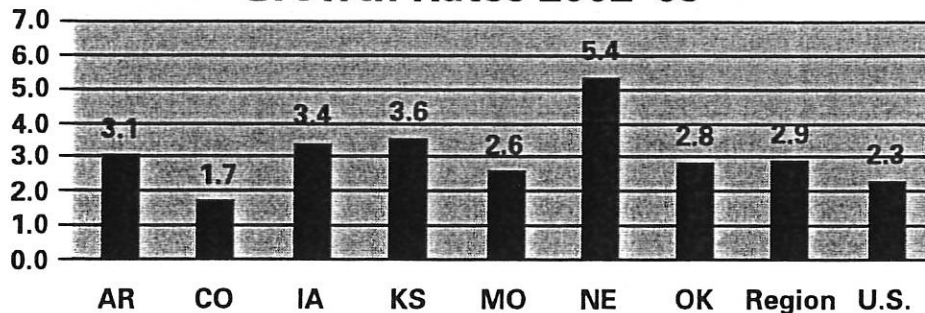
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States in the region also had strong growth in per capita income; Nebraska, Kansas and Iowa were among the top ten states in per capita income growth from 2002 to 2003. With the exception of Colorado, all percent gains in the region were above the nation's 2.3% per capita income growth. In the region only Nebraska, at 5.4%, had a higher growth rate than Kansas.

Per Capita Personal Income, Growth Rates 2002-03



The major component to the high growth in Kansas and the region was the impact of increased earnings in Natural Resources and Mining. Recognized as one of the state's three critical industries, earnings in this sector increased by 90.8% from 2002 to 2003. The nation reported earnings in Natural Resources and Mining increased 12.6%.

CONCLUDING THOUGHTS

The mixed review of economic data for Kansas show that pockets of positive population growth in urban and rural areas have not been sufficient to carry the entire state, but these trends are consistent with past activity. Of primary interest to Kansans should be the recent employment gains that have been among some of the highest in the nation. Additionally, with healthcare continuing strong even a small improvement in the manufacturing and telecommunication pictures should result in jobs generated that will be among the higher paying.

In 2004 the Governor, Legislature and economic development leadership continued a long tradition of initiating powerful sets of new and innovative programs designed to attract and to keep our brightest workers and encourage entrepreneurs. When coupled with an improving employment picture the new initiatives and upbeat outlook should have dramatic positive impacts on the state.

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Kansas, Inc. Private Sector Donors

| | |
|--|----------------------|
| Ahlerich Farms | Lotus Operating LLC |
| Duke Energy Field Services, LP | John McCoy |
| John O. Farmer, Inc. | Frank Novy Trust |
| Jone Seel Huyett | Peoples Bank – Pratt |
| Kansas Bankers Association Insurance, Inc. | Pratt Well Service |
| Key Staffing | C.W. Sebits, Special |

Financial Report

| Revenue | FY 2004 | FY 2003 |
|---------------------------------------|-------------------|-------------------|
| Economic Development Initiatives Fund | 243,009 | 291,674 |
| Total Revenue | \$ 243,009 | \$ 291,674 |

| Expenditures | FY 2004 | FY 2003 |
|---|-------------------|-------------------|
| Salaries & Fringes | 186,767 | 190,384 |
| Communications | 8,138 | 8,965 |
| Freight & Express | 7 | 29 |
| Printing & Advertising | 5,650 | 4,760 |
| Rents | 25,712 | 28,532 |
| Repair & Servicing | 924 | 964 |
| Travel & Subsistence | 6,189 | 4,137 |
| Fees – Other Services | 3,127 | 5,568 |
| Fees – Professional Services | 75 | — |
| Other Contractual Services | 3,005 | 3,017 |
| Motor Vehicle Parts, Supplies & Accessories | 384 | 223 |
| Professional & Scientific Supplies | 1,222 | 216 |
| Office Supplies | 1,610 | 2,891 |
| Other Supplies | 199 | 132 |
| Capital Outlay | — | 1,168 |
| Subtotal Expenditures | 243,009 | 250,986 |
| Re-appropriation of Funds to FY 2004 | — | 40,000 |
| Total Expenditures | \$ 243,009 | \$ 290,986 |

Senate Commerce Committee

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FY 2004 Kansas, Inc. Board of Directors

Board Member Representation in Italics

————— Co – Chairs —————

Governor Kathleen Sebelius

Topeka
Governor of Kansas

Lawrence L. McCants

First National Bank, Goodland
Financial Services – Commercial Banking

————— Members —————

Stan R. Ahlerich

Ahlerich Farms, Winfield
Agriculture

Gene Argo

American Rodeo Company, Hays
Small Business Owners

Patti Bossert

Key Staffing, Topeka
Professional and Business Services

Tom Burroughs

State Representative, Kansas City
House Minority Party Designee

Anthony Hensley

State Senator, Topeka
Senate Minority Leader

Donna Johnson

Pinnacle Technology, Lawrence
Primary Industry

Dave Kerr

State Senator, Hutchinson
Senate President

Wil Leiker

Kansas AFL-CIO, Topeka
Labor

Lieutenant Governor John Moore

Secretary of Commerce, Topeka
Kansas Department of Commerce

Reginald Robinson

Kansas Board of Regents, Topeka
Kansas Board of Regents

Don Schnacke

Donald P Schnacke, P.A., Topeka
Oil and Gas Industry

Paul Stephenson

PDS Company, Wichita
Financial Services – Risk Capital

Stephen L. Waite

Kansas Calvary, El Dorado
Commanding General of the Kansas Calvary

Kenny Wilk

State Representative, Lansing
House Majority Party Designee

Board Members leaving during fiscal year 2004



Rollie Vincent

Cessna Aircraft Company, Wichita
Aviation Industry



Charles Comeau

Dessin Fournir, Plainville
Small Business Owners
Senate Commerce Committee

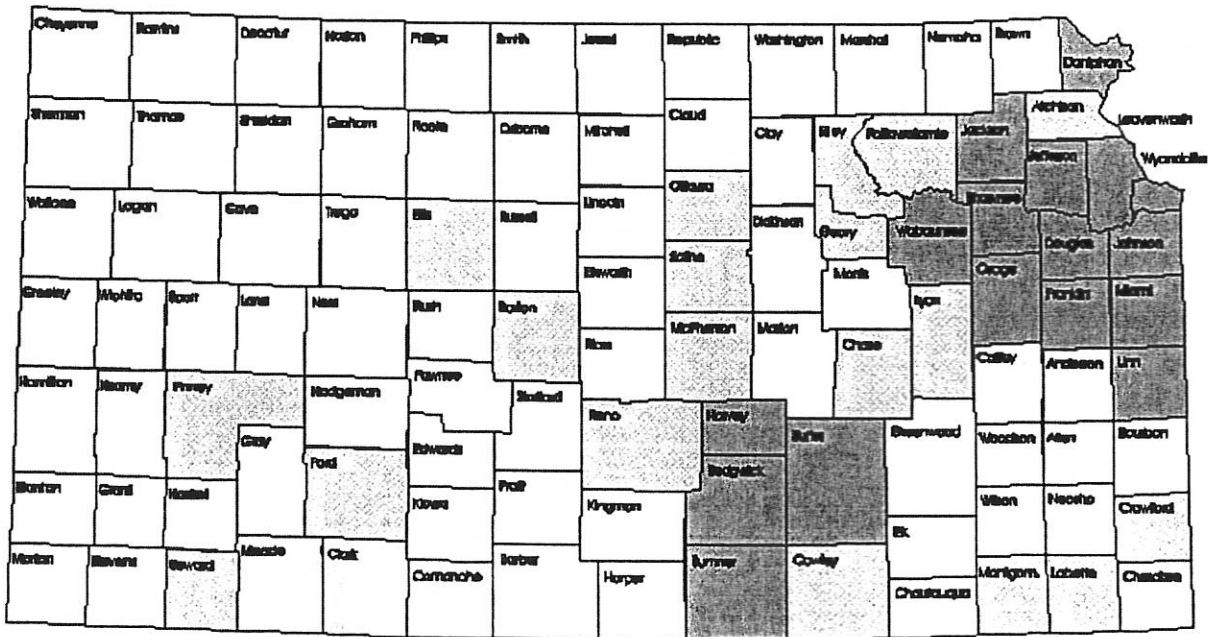
For this annual report and future reports, Kansas, Inc. is adopting changes made by the U.S. Census Bureau in defining individual counties and county groups.

1. **Metropolitan Statistical Areas (MSAs)** have at least one urbanized area of 50,000 or more population, plus adjacent territory that has a high degree of social and economic integration with the core as measured by commuting ties. *Eight Kansas counties were added to the nine counties previously designated as MSAs.*

2. **Micropolitan Statistical Areas** – a new set of statistical areas – have at least one urban cluster of at least 10,000 but less than 50,000 population, plus adjacent territory that has a high degree of social and economic integration with the core as measured by commuting ties. The U.S. Census Bureau has designated *19 Kansas counties as Micropolitan Statistical Areas.*

3. **Rural Counties** are defined those counties that are not covered under the Metropolitan and Micropolitan definitions. *Kansas has 69 rural counties.*

U.S. Census Bureau Designations of Kansas Counties

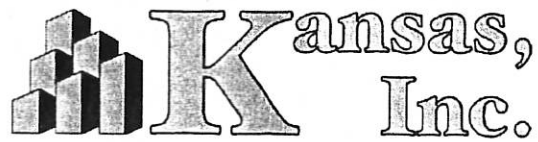


- Metropolitan Counties
- Micropolitan Counties
- Rural Counties

Senate Commerce Committee

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Topeka, KS 66603
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Senate Commerce Committee

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Attachment 3-16

**Sales Tax Exemptions and Income Tax
Credits for Economic Development:
*Report for Tax Year 2002***

Prepared by

KANSAS INC.

May 2004

Senate Commerce Committee

2-16-05

Attachment 4-1

KANSAS INC.

Jerry Lonergan, President

632 S.W. Van Buren, Suite 100, Topeka, Kansas 66603
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www.kansasinc.org
ksinc@ink.org

May 2004

Greetings:

Since 1994, Kansas Inc. has prepared reports seeking to evaluate the cost effectiveness of various tax credit and sales tax exemption programs enacted to encourage economic development within the state. Over the years, research methodology has changed with the objective of preserving confidential corporate taxpayer information and providing a more accurate evaluation of the economic development tax incentive programs. Unfortunately, the research methodology established nearly two years ago that created the survey questionnaire used in this report proved ineffective in evaluating individual tax incentive programs and the overall impact of Kansas incentives.

This report, prepared by Research Analyst Sean Tomb, provides interesting insight into a segment of Kansas's corporate taxpayers. For example, half of all corporations responding to the questionnaire indicated they would have proceeded with their project as planned, even if the economic development tax incentive programs were not available. In contrast, 14.5 percent of the firms would have left the state and invested in other locations without the availability of the tax incentives. These suggest the state's tax incentive programs can be improved in order to strengthen our approach to economic development.

The 2004 Legislature transferred the responsibility of producing this report to the Kansas Department of Revenue (KDOR) on or after January 1, 2006 (H.B. 2647). This transfer of duties, supported by Kansas Inc., requires KDOR to produce a report that evaluates the cost effectiveness of the state's economic development tax incentive programs. Discussions are underway between Kansas Inc. and KDOR to help create a reliable method to evaluate the effectiveness of the state's economic development tax incentive programs for future reports. Kansas Inc. is grateful to KDOR for their continued cooperation.

As a cost-saving strategy future Kansas Inc. reports will be made available at the organization's web site. Mailings will include the executive summary, a note on how to access the report online, and a contact phone number to request a hard copy of the report.

Sincerely,



Jerry Lonergan

Board of Directors

Governor Kathleen Sebelius, *Co-Chair*

Lawrence L. McCants, *Co-Chair*

Stan Ahlerich • Gene Argo • Patti Bossert • Tom Burroughs • Anthony Hensley • Donna Johnson • Dave Kerr • Will Leiker
John E. Moore • Reginald L. Robinson • Donald Schnacke • Paul Stephenson • Stephen L. W

Senate Commerce Committee

Attachment 4-2

INTRODUCTION

Tax Year 2002 Report Limitations

Tax incentive reports prior to the 2002 tax year lacked the necessary wage and job information from employers receiving tax incentives to adequately perform an analysis of the incentive programs used by the state. Methodology and the questionnaire developed for this report attempted to deliver that information, however, there are three reasons to be suspect of any conclusions drawn from this data. First, the data is self-reported; no mechanism is in place to verify claims. Second, firms that participate in multiple tax incentive programs are only required to fill out one form, making it impossible to report accurate information on individual incentive programs. Finally, the procedures for filling out the questionnaire were unclear, leading to inaccurate, incomplete or misleading information.

Previous leadership of the Kansas Department of Revenue (KDOR) and Kansas Inc. jointly developed the 2002 Economic Development Incentive Questionnaire. The questionnaire was developed to gain insight on job creation and investment associated with the state's economic development incentive programs. This questionnaire is not effective in analyzing the cost effectiveness of individual tax incentive plans. Compliance with filling out the required corporate questionnaire varied widely by incentive program: High Performance Incentive Program (HPIP) had a 94.6% response rate, while only 1.9% of the participants of the Kansas Enterprise Zone tax credit submitted their questionnaires. The inability to gather complete and reliable data does not allow an accurate analysis of the impacts of individual incentive programs. However, Kansas Inc. is able to analyze the data from questionnaire respondents on a general and overall basis.

The survey was designed to capture information only from corporate taxpayers, all of which are required to fill out the questionnaire regardless of their participation in any economic development tax incentive program (K.S.A. 74-8017). The tax incentive programs examined in this report are not limited to corporate taxpayers. Analysis of individual or privilege taxpayers² who receive these tax incentives is not available in this study.

The data collected from corporate questionnaires also contained several limitations. Eighty-two of 136 (60.3%) corporate questionnaires, identified as receiving economic development tax incentives, did not answer all questions in the survey. Additionally, without violating confidentiality agreements about revealing corporate taxpayer information, Kansas Inc. believes data from questionnaires of some large firms overestimated the amount of investment and job creation specifically associated with these tax incentives. This practice has skewed the conclusions about the overall cost effectiveness of the states tax incentive programs. These problems potentially could have been avoided if the survey had been pre-tested for clarity and for the ability to answer the research questions. An accurate analysis of each tax incentive program would only be possible if more complete data was available and a significant number of all corporations that receive the incentives were captured in the study. With access to necessary data, KDOR should be able to provide this information in future reports.

² Privilege tax is an income tax paid by financial institutions. Privilege taxes are assessed against net earnings of every national banking association, bank, trust company, federally chartered savings bank, and savings and loan association. All such entities must file a Kansas Privilege tax return.

KEY FINDINGS

The Economic Development Incentive Questionnaire developed under the previous leadership of the Kansas Department of Revenue (KDOR) and Kansas Inc. does not allow a statistically valid evaluation of the cost effectiveness of individual tax incentive programs. Although the study methodology contains flaws and the report cannot provide a complete analysis of economic development tax incentive programs in Kansas, it does provide a snapshot into the opinions and benefits of tax incentives to a segment of the state's corporate taxpayers.

Methodology/Process Problems:

- Due to the lack of consistent responses from corporations on a uniform basis, information on overall investment, wages, and job creation associated with the economic development tax incentive programs is not available.
- 82 of 136 (60.3%) corporate questionnaires, identified as receiving economic development tax incentives, did not answer all questions in the survey. This problem potentially could have been avoided if the survey had been pre-tested for clarity and for the ability to answer the research questions.
- 6,093 (less than 20%) of the estimated 39,000 corporate tax filers submitted the required questionnaire to KDOR. Only 136 questionnaires were received from participants in economic development tax incentive programs for tax year 2002.
- Compliance with filling out the required corporate questionnaire varied widely by incentive program: High Performance Incentive Program (HPIP) had a 94.6% response rate, while only 1.9% of the participants of the Kansas Enterprise Zone tax credit submitted their questionnaires.

Tax Year 2002 Questionnaire:

- Across all taxpayer classifications, more than \$75,000,000¹ worth of economic development sales tax exemptions and income tax credits were granted for tax year 2002. The questionnaire was only distributed to corporate filers and those responding accounted for \$15.8 million of the total incentives claimed.
- 14.5% of the responding corporations reported that they seriously considered undertaking their economic development project in another state.
- 50% of respondents stated their project would have proceeded as planned if economic incentive programs were not available to them.
- Owner's place of residence, tax incentives, and quality of life were the three most popular answers on why firms undertook the project in Kansas.

¹ This figure does not include data from the Integrated Production Machinery and Equipment (IPME) sales tax exemption or any confidential data from less than five filers.

Senate Commerce Committee

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The tax year 2003 questionnaire was developed and distributed to corporate taxpayers prior to the analysis and discovery of methodology problems in the tax year 2002 data. Kansas Inc. has already received completed 2003 Economic Development Incentive Questionnaires from KDOR. Unfortunately, the analysis of the tax year 2003 questionnaire data will contain many of the same problems that are found in this study.³ Discussions are underway between Kansas Inc. and KDOR to help create a valid and reliable method to evaluate the effectiveness of the state's economic development tax incentive programs for future reports.

Although the study methodology contains flaws and the report cannot provide a complete analysis of economic development tax incentive programs in Kansas, it does provide a snapshot into the opinions and benefits of tax incentives to a segment of the state's corporate taxpayers.

Legislative History

In 1994, the Kansas legislature passed H.B. 2556 (K.S.A. 74-8017) giving Kansas Inc. the responsibility to prepare an annual report evaluating the cost effectiveness of specific income tax credits and sales tax exemptions enacted to encourage economic development within the state. The report is to be submitted to the standing committees on Taxation and Economic Development of the House and Assessment and Taxation and Commerce of the Senate.

Changes were made to K.S.A 74-8017 during the 2001 legislative session in an effort to improve the data collection process with Kansas Inc. seeking to perform a more accurate analysis of the cost effectiveness of the state's economic development tax incentive programs beginning with tax year 2002. The tax year 2002 report uses the Economic Development Incentive Questionnaire to evaluate the economic development sales tax exemption and income tax credit programs.

The 2004 Legislature transferred the responsibility of producing this report to the KDOR on or after January 1, 2006 (H.B. 2647). This transfer of duties, supported by Kansas Inc., requires KDOR to produce a report that evaluates the cost effectiveness of the state's economic development tax incentive programs. KDOR is better suited for this responsibility with their access to confidential corporate taxpayer information. Additionally, Kansas Inc. lacked the ability to control and enforce the collection of questionnaires from corporate taxpayers.

Economic Development Incentive Questionnaire Tax year 2002

Sales tax exemption programs examined:

1. Kansas Enterprise Zone Act Sales Tax Exemption
2. Integrated Production Machinery and Equipment Sales Tax Exemption (IPME)

Income tax credit programs examined:

1. Kansas Enterprise Zone Act- Tax Credit
2. Job Expansion and Investment Credit Act (JEICA) Tax Credit
3. High Performance Incentive Program (HPIP): Workforce Training and Education Tax Credit
4. High Performance Incentive Program (HPIP): Investment Credit
5. Research and Development Credit (R&D)
6. Kansas Venture Capital and Seed Capital Credits

³ The 2003 questionnaire was changed to require only those who receive the tax incentives to submit the questionnaire with their 2003 tax return. This change was made only to the questionnaire and statutorily all corporations are still required to submit the questionnaire (K.S.A 74-8017).

SECTION 1: ECONOMIC DEVELOPMENT QUESTIONNAIRE RESULTS

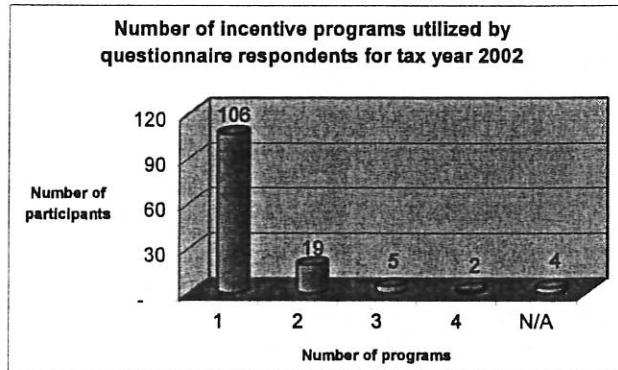
For tax year 2002, all corporate taxpayers were required to complete the State of Kansas Economic Development Incentive Questionnaire (see appendix A) in conjunction with their corporate tax return filed with KDOR. The questionnaire is published in the State of Kansas corporate tax booklet and available for download at the KDOR website. Kansas Inc. received corporate questionnaires from 6,093 (less than 20%) of the estimated 39,000 corporate taxpayers. The staff of Kansas Inc. received and analyzed questionnaires from 136 corporate tax filers; collectively this group reported participating in 166 economic development incentive programs for tax year 2002.⁴ This amounts to all questionnaires received by Kansas Inc. that answered "yes" to the first question, indicating participation in at least one economic development incentive program. The completion of the entire or other sections of the questionnaire varied widely, hence the reason for incomplete data on individual questions.

Respondents to the State of Kansas Economic Development Incentive Questionnaire were identified as participating in the following incentive programs. The 26 "Multiple" respondents reported participation in 61 distinct tax incentive programs.

| | |
|------------------------|----|
| JEICA | 52 |
| IPME | 26 |
| Multiple | 26 |
| HPIP Invest | 14 |
| HPIP Workforce | 3 |
| R&D | 9 |
| Enterprise Zone Sales | 1 |
| Enterprise Zone Credit | 1 |
| N/A incomplete data | 4 |

| | |
|------------------------|----|
| JEICA | 18 |
| HPIP Invest | 14 |
| IPME | 8 |
| HPIP Workforce | 9 |
| R&D | 7 |
| Enterprise Zone Sales | 3 |
| Enterprise Zone Credit | 2 |

Participation: 80.9% of questionnaire respondents (106) reported participating in only one tax incentive program for tax year 2002. The upper limit found two firms claiming participation in four tax incentive programs for tax year 2002. Seventy firms, slightly more than half (51.4%) of all respondents reported participating in the Job Expansion and Investment Credit Act tax credit program. No corporation reported receiving the Kansas Venture Capital and Seed Capital Credits for tax year 2002.



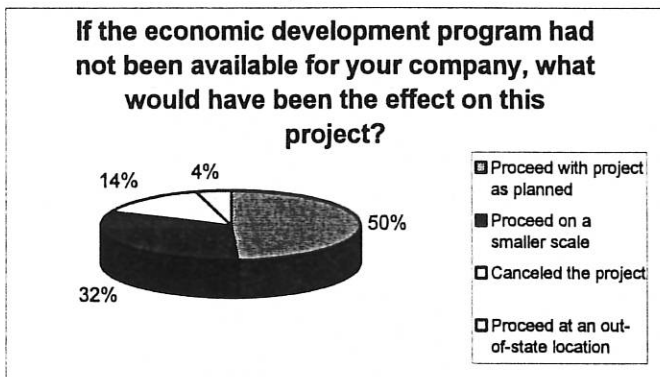
Corporate questionnaire respondents reported \$6,800,546 in sales tax exemptions and \$9,014,589 in income tax credits for tax year 2002. Across all taxpayer classifications, more than

⁴ Data as of April 1, 2004. Economic Development Incentive Questionnaires for tax year 2002 were still being delivered to Kansas Inc. at the time of publication.

\$75,000,000 worth of sales tax exemptions and income tax credits were granted for tax year 2002.⁵

Investment and Job Creation: Questionnaire respondents were asked to report the total level of investment, wages, and job creation associated with the tax incentive programs for tax year 2002. Numerous firms listed their overall investment, wage and job numbers instead of listing only the values specifically attributed to the incentive programs. Firms were also not given specific instructions to differentiate between in-state and overall investment; thus it is unclear whether this represents investment in Kansas. *Due to the lack of consistent data reported from corporations on a uniform basis, information on overall investment, wage and job creation associated with the economic development tax incentive programs is not available.*

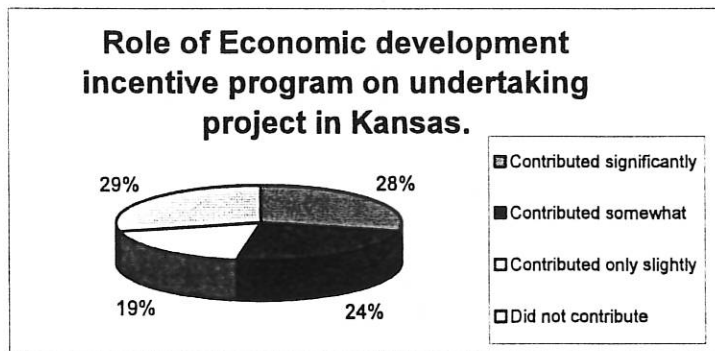
Overview of Firms: The data from several questions suggests that most firms that receive the state's economic development tax incentives are not rent-seeking mobile firms searching for the



best incentives available from other states. Fully 50% of respondents would proceed with the project as planned in Kansas even if tax incentive programs were not available. An additional 32% of firms would still proceed with the project in Kansas, but on a smaller scale. Only 18% would cancel or move the project out-of-state if economic development tax incentives were not available. None of the firms who would have proceeded

with the project as planned reported the economic development incentive program contributed significantly to their decision to go ahead with the project in Kansas.⁶

Mixed results were found on determining to what extent the state's economic development incentive programs factored in the firms decision to go ahead with the project in Kansas. The four possible answers to this question were fairly evenly divided; 29% of respondents stated the economic development incentives did not contribute to undertaking the project in Kansas while 28% stated they contributed significantly, 24% contributed somewhat and 19% contributed only slightly.



⁵ This figure does not include data from the IPME sales tax exemption or confidential data from less than 5 filers in any category.

⁶ Of the 55 corporate questionnaire respondents that would have proceeded with the project as planned, 56.4% stated the economic development incentives did not contribute to undertaking the project in Kansas, while 29.1% contributed only slightly, and 14.5% contributed somewhat. These firms accounted for \$1.7 million in tax incentives.

The data from the questionnaire show 100 of 117 (85.5%) corporations did not seriously consider undertaking this project in another state. This is supported by data showing most of the respondents (83.5%) utilized economic development incentive program to expand an existing Kansas facility.

The questionnaire asked corporate tax filers the three (3) most important reasons for your firm's ultimate decision to undertake the project in Kansas. Owner's place of residence, tax incentives, and quality of life were the three most popular answers. Responses in the "Tax incentives" and "Financial incentives" categories include benefits from local and state incentive programs.

| Most important reasons for undertaking the project in Kansas (Three answers accepted) | |
|--|------------|
| Owner's place of residence | 56.4% (62) |
| Tax incentives | 46.4% (51) |
| Quality of life | 36.4% (40) |
| Proximity to markets | 30.9% (34) |
| Skilled labor force | 22.7% (25) |
| Financial incentives ⁷ | 20.0% (22) |
| Labor costs | 8.2% (9) |
| Transportation infrastructure | 7.3% (8) |
| Aggressive recruitment efforts | 3.6% (4) |
| Training/education | 3.6% (4) |
| Cost and availability of energy, water, or other inputs | 2.7% (3) |
| Competitive tax structure | 1.8% (2) |
| Other ⁸ | 22.7% (25) |

⁷ Most participants listed HPIP training programs.

⁸ Most of the responses in the "other" category explain expansion of existing business operations. Additional responses included the quality of the facility/building and the benefits of disabled access credits.

SECTION 2: SALES TAX EXEMPTIONS EXAMINED

Kansas Enterprise Zone Act Sales Tax Exemption K.S.A. 79-3606(cc)

The Kansas Enterprise Zone Act provides for a sales tax exemption on the purchase of certain tangible property and services purchased for new or expanding businesses. To be eligible, a business must create a minimum number of net new jobs depending on the type of business, i.e. retail, manufacturing, or non-manufacturing. To qualify for the Kansas sales tax exemption, the business must file a "Request for Project Exemption Certificate" form PR-70b with the KDOR prior to incurring any of the project costs.

| Tax Year 2002 Total Filers | | | | |
|----------------------------|-------------------------------|------------------------------------|--|--|
| Type of Business | Number of Certificates Issued | Reported Project Cost ⁹ | Forgone Taxable Project Cost ¹⁰ | Estimated Sales Tax Exempted ¹¹ |
| Manufacturing | 149 | \$429,998,499 | \$319,739,906 | \$16,563,644 |
| Non-manufacturing | 88 | \$543,309,820 | \$418,646,548 | \$20,901,323 |
| Retail | 71 | \$44,543,602 | \$27,886,015 | \$1,430,638 |
| Total | 308 | \$1,017,851,921 | \$766,272,469 | \$38,895,605 |

| Questionnaire Respondents Kansas Enterprise Zone Act Sales Tax Exemption | | |
|---|---------------|-------------------|
| One Program | Multi-Program | Total Respondents |
| 1 | 3 | 4 |

Kansas Inc. received questionnaires from four corporations participating the Kansas Enterprise Zone Act sales tax exemption program under K.S.A. 79-3606(cc). Information was not available from KDOR on how many sales tax exemptions were from corporate tax filers for tax year 2002.

⁹ This is the total estimated project cost reported to KDOR. At the time of issue, these costs were not audited.

¹⁰ Depending on project type, estimates of exempted taxable amounts are made, using the following percent: addition to facility at 60%; additional machinery & equip at 100%; original construction at 60%; remodel existing facility at 100%.

¹¹ Estimated exempted taxable costs times sales tax rate of 4.9% prior to July 1, 2002 and 5.3% after.

Integrated Production Machinery and Equipment Sales Tax Exemption
K.S.A. 79-3606(kk)

The IPME sales tax exemption program exempts all sales of machinery and equipment (including repair and replacement parts and accessories), which is used in Kansas as an integral or essential part of an integrated production operation by a manufacturing or processing plant or facility. A manufacturer/purchaser must submit the "Integrated Production Machinery and Equipment Exemption Certificate" form ST-201 to the vendor to claim this sales tax exemption.

| Questionnaire Respondents | | |
|---|---------------|-------------------|
| Integrated Production Machinery and Equipment Sales Tax Exemption | | |
| One Program | Multi-Program | Total Respondents |
| 26 | 8 | 34 |

Kansas Inc. received questionnaires from 34 corporations participating in the IPME sales tax exemption program. Information on corporate and overall taxpayers receiving the IPME sales tax exemption was unavailable from KDOR for tax year 2002.

2-16-05

SECTION 3: INCOME TAX CREDITS EXAMINED

Kansas Enterprise Zone Act- Tax Credit

K.S.A. 79-32, 160a

The Kansas Enterprise Zone Act provides a tax credit for manufacturing and non-manufacturing companies, which make an investment and create jobs as a result of that investment. This act provides tax incentives throughout the state encouraging businesses to create new jobs through capital investment projects involving the building of new facilities or the expansion or renovation of existing facilities. Schedule K-34 must be completed and submitted with the state tax return to claim the Kansas Enterprise Zone tax credit.

The job creation tax credit component of the Kansas Enterprise Zone Act allows for one-time earned credits to be applied against the business' Kansas tax liability. The basic job creation tax credit is \$1,500 per net new job. If a county has been designated as a non-metropolitan business region, the credit is \$2,500 per net new job. The credits may be used to offset up to 100% of the business' annual tax liability and unused credits can be carried forward indefinitely. Retail businesses are not eligible for these credits unless that retail business has established or will establish a business headquarters facility or an ancillary support facility in Kansas. Those retail businesses that are designated under standard industrial classification codes 5961, 7948 or 7372 shall also qualify for this credit.

| Tax Year 2002 Individual Filers | | | |
|---------------------------------|--------|----------------|-----------------|
| Filers | Claims | Credit claimed | Credits allowed |
| 79 | 104 | \$1,271,878 | \$605,943 |

| Tax Year 2002 Corporate Filers | | | |
|--------------------------------|--------|----------------|-----------------|
| Filers | Claims | Credit claimed | Credits allowed |
| 155 | 204 | \$12,728,536 | \$8,792,518 |

| Tax Year 2002 Privilege Filers | | | |
|--------------------------------|--------|----------------|-----------------|
| Filers | Claims | Credit claimed | Credits allowed |
| CONFIDENTIAL ¹² | | | |

| Tax Year 2002 Total Filers | | | |
|----------------------------|--------|----------------|-----------------|
| Filers | Claims | Credit claimed | Credits allowed |
| 234 | 308 | \$14,000,414 | \$9,388,461 |

| Questionnaire Respondents Kansas Enterprise Zone Act Tax Credit | | |
|--|---------------|-------------------|
| One Program | Multi-Program | Total Respondents |
| 1 | 2 | 3 |

Kansas Inc. received questionnaires from three of the 155 (1.9%) corporations participating in the Kansas Enterprise Zone Act tax credit program. This represents 1.3% of the total filers for the Enterprise Zone tax credits for tax year 2002.

¹² This information is confidential as there are less than five filers. This information is not included in the total.

Job Expansion and Investment Credit Act
K.S.A. 79-32,153

The *Job Expansion and Investment Tax Credit Act of 1976* provides business incentives for those businesses that may not qualify for the Enterprise Zone incentives, such as retail businesses, or non-manufacturing businesses that do not create at least five new jobs. Eligibility for JEICA tax credit requires the creation of at least two net new jobs. Schedule K-34 must be completed and submitted with the state tax return to claim the JEICA tax credit.

This Act provides a job expansion credit of \$100 per net new employee and an investment tax credit of \$100 per \$100,000 of qualified investment. These credits are earned in the year the capital investment is made and becomes operational and for each of nine successive years thereafter. Credits may be used to offset up to 50% of the business' Kansas tax liability. Unused credits may not be carried forward.

| Tax Year 2002 Individual Filers | | | |
|---------------------------------|--------|----------------|-----------------|
| Filers | Claims | Credit claimed | Credits allowed |
| 222 | 308 | \$655,117 | \$529,355 |

| Tax Year 2002 Corporate Filers | | | |
|--------------------------------|--------|----------------|-----------------|
| Filers | Claims | Credit claimed | Credits allowed |
| 145 | 428 | \$4,564,330 | \$4,520,612 |

| Tax Year 2002 Privilege Filers | | | |
|--------------------------------|--------|----------------|-----------------|
| Filers | Claims | Credit claimed | Credits allowed |
| 19 | 27 | \$48,430 | \$48,430 |

| Tax Year 2002 Total Filers | | | |
|----------------------------|--------|----------------|-----------------|
| Filers | Claims | Credit claimed | Credits allowed |
| 386 | 758 | \$5,267,077 | \$5,098,397 |

| Questionnaire Respondents | | |
|---|---------------|-------------------|
| Job Expansion and Investment Tax Credit | | |
| One Program | Multi-Program | Total Respondents |
| 52 | 18 | 70 |

Kansas Inc. received questionnaires from 70 of the 145 (48.3%) corporations participating in the JEICA tax credit program. This represents 18.1 % of the total filers for the JEICA tax credits for tax year 2002.

High Performance Incentive Program: Workforce Training and Education Tax Credit

K.S.A 74-50, 132

High Performance Incentive Program: Investment Credit

K.S.A 79-32, 160a(e)

The HPIP program is administered as an incentive program that intrinsically requires foreknowledge in order to access program benefits. The intent of this program is to retain Kansas' existing high-performance businesses, encourage investment in worker training and education, and spur the attraction of new, high-quality firms to the state. The incentives offered under this program are limited to manufacturers, export-oriented service sector firms, and corporate headquarters and back-office operations of national or multi-national corporations.

To be eligible, a firm must either a) Pay above average wages for their industry category or, b) Pay 1 1/2 times the statewide average wage, after eliminating compensation paid to owners with 5% or more equity in the company. The wages at the firm's worksite in Douglas, Johnson, Leavenworth, Sedgwick, Shawnee, or Wyandotte County are compared with wages of similar businesses within the same county. The firm's worksite wages in any other county are compared with regional averages. Besides the wage criterion, all qualifying worksites must also either invest an amount equal to 2% of its total payroll on employee training, or else participate in the Kansas Industrial Training (KIT) program, or the Kansas Industrial Retraining (KIR) program, or the State of Kansas Investment in Lifelong Learning (SKILL) program. In addition, the qualifying worksites of export oriented service sector firms must also earn the majority of their revenues from sales to Kansas manufacturers, or out-of-state businesses, or out-of-state government agencies, or some combination of these kinds of customers. The qualifying worksite of a firm must be certified by the Kansas Department of Commerce before the firm can claim any tax credits. Schedule K-59 must be completed and submitted with the state income tax return to claim HPIP tax credits. Data on these two tax credits are jointly reported from the KDOR and is unavailable on an individual credit (training and education vs. investment) basis.

HPIP: Workforce Training and Education Tax Credit

A qualified firm shall be entitled to a tax credit in the amount equal to the portion of the qualified business facility cash investment in the training and education of the firm's employees that exceeds 2% of the firm's total payroll costs. The maximum amount of the credit that may be claimed by a single corporate taxpayer in any single tax year under this section shall not exceed \$50,000. Tax credits earned by a qualified business under this section must be claimed in their entirety in the tax year eligible.

HPIP: Investment Credit

Qualifying businesses are eligible for a 10% investment tax credit on any eligible capital investment exceeding \$50,000. To be potentially eligible for HPIP tax credits, all investment must be pre-identified to the Kansas Department of Commerce on an HPIP Capital Investment Project Description form, before the company has made any expenditure or signed any commitment document (e.g., an equipment purchase order, or a lease agreement, or a construction contract). To effect actual eligibility for tax credits, the pre-identified investment

must occur, and the related asset must be placed into service, while the company's qualifying worksite is HPIP-certified. The investment tax credit is a one-time credit with a 10-year carry-over provision, subject to re-qualification, for any unused credits. An investment credit may be applied against 100% of a firm's annual tax liability.

| Tax Year 2002 Individual Filers | | | |
|---------------------------------|--------|----------------|-----------------|
| Filers | Claims | Credit claimed | Credits allowed |
| 75 | 96 | \$2,092,219 | \$1,257,637 |

| Tax Year 2002 Corporate Filers | | | |
|--------------------------------|--------|----------------|-----------------|
| Filers | Claims | Credit claimed | Credits allowed |
| 37 | 47 | \$71,477,939 | \$19,755,506 |

| Tax Year 2002 Privilege Filers | | | |
|--------------------------------|--------|----------------|-----------------|
| Filers | Claims | Credit claimed | Credits allowed |
| CONFIDENTIAL ¹³ | | | |

| Tax Year 2002 Total Filers | | | |
|----------------------------|--------|----------------|-----------------|
| Filers | Claims | Credit claimed | Credits allowed |
| 112 | 143 | \$73,570,158 | \$21,015,143 |

| Questionnaire Respondents HPIP Tax Credit Program | | | |
|--|-------------|-----------------------------|-------------------|
| | One Program | Multi-Program ¹⁴ | Total respondents |
| HPIP-WORK | 3 | 9 | 12 |
| HPIP-INVEST | 14 | 14 | 28 |
| TOTAL | 17 | 23 | 40 |

Kansas Inc. received questionnaires from 35 of the 37 (94.6%) corporations participating in the HPIP tax credit program. This represents 31.3% of the total filers for the HPIP tax credit program for tax year 2002.

¹³ This information is confidential as there are less than five filers. This information is not included in the total.

¹⁴ Five questionnaires claimed participation in both the HPIP: Workforce Training and Education Tax Credit and the HPIP: Investment Tax Credit for tax year 2002

Research and Development Credit

KSA 79-32,182 et seq.

In order to stimulate increased research and development activity by businesses, the State of Kansas offers R&D income tax credits equal to 6.5% of a company's investment in research and development above an average of the actual expenditures made during the year and the two previous tax years. Only 25% of the allowable annual credit may be claimed in any one year. Any remaining credit may be carried forward in 25% increments until exhausted.

Research is defined as "expenditures in research and development activities" made for such purposes, other than expenditures of money made available to the taxpayer pursuant to federal or state law, which are treated as expenses allowable for deduction under the provisions of the Federal Internal Revenue Code of 1986, as amended. Schedule K-53 must be completed and submitted with the state income tax return to claim the R&D credit.

| Tax Year 2002 Individual Filers | | | |
|---------------------------------|--------|----------------|-----------------|
| Filers | Claims | Credit claimed | Credits allowed |
| 54 | 62 | \$ 147,008 | \$ 51,389 |

| Tax Year 2002 Corporate Filers | | | |
|--------------------------------|--------|----------------|-----------------|
| Filers | Claims | Credit claimed | Credits allowed |
| 59 | 72 | \$ 12,609,480 | \$ 997,203 |

| Tax Year 2002 Total Filers | | | |
|----------------------------|--------|----------------|-----------------|
| Filers | Claims | Credit claimed | Credits allowed |
| 113 | 134 | \$ 12,756,488 | \$ 1,048,592 |

| Questionnaire Respondents Research and Development Tax Credit | | |
|--|---------------|-------------------|
| One Program | Multi-Program | Total respondents |
| 9 | 7 | 16 |

Kansas Inc. received questionnaires from 16 of the 59 (27.1%) corporations participating in the R&D tax credit program. This represents 14.2% of the total filers for the R&D tax credits for tax year 2002.

Kansas Venture Capital and Seed Capital Credits

K.S.A. 74-8205, 74-8206, 74-8304, 74-8304a, 74-8401

A tax credit in the amount of 25% of the total amount of cash investment in the stock of Certified Kansas Venture Capital Companies was effective for all taxable years beginning after December 31, 1985 and before January 1, 1998. Additionally, credits were offered for investment in the Kansas Venture Capital Company, certified local seed capital pools and the technology-based venture capital company (Sunflower Technology Venture, LP). Any unused credit may be carried forward until the total amount is used.

A Kansas venture capital company is any for-profit partnership or corporation that has as its primary business activity the investment of funds in return for equity in ventures that are in need of capital for expansion, new product development or similar business purposes. The Kansas Secretary of Commerce must certify a venture capital company and a local seed capital pool. Schedule K-55 must be completed and submitted with the income or privilege tax return to claim the venture capital credit and a local seed capital pool credit.

| Tax Year 2002 Individual filers | | | |
|---------------------------------|--------|----------------|-----------------|
| Filers | Claims | Credit claimed | Credits allowed |
| 5 | 7 | \$ 17,082 | \$ 31,261 |

| Tax Year 2002 Corporate filers | | | |
|--------------------------------|--------|----------------|-----------------|
| Filers | Claims | Credit claimed | Credits allowed |
| CONFIDENTIAL ¹⁵ | | | |

| Tax Year 2002 Total filers | | | |
|----------------------------|--------|----------------|-----------------|
| Filers | Claims | Credit claimed | Credits allowed |
| 5 | 7 | \$ 17,082 | \$ 31,261 |

| Questionnaire Respondents Kansas Venture Capital and Seed Capital | | |
|--|---------------|-------------------|
| One Program | Multi-Program | Total respondents |
| 0 | 0 | 0 |

No questionnaires were received from corporate tax filers participating in the Kansas Venture Capital and Seed Capital program for tax year 2002.

¹⁵ This information is confidential as there are less than five filers. This information is not included in the total.

Appendix A: State of Kansas Economic Development Incentive Questionnaire

STATE OF KANSAS ECONOMIC DEVELOPMENT INCENTIVE QUESTIONNAIRE

All Kansas corporate income taxpayers are required, pursuant to K.S.A. 74-8017, to complete the following questionnaire regarding economic development income tax credits and sales tax exemptions. The information requested by the questionnaire is required to evaluate the utilization and effectiveness of these economic development and business tax credits and incentives provided by the state of Kansas.

The information you provide in this questionnaire will be supplied to Kansas, Inc. by the Kansas Department of Revenue (KDOR). Kansas, Inc. is subject to the same confidentiality requirements as the Department of Revenue with respect to this information. Your responses will be kept in the strictest of confidence and will only be reported to Kansas, Inc. for use in preparing the reports required by K.S.A. 74-8017. If you have any questions, call the Department of Revenue at 1-877-526-7738, press 1 for a touch-tone phone (listen briefly), press 5 for Business Taxes (listen briefly), then press 3 for Corporate Taxes.

INCOME TAX CREDITS

- Job Expansion and Investment Credit Act and Kansas Enterprise Zone Act, K.S.A. 79-32,153, K.S.A. 79-32,160a
• Research and Development Credit, K.S.A. 79-32,182
• Kansas Venture Capital and Seed Capital Credits, K.S.A. 74-8205, 74-8206, 74-8304, 74-8304a, 74-8401
• High Performance Incentive Program (HPIP): Workforce Training and Investment Credit, K.S.A. 74-50,132, 79-32,160a(e)

SALES TAX EXEMPTIONS

- Kansas Enterprise Zone Act Sales Tax Exemption, K.S.A. 79-3606(cc)
• Integrated Production Machinery & Equipment Sales Tax Exemption, K.S.A. 79-3606(kk)

CONTACT INFORMATION

The Kansas Department of Revenue will retain the contact information in strict confidentiality. However, granting the incentive requires the firm or individual to cooperate with Kansas, Inc., who may conduct a follow-up interview of a sample of all recipients in order to study how important the incentive was to the investment/location decision.

Company Name

Contact Person

Name E-mail Address Phone Number

Company Mailing Address

City State Zip Code

Federal Employer Identification Number (EIN)

1. Did you claim any of the income tax credits or sales tax exemptions shown above during tax year 2002?

- No (If no, this completes the questionnaire. Please enclose this questionnaire with the corporate tax return filed with KDOR.)
□ Yes (If yes, check any and all of the income tax credits and sales tax exemptions claimed, then proceed to question 2.)
□ Job Expansion and Investment Credit Act - Tax Credit
□ Kansas Enterprise Zone Act - Tax Credit
□ Research and Development Credit
□ Kansas Venture Capital and Seed Capital Credits
□ HPIP Workforce Training and Education Tax Credit
□ HPIP Investment Credit
□ Kansas Enterprise Zone Act - Sales Tax Exemption
□ Integrated Production Machinery & Equipment Sales Tax Exemption

2. Did you utilize any of the income tax credits or sales tax exemptions shown above in tax year 2002?

- Yes (Proceed to question 2a.) □ No (Proceed to question 3.)

2a. What are the total dollars in income tax credits utilized in tax year 2002? \$

2b. What are the total dollars in sales tax exemptions utilized in tax year 2002? \$

If the responses to both 2a and 2b are zero, then proceed to question 3 on the back of this form.

2c. What is the total dollar level of investment in association with the above incentives? \$

2d. What are the total wages created in association with the above incentives? \$

2e. What is the total number of jobs created in association with the above incentives?

2f. Are the investments, wages and jobs associated with the income tax credits generally the same items as those associated with the sales tax exemptions?

- Generally the same items (Proceed to question 3.) □ Some items are distinct

Sales Tax Exemptions and Income Tax Credits for Economic Development: Report for Tax Year 2002

Senate Commerce Committee

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Attachment 4-17

2g. Please allocate the items by the incentives with which they were associated. Percent associated with:

| | Income tax credits: | Sales tax credits: | Both: | Total: |
|------------|---------------------|--------------------|---------|--------|
| Investment | _____ % | _____ % | _____ % | 100% |
| Wages | _____ % | _____ % | _____ % | 100% |
| Jobs | _____ % | _____ % | _____ % | 100% |

3. Please check the appropriate box that best describes the project for which the economic development program was used.
- Start-up of a new business. (Proceed to question 4.)
 - Expansion of an existing Kansas firm. (Proceed to question 4.)
 - Relocation to another city from an existing Kansas location. (Proceed to question 4.)
 - Expansion into Kansas by an out-of-state firm. (Skip question 4 and proceed to question 5.)
 - Relocation to Kansas from an out-of-state location. (Skip question 4 and proceed to question 5.)
4. Did your company seriously consider undertaking this project in another state? Yes No
5. What were the three (3) most important reasons for your firm's ultimate decision to undertake the project in Kansas?
- Aggressive recruitment efforts.
 - State and/or local tax incentives.
 - State and/or local financial incentives (i.e., grants, HPIP program, training dollars, etc.). Please specify: _____
 - Well-trained skilled labor force.
 - Cost of labor less expensive.
 - Cost and availability of energy, water, or other inputs.
 - Proximity to markets.
 - Transportation infrastructure.
 - Availability of educational/training facilities.
 - Competitive tax structure.
 - Quality of life in Kansas (i.e., education, housing, cost of living).
 - Owner's place of residence.
 - Other:
6. To what extent was the economic development program for this project a factor in your company's decision to go ahead with this project in Kansas?
- Contributed significantly.
 - Contributed somewhat.
 - Contributed only slightly.
 - Did not contribute.
7. If the economic development program had not been available for your company, what would have been the effect on this project?
- Proceeded with the project as planned.
 - Proceeded on a smaller scale.
 - Canceled the project.
 - Proceeded at an out-of-state location.
8. How many full-time employees does your company employ? Total _____ In Kansas _____

Please enclose this completed questionnaire with the income tax return you file with the Kansas Department of Revenue.

KANSAS INC.

Created by the 1986 Legislature, Kansas Inc. is an independent, objective, and non-partisan agency designed to conduct economic development research and analysis with a goal of crafting policies and recommendations to insure the state's ongoing competitiveness for economic growth. This is achieved through these primary activities: 1) developing and implementing a proactive and aggressive research agenda; 2) identifying and promoting strategies and policies from the research; 3) conducting evaluation reviews and oversight of programs; and, 4) collaboration with economic development entities and outreach to potential partners. Kansas Inc. is designed to be a public private partnership with expectations that state investments are leveraged with other funds to maintain a strong research portfolio.

A 17-member board of directors co-chaired by the Governor and a private sector representative governs Kansas Inc. Nine board members are representatives from identified industries in the private sector and other members are: the Secretary of Commerce, Legislative leadership, the Kansas Board of Regents, and a representative from labor.

BOARD OF DIRECTORS

CO-CHAIRS

Governor Kathleen Sebelius
Topeka
Co-Chair

Lawrence L. McCants
First National Bank, Goodland
Co-Chair

MEMBERS

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Ahlerich Farms, Winfield

Gene Argo
American Rodeo Company, Hays

Patti Bossert
Key Staffing, Topeka

Rep. Tom Burroughs
State Representative, Kansas City

Sen. Anthony Hensley
Senate Minority Leader, Topeka

Donna Johnson
Pinnacle Technology, Lawrence

Sen. Dave Kerr
Senate President, Hutchinson

Will Leiker
AFL- CIO, Topeka

Lt. Gov. John Moore
Secretary of Commerce & Housing, Topeka

Reginald Robinson
Kansas Board of Regents, Topeka

Don Schnacke
Donald P Schnacke, P.A., Topeka

Paul Stephenson
PDS Company, Wichita

Steven L. Waite
Kansas Calvary, El Dorado

Rep. Kenny Wilk
State Representative, Lansing

KANSAS INC. STAFF

Jerry Lonergan
President

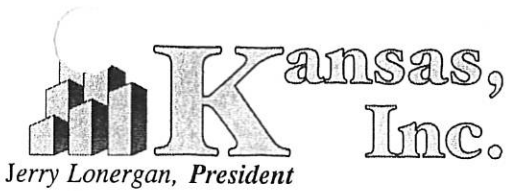
Debby Fitzhugh
Director of Operations

Sean P. Tomb
Research Analyst

Ann Marshall
Office Assistant

Senate Commerce Committee

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February 16, 2005
Testimony to the Senate Commerce Committee
Senate Bill 260

Thank you and good morning members of the Committee.

Kansas, Inc. stands in opposition to Senate Bill 260.

When first alerted to the possibility of legislation to abolish Kansas, Inc. on Friday, January 28th, Patti Bossert Co-Chair of the Kansas, Inc. Board of Directors requested a special meeting of the Board to be held the next business day, Monday, January 31st. Nine members attended in person, four members were represented by teleconference, and the three Board members unable to attend sent representatives. Only one member with significant conflicts could not participate.

The entire Board set aside their personal and business activities on short notice to discuss the organization and its future. It is a volunteer Board that believes in what Kansas, Inc. is and sees what it can be. It is a group that willingly accommodates Board and committee meetings into their busy private businesses and public service.

At the January Board of Directors meeting, the Board unanimously supported the motion that Kansas, Inc. should remain as an independent state agency and hire an independent President.

Kansas, Inc. is working and is positioned to achieve goals set out for it. Over the past year the organization:

1. Served in a leadership role as Co-Chair of the Governor's Wind and Prairie Task Force. The Board supported this participation as a fitting role for Kansas, Inc. to participate in and provide leadership in examining an important issue impacting the economy and environment of Kansas. Development of a sound and stable energy policy is vital for businesses across the state and the work of this task force and the role of Kansas, Inc. were important to the early stages of developing a comprehensive energy policy for the state.
2. The Legislature was gracious in enhancing the Kansas, Inc. research budget by \$100,000; in turn the commitment we made was that these funds would not be used until we leveraged an equal amount of resources. During the first 15 months of my presidency, we raised almost \$48,000 of cash and in-kind support from various sources (private business, grants, public partners). We are anticipating announcing at the end of this week the receipt of a \$60,000 grant, which will mean we have met that goal. This organization only raised an average of \$6,500 in funds the previous two years.
3. Funds are now in place and we will move forward with implementing the 2004-2005 research agenda. One project that was added to our agenda last year is the Indicators of the Kansas Economy (IKE), designed to become an objective and valuable source that identifies key variables that can explain current and anticipated trends of the Kansas economy.

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4. At the request of a subcommittee of the Kansas House Economic Development Committee, and with support from the Kansas Department of Commerce and the Kansas Film Commission, we prepared a report analyzing strategies for growing the film industry in Kansas.
5. Additionally, the organization has prepared since October 2003 – two annual reports, the vitality and distress report, grants and loan reports, and sales tax exemption and income tax credit report.
6. Communication, collaboration, and coordination between the state economic development organizations: Kansas, Inc., Kansas Technology Enterprise Corporation, and the Kansas Department of Commerce. With the commitment of leadership from these three agencies to continue this effort, it may represent the first time the agencies are working together as originally envisioned.

Sales Tax Exemptions and Income Tax Credits for Economic Development: Report for Tax Year 2002 : One research area where criticism has been focused is Kansas, Inc.'s statutory responsibility, under the 1994 K.S.A. 74-8017, to prepare a report assessing the effectiveness of sales tax exemptions and income tax credits for economic development. Early on it was apparent that legal and administrative requirements of the Kansas Department of Revenue designed to ensure taxpayer confidentiality prevented Kansas, Inc. from accessing data necessary to perform the research.

Changes were made to the statutes in 2001 that sought to permit data sharing of confidential information to allow Kansas, Inc. to review the tax data. That change led to creation of a survey questionnaire placed in each corporate tax booklet. The survey was required to be completed and submitted with the corporation's annual tax filing. There is no penalty for noncompliance and for the tax year 2002 report, Kansas, Inc. received questionnaires from less than 20 percent of all corporate tax filers. Of the 6,093 questionnaires that were submitted, only 136 reported participating in at least one economic development tax incentive program, with only 54 completing the entire survey.

The easy thing to do would have been to issue the report and provide a general sense of the results and what was learned. Instead, Kansas, Inc. felt it critical to alert policymakers to the substantial methodological problems and note the inability of the survey to answer the important questions the legislature had asked.

We immediately embarked on a collaborative effort with the Department of Revenue and the Department of Commerce to identify a methodology that could realistically and accurately answer questions related to the effectiveness of these credits. Revenue Secretary Wagnon unveiled the first product of that work with the report to this committee on the quantitative analysis of tax trends. Kansas, Inc.'s role will be to review and work with Commerce and Revenue to further analyze the data and also to provide the qualitative analysis through focus groups with businesses to begin to answer questions related to how important the tax credits are to business and their effectiveness in impacting business investment decisions.

I think what we have achieved over the past year in creating a realistic methodology to determine tax credit effectiveness - is exactly what those that created the economic development initiatives of the 1980's sought. Agencies working together to help solve problems and initiate change to programs in order to provide important answers to important questions.

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Advantages of a Stand Alone Research Entity: Kansas, Inc. has three primary responsibilities – develop and implement a proactive research agenda for issues critical to the economic future of the state; strategic planning for economic development; and, evaluation of economic development programs.

The Kansas, Inc. Board is designed in statute to be 17 members that are bi-partisan and contain a majority of private sector representatives who are selected based on specific industry affiliations. The terms are staggered to assist with smooth transitions to new leadership. The President of Kansas, Inc. serves at the pleasure of the Board and is responsible for staff hiring and evaluation.

The bi-partisanship and the staggered terms were strategies to protect the organization and staff during times of changing administrations, elevate the agency as providing objective analysis and recommendations, and to assist with having a longer-term perspective on issues. Expectations have been that Kansas, Inc. identifies funding opportunities beyond its state allocation to expand and enhance the research program.

Proactive Research – This is a primary role of Kansas, Inc., to identify the emerging issues and conduct research that results in a practical set of actions the state can take to respond. This requires anticipation, foresight and a long-term perspective. We should be conducting research on issues before they get on the majority of people’s radar screen and should create responses to effectively address these issues.

The challenge faced by placing the responsibility of conducting proactive research in the hands of agency program staff, is the availability of time to participate in the reading, dialogue, and analysis required to first identify key issues and then move forward with conducting the research. The concern with not having an independent research-centered organization, given the demands on program staff, can emerging issues can be identified in time to develop a strategy or set of responses to help Kansas.

The peer review of Kansas, Inc. performed by the National Association of State Development Agencies, conducted in 1995, recommended “Kansas, Inc. needs to retain the objectivity and credibility that results from the organization’s independence.” The independence is critical in providing unbiased and timely information that is useful to policy makers and the people of Kansas.

Strategic Planning for Economic Development – Kansas, Inc. was designed to have a longer-term focus, which is particularly relevant to strategic planning. A strategic plan works best when it is driven by the need for change rather than from political changes. Since 1987 every three to five years Kansas, Inc. has modified the existing strategic plan. Given the make up of the Board and the staggered terms the process benefits from a knowledge base familiar with the past report, ongoing Board familiarity with issues and activities, and ideas generated from new members involved in business and legislative leadership. It is a lively process that invites new ideas and thinking beyond short-term cycles.

Kansas, Inc. staff presented a plan at the last regular Board of Directors meeting to begin the process of revising the 2001 strategic plan working in collaboration with the Department of Commerce and The Kansas Chamber. The 2001 plan is a good strategic design for the future Kansas economy, but the terrorist attacks of 2001 coupled with administrative and leadership changes in the state and at Kansas, Inc. resulted in a less prominent role for the 2001 plan and its initiatives. This first step in updating the Kansas strategic plan recommends the creation of an Economic Vision Committee to re-start the planning cycle and create an exciting and forward directed economic vision for the state. Once the vision is completed the planning process that identifies how to achieve the vision will begin.

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Economic Development Program Evaluation – Historically, Kansas, Inc. has been assigned evaluations of economic development activities on a program-to-program basis. These individual efforts have achieved their purposes, but did not necessarily lead to systemic incorporation of evaluation into program work.

Kansas, Inc. has been mandated to evaluate the major new economic development initiatives that came out of the 2004 legislature – the Bioscience Authority and the Entrepreneurship Center. With exceptional cooperation and participation from the Kansas Technology Enterprise Corporation, Kansas Department of Commerce, and Kansas Small Business Development Centers plans are underway to have evaluation incorporated from the beginning of operations. The Kansas, Inc. Board has approved funding of \$15,000 to begin the planning effort.

The process being developed for the evaluation of these startup initiatives is to create a template that can in turn be used to evaluate on an ongoing basis all economic development programs. This would get away from evaluation as a piecemeal program-to-program effort, making it comprehensive and a part of all economic development activity. A preliminary discussion was held with the Division of Travel and Tourism to adopt and pilot the template and its applicability once the evaluation plans have been completed. This is a first step to making evaluation a part of all economic development programs.

Regardless of how the Legislature responds to Senate Bill 260, the State of Kansas and its Legislature should be proud of what Kansas, Inc. has accomplished, the quality and scope of work delivered and its potential as an independent resource for the future.

Thank you.

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Senate Commerce Committee
Testimony on SB 260

Presented by Patti Bossert, Co-Chair, Kansas, Inc.
February 16, 2005

As a volunteer board member representing the Professional Service sector of the Kansas economy, and as co-chair representing the board of Kansas, Inc., I stand in opposition to Senate Bill 260.

Kansas, Inc. was created in 1986 by the Legislature as a partnership between the public and private sectors. It was designed by these legislators to be a non-partisan, independent agency whose board would consist of the Governor of the State, Legislators, State leaders, and representatives from the key industries contributing to the economy of the State of Kansas. This diverse structure and board make-up give Kansas, Inc. the unique opportunity to evaluate, research, report, and advise from an objective viewpoint without the hindrance of the politics and time and budget constraints naturally occurring within State government. Kansas, Inc. is able to respond to legislative requests or emergency economic conditions quickly and efficiently while keeping our eye on a strategy for the future of the State.

Kansas, Inc. does not change hands every 4 years when we have an election, therefore giving us the stability to continuously carry out our responsibilities. I believe the Legislature in 1986 used wisdom and foresight in the formation of Kansas, Inc., and I believe following that wisdom now, while enduring our struggling and slowly recovering economy is even more important than ever. During our recovery from the recession is **not** the time to eliminate our State's economic development planning, research, and evaluation agency. Now is **not** the time to eliminate a very diverse, engaged board of directors who have a strong agenda and are serious about volunteering their time and energy to improve the State of Kansas.

Kansas Inc.'s primary mission is to serve as the state's economic development "think tank," and to evaluate the state's economic development programs. Senate Bill 260 abolishes Kansas, Inc. and assigns these evaluation duties back to the state agencies and/or departments themselves. As a private business owner with payroll of over \$6,000,000.00, and as a Kansas, Inc. board member, I have a vested interest in ensuring that the economy in Kansas continues to improve and that the economic development programs and incentives within the state are fairly and accurately evaluated. I don't believe that can be done, independent of political pressures, when an agency is essentially evaluating its own effectiveness. And, I don't believe the Legislature could feel as secure in any decision that it would be forced to make based solely on research done by internal state government agencies.

Therefore, for these reasons, I strongly oppose SB 260.

Thank you.

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