

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairperson Nick Jordan at 8:30 A.M. on March 6, 2007 in Room 123-S of the Capitol.

All members were present.

Committee staff present:

Kathie Sparks, Kansas Legislative Research Department  
Norm Furse, Revisor of Statutes  
Jackie Lunn, Committee Assistant

Conferees appearing before the committee:

State Representative Tom Sloan  
Stanley Rasmussen, Dept of Defense, Div of Army  
Rebecca Floyd, Kansas Development Finance Authority (KDFA)  
Joe Harkins, KCC  
Patty Clark, Department of Commerce

Others attending:

See attached list.

**HB 2169--KDFA issuance of bonds for energy conservation measures**

**HB 2004--Rural business development tax credit program extended through 2012**

**HB 2005--Center for entrepreneurship statutes, technical cleanup**

Chairperson Jordan introduced Jason Long, Revisor to explain **HB 2169**. Mr. Long stated the bill would allow state and federal governmental entities to use KDFA financing to take energy conservation measures. Mr. Long reviewed the bill and changes in current law.

Chairperson Jordan opened the hearing on **HB 2169** and introduced State Representative Tom Sloan to give his testimony as a proponent of the bill. Representative Sloan referred the Committee to his written copy (**Attachment 1**). He stated he met with Ft. Riley's Commanding General, Installation Commander and staff on how the State and the Department of Defense could best partner to help Ft. Riley, Ft. Leavenworth, and McConnell Airbase meet requirements of the Federal Energy Act of 2005. The meeting prompted this bill to be introduced this session. Representative Sloan urged the Committee to give **HB 2169** their support.

Questions and discussion followed.

Chairperson Jordan introduced Stanley Rasmussen with the Department of Army to give his testimony as a proponent of **HB 2169**. Mr. Rasmussen presented written copy. (**Attachment 2**) Mr. Rasmussen stated he is Regional Counsel for the Regional Environmental Coordinator for Standard Federal Region VII, Department of Defense which includes the state of Kansas. Mr. Rasmussen reviewed his testimony. He stated **HB 2169** not only affords the Department of Defense an opportunity to meet the requirements of the Executive Order, but also provides model legislation for other states to follow. It will also provide federal facilities in Kansas and the state an opportunity to work together by combining and leveraging funds in a manner which will help support growth of the Kansas renewable energy market. In closing, he stated the Department of Defense supports the bill.

Discussion followed.

Chairperson Jordan introduced Rebecca Floyd, KDFA, to give her testimony as a proponent of **HB 2169**. Ms. Floyd presented written copy. (**Attachment 3**) Ms. Floyd stated KDFA has identified several issues regarding the current state of energy conservation authorizations. They believe they can achieve economies of scale similar to those attained in other pool and revolving fund finance programs the Authority currently offers, providing the advantages of a central finance administration department, pooling of multiple smaller financings, and consolidated cost of issuance efficiencies and reduced borrowing costs attributable to using tax-exempt bonds, typically representing the lowest cost of borrowing.

CONTINUATION SHEET

MINUTES OF THE Senate Commerce Committee at 8:30 A.M. on March 6, 2007 in Room 123-S of the Capitol.

Questions and discussion followed.

Chairperson Jordan introduced Joe Harkins, Kansas Corporation Commission, (KCC), to give his testimony as an opponent of **HB 2169**. Mr. Harkins presented written copy. (Attachment 4) Mr. Harkins asked the Committee to wait until next year and allow KCC the opportunity to work with KDFFA and the Department of Administration to carefully study some of the ideas put forth by **HB2169** to determine how they might integrate with their ongoing planning process.

Chairperson Jordan closed the hearing on **HB 2169** and stated they would work the bill on another day this session.

Chairperson Jordan called the Committee's attention to the *Senate Confirmation Information Summary* on David D. Kerr (Attachment 5) and announced the hearing would be held in the meeting on March 14<sup>th</sup>.

Chairperson Jordan introduced Kathie Sparks, Legislative Research, to explain **HB 2004** and **HB 2005**. Ms. Sparks stated both these bills came out of the Kansas Economic Growth Act of 2004. **HB 2004** is the rural business development tax credit program and the bill would extend the credits cap through FY 2007.

Ms. Sparks stated that **HB 2005** is for the Center for entrepreneurship statutes and is for cleanup only.

Chairperson Jordan introduced Patty Clark, Department of Commerce, to give her testimony as a proponent of **HB 2004** and **HB 2005**. Ms. Clark presented written copy. (Attachment 6) Ms. Clark stated the Department of Commerce supports the extension of time on tax credits to 2012 in **HB 2004** and they also support the technical cleanup in **HB 2005**.

Senator Teichman made a motion to pass HB 2004 out favorably. Senator Kelly seconded. Motion carried.

Senator Schodorf made a motion to approve the Committee minutes for the following days: January 26, 2007; January 31, 2007; February 1, 2007; and February 6, 2007. Senator Teichman seconded. Motion carried.

Chairperson Jordan adjourned the meeting at 9:20 a.m. with the next scheduled meeting, March 7, at 8:30 a.m. in room 123 S.



STATE OF KANSAS

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REPRESENTATIVE, 45TH DISTRICT  
DOUGLAS COUNTY

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TOPEKA  
HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENT  
MEMBER: ENERGY AND UTILITIES  
TRANSPORTATION  
GOVERNMENT EFFICIENCY  
AND TECHNOLOGY

Testimony on HB 2169 - KDFFA Financing Option - Senate Commerce Committee 3/6/07

Mr. Chairman, Members of the Committee: On December 20, 2006, the Chairman of the House Energy & Utilities Committee, the Chairman of the Senate Utilities Committee, and I met with Ft. Riley's Commanding General, Installation Commander, and staff on the following topic:

How the State and Dept. of Defense can best partner to help Ft. Riley, Ft. Leavenworth, and McConnell Airbase meet requirements of the Federal Energy Act of 2005 for: a) investments in energy conservation and efficiency, and b) to use renewable energy. Both requirements also were included in Executive Orders issued by Presidents Clinton and Bush.

The three legislators reported on the State's program by which the Kansas Development Finance Authority (KDFFA) sells bonds for agencies to purchase energy saving equipment and technologies with the guaranteed savings in utility bills used to pay-off the bonds (FCIP program administered by the Kansas Corporation Commission).

The Commanding General, General Carter Ham, indicated that he is very interested in pursuing the proposed partnership, but is limited in his ability to take such actions. However, after discussing the state's programs, he committed to arranging a meeting with the Installation Management Command Staff (IMCS) to develop the support within the Pentagon necessary to pursue the expanded partnerships with Kansas.

Following the meeting with the Ft. Riley Command Staff, KDFFA staff were consulted and invited to help craft responsible, progressive legislation. Ms. Rebecca Floyd will talk about the bill in its entirety, my testimony will focus on the issue that initiated the bill. HB 2169 is permissive in that the KDFFA is authorized to sell bonds on behalf of federal agencies. Please note that the State of Kansas does not incur any indebtedness or obligation to repay the bonds. We act as an agent only between purchasers of the bonds and the agency responsible for repayment. General Ham is very interested in this program because he does not have the capitol budget to make the required improvements in energy use, but can use his existing utility budget to repay the bonds.

Because General Ham does not have approval from the Installation Management Command Staff to participate in such a program, no one from Ft. Riley may testify. Because of the short duration of the Kansas Legislative Session, the bill was introduced and is being pursued so that when he

Senate Commerce Committee  
March 6, 2007

Attachment 1-1

receives permission, the partnership discussions can proceed. The U.S. Army's Central Region Environment Office staff (CREO) have received permission from the Pentagon to offer testimony in support of HB 2169.

Please remember that the legislation is permissive, if the military facilities choose not to use the opportunity, nothing happens. If KDFA and the energy auditors during their due diligence find that the risks or benefits are inappropriate, nothing happens. And, finally, that the State of Kansas incurs no risk or financial obligation if the military and KDFA actually partner.

Before responding to questions, I wish to leave you with one final thought. All of the military facilities in Kansas have survived two BRAC (base reduction and closure) rounds. There will be more closings in the future. A financial partnership between the State of Kansas and Ft. Riley would be the first of its kind in the country; it would not only set a precedent, but would commit Ft. Riley to remain open and growing for at least the length of the bond repayment schedule.

I have discussed this legislation with Lt. Governor Parkinson and the Administration is supportive of enhancing the mutually beneficial partnership between the Dept. of Defense facilities and the State of Kansas.

I ask you to support HB 2169. Thank you for your attention and I will be pleased to respond to questions.



DEPARTMENT OF THE ARMY  
US ARMY ENVIRONMENTAL COMMAND  
CENTRAL REGIONAL ENVIRONMENTAL OFFICE  
601 EAST 12<sup>TH</sup> STREET, SUITE 647  
KANSAS CITY, MO 64106-2896



March 2, 2007

Re: House Bill 2169

Honorable Karin Brownlee  
and Honorable Nick Jordan  
Co-Chairperson, Committee on Commerce  
Kansas Senate  
State Capitol Building  
Topeka, KS 66612

Dear Chairpersons:

I am writing to you to express support for the proposed legislation contained in House Bill 2169, which is currently before your committee. As the Department of Defense, Regional Environmental Coordinator for Standard Federal Region VII, which includes the State of Kansas, I appreciate the opportunity to provide comments on this important legislation. Attached for your review, is a copy of our testimony concerning House Bill 2169. This testimony will be presented by Mr. Stanley Rasmussen, Regional Counsel for my office.

I welcome the opportunity to work with you and your committee on any matter that may affect Department of Defense facilities in the state of Kansas. If you have any questions, my point of contact for this matter is Mr. Mark Salley, Regional Environmental Coordinator for Region VII, (816) 389-3447, or e-mail [mark.salley@us.army.mil](mailto:mark.salley@us.army.mil) or Mr. Rasmussen, (816) 389-3448 or e-mail [stanley.rasmussen@us.army.mil](mailto:stanley.rasmussen@us.army.mil).

I thank you for the opportunity to comment on House Bill 2169 and would appreciate it if you would share this letter with members of your committee.

Sincerely,

Stephen C. Scanlon  
DoD Regional Environmental Coordinator  
Region VII

Senate Commerce Committee  
March 6, 2007

Attachment 2-1

Department of Defense  
Regional Environmental Coordinator, Region VII Testimony  
House Bill 2169

An Act concerning the Kansas finance development authority; relating to energy conservation improvements and energy conservation measures.

Co-Chairperson(s) and members of the committee, I am very pleased to have this opportunity to speak to you in support of House Bill 2169. I am Stanley Rasmussen, Regional Counsel for the US Army Central Regional Environmental Office and am here on behalf of the Department of Defense and its facilities within the state of Kansas.

House Bill 2169 addresses an issue that is important to the Department of Defense, specifically conservation of energy and renewable energy use.

The Department of Defense is the federal government's single largest energy user, consuming 55 percent of total energy used by the government. With more than \$5 billion of its annual budget allotted to the purchase of energy, the Department of Defense is the largest energy consumer in the nation. For example, within the DoD, the Army spends nearly one billion dollars per year to purchase energy for use at our facilities nationwide. This equals roughly twenty-two percent of all the energy consumed at federal facilities throughout the United States. Given this dollar amount, the Army must be mindful of costs, where a mere one percent change in energy efficiency can be worth nearly ten million dollars. Accordingly, the Department of Defense welcomes opportunities to improve energy efficiency and/or save money on energy expenses.

The Department of Defense (DoD) sees substantial benefit in acquiring and utilizing innovative, cost effective technologies such as, geothermal, solar, biomass, and wind energy to support the mission at our facilities. Fostering renewable energy use and supporting the development of better renewable technologies not only expands the diversity and availability of the DoD's energy supply but improves the reliability and security of our power systems and benefits the environment.

On 24 January 2007, the President of the United States issued an Executive Order pertaining to the Strengthening of Federal Environmental, Energy, and Transportation Management. The Order sets aggressive goals for federal agencies to improve energy efficiency and reduce greenhouse gas emissions. In addition, the Order instructs federal agencies to pursue the use of renewable energy and strongly encourages the development of renewable energy generation projects on federal property. (A copy of this Executive Order is attached for your reference.)

Prior to issuance of the Executive Order, the Department of Defense was already working closely with leaders of the Environmental Task Force in the

Counsel of State Governments (CSG) to develop an energy conservation resolution. In December 2006, this collaborative effort resulted in CSG approval of a Resolution on Renewable Energy Development at Department of Defense Facilities. This resolution supports state governmental programs that encourage the development of renewable energy projects in partnership with Department of Defense facilities. The Resolution also encourages state governments to support the enactment of state and federal financial, regulatory and policy incentives for renewable energy development on or near military facilities. The resolution goes on to suggest possible incentives such as grants, loans, rebates, industry recruitment, bond programs, tax incentives and production incentives. (A copy of this important resolution from CSG, is also attached for your reference.)

This significance of House Bill 2169 is that it not only affords the Department of Defense an opportunity to meet the requirements of the Executive Order, but also provides model legislation for other states to follow. Passage of this bill also provides federal facilities in Kansas and the state an opportunity to work together by combining and leveraging funds in a manner which will help support growth of the Kansas renewable energy market.

For the reasons stated above, the Department of Defense supports this legislation and encourages its approval by this committee. I thank you for taking the time to consider our comments on this bill, and I am pleased to respond to your questions.



## THE COUNCIL OF STATE GOVERNMENTS

### RESOLUTION ON RENEWABLE ENERGY DEVELOPMENT AT DEPARTMENT OF DEFENSE INSTALLATIONS

#### Resolution Summary

The Department of Defense (DoD) is the federal government's single largest electricity user, consuming 55 percent of total government use. With more than \$5 billion of its annual budget allotted to purchase energy, the DoD is the largest energy consumer in the nation.

The Defense Department can greatly impact the federal government's overall demand for electricity by incorporating renewable sources of energy such as wind, solar, biomass, landfill gas, ocean thermal and mechanical energy, geothermal, municipal solid waste and new hydroelectric generation capacity.

The Defense Department has made great strides toward increasing its usage of renewable energy sources. In 2005, more than 8 percent of DoD's electricity consumption came from renewable energy that was either self-generated or purchased. That year, the DoD issued an internal memo encouraging its service branches to pursue a goal of generating and/or acquiring 25 percent of electricity from renewable sources by 2025. The DoD has also committed \$17 million in FY 2006 and FY 2007 to support life-cycle, cost-effective renewable energy projects. In addition, the Energy Policy Act of 2005 requires that at least 7.5 percent of the federal government's total energy consumption come from renewable energy sources by 2013.

Opportunities for collaboration with DoD installations may exist for states seeking to encourage renewable energy development. In its March 2006 Renewable Energy Assessment Status Report Update to Congress, the DoD stated that it is interested in facilitating renewable energy projects on its lands, where compatible with missions, through lease arrangements and the use of alternative financing with private sector partners. DoD installations typically are reliable and stable consumers of electricity as well as dependable contributors to states' economies. By coordinating renewable energy portfolio development with the DoD as a major energy consumer, states could reap economic benefits.

State governments can help encourage the development of renewable energy projects in many ways: (1) through financial incentives such as grants, loans, rebates, industry recruitment, bond programs, tax incentives and production incentives; (2) through regulatory incentives such as public benefits funds, renewable portfolio standards, net metering, extension analysis, generation disclosure, contractor licensing, equipment certification, solar/wind access laws, construction and design standards, required utility green power options and green power purchasing/aggregation policies.

Because energy costs greatly impact the military as well as the citizens of each state, and because many state and local economies depend on revenues directly and indirectly

flowing from military facilities and personnel, encouraging renewable energy projects in cooperation with DoD installations is in the best interests of the states and the nation.

**Management Directives**

- **Management Directive #1:** Encourage governors, state legislatures, and the Department of Defense to engage in discussions about how best to promote renewable energy use and development in states and at Department of Defense installations throughout the United States.
  
- **Management Directive #2:** The Council of State Governments will send this resolution to the governors and adjutant generals of all 50 states, the Secretary of defense, chairman of the Joint Chiefs of Staff, and each member of the U.S. Congress.

**THE COUNCIL OF STATE GOVERNMENTS**

**Resolution on Renewable Energy Development at  
Department of Defense Installations**

**WHEREAS**, the Department of Defense (DoD) is the largest single consumer of energy in the United States;

**WHEREAS**, the long term viability of DoD training and testing installations can be impacted adversely by high energy costs and limited energy resources;

**WHEREAS**, the DoD has established a goal of generating and/or purchasing 25 percent of its electricity from renewable sources by 2025;

**WHEREAS**, DoD installations are typically reliable and stable consumers of electricity;

**WHEREAS**, the DoD is interested in facilitating renewable energy projects on its lands, where compatible with missions;

**WHEREAS**, state and local economies can benefit by maintaining viable and sustainable military installations within the state;

**WHEREAS**, an enhanced and expanded renewable energy portfolio can benefit both citizens and governmental entities;

**BE IT THEREFORE RESOLVED** that The Council of State Governments supports the enactment of state and federal financial, regulatory and policy incentives for renewable energy development on or near military installations.

**BE IT FURTHER RESOLVED** that The Council of State Governments supports programs that encourage the development of renewable energy projects in partnership with DoD installations.

**BE IT FURTHER RESOLVED** that the Department of Defense and each service branch identify an official to serve as a point of contact for states to facilitate the development of renewable energy projects on DoD lands.

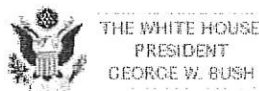
Adopted this 3rd Day of December, 2006 at the  
CSG 2006 Annual Trends and Leadership Forum  
In Phoenix, Arizona




\_\_\_\_\_  
Governor Jim Douglas  
2006 CSG President



\_\_\_\_\_  
Senate President Earl Ray Tomblin  
2006 CSG Chair



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For Immediate Release  
Office of the Press Secretary  
January 24, 2007

## Executive Order: Strengthening Federal Environmental, Energy, and Transportation Management

By the authority vested in me as President by the Constitution and the laws of the United States of America, and to strengthen the environmental, energy, and transportation management of Federal agencies, it is hereby ordered as follows:

Section 1. Policy. It is the policy of the United States that Federal agencies conduct their environmental, transportation, and energy-related activities under the law in support of their respective missions in an environmentally, economically and fiscally sound, integrated, continuously improving, efficient, and sustainable manner.

Sec. 2. Goals for Agencies. In implementing the policy set forth in section 1 of this order, the head of each agency shall:

- (a) improve energy efficiency and reduce greenhouse gas emissions of the agency, through reduction of energy intensity by (i) 3 percent annually through the end of fiscal year 2015, or (ii) 30 percent by the end of fiscal year 2015, relative to the baseline of the agency's energy use in fiscal year 2003;
- (b) ensure that (i) at least half of the statutorily required renewable energy consumed by the agency in a fiscal year comes from new renewable sources, and (ii) to the extent feasible, the agency implements renewable energy generation projects on agency property for agency use;
- (c) beginning in FY 2008, reduce water consumption intensity, relative to the baseline of the agency's water consumption in fiscal year 2007, through life-cycle cost-effective measures by 2 percent annually through the end of fiscal year 2015 or 16 percent by the end of fiscal year 2015;
- (d) require in agency acquisitions of goods and services (i) use of sustainable environmental practices, including acquisition of biobased, environmentally preferable, energy-efficient, water-efficient, and recycled-content products, and (ii) use of paper of at least 30 percent post-consumer fiber content;
- (e) ensure that the agency (i) reduces the quantity of toxic and hazardous chemicals and materials acquired, used, or disposed of by the agency, (ii) increases diversion of solid waste as appropriate, and (iii) maintains cost-effective waste prevention and recycling programs in its facilities;
- (f) ensure that (i) new construction and major renovation of agency buildings comply with the Guiding Principles for Federal Leadership in High Performance and Sustainable Buildings set forth in the Federal Leadership in High Performance and Sustainable Buildings Memorandum of Understanding (2006), and (ii) 15 percent of the existing Federal capital asset building inventory of the agency as of the end of fiscal year 2015 incorporates the sustainable practices in the Guiding Principles;
- (g) ensure that, if the agency operates a fleet of at least 20 motor vehicles, the agency, relative to agency baselines for fiscal year 2005, (i) reduces the fleet's total consumption of petroleum products by 2 percent annually through the end of fiscal year 2015, (ii) increases the total fuel consumption that is non-petroleum-based by 10 percent annually, and (iii) uses plug-in hybrid (PIH) vehicles when PIH vehicles are commercially available at a cost reasonably comparable, on the basis of life-cycle cost, to non-PIH vehicles; and
- (h) ensure that the agency (i) when acquiring an electronic product to meet its requirements, meets at least 95 percent of those requirements with an Electronic Product Environmental Assessment Tool (EPEAT)-registered

electronic product, unless there is no EPEAT standard for such product, (ii) enables the Energy Star feature on agency computers and monitors, (iii) establishes and implements policies to extend the useful life of agency electronic equipment, and (iv) uses environmentally sound practices with respect to disposition of agency electronic equipment that has reached the end of its useful life.

Sec. 3. Duties of Heads of Agencies. In implementing the policy set forth in section 1 of this order, the head of each agency shall:

(a) implement within the agency sustainable practices for (i) energy efficiency, greenhouse gas emissions avoidance or reduction, and petroleum products use reduction, (ii) renewable energy, including bioenergy, (iii) water conservation, (iv) acquisition, (v) pollution and waste prevention and recycling, (vi) reduction or elimination of acquisition and use of toxic or hazardous chemicals, (vii) high performance construction, lease, operation, and maintenance of buildings, (viii) vehicle fleet management, and (ix) electronic equipment management;

(b) implement within the agency environmental management systems (EMS) at all appropriate organizational levels to ensure (i) use of EMS as the primary management approach for addressing environmental aspects of internal agency operations and activities, including environmental aspects of energy and transportation functions, (ii) establishment of agency objectives and targets to ensure implementation of this order, and (iii) collection, analysis, and reporting of information to measure performance in the implementation of this order;

(c) establish within the agency programs for (i) environmental management training, (ii) environmental compliance review and audit, and (iii) leadership awards to recognize outstanding environmental, energy, or transportation management performance in the agency;

(d) within 30 days after the date of this order (i) designate a senior civilian officer of the United States, compensated annually in an amount at or above the amount payable at level IV of the Executive Schedule, to be responsible for implementation of this order within the agency, (ii) report such designation to the Director of the Office of Management and Budget and the Chairman of the Council on Environmental Quality, and (iii) assign the designated official the authority and duty to (A) monitor and report to the head of the agency on agency activities to carry out subsections (a) and (b) of this section, and (B) perform such other duties relating to the implementation of this order within the agency as the head of the agency deems appropriate;

(e) ensure that contracts entered into after the date of this order for contractor operation of government-owned facilities or vehicles require the contractor to comply with the provisions of this order with respect to such facilities or vehicles to the same extent as the agency would be required to comply if the agency operated the facilities or vehicles;

(f) ensure that agreements, permits, leases, licenses, or other legally-binding obligations between the agency and a tenant or concessionaire entered into after the date of this order require, to the extent the head of the agency determines appropriate, that the tenant or concessionaire take actions relating to matters within the scope of the contract that facilitate the agency's compliance with this order;

(g) provide reports on agency implementation of this order to the Chairman of the Council on such schedule and in such format as the Chairman of the Council may require; and

(h) provide information and assistance to the Director of the Office of Management and Budget, the Chairman of the Council, and the Federal Environmental Executive.

Sec. 4. Additional Duties of the Chairman of the Council on Environmental Quality. In implementing the policy set forth in section 1 of this order, the Chairman of the Council on Environmental Quality:

(a) (i) shall establish a Steering Committee on Strengthening Federal Environmental, Energy, and Transportation Management to advise the Director of the Office of Management and Budget and the Chairman of the Council on the performance of their functions under this order that shall consist exclusively of (A) the Federal Environmental Executive, who shall chair, convene and preside at meetings of, determine the agenda of, and direct the work of, the Steering Committee, and (B) the senior officials designated under section 3(d)(i) of this order, and (ii) may establish subcommittees of the Steering Committee, to assist the Steering Committee in developing the advice of the Steering Committee on particular subjects;

(b) may, after consultation with the Director of the Office of Management and Budget and the Steering Committee, issue instructions to implement this order, other than instructions within the authority of the Director to issue under section 5 of this order; and

(c) shall administer a presidential leadership award program to recognize exceptional and outstanding environmental, energy, or transportation management performance and excellence in agency efforts to implement this order.

Sec. 5. Duties of the Director of the Office of Management and Budget. In implementing the policy set forth in section 1 of this order, the Director of the Office of Management and Budget shall, after consultation with the Chairman of the Council and the Steering Committee, issue instructions to the heads of agencies concerning:

- (a) periodic evaluation of agency implementation of this order;
- (b) budget and appropriations matters relating to implementation of this order;
- (c) implementation of section 2(d) of this order; and
- (d) amendments of the Federal Acquisition Regulation as necessary to implement this order.

Sec. 6. Duties of the Federal Environmental Executive. A Federal Environmental Executive designated by the President shall head the Office of the Federal Environmental Executive, which shall be maintained in the Environmental Protection Agency for funding and administrative purposes. In implementing the policy set forth in section 1 of this order, the Federal Environmental Executive shall:

- (a) monitor, and advise the Chairman of the Council on, performance by agencies of functions assigned by sections 2 and 3 of this order;
- (b) submit a report to the President, through the Chairman of the Council, not less often than once every 2 years, on the activities of agencies to implement this order; and
- (c) advise the Chairman of the Council on the Chairman's exercise of authority granted by subsection 4(c) of this order.

Sec. 7. Limitations. (a) This order shall apply to an agency with respect to the activities, personnel, resources, and facilities of the agency that are located within the United States. The head of an agency may provide that this order shall apply in whole or in part with respect to the activities, personnel, resources, and facilities of the agency that are not located within the United States, if the head of the agency determines that such application is in the interest of the United States.

(b) The head of an agency shall manage activities, personnel, resources, and facilities of the agency that are not located within the United States, and with respect to which the head of the agency has not made a determination under subsection (a) of this section, in a manner consistent with the policy set forth in section 1 of this order to the extent the head of the agency determines practicable.

Sec. 8. Exemption Authority. (a) The Director of National Intelligence may exempt an intelligence activity of the United States, and related personnel, resources, and facilities, from the provisions of this order, other than this subsection and section 10, to the extent the Director determines necessary to protect intelligence sources and methods from unauthorized disclosure.

(b) The head of an agency may exempt law enforcement activities of that agency, and related personnel, resources, and facilities, from the provisions of this order, other than this subsection and section 10, to the extent the head of an agency determines necessary to protect undercover operations from unauthorized disclosure.

(c) (i) The head of an agency may exempt law enforcement, protective, emergency response, or military tactical vehicle fleets of that agency from the provisions of this order, other than this subsection and section 10.

(ii) Heads of agencies shall manage fleets to which paragraph (i) of this subsection refers in a manner consistent with the policy set forth in section 1 of this order to the extent they determine practicable.

(d) The head of an agency may submit to the President, through the Chairman of the Council, a request for an exemption of an agency activity, and related personnel, resources, and facilities, from this order.

Sec. 9. Definitions. As used in this order:

(a) "agency" means an executive agency as defined in section 105 of title 5, United States Code, excluding the Government Accountability Office;

(b) "Chairman of the Council" means the Chairman of the Council on Environmental Quality, including in the Chairman's capacity as Director of the Office of Environmental Quality;

(c) "Council" means the Council on Environmental Quality;

(d) "environmental" means environmental aspects of internal agency operations and activities, including those environmental aspects related to energy and transportation functions;

(e) "greenhouse gases" means carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride;

(f) "life-cycle cost-effective" means the life-cycle costs of a product, project, or measure are estimated to be equal to or less than the base case (i.e., current or standard practice or product);

(g) "new renewable sources" means sources of renewable energy placed into service after January 1, 1999;

(h) "renewable energy" means energy produced by solar, wind, biomass, landfill gas, ocean (including tidal, wave, current and thermal), geothermal, municipal solid waste, or new hydroelectric generation capacity achieved from increased efficiency or additions of new capacity at an existing hydroelectric project;

(i) "energy intensity" means energy consumption per square foot of building space, including industrial or laboratory facilities;

(j) "Steering Committee" means the Steering Committee on Strengthening Federal Environmental, Energy, and Transportation Management established under subsection 4(b) of this order;

(k) "sustainable" means to create and maintain conditions, under which humans and nature can exist in productive harmony, that permit fulfilling the social, economic, and other requirements of present and future generations of Americans; and

(l) "United States" when used in a geographical sense, means the fifty states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Northern Mariana Islands, and associated territorial waters and airspace.

Sec. 10. General Provisions. (a) This order shall be implemented in a manner consistent with applicable law and subject to the availability of appropriations.

(b) Nothing in this order shall be construed to impair or otherwise affect the functions of the Director of the Office of Management and Budget relating to budget, administrative, or legislative proposals.

(c) This order is intended only to improve the internal management of the Federal Government and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its departments, agencies, instrumentalities, entities, officers, employees or agents, or any other person.

Sec. 11. Revocations; Conforming Provisions. (a) The following are revoked:

- (i) Executive Order 13101 of September 14, 1998;
- (ii) Executive Order 13123 of June 3, 1999;
- (iii) Executive Order 13134 of August 12, 1999, as amended;
- (iv) Executive Order 13148 of April 21, 2000; and
- (v) Executive Order 13149 of April 21, 2000.

(b) In light of subsection 317(e) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107 107), not later than January 1 of each year through and including 2010, the Secretary of Defense shall submit to the Senate and the House of Representatives a report regarding progress made toward achieving the energy efficiency goals of the Department of Defense.

(c) Section 3(b)(vi) of Executive Order 13327 of February 4, 2004, is amended by striking "Executive Order 13148 of April 21, 2000" and inserting in lieu thereof "other executive orders".

GEORGE W. BUSH

THE WHITE HOUSE,

January 24, 2007.

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**TESTIMONY OF KANSAS DEVELOPMENT FINANCE AUTHORITY  
PRESENTED BY K DFA EXECUTIVE VICE PRESIDENT &  
GENERAL COUNSEL REBECCA FLOYD TO THE SENATE  
COMMERCE COMMITTEE REGARDING HOUSE BILL 2169  
OF THE 2007 LEGISLATIVE SESSION**

**March 6, 2007**

Honorable Chair and Members of the Committee, Kansas Development Finance Authority ("K DFA") appreciates this opportunity to testify before you concerning proposed House Bill ("H.B.") 2169.

- House Bill 2169 seeks to amend several statutes to authorize the Authority to develop and promote a statewide comprehensive energy conservation program which would be accessible to state agencies, including the Board of Regents institutions, political subdivisions, including municipalities and school districts, community and technical colleges, and federal entities.
- The authorization is sought based on ongoing discussions by and between K DFA and certain client borrowers, including the Board of Regents, representatives of the State Energy Office, and individual legislators regarding existing energy conservation improvement authorization, as well as K DFA's observations about utilization of energy conservation measures pursuant to current law.
- Statutory authorization for energy conservation improvements by various entities may currently be found scattered about in various locations, including authorization in K.S.A. 75-37,111 *et seq.*, for certain energy improvements for state agencies with an annual cost cap of \$5,000,000; authorization found in the 2005 Session Laws of Kansas, Chapter 174, Section 128(e)(1), pertaining to Board of Regents institutions, and authorization is given to community and technical colleges to implement energy conservation measures pursuant to 2006 Session Laws of Kansas, Chapter 88.
- K DFA has identified the following issues regarding the current state of energy conservation authorizations:
  - The various authorizations empowering various entities to seek financing for energy conservation improvements are scattered and somewhat confusing.
  - The cost cap limitation of \$5,000,000 set forth in K.S.A. 75-37,114, applicable to energy conservation improvements for state agencies, renders this particular act virtually obsolete. The threshold is far too low to be meaningful, especially for bond financing.
  - The Board of Regents Institutions have advised that they do not take advantage of the program utilizing lower cost bond financing as often as they might because of the requirement that they receive approval from the State Finance Council. The universities explain that when they are ready to proceed with the improvements, a vendor will typically offer a lease rate, which, while higher than a typical bond rate, allows them to move forward with the improvements without waiting for a State Finance Council meeting. We believe it would be more efficient to require only the approval of the Secretary of Administration these instances as well, because anytime a capital improvement project costs, e.g. \$5--\$10 million or more, tax-exempt bonds will offer the lowest cost of borrowing.

Senate Commerce Committee

March 6, 2007

Attachment 3-1

- Any obligations issued by KDFA on behalf of entities other than state agencies would be the sole obligation of the borrowing entity, e.g., a political subdivision or federal entity, and no recourse for their payment could ever be made to the state. This is analogous to the scenario whereby KDFA issues bonds on behalf of e.g. a hospital. The hospital is accessing the capital markets through KDFA, and hospital revenues are pledged as the sole source of debt service repayment for the bonds. Bonds KDFA issues on behalf of entities other than the State are never obligations of the State of Kansas.
- KDFA believes it can achieve economies of scale similar to those attained in other pool and revolving fund finance programs the Authority currently offers, providing the advantages of a central finance administration department, pooling of multiple smaller financings, and consolidated cost of issuance efficiencies and reduced borrowing costs attributable to using tax-exempt bonds, typically representing the lowest cost of borrowing.
- KDFA very much appreciates the opportunity to assist in the development of legislation which would authorize development of a statewide multi-entity energy conservation program.



# KANSAS

CORPORATION COMMISSION

KATHLEEN SEBELIUS, GOVERNOR  
BRIAN J. MOLINE, CHAIR  
ROBERT E. KREHBIEL, COMMISSIONER  
MICHAEL C. MOFFET, COMMISSIONER

**BEFORE THE SENATE COMMITTEE ON COMMERCE  
PRESENTATION OF THE  
KANSAS CORPORATION COMMISSION**

**March 6, 2007**

**HB 2169**

Thank you, Madam Chair and members of the Committee. I am Joe Harkins, Director of the Kansas Energy Office at the Kansas Corporation Commission. I appreciate the opportunity to be here today to testify for the Commission on HB 2169.

The Facilities Conservation Improvement Program (or FCIP), is a very successful program operated by the Kansas Energy Office which allows public entities (state agencies, unified school districts, cities, counties, community and technical colleges, and more) to use energy savings performance contracts to implement energy conservation improvements for buildings. Guaranteed utility and operational savings are used to leverage lending for lease-purchase agreements that fund the improvements.

The Kansas program has gained national recognition, the Western Governors Association's Energy Efficiency and Conservation Task Force recommended the Kansas Facility Conservation Improvement Program as a "best practices". The FCIP is patterned after the Federal Department of Defense Super ESCO program. As with the Federal program, Kansas uses pre-qualified energy service companies. This allows public agencies to use pre-negotiated and agreed upon rates, fees and standardized contracts. Thus, institutions can implement projects much more quickly and with less effort, thereby saving time and money while maintaining a high

Senate Commerce Committee  
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Attachment 4-1

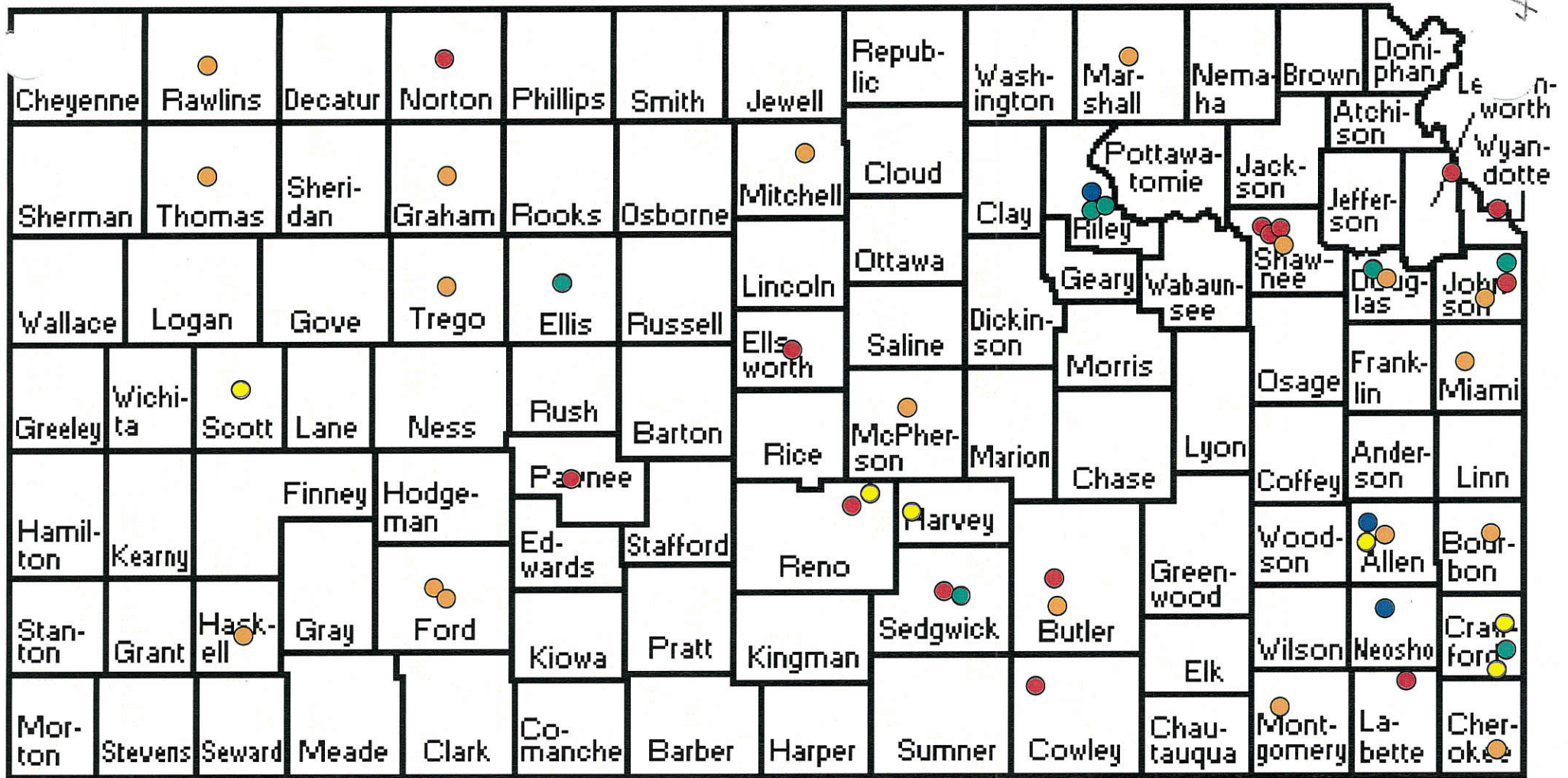
degree of confidence that they are receiving a quality product. Since its inception about five years ago, nearly \$110 million in capital improvements have resulted in about \$9 million in annual avoided energy costs for public buildings.

Our staff finds HB 2169 to be confusing. It is difficult to ascertain exactly what the positive effects of the bill would be, and it is possible that the bill would have a negative effect on a tried and proven successful program – the FCIP. We would suggest setting aside any immediate action on HB 2169 at this time, so that we can carefully study possible implications.

We are currently looking at the long range perspective as encouraged by the Governor's recent Executive Directive of comprehensive energy conservation and efficiency programs through the Energy Office and the Facility Conservation Improvement Program. We would ask the committee to allow us the opportunity to work with our colleagues at KDFA and Department of Administration to carefully study some of the ideas put forth by HB 2169 to determine how they might integrate with our ongoing planning process, and come back next year with recommendations.

I would be happy to answer any questions. Thank you.

**Attachments:** List of FCIP projects and map



- State Projects
- Unified School Districts
- State Universities
- Community/Technical Colleges
- Pending Projects

**Facility Conservation Improvement Program (FCIP) Projects**  
*(as of January 2007)*  
 Compiled by the Kansas Energy Office

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**KANSAS FACILITY CONSERVATION IMPROVEMENT PROGRAM (FCIP)**

*Energy Savings Performance Contract Projects*

**Kansas Corporation Commission Energy Programs**

	<b>Agency</b>	<b>Area (sq ft)</b>	<b>Project Amount</b>	<b>Ann Savings</b>
1	Kansas School for the Blind	1,112,689	\$ 467,153	\$ 44,519
2	Hutchinson Correctional Facility	416,530	\$ 2,748,100	\$ 352,932
3	Pittsburg State University	1,379,549	\$ 4,500,000	\$ 385,152
4	Kansas State University - Housing	1,080,981	\$ 2,418,169	\$ 356,097
5	Kansas Neurological Institute	373,688	\$ 2,268,817	\$ 188,391
6	University of Kansas - Campus	5,881,330	\$ 18,393,010	\$ 1,723,488
7	University of Kansas Medical Center	1,911,375	\$ 12,289,489	\$ 964,768
8	Kansas State University - Campus	5,532,479	\$ 21,090,000	\$ 1,629,935
9	Winfield Correctional Facility	227,385	\$ 1,164,639	\$ 147,566
10	Wichita Work Release Facility	54,672	\$ 261,000	\$ 32,617
11	Norton Correctional Facility	308,150	\$ 1,682,971	\$ 211,522
12	Lansing Correctional Facility	614,743	\$ 3,583,697	\$ 445,736
13	Fort Hays State University	1,839,022	\$ 4,887,301	\$ 348,816
14	Parsons State Hospital	357,951	\$ 2,047,222	\$ 194,542
15	Kansas School for the Deaf	254,508	\$ 1,016,810	\$ 95,151
16	El Dorado Correctional Facility	609,431	\$ 2,123,556	\$ 264,016
17	Topeka Correctional Facility	245,069	\$ 723,765	\$ 90,032
18	Ellsworth Correctional Facility	196,899	\$ 870,900	\$ 107,409
19	Larned Mental Health Correctional Facility	154,417	\$ 171,350	\$ 19,996
20	Pittsburg State University - Nation Hall	232,009	\$ 1,550,401	\$ 90,425
22	Kansas Insurance Department	36,000	\$ 692,419	\$ 83,143
23	Wichita State University	1,976,646	\$ 12,316,635	\$ 1,118,277
24	Neosho County Community College	190,608	\$ 2,064,361	\$ 70,704
25	Allen County Community College	158,407	\$ 2,743,950	\$ 123,123
26	Manhattan Area Tech. School	61,898	\$ 457,932	\$ 29,940
27	City of Topeka	324,664	\$ 512,310	\$ 45,270
28	USD #466 Scott County	145,569	\$ 945,271	\$ 44,719
29	USD #382 Humboldt	94,939	\$ 255,348	\$ 17,478
30	USD #246 Northeast-Arma	139,552	\$ 612,533	\$ 38,283
31	USD #313 Buhler	588,259	\$ 1,166,186	\$ 67,128
32	USD #369 Burrton	91,911	\$ 432,284	\$ 33,940
	<b>TOTALS</b>	<b>26,591,330</b>	<b>\$ 106,457,579</b>	<b>\$ 9,365,115</b>

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**Senate Confirmation Information Summary**  
*Prepared and Submitted by the Office of Governor Kathleen Sebelius*

**Appointee:** David D. Kerr

**Position:** Secretary of Commerce

**Appointment Date:** March 1, 2007

**Expiration Date:** N/A

**Term Length:** Pleasure of the Governor

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**Statutory Authority:** K.S.A. 74-5002

**Party Affiliation:** Republican

⇒ Statutory geographic representation  
Requirements (*insert any that apply*)

Congressional District:

County:

Size requirement (*if any*):

Other, specify:

⇒ Statutory party affiliation requirement:

⇒ Statutory industry or occupation requirements:

**Salary:** \$96,457

**Predecessor:** Howard Fricke

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**Board Composition Prior to Confirmation of New Appointee:**

*N/A*

Senate Commerce Committee  
March 6, 2007

Attachment 5-1

## David D. Kerr

3925 SW Clarion Park Dr, Topeka, KS 66610  
785-273-7600

### EDUCATION

- 
- ◆ BS in Economics, Avila College, Kansas City, MO Spring 1976
  - ◆ BA in Business Administration, Avila College, Kansas City, MO Spring 1977

### WORK EXPERIENCE

#### PRESIDENT-AT&T KANSAS: JULY, 2003 – PRESENT

- ◆ Directs all AT&T public policy efforts in Kansas through direct contact with the Kansas legislature, Governor, executive branch of state government, Attorney General and local officials on legislative, regulatory and business matters. Manages and directs all AT&T regulatory activities with the Kansas Corporation Commission relative to revenues, cost recovery, service performance and business plan objectives.
- ◆ Directs all AT&T media and community relations activities in Kansas, including oversight of corporate contributions, grants and economic development. Supports the AT&T marketing and sales teams by representing the business units with civic, business and customer contacts on potential sales opportunities and service issues.

**VICE PRESIDENT & GENERAL MANAGER-INDUSTRY MARKETS, SBC INC.: OCTOBER, 2000 - JULY, 2003**  
Directed SBC's nation-wide marketing, sales and marketing/sales functions for all wholesale services with annual sales responsibilities of \$8 billion. Responsibilities included product development, regulatory requirements, service performance, sales quotas, revenue targets and operational issues for all SBC wholesale products and services.

**VICE PRESIDENT-ACCESS PRODUCT MARKETING, SBC INC: AUGUST, 1997 – OCTOBER, 2000**  
Directed product development and management, pricing, marketing, strategic planning and competitive analysis for access, wireless, public coin communications and billing & collections products for SBC's nation-wide operations, accounting for annual revenues totaling \$6.9B.

**EXECUTIVE DIRECTOR-CLIENT SERVICES, SBC SHARED SERVICES: MARCH, 1996 - AUGUST, 1997**  
Established a client services entity within SBC's Information Technology organization to provide consultative business analysis and account management for all corporate clients. With a mission of creating a client focused service organization, served corporate-wide client organizations on policy issues, business opportunities, and resource allocation required to meet their business needs.

**DIRECTOR-REGIONAL SALES, SOUTHWESTERN BELL: FEBRUARY, 1991 - FEBRUARY, 1996**  
Directed the sales team for Southwestern Bell's largest corporate customer with annual sales of \$1.2B. Managed account sales for all wholesale services and negotiated numerous multi-million dollar long-term contracts, contract extensions and revenue claims.

**DISTRICT MANAGER-BILLING MANAGEMENT, SOUTHWESTERN BELL: FEBRUARY, 1988 -JANUARY, 1991**  
Managed all billing functions and projects for all Southwestern Bell end users customer billing and Billing and Collections contracts for interexchange carriers.

**DISTRICT MANAGER-STRATEGIC PLANNING, SBC INC.: OCTOBER, 1986 - SEPTEMBER, 1988**  
Developed and implemented the Corporate Three Year Planning process for all SBC affiliates, including the review, evaluation and recommendations presented to the corporate officers. Evaluated potential business opportunities for various affiliates, including directory products, network management systems and distributions centers.



DISTRICT MANAGER-TREASURY, SOUTHWESTERN BELL: AUGUST, 1985 - SEPTEMBER, 1986

Managed the Southwestern Bell Treasury methods, procedures and mechanization functions, including check and draft reconciliation processing. Supervised system hardware and software evaluation, development and implementation as well as system analysis and design of the Treasury draft reconciliation system.

MANAGER/AREA MANAGER, SOUTHWESTERN BELL: MARCH, 1979 - AUGUST, 1985

Managed various functions in Comptrollers organization, including remittance process, account payables, management training development and delivery, results tracking and reporting, and microfiche product support.

ADMISSIONS COUNSELOR/DIRECTOR OF FINANCIAL AID: JUNE, 1975 - MARCH, 1979

Served in admissions and financial aid positions at Avila University and Penn Valley Community College. Served as assistant basketball coach at both Avila and Penn Valley Community College.

#### LEADERSHIP EXPERIENCE

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Currently serving in leadership positions on the following civic boards and business organizations:

- ♦ Kansas State Chamber of Commerce Board of Directors (2006-2007 Chairman)
- ♦ Topeka Area Chamber of Commerce Board of Directors (2006 Chairman)
- ♦ Kansas Big Brothers/Big Sisters Board of Directors
- ♦ University of Kansas School of Engineering Advisory Board
- ♦ Kansas State University School of Business Advisory Board
- ♦ United Way of Topeka Board of Directors
- ♦ Jayhawk Council of the Boys Scouts of America Board of Directors
- ♦ Cappers Foundation Advisory Board
- ♦ Topeka Performing Arts Center Board of Directors
- ♦ 2006 Topeka March of Dimes co-chair

(for Appointments Office use only)

KBI Check: NA In Process Complete

### KANSAS GOVERNOR SEBELIUS APPOINTMENT QUESTIONNAIRE

Position for which you are applying: Secretary of Commerce

Full Name (please include title and middle name): Mr. David Dean Kerr

Home Address: 3925 SW Clarion Park Drive, Topeka, KS 66610 Shawnee

(City, State, Zip) (County)

Business Address: 220 SE 6<sup>th</sup> Street, Room 500, Topeka, KS 66603 Shawnee



(City, State, Zip) (County)

Business Name: AT&T

Position Title: President-Kansas

Home Phone: 785-273-7600 Business Phone: 785-276-8201 Cell Phone: 785-220-1909

Facsimile No: 785-276-1713 E-Mail Address: dk1188@sbcglobal.net

Driver's License No:  Social Security No: 

Date of Birth: 2/16/53 Place of Birth: Dodge City, KS Kansas resident? yes

Registered Voter? yes Party Affiliation: Republican

Congressional District: 2 Kansas Senate District: 20 Kansas Representative District: 52

Do you have the legal right to live and work in the United States? yes

Education: Majors in Business Administration and Economics

from Avila University in Kansas City, MO

Employment Experience: AT&T (1979-present), Penn Valley Community College (1978-1979), and

Avila University (1976-1978)

Do you hold any professional licenses? If so, please provide numbers: N/A

What special skills could you bring to this position? See Attachment I

Previous government appointments: None

(Please provide dates)

**EXPERIENCE AND AFFILIATIONS** (Note: All yes answers require a detailed response. Attach a separate sheet if necessary.)

1. **Military Service:** List rank, date, and type of discharge from active service: None
2. **Government Experience:** List on a separate sheet any experience or association with local, state or federal government (exclusive of elective public office but including advisory, consulting, honorary, or other part-time service or positions), with dates of service: None
3. **Elective Public Office:** List on a separate sheet all elective public offices sought and/or held with dates of service: None
4. **Honors and Awards.** List on a separate sheet all scholarships, fellowships, honorary degrees, honorary society memberships, and any other special recognitions for outstanding service or achievements: See Attachment II
5. **Organization Affiliations.** List on a separate sheet all local, state, and national civic, cultural, educational, charitable, or work-related organizations you have been associated with in the past ten years. Include any position held in the organization and the dates of service. See Attachment II
6. **Organization Restrictions:** To your knowledge, is any organization listed above restricted on the basis of race, color, religion, sex, national origin, disability, marital status, or veteran status? If yes, please describe: No X Yes \_\_\_\_\_
7. **Issues.** Have you ever been publicly identified, in person or by organizational membership, with a particularly controversial national or local issue? If so, please describe. No X Yes \_\_\_\_\_
8. **Submission of views.** Have you ever submitted oral or written views to any governmental authority, whether executive or legislative, or to the news media on any particular controversial issue other than in an official governmental capacity? If yes, please describe. No \_\_\_\_\_ Yes X
9. **Associations.** Have you ever had any association with any person, group, or business venture that could be used, even unfairly, to impugn or attack your character and qualifications for the position to which you seek to be appointed? If yes, please describe. No X Yes \_\_\_\_\_
10. **Opposition.** Do you know of any person or group who might take overt or covert steps to attack, even unfairly, your appointment? If yes, please identify and explain the basis for the potential attack on a separate sheet. No X Yes \_\_\_\_\_ See Attachment II
11. **Miscellaneous.** List on a separate sheet any factors, other than the information provided above, which particularly qualify you or are relevant to the position to which you are seeking appointment? Include any special skills. See Attachment II

CONFLICTS OF INTEREST: (Yes answers require a detailed response. If necessary, use a separate sheet.)

12. **Relationship to governmental employees.** Are you or your spouse or other close family members related to any state governmental official or employee? If yes, please provide details. No X Yes \_\_\_\_\_
13. **Compensation.** During the past five years have you or your spouse or other close family members received any compensation or been involved in any financial transaction with the State of Kansas? If yes, please explain. No X Yes \_\_\_\_\_ See Attachment II
14. **Business relationships.** Describe on a separate sheet any business relationship, dealing, or financial transaction which you have had during the last five years, whether for yourself, on behalf of a client, or acting as an agent, which you believe may constitute an appearance of impropriety or result in a potential conflict of interest in the position to which you want to be appointed. If none, please so state. None
15. **Transactions with officials.** During the past five years, have you or your spouse or other close family members received any compensation or been involved in any financial transaction with any state government official? If, yes, please explain on a separate sheet. No X Yes \_\_\_\_\_
16. **Spouse or other family members.** If the nature of employment for your spouse or other close family member is related in any way to the position to which you want to be appointed, please indicate the employer, the position, and the length of time it has been held. If it is not, please so state. None
17. **Lobbying activities.** Describe briefly on a separate sheet any lobbying activity during the past ten years in which you have engaged for the purpose of influencing the passage, defeat, or modification of any legislative or administrative action. Describe briefly any lobbying activity during the last ten years in which your spouse has engaged for the purpose of influencing the passage, defeat, or modification of any legislative or administrative action that is related in any way to the position to which you are seeking appointment. (Lobbying activity includes any activity performed as an individual or agent of another individual, or of any organization that involves direct communication with an official in the executive branch of state government, or any official of the legislative branch.) If none, please so state. See Attachment II
18. **Regulated activities.** Describe on a separate sheet any interest that you, your spouse, or other close family member may have (whether as an officer, owner, director, trustee, or partner) in any corporation, firm, partnership, or other business enterprise and any non-profit organization or other institution that is regulated by or receives direct financial benefits from any department or agency of the State of Kansas. If none, please so state. See Attachment II
19. **Other.** Please describe on a separate sheet any other matter in which you are involved that is or may be incompatible or in conflict with the discharge of the duties of the position to which you seek to be appointed or which may impair or tend to impair your independence of judgment or action in the performance of the duties of that position. If none, please so state. None

ETHICAL MATTERS: (Yes answers require a detailed response. If necessary, use a separate sheet.)

20. **Citations.** Have you ever been cited for a breach of ethics for unprofessional conduct by, or been named in a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If yes, please provide details.  
No  Yes \_\_\_\_\_
21. **Convictions.** Have you ever been convicted of or entered a plea of guilty or nolo contendere or forfeited collateral for any criminal violation other than a minor traffic offense? (Minor traffic offenses do not include the Kansas offenses of driving under the influence, operating while impaired, reckless driving, or the equivalent offenses in other states.) If yes, please explain.  
No  Yes \_\_\_\_\_
22. **U.S. Military convictions.** Have you ever been convicted by any military court? If yes, please provide details. No  Yes \_\_\_\_\_
23. **Imprisonment.** Have you ever been imprisoned, been on probation, or been on parole? If yes, please provide details. No  Yes \_\_\_\_\_
24. **Agency proceedings: Civil Litigation.** Are you presently, or have you ever been, a party in interest in any administrative agency proceeding or civil litigation that is related in any way to the position to which you are seeking appointment? If yes, please provide details.  
No  Yes \_\_\_\_\_
25. **Agency proceedings and civil litigation of affiliates and family.** Has any business in which you, your spouse, close family member or business associate are or were an officer, director or partner been a party to any administrative agency proceeding or civil litigation relevant to the position to which you are seeking appointment? If yes, please provide details. (With respect to this question, you need only consider proceedings and litigation that occurred while you, your spouse, close family member, or business associate were an officer of that business.)  
No  Yes \_\_\_\_\_
26. **Other litigation.** Other than the litigation described above, have you or any business in which you are or were an officer, director, or partner been a plaintiff or a defendant in a civil lawsuit? If yes, please describe. Is anyone currently threatening to sue you or any business in which you are an officer, director, or partner? If yes, please describe. No  Yes \_\_\_\_\_
27. **Drivers license.** Has your drivers license ever been suspended or revoked? If yes, please describe. No  Yes \_\_\_\_\_
28. **Parking tickets.** Do you have outstanding parking tickets from any jurisdiction in Kansas that have remained unpaid for more than 60 days? If yes, please explain. No  Yes \_\_\_\_\_
29. **Security clearance denial.** Have you ever been denied a military or other governmental clearance? If yes, please explain. No  Yes \_\_\_\_\_

30. **Firings.** During the past ten years, have you been fired from a job for any reason? Did you quit after being told that you would be fired, or did you leave by mutual agreement because of specific problems? If yes, please provide details. No X Yes \_\_\_\_\_
31. **Alimony and child support.** Are you now, or have you ever been delinquent in the payment of alimony or child support? If yes, please provide details. No X Yes \_\_\_\_\_
32. **Consumption of alcohol.** Are you currently abusing alcohol? No X Yes \_\_\_\_\_
33. **Controlled substances.** Are you currently engaged in the illegal use of a controlled substance or abusing the use of a prescribed controlled substance? If yes, please describe. No X Yes \_\_\_\_\_
34. **Physical examination.** If you receive a conditional offer of appointment or employment, would you be willing to take a physical examination, which may include a drug test? No \_\_\_\_\_ Yes X
35. **Other.** Please provide any additional information, favorable or unfavorable, which you feel should be considered in connection with your appointment.

**FINANCIAL MATTERS: (Yes answers require a detailed response. If necessary, use a separate sheet.)**

36. **Delinquencies.** Are you delinquent on any federal, state, or local debt? (Include delinquencies for income, property, or other taxes; governmental loans; overpayment of benefits; required payments into or under governmental programs; and other debts or required payments to the government; plus any defaults on or under loans which are or were guaranteed, insured, or subsidized by any unit of government.) If yes, please provide details on a separate sheet of paper. No X Yes \_\_\_\_\_

**REFERENCES/SIGNIFICANT SUPPORTERS (elected officials, community leaders, friends, etc.)**

Name: Howard Fricke Relationship to you: Business Contact

Telephone: 785-249-5391

Name: Joan Wagnon Relationship to you: Business Contact

Telephone: 785-296-3909

Name: Joyce Allegrucci Relationship to you: Friend

Telephone: 785-272-4900

Name: Doug Kinsinger Relationship to you: Business Contact

Telephone: 785-234-2644

**AUTHORIZATION AND CERTIFICATION:**

The facts set forth in my application are true and complete. False statements, answers, or omissions on this application shall be sufficient cause for nonconsideration or for dismissal after appointment or employment. I also recognize that my selection is based on receipt of satisfactory information from former employers and references, and upon my ability to perform the essential elements, with or without reasonable accommodations, for the position for which I am applying. I herein authorize investigation, without liability, of the information supplied by me in this application for employment or appointment including academic, occupational, health, law enforcement, and government records. I also authorize listed employers and references, without liability, to make full response to any inquiries in connection with this application for appointment or employment. I understand and agree that the terms, conditions, compensation, benefits, hours, schedule, and duration of my appointment or employment may be determined, changed, or modified from time to time at the will of the appointing authority or designee without limitation or condition. I FURTHER CERTIFY THAT I HAVE READ THE FOREGOING PARAGRAPH AND KNOWINGLY MAKE THIS AUTHORIZATION BY SETTING FORTH MY SIGNATURE.

I understand that if I am required to be registered, licensed, or certified by federal or state law or regulation for the position I seek, I will notify the appointing authority immediately if any investigation, limitation, or cancellation of my registration, licensure, or certification occurs. If any investigation, probation, limitation, or cancellation occurs, I understand that my failure to notify my appointing authority as described above will result in the termination of my appointment or employment.

Signature David D. Kern Date 1/31/07

**Please attach a copy of your resume if you have not previously provided one to the Appointments office.**

SPECIAL SKILL/QUALIFICATIONS:

My unique background and work experience is well suited for the appointment and would bring value to the State of Kansas. The combination of being born on a farm, growing up in a small rural Kansas town and receiving my education in a large Kansas metropolitan area provides a well rounded foundation of Kansas values. On a professional level, I have worked for a Fortune 20 corporation for 28 years, the past 10 in senior manager positions. I have also served in leadership positions for numerous business advocacy and economic development organizations, providing a strong basis for serving as the Secretary of Commerce.

In particular, my business experience in strategic planning, marketing, sales and regulatory/legislative affairs management will serve the state well in effectively marketing and selling the strong attributes of our state. The skills gained in working with diverse organizations in a large corporate environment, within the regulatory and legislative arenas, and with local/state chambers and economic development organizations, provide me with the necessary expertise to effectively administer the Department of Commerce. Additionally, the knowledge acquired while serving in leadership positions with local/state chamber and economic development organizations will be invaluable in managing the Commerce Department responsibilities.



## EXPERIENCE AND AFFILIATIONS

### #4. Honors and Awards

- Selected for 2007 Martin Luther King Jr. Living the Dream Community Leadership Recognition
- Elected as the 2006 Chair of the Topeka Chamber of Commerce
- Elected as the 2006-07 Chair of the Kansas Chamber of Commerce

### #5. Organization Affiliations

- Co-Chair of the Topeka March of Dimes (2006)
- Board of Directors and Executive Committee of the Kansas Chamber of Commerce (2003 – Present)
- Board of Directors and Executive Committee of the Topeka Chamber of Commerce (2003 – Present)
- Kansas City Civic Council Member (May 2004 – Present)
- Kansas Cavalry Regional Commander (June 2005 – Present)
- Board of Directors of “Go Topeka” (2006)
- Board of Directors of the Topeka Performing Arts Center (2003 – Present)
- Board of Directors of the Topeka United Way (2003 – Present)
- Board of Directors of the Jayhawk Council of Boy Scouts (2003 – Present)
- Board of Directors of Kansas Big Brothers Big Sisters (2003 – Present)
- Advisory Board of Cappers Foundation (2003 – Present)
- Advisory Board of Kansas State University School of Business (2003 – Present)
- Advisory Board of Kansas University School of Engineering (2003 – Present)

### #8. Submission of views

Represented AT&T in providing written and oral testimony before numerous Kansas legislative committees regarding proposed telecommunications legislation from 2003 to the present. Additionally, formal and informal contacts have been made with Kansas Corporation Commission representatives, including commissioners, regarding telecommunications issues and policies on behalf of AT&T. Additionally, from 1997-2000, I represented AT&T on telecommunications issues in meetings with Federal Communications Commission staff members.

### #10. Opposition

While not anticipated, anti-business opponents may voice concerns regarding the appointment relative to my role as the Chair of the Kansas Chamber of Commerce.

### #11. Miscellaneous

My unique background and work experience is well suited for the appointment and would bring value to the State of Kansas. The combination of being born on a farm, growing up in a small rural Kansas town, educated in a large Kansas metropolitan area, working for a Fortune 20 corporation for 28 years and serving in leadership positions of business advocacy and economic development organizations provides a strong basis for serving as the Secretary of Commerce.

In particular, my business experience in strategic planning, marketing, sales and regulatory/legislative affairs management will serve the state well in effectively marketing and selling the attributes the state has to offer. The ability to effectively work across organizational lines in a large corporate structure as well as within the legislative and regulatory environment replicate the skills necessary required to effectively administer the Department of Commerce. Additionally, the knowledge acquired while serving in leadership positions with local/state chamber and economic development organizations will be invaluable in managing the Commerce Department responsibilities.

**#13. Compensation**

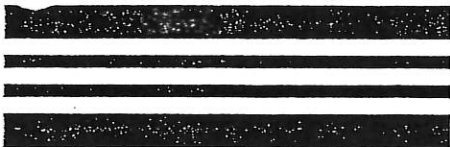
No personal compensation has been received from the state by me or my spouse. However, as the Executive Director of the East Topeka Senior Center, my spouse has applied for and received grant funding from the Kansas Department of Transportation in support of the East Topeka Senior Center. Additionally, my daughter, Alicia M. Kerr, worked as an intern for the State of Kansas from June, 2004 until June 2006 while she was a student at the University of Kansas.

**#17. Lobbying activities**

Since August, 2003, I have served as a registered lobbyist for AT&T. During that time, I have lobbied members of the executive and legislative branches of the Kansas state government on key telecommunications issues and proposed legislation, including presenting written and oral testimony before numerous legislative committees regarding proposed telecommunications legislation. Additionally, I have met with legislators and members of the executive branch on key business issues and legislation in support of the Kansas Chamber of Commerce.

**#18. Regulated activities**

With the responsibility of representing AT&T on regulatory issues in Kansas since July, 2003, I have made formal and informal contacts with Kansas Corporation Commission representatives, including commissioners, regarding telecommunications issues and policies on behalf of AT&T. These contacts have been made in conjunction with, as well as independent of, formal commission dockets and proceedings.



STATE OF KANSAS



Sec. of St. bar code

KANSAS GOVERNMENTAL ETHICS COMMISSION

STATEMENT OF SUBSTANTIAL INTERESTS FORM

INSTRUCTIONS. This statement (pages 1 through 4) must be completed by individuals who are required to do so by law. Any individual who intentionally fails to file as required by law, or intentionally files a false statement, is subject to prosecution for a class B misdemeanor.

Please read the "Guide" and Definition" section provided with this form for additional assistance in completing sections "C" through "G". If you have questions or wish assistance, please contact the Commission office at 109 West 9th, Topeka, KS or call 785-296-4219.

A. IDENTIFICATION: PLEASE TYPE OR PRINT

Kerr	David	Dean
Last Name	First Name	MI
Kerr	Mary	Alice
Spouse's Name		

3925 SW Clarion Park Dr.,

Number & Street Name, Apartment Number, Rural Route, or P.O. Box Number

Topeka, KS 66610

City, State, Zip Code

785-273-7600

785-276-8201

Home Phone Number (include area code)

Business Phone Number (include area code)

B. THIS FORM IS REQUIRED TO BE FILED BECAUSE YOU ARE:

(check one or more of the following)

- 1. State Elected Official (Governor, Lt. Governor, Attorney General, Commissioner of Insurance, State Treasurer, Secretary of State, State Senator, State Representative, Member of State Board of Education, or District Attorney);
- 2. Appointed Member of a State Board, Council, Commission or Authority;
- 3. Appointed State Position is Subject to Senate Confirmation;
- 4. Employee of a State Agency or University;
- 5. General Counsel for State Office;
- 6. Candidate for State Office;
- 7. Other (Contractor / Member of Compact).

List Name of Agency, Board, University or Elected Position (You may use abbreviations but not acronyms)

Secretary of Commerce

Agency

Division if applicable (May use acronyms)

Position

\* The last four digits of your social security number will aid in identifying you from others with the same name on the computer list. This information is optional.

Rev. 3/2006

- C. **OWNERSHIP INTERESTS:** List any corporation, partnership, proprietorship, trust, joint venture and every other business interest, including land used for income, and specific stocks, mutual funds or retirement accounts in which either you or your spouse has owned within the preceding 12 months a legal or equitable interest exceeding \$5,000 or 5%, whichever is less. If you or your spouse own more than 5% of a business, you must disclose the percentage held. Please insert additional page if necessary to complete this section.

If you have nothing to report in Section "C", check here .

	BUSINESS NAME AND ADDRESS	TYPE OF BUSINESS	DESCRIPTION OF INTERESTS HELD	PERCENT OF OWNERSHIP INTERESTS	HELD BY WHOM
1.	Smith Barney Warrington Fund LD, 5950 Berkshire Lane, Ste 600, Dallas, TX 75225	Investment	Stocks & Bonds	100%	David & Mary
2.	AT&T Stock Savings Plan, 175 E. Houston, Rm. 3-P-60, San Antonio, TX	Investment	Stock	100%	David Kerr
3.	AT&T Stock Purchase Deferral Plan, 175 E. Houston, Rm. 3-P-60, San Antonio, TX	Investment	Stock	100%	David Kerr
4.	AT&T Savings Plan, 175 E. Houston, Rm. 3-P-60, San Antonio, TX	Investment	Stocks & Bonds	100%	David Kerr
5.	AT&T PAYSOP, 175 E. Houston, Rm. 3-P-60, San Antonio, TX	Investment	Stocks & Bonds	100%	David Kerr
6.	AT&T Pension Plan, 175 E. Houston, Rm. 3-P-60, San Antonio, TX	Investment	Cash	100%	David Kerr
7.	AT&T Cash Deferral Plan, 175 E. Houston, Rm. 3-P-60, San Antonio, TX	Investment	Cash	100%	David Kerr
8.	AT&T Performance Shares, 175 E. Houston, Rm. 3-P-60, San Antonio, TX	Investment	Stock	100%	David Kerr
9.	AT&T Stock Options, 175 E. Houston, Rm. 3-P-60, San Antonio, TX	Investment	Stock	100%	David Kerr
10.					

- D. **GIFTS OR HONORARIA:** List any person or business from whom you or your spouse either individually or collectively, have received gifts or honoraria having an aggregate value of \$500 or more in the preceding 12 months.

If you have nothing to report in Section "D", check here .

	NAME OF PERSON OR BUSINESS FROM WHOM GIFT RECEIVED	ADDRESS	RECEIVED BY:
1.			
2.			
3.			

**E. RECEIPT OF COMPENSATION:** List all places of employment in the last calendar year, and any other businesses from which you or your spouse received \$2,000 or more in compensation (salary, thing of value, or economic benefit conferred on in return for services rendered, or to be rendered), which was reportable as taxable income on your federal income tax returns.

1. YOUR PLACE(S) OF EMPLOYMENT OR OTHER BUSINESS IN THE PRECEDING CALENDAR YEAR. IF SAME AS SECTION "B", CHECK HERE \_\_\_\_.  
If you have nothing to report in Section "E"1, check here \_\_\_\_.

	NAME OF BUSINESS	ADDRESS	TYPE OF BUSINESS
1.	AT&T	200 E. 6th, Rm 500, Topeka, KS	Telecommunications
2.			

2. SPOUSE'S PLACE(S) OF EMPLOYMENT OR OTHER BUSINESS IN THE PRECEDING CALENDAR YEAR.  
If you have nothing to report in Section "E"2, check here \_\_\_\_.

	NAME OF BUSINESS	ADDRESS	TYPE OF BUSINESS
1.	East Topeka Senior Center	1114 SE 10th, Topeka, KS	Community Service
2.			

**F. OFFICER OR DIRECTOR OF AN ORGANIZATION OR BUSINESS:** List any organization or business in which you or your spouse hold a position of officer, director, associate, partner or proprietor at the time of filing, irrespective of the amount of compensation received for holding such position. Please insert additional page if necessary to complete this section.  
If you have nothing to report in Section "F", check here \_\_\_\_.

	BUSINESS NAME AND ADDRESS	POSITION HELD	HELD BY WHOM
1.	Kansas Chamber of Commerce, 835 SW Topeka Blvd, Topeka, KS	Board and Executive Committee member,	David Kerr
2.	Topeka Chamber of Commerce, 120 E. 6th St., Topeka, KS	Board and Executive Committee member,	David Kerr
3.	"Go Topeka", 120 E. 6th St., Topeka, KS	Board Member	David Kerr
4.	Topeka Performing Arts Center, 214 SE 8th St., Topeka, KS	Board Member	David Kerr
5.	United Way of Topeka, 1315 SW Arrowhead, Topeka, KS	Board Member	David Kerr
6.	Jayhawk Council of Boy Scouts, 1020 SW Monroe, Topeka, KS	Board Member	David Kerr
7.	Big Brothers Big Sisters of Kansas, 310 E. 2nd St, Wichita, KS	Board Member	David Kerr
8.	Cappers Foundation Advisory Board, 3500 SW 10th Ave, Topeka, KS	Advisory Board Member	David Kerr

G. **RECEIPT OF FEES AND COMMISSIONS:** List each client or customer who pays fees or commissions to a business or combination of businesses from which fees or commissions you or your spouse received an aggregate of \$2,000 or more in the preceding calendar year. The phrase "client or customer" relates only to businesses or combination of businesses. In the case of a partnership, it is the partner's proportionate share of the business, and hence of the fee, which is significant, without regard to expenses of the partnership. An individual who receives a salary as opposed to portions of fees or commissions is generally not required to report under this provision. Please insert additional page if necessary to complete this section.

If you have nothing to report in Section "G", check here .

	NAME OF CLIENT / CUSTOMER	ADDRESS	RECEIVED BY
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			
13.			

H. **DECLARATION:**

I, David D. Kerr, declare that this statement of substantial interests (including any accompanying pages and statements) has been examined by me and to the best of my knowledge and belief is a true, correct and complete statement of all of my substantial interests and other matters required by law. I understand that the intentional failure to file this statement as required by law or intentionally filing a false statement is a class B misdemeanor.

1/31/07  
Date

David D. Kerr  
Signature of Person Making Statement

NUMBER OF ADDITIONAL PAGES 1

Return your completed statement to the Secretary of State, Elections Division, Memorial Hall, First Floor, 120 SW 10th Topeka, Kansas 66612-1594.

OFFICER OR DIRECTOR OF AN ORGANIZATION OR BUSINESS:

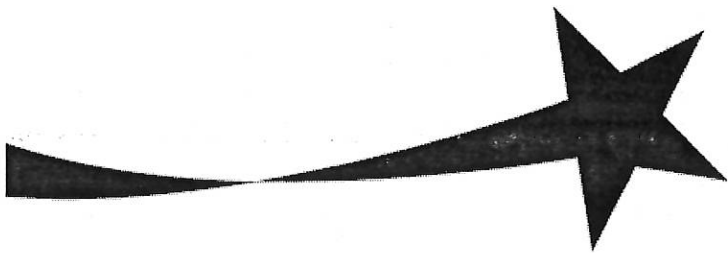
<u>BUSINESS NAME AND ADDRESS</u>	<u>POSITION HELD</u>	<u>HELD BY WHOM</u>
Kansas State University School of Business Advisory Board, 110 Calvin Hall, Manhattan, KS	Member	David Kerr
University of Kansas School of Engineering Advisory Board, 1520 W. 15 <sup>th</sup> , Rm. 1, Lawrence KS	Member	David Kerr
East Topeka Senior Center, 1114 SE 10 <sup>th</sup> , Topeka KS	Board Chair & Executive Director	Mary Kerr



# KANSAS

DEPARTMENT OF COMMERCE

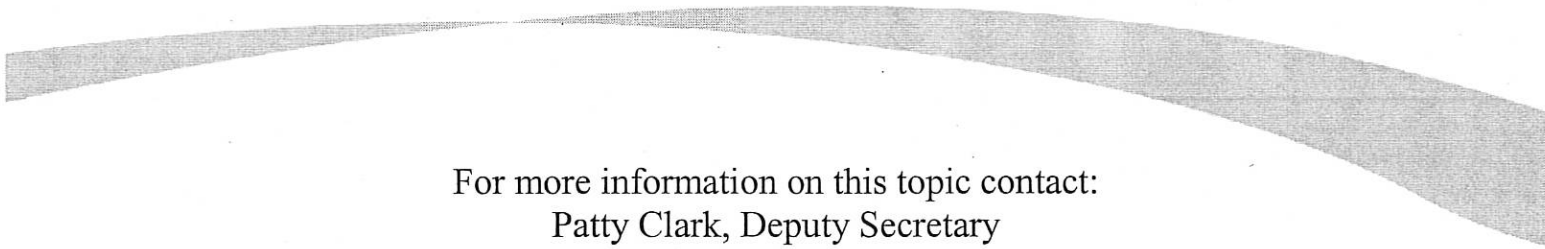
Steve Kelly, Acting Secretary



House Bills 2004 and 2005

## Commerce

March 6, 2007



For more information on this topic contact:

Patty Clark, Deputy Secretary

Phone: (785) 296-5253

Fax: (785) 296-3665

pclark@kansascommerce.com

[www.kansascommerce.com](http://www.kansascommerce.com)

Senate Commerce Committee  
March 6, 2007

Attachment 6-1



Co-chairs Brownlee and Jordan and members of the Committee I am Patty Clark and I serve as Deputy Director for the Kansas Department of Commerce and we wish to express our support for the passage of both HB 2004 and HB 2005.

HB 2004 extends the Rural Business Development Tax Credit program until 2012 with a cap of \$2,000,000 per fiscal year. Last year you approved increasing the tax credit amount from 50% to 75% and since that point we have seen the marketing of the tax credits increase significantly. The funds created by those tax credits are managed by the seven Regional Rural Business Development Foundations to provide gap financing for small business development in rural areas, as well as provide telecommunications improvements and leadership development. In short, the tax credits are now doing exactly what you designed them to do.

HB 2005 provides for some technical clean up to the statutes governing that Kansas Center for Entrepreneurship and the Kansas Entrepreneurship Fund tax credit program. We support the new language.