

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairperson Karin Brownlee at 8:15 A.M. on March 25, 2008 in Room 123-S of the Capitol.

All members were present except:

Nick Jordan- excused

Committee staff present:

Jennifer Thierer, Kansas Legislative Research Department

Kathie Sparks, Kansas Legislative Research Department

Norm Furse, Revisor of Statutes

Jason Long, Revisor of Statutes

Jackie Lunn, Committee Assistant

Conferees appearing before the committee:

Matt Fletcher, Tax Use Law

Stan Ahlerich, Kansas, Inc.

Others attending:

See attached list.

To read testimony submitted by conferees go to

<http://skyways.lib.ks.us/government/KansasSenateCommerceCommittee>.

HB 2315--Home inspectors competency and financial responsibility

Chairperson Brownlee called the Committee's attention on **HB 2315** and called on Jason Long, Revisors Office, to review the balloon for the committee. While Mr. Long was making his way to the podium, Chairperson Brownlee called the Committee's attention to a letter from Christie P. Bradau, State Librarian, regarding Kan-ed (Attachment 1) which can be found in its entirety on the link show above.

Mr. Long presented written copy of the balloon (Attachment 2) which can be found in its entirety on the link shown above.

Upon the completion of Mr. Long's review of the balloon there was a discussion and it was noted the effective date would be July of 2007 and the start date for registration will be July of 2009. that the Board of Technical Professions had responded and stated they did not want the home inspectors under their board and that the home inspectors did not want to be under the Board of Technical Professions. Chairperson Brownlee stated they are trying to create a place where the registration for home inspectors can occur without creating a new board. Some of the Committee feels that putting the inspectors under the Board of Technical Professions is not a good idea.

Senator Emler made a motion to adopt the balloon. Senator Wagle seconded.

The discussion continued regarding the fiscal note and the fact that the original fiscal note was to set up a new board and that would cost \$351,000 and they need to find an existing place to put the home inspectors. Putting the home inspectors under the Board of Technical Professions was discussed in great length and it was decided since neither the home inspectors nor the Board of Technical Professions were in favor of putting the home inspectors with this board, the Committee would put them with the Secretary of State. It was noted that the Secretary of State does a lot of registry work. It was also noted that the goal of the Committee is to place the home inspectors in an existing board or agency to register with and not create a new board as the original bill indicated.

Senator Barone made a substitute motion to place the registry of home inspectors with the Secretary of State's Office. Senator Reitz seconded. Motion carried.

Chairperson Brownlee stated Mr. Long would need to do a new balloon and they would move **HB 2315** out in the meeting tomorrow.

CONTINUATION SHEET

MINUTES OF THE Senate Commerce Committee at 8:30 A.M. on March 25, 2008 in Room 123-S of the Capitol.

Chairperson Brownlee introduced Matt Fletcher to give the annual report on the Tax Use Law. Mr. Fletcher presented written copy ([Attachment 3](#)) which can be found in its entirety on the link shown above.

Upon the conclusion of Mr. Fletcher's annual report, there was a short discussion.

Chairperson Brownlee then introduced Stan Ahlerich, Kansas, Inc. Mr. Ahlerich stated that Kansas, Inc. contracted with Justin Marlowe, University of Kansas, to do the evaluation of the Department of Commerce and introduced Mr. Marlowe to review the report to the Committee. Mr. Marlowe presented written copy ([Attachment 4](#)) which can be found in its entirety on the link shown on Page 1 of these minutes. A copy of the *Evaluation of the Kansas Department of Commerce* can be found on file with Kansas, Inc. and in the office of the Senate Commerce Committee Assistant.

Upon the conclusion of Mr. Marlowe's review, a question and answer session followed.

Upon the conclusion of the questions and answer session, Mr. Ahlerich introduced Richard Caplan representing Richard Caplan & Associates, the company that did the evaluation of the Kansas Center of Entrepreneurship. The original Evaluation on the Kansas Center for Entrepreneurship can be found on file at the offices of Kansas, Inc. and the office of the Senate Commerce Committee Assistant. Mr. Caplan presented written copy ([Attachment 5](#)) of his review which can be found in its entirety on the link shown on Page 1 of these minutes.

Do to the time restraint, there was no time for questions of Mr. Caplan. Chairperson Brownlee adjourned the meeting at 9:30 a.m. with the next meeting scheduled for March 26, 2008 at 8:15 a.m. in room 123 S.

KANSAS

State Library of Kansas
March 20, 2008

Senator Karin Brownlee
Room 121 E.
Statehouse

Dear Senator Brownlee,

There is much discussion about the funding and future of Kan-ed again, and as you know, last year at this time I would have found myself sending you a very different message! However, much has changed in the last twelve months, and I wholeheartedly support full appropriation for Kan-ed.

We have worked closely with Kan-ed under the leadership of Brad Williams, and are eager to continue this new direction. In fact, it is vital to Kansas libraries that Kan-ed be allowed to continue with full funding.

The projects currently in process are crucial:

1. The layer three solution envisioned and now being made a reality through the contract that will connect every library in Kansas to affordable high-speed internet access! This will finally take Kansas out of last place in provision of internet service through libraries!
2. Our partnership to provide informational databases to Kansans has been strengthened, and Kan-ed is providing even more support for these services.
3. Kan-ed is represented on the new State Library of Kansas Board in direct compliance with your request to coordinate and cooperate, and Brad's contribution to that Board is very valuable.

This is the wrong time to change courses for Kan-ed. I fervently request continued full funding for Kan-edour libraries depend on it!

Sincerely,



Christie P. Brandau
State Librarian of Kansas

Senate Commerce Committee
March 25, 2008

Attachment 1-1

As Amended by House Committee

Session of 2007

HOUSE BILL No. 2315

By Committee on Commerce and Labor

1-31

10 AN ACT concerning real property; relating to home inspections; requir-
11 ing home inspector registration and certificates.

relating to the state board of technical professions;

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

; amending K.S.A. 74-7003, 74-7009 and 74-7029 and repealing the
existing sections

14 ~~Section 1. As used in this section:~~

15 ~~(a) (1) "Home inspection" means a non-invasive limited visual ex-~~
16 ~~amination of a residential dwelling of not more than four attached units,~~
17 ~~or any portion thereof designed to identify material defects at the time~~
18 ~~of the inspection of three or more of the following readily accessible~~
19 ~~systems and components:~~

- 20 ~~(A) Heating systems;~~
- 21 ~~(B) cooling systems;~~
- 22 ~~(C) electrical systems;~~
- 23 ~~(D) plumbing systems;~~
- 24 ~~(E) structural components;~~
- 25 ~~(F) foundations;~~
- 26 ~~(G) roof coverings;~~
- 27 ~~(H) exterior and interior components; and~~
- 28 ~~(I) any other components and systems that are part of the residential~~
29 ~~dwelling and included in the standards of practice followed by the home~~
30 ~~inspector.~~

31 ~~(2) The term "home inspection" also includes any consultation re-~~
32 ~~garding the property that is represented to be a home inspection or that~~
33 ~~is described by any similar term.~~

34 ~~(3) The term "home inspection" does not include:~~

- 35 ~~(A) A compliance inspection for any code or governmental regulation;~~
- 36 ~~(B) an examination for the conditions and operation of kitchen type~~
37 ~~appliances, on-site water supplies or wells, private waste systems, the~~
38 ~~determination of the presence of wood destroying organisms or pests, or~~
39 ~~the presence of fungi, mold, bacteria, asbestos, lead based paint, gases or~~
40 ~~conditions of air quality; and~~
- 41 ~~(C) an examination and evaluation of only two or less of the compo-~~
42 ~~nents listed in section (a)(1).~~

43 ~~(b) "Home inspector" means an individual who performs a home in-~~

Senate Commerce Committee
March 25, 2008
Attachment 2-1

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1 spection as defined by this act.

2 (e) "Home inspection report" means a written report on the results
3 of a home inspection which is issued for a home inspection. The report
4 shall include the following:

5 (1) A clear identification and description of those systems, structures
6 or components which were inspected;

7 (2) a clear identification and description of those systems, structures
8 or components designated to be inspected under the standards of practice
9 approved by the board and which were not inspected, and the reason why
10 they were not inspected;

11 (3) a clear identification and description of any material defects found
12 to be in need of repair, including any recommendations for further eval-
13 uation; and

14 (4) a completed pre inspection agreement.

15 (d) ~~"Pre inspection agreement" means a written contract be-~~
16 ~~tween a customer and a home inspector to do a home inspection.~~

17 (e) ~~"Pre inspection notice" means a document which shall be pro-~~
18 ~~vided to a customer prior to the start of the home inspection. The pre-~~
19 ~~inspection notice shall contain, at a minimum, the following information:~~

20 (1) A clear description of the scope of the home inspection;

21 (2) a clear description of any limitations on the liability of the home
22 inspector for any errors and omissions which may arise during the home
23 inspection; and

24 (3) an identification of the national home inspection organizations
25 approved by the board which the home inspector is a member of at the
26 time of the home inspection; and

27 (4) an identification of the standards of practice approved by the
28 board which the home inspector will be following during the home
29 inspection.

30 (e) (f) ~~"Readily accessible" means available for visual inspection with-~~
31 ~~out requiring the moving of personal property, dismantling, destructive~~
32 ~~measures or actions that would likely involve risk to persons or property.~~

33 (f) (g) ~~"Dismantling" means to take apart or remove any component,~~
34 ~~device or piece of equipment that is bolted, screwed or fastened by any~~
35 ~~other means and that would not be taken apart or removed by a hom-~~
36 ~~eowner in the course of normal and routine household maintenance.~~

37 (g) (h) ~~"Material defect" means any condition that significantly af-~~
38 ~~fects the value, habitability or safety of the dwelling. Style, cosmetic de-~~
39 ~~fects or aesthetics shall not be considered in determining whether a sys-~~
40 ~~tem, structure or component is materially defective.~~

41 (h) (i) ~~"Board" means the Kansas home inspectors registration board.~~

42 (i) (j) ~~"Registrant" means any person registered as a home inspector~~
43 ~~under this act.~~

1 ~~(j) (k)~~ “Applicant” means any person who is applying for registration
2 or renewal of registration under this act.]

3 Sec. 2. This act shall apply to all individuals who conduct home in-
4 spections for compensation, but shall not apply to the following individ-
5 uals ~~who are specifically exempted from registration under this act~~:

The provisions of sections 2 through 7, K.S.A. 74-7009 and 74-7029, and amendments thereto,

6 (a) A tradesman or contractor performing a single component or sys-
7 tem evaluation or a combination of any two systems or components listed
8 in section 1 (a)(1)(A)-(I) while acting within the scope of that occupation;

9 (b) an individual employed by the state or a political subdivision of
10 the state who, within the scope of such employment and in the discharge
11 of such public duties, inspects property or buildings for compliance with
12 requirements safeguarding life, health or property;

13 (c) an individual licensed by the state as an architect while acting
14 within the scope of that license;

15 (d) an individual licensed by the state as a professional engineer while
16 acting within the scope of that license ~~as long as the individual is not~~
17 ~~providing services which would constitute a home inspection as defined~~
18 ~~by this act~~;

19 (e) an individual licensed by the state as a real estate appraiser while
20 acting within the scope of that license;

21 (f) an individual licensed by the state as a real estate broker or sales-
22 person while acting within the scope of that license;

23 (g) an individual employed as an insurance adjuster while acting
24 within the scope of that occupation;

25 (h) **an individual licensed as a manufactured home manufac-**
26 **turer while acting within the scope of that license;**

27 (i) **an individual employed by a manufactured home manufac-**
28 **turer while acting within the scope of that occupation;**

29 (j) **a modular home manufacturer or modular home manufac-**
30 **turer’s representative reviewing a residential dwelling built by the**
31 **manufacturer for the purpose of evaluating the residential**
32 **dwelling;**

33 (k) an individual licensed as a manufactured home dealer while acting
34 within the scope of that license;

35 ~~(i)~~ (l) an individual employed as a manufactured home installer while
36 acting within the scope of that occupation;

37 ~~(j)~~ (m) **an individual licensed by the state as an insurance agent**
38 **while acting within the scope of that license;**

, or an individual retained by an insurance company while acting within the scope of the Kansas insurance code

39 (n) a homebuilder or homebuilder’s representative reviewing a resi-
40 dential dwelling built by the homebuilder for the purposes of evaluating
41 the residential dwelling ~~prior to the dwelling’s first transfer of ownership~~;
42 and

43 ~~(k)~~ (o) an individual employed as a pest exterminator or chemical

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1 applicator while acting within the scope of that occupation and not pro-
2 viding services which would constitute a home inspection under this act.

, as defined in K.S.A. 74-7003, and amendments thereto

3 ~~Sec. 3. (a) There is hereby established the Kansas home inspectors~~
4 ~~registration board. The purpose of the board is to administer and enforce~~
5 ~~the provisions of this act, promote consumer protection, ensure profes-~~
6 ~~sional competency and ensure the presence of a viable home inspection~~
7 ~~industry in this state.~~

8 (b) ~~The board shall consist of five members to be appointed by the~~
9 ~~governor as follows:~~

10 (1) ~~Three members shall be home inspectors who have actively been~~
11 ~~engaged in the practice of home inspections for at least five years im-~~
12 ~~mediately preceding their appointment and have completed at least 1,000~~
13 ~~fee paid home inspections;~~

14 (2) ~~one member shall be a licensed real estate salesperson or broker;~~
15 ~~and~~

16 (3) ~~one member shall be an at large member who is neither a home~~
17 ~~inspector nor a licensed real estate salesperson or broker.~~

18 (c) ~~Prior to September 1, 2007 2008, the governor shall appoint the~~
19 ~~initial board members as specified in subsection (b). The board shall hold~~
20 ~~its first meeting prior to January 1, 2008 2000. Following the first meeting~~
21 ~~of the board, the newly elected chairperson shall serve for a term of three~~
22 ~~years, the vice chairperson shall serve for a term of three years, the sec-~~
23 ~~retary shall serve for a term of two years and the remaining board mem-~~
24 ~~bers shall serve for a term of one year. After these initial terms have been~~
25 ~~completed, the board members shall serve terms as specified in subsec-~~
26 ~~tion (d).~~

27 (d) ~~Board members shall serve three year terms, with no board mem-~~
28 ~~ber serving more than two consecutive terms of office. Upon the expi-~~
29 ~~ration of the term of office of any member, the governor shall appoint a~~
30 ~~successor meeting the qualifications under this act. Each board member~~
31 ~~shall serve until a successor is appointed and qualified. There shall be at~~
32 ~~all times at least one board member from each congressional district in~~
33 ~~the state of Kansas.~~

34 (e) ~~In the event of a vacancy in the membership of the board for any~~
35 ~~reason other than expiration of a board member's term of office, the~~
36 ~~governor shall appoint a successor meeting the qualifications of this act~~
37 ~~to fill the unexpired term.~~

38 (f) ~~At the first board meeting each year, the board shall elect from~~
39 ~~its membership the following officers: Chairperson, vice chairperson and~~
40 ~~seeretary. The officers shall serve 12 month terms. A person may serve a~~
41 ~~maximum of two consecutive terms as an officer in each respective po-~~
42 ~~sition. The officers shall have the following duties:~~

43 (1) ~~The chairperson shall preside over all meetings.~~

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1 ~~(2) The vice chairperson shall preside over meetings in the absence~~
2 ~~of the chairperson.~~

3 ~~(3) The secretary shall be responsible for:~~

4 ~~(A) Preparation, publication and maintenance of the minutes of the~~
5 ~~board meetings;~~

6 ~~(B) preparation of correspondence and conduct of administrative~~
7 ~~support as the chairperson may direct or as may be prescribed in the rules~~
8 ~~and regulations of the board;~~

9 ~~(C) maintaining the permanent records of the board. The secretary~~
10 ~~of state shall be the custodian of all permanent records of the board.~~

11 ~~(g) Upon determining that adequate resources are available, the~~
12 ~~board may appoint an executive secretary who shall be in the unclassified~~
13 ~~service of the Kansas civil service act. The executive secretary shall receive~~
14 ~~an annual salary which shall be fixed by the board and approved by the~~
15 ~~state finance council.~~

16 ~~(h) The board may employ such other employees as may be neces-~~
17 ~~sary, fix salaries of all its employees and make such other expenditures as~~
18 ~~are necessary to properly carry out the provisions of this act.~~

19 ~~(i) Each board member shall be paid compensation, subsistence al-~~
20 ~~lowances, mileage and other expenses as provided in K.S.A. 75-3223, and~~
21 ~~amendments thereto.~~

22 ~~(j) The board shall hold meetings in such places as it shall determine~~
23 ~~and at such times as it may designate or on request of two or more of its~~
24 ~~members. A majority of the members of the board shall constitute a~~
25 ~~quorum.~~

26 ~~(k) Applications for original registration and renewal of registration~~
27 ~~shall be made in writing or by electronic filing to the board on forms~~
28 ~~approved by the board and shall be accompanied by the appropriate fees~~
29 ~~prescribed by the board.~~

30 ~~Sec. 4. (a) The secretary shall remit all moneys received by or for the~~
31 ~~board from fees, charges or penalties to the state treasurer in accordance~~
32 ~~with the provisions of K.S.A. 75-4215, and amendments thereto. Upon~~
33 ~~receipt of each such remittance, the state treasurer shall deposit the entire~~
34 ~~amount in the state treasury and the balance shall be credited to the home~~
35 ~~inspectors registration fee fund, which is hereby established. All expend-~~
36 ~~itures from such fund shall be approved by the board **shall be made in**~~
37 ~~**accordance with appropriations acts upon warrants of the director**~~
38 ~~**of accounts and reports issued pursuant to vouchers approved by**~~
39 ~~**the board or by a person or persons designated by the board.**~~

40 Sec. 5. The board shall have the following duties and powers:

41 (a) Administer and enforce the provisions of ~~this act;~~

42 (b) approve and adopt the standards of practice of nationally-recog-
43 nized home inspection associations which meet the requirements of ~~this~~

sections 1 through 7, and amendments thereto

1 ~~act;~~

sections 1 through 7, and amendments thereto

2 (c) register qualified applicants as home inspectors pursuant to this

in accordance with sections 1 through 7, and amendments thereto

3 ~~act;~~

4 (d) suspend, revoke or fail to renew the registration of a home in-
5 spector under this act;

in accordance with section 3, and amendments thereto

6 (e) make all necessary investigations into the qualifications of an ap-
7 plicant and registrant;

8 (f) approve examinations to determine the qualifications of applicants
9 for registration; and

10 (g) adopt all rules and regulations which are necessary to carry out
11 the provisions of this act.

sections 1 through 7, and amendments thereto

12 Sec. 6. (a) The board may deny, suspend or revoke a registration, or
13 may impose probationary conditions on a registrant or applicant if the
14 registrant or applicant has engaged in any of the following conduct:

15 (1) Making a materially false or fraudulent statement in an application
16 for registration or renewal;

17 (2) been convicted of or plead guilty or nolo contendere in a court of
18 competent jurisdiction to forgery, fraud, conspiracy to defraud or any
19 similar offense or offenses;

20 (3) intentionally falsifying a home inspection report;

21 (4) failing to perform a home inspection in accordance with the stan-
22 dards of practice approved by the board and followed by the home in-
23 spector; and

24 (5) violating any provision of this act or rules and regulations prom-
25 ulgated by the board pursuant to this act.

adopted

26 (b) In addition to or in lieu of any other administrative, civil or crim-
27 inal remedy provided by law, the board, in accordance with the Kansas
28 administrative procedures act and upon a finding that a registrant has
29 violated a provision of this act or rules and regulations adopted hereunder,
30 may impose on such registrant a civil fine not to exceed \$500 for each
31 violation.

32 ~~[Sec. 7. The board shall adopt rules and regulations fixing the~~
33 ~~amounts of fees provided for by this act, subject to the following: For an~~
34 ~~application for an original registration, the amount may not exceed \$200,~~
35 ~~and for renewal of registration the amount may not exceed \$200. Other~~
36 ~~fees may be set in the amount determined by the board.~~

37 ~~Sec. 8. (a) The attorney general shall provide as an attorney for the~~
38 ~~board and shall represent the board in all actions and proceedings brought~~
39 ~~by or against the board. The board may hire independent counsel when~~
40 ~~the board deems appropriate. All fees and expenses of such independent~~
41 ~~counsel arising out of the performance of duties for the board shall be~~
42 ~~paid out of the home inspectors registration fee fund.]~~

43 Sec. 9. The home inspector shall be prohibited from performing any

1 of the following acts as part of the home inspection:

2 (a) ~~Performing or offering to perform for an additional fee any re-~~
3 ~~pairs, remodeling or other type of remedial work to the dwelling for which~~
4 ~~the home inspector has prepared a home inspection report within the last~~
5 ~~12 months;~~

6 (b) ~~inspecting~~ **Inspecting** for a fee any property in which the home
7 inspector has any personal interest unless the interest is disclosed in writ-
8 ing to the client before the home inspection is performed and the client
9 signs an acknowledgment of receipt of the disclosure;

10 (e) ~~(b)~~ offering or delivering any commission, referral fee or kickback
11 for the referral of any business to the home inspector; and

12 ~~(d)~~ (c) accepting an engagement to perform a home inspection or to
13 prepare a home inspection report in which the employment itself or the
14 fee payable for the inspection is contingent upon the conclusions in the
15 home inspection report, pre-established or prescribed findings or the
16 closing of the underlying real estate transaction.

17 Sec. 10. On and after July 1, ~~2008~~ **2009**, all individuals performing
18 home inspections as defined ~~under this act~~ in the state of Kansas shall be
19 required to file a written registration with the board. All registrants must:

in K.S.A. 74-7003, and amendments thereto,

20 (a) Be at least 18 years of age;

21 (b) have successfully completed high school or its equivalent;

, unless such individual is engaged in the practice of performing home inspections on
the effective date of this act

22 (c) submit proof of current general liability insurance coverage ~~in an~~
23 ~~amount of \$250,000 or more;~~

24 (d) submit proof of a fidelity bond to cover dishonesty in an amount
25 not less than \$10,000 providing that the fidelity bond may not be termi-
26 nated without 30 days prior written notice to the board;

27 (e) submit proof of financial responsibility by one of the following:

28 (1) A policy of errors and omissions insurance coverage;

29 (2) a surety bond in an amount not less than \$10,000, providing that
30 the surety bond may not be terminated without 30 days prior written
31 notice to the board;

32 (3) an irrevocable letter of credit not less than \$10,000 issued by a
33 bank which is insured by the federal deposit insurance corporation or its
34 successor if such letter of credit is initially issued for a term of at least
35 one year and by its terms is automatically renewed at each expiration date
36 for at least an additional one-year term unless at least 30 days prior written
37 notice of intention not to renew is provided to the board; or

38 (4) the maintenance of a minimum balance of \$10,000 in an escrow
39 account in a Kansas financial institution as defined in K.S.A. 16-117, and
40 amendments thereto, provided that the escrow account shall maintain the
41 minimum balance through the term of the registrant's registration as a
42 home inspector. The board shall be notified in writing by the financial
43 institution within 10 days if the amount in the escrow account falls below

1 the \$10,000 minimum balance. Upon notification, the board shall suspend
 2 such registrant's registration as a home inspector until the escrow account
 3 minimum balance is restored to greater than or equal to \$10,000;

4 ~~(e) submit proof of membership in good standing in either:~~
 5 ~~(1) The American society of home inspectors (ASHI);~~
 6 ~~(2) the national association of home inspectors (NAHI); or~~
 7 ~~(3) the national association of certified home inspectors (NACHI);~~
 8 and

9 (f) **submit proof of membership in good standing in one or**
 10 **more nationally recognized society, association or organization**
 11 **that provides for membership of individuals engaged in home in-**
 12 **spections as recognized by the board; and**

13 (g) have successfully completed and passed a written or electronic
 14 exam as approved by the board and proctored by a testing organization
 15 approved by the board;

16 ~~(g)~~ (h) annually obtained a minimum of 16 hours of continuing ed-
 17 ucation by completing courses approved by the board; and

18 ~~(h)~~ (i) have satisfied one of the following requirements:

19 (1) Have successfully completed and passed a course of study con-
 20 taining at least 80 hours of classroom and field training offered by an
 21 educational provider approved by the board; or

22 (2) have been actively engaged in the practice of conducting home
 23 inspections for not fewer than three years prior to the effective date of
 24 this act and have completed not less than 300 fee-paid home inspections.

25 Sec. 11. (a) It is the duty of all home inspectors registered under this
 26 act to conduct home inspections with the degree of care that a reasonably
 27 prudent home inspector would exercise under the circumstances.

28 (b) All home inspections shall be conducted according to standards
 29 of practice and a code of ethics approved by the board.

30 (c) No home inspector may include, as a term or condition in an
 31 agreement to conduct a home inspection, any provision that disclaims the
 32 liability for any errors and omissions which may arise during a home
 33 inspection, or limit the amount of damages for liability for any errors and
 34 omissions which may arise during a home inspection to less than ~~\$1,000~~
 35 **\$10,000** in the aggregate for each home inspection **and such term or**
 36 **condition or limitation setting the liability at an amount greater**
 37 **than \$10,000 must be provided to the customer in writing to be in**
 38 **effect.**

39 (d) An action to recover damages for any act or omission of a home
 40 inspector relating to a home inspection or home inspection report must
 41 be brought not more than 12 months from the date the home inspection
 42 was performed and may be initiated only by a party to the real estate
 43 transaction for which the home inspection was conducted.

1 (e) In any action to recover damages for any error or omission of a
 2 home inspector relating to a home inspection or home inspection report,
 3 a home inspector is liable for any errors and omissions which may arise
 4 during a home inspection in an amount of not to exceed ~~\$1,000~~ **\$10,000**
 5 in the aggregate for each home inspection, **or to the amount in the pre-**
 6 **inspection agreement to conduct a home inspection, if greater**
 7 **than \$10,000 in the aggregate for each home inspection, provided**
 8 **that a home inspector provides the customer with a clear written**
 9 **description in the pre-inspection agreement of any greater limi-**
 10 **tations on the liability of the home inspector for any errors and**
 11 **omissions which may arise during the home inspection.**

12 Sec. 12. (a) No individual shall advertise themselves as a home in-
 13 spector unless the individual has complied with the provisions of ~~this act.~~
 14 Individuals who are exempt from registration under ~~this act~~ or whose
 15 actions are considered to be a home inspection under ~~this act~~ may not
 16 hold themselves out to be home inspectors or use words or titles that may
 17 reasonably be confused with the title of "home inspector" or "house in-
 18 spector" unless they are registered as a home inspector pursuant to ~~this~~
 19 ~~act.~~

sections 1 through 6, and amendments thereto

section 1, and amendments thereto,

as defined in K.S.A. 74-7003, and amendments thereto,

sections 1 through 6, and amendments thereto

20 (b) All advertisements, contracts, correspondence and other docu-
 21 ments prepared by an individual performing home inspections under ~~this~~
 22 ~~act~~ shall indicate the home inspector's registration number, name and
 23 address as registered with the board.

in accordance with sections 1 through 6, and amendments thereto,

24 ~~[Sec. 13. Any individual performing home inspections as defined in~~
 25 ~~this act or assisting any person to perform home inspections outside the~~
 26 ~~guidelines of this act shall constitute a class A misdemeanor and will be~~
 27 ~~subject to all the legal remedies and penalties thereof.~~

28 ~~Sec. 14. This act shall be cited as the Kansas home inspectors pro-~~
 29 ~~fessional competence and financial responsibility act.]~~

New Sec. 8. The provisions of sections 1 through 7, and amendments thereto, shall
 be a part of and supplemental to article 70 of chapter 74 of the Kansas Statutes
 Annotated.
 Sec. 9. (see attached)
 Sec. 10. (see attached)
 Sec. 11. (see attached)
 Sec. 12. K.S.A. 74-7003, 74-7009 and 74-7029 are hereby repealed.

30 Sec. 15. This act shall take effect and be in force from and after its
 31 publication in the statute book.

Sec. 9. K.S.A. 74-7003 is hereby amended to read as follows: 74-7003. As used in this act:

- (a) "Technical professions" includes the professions of engineering, land surveying, architecture, landscape architecture and geology as the practice of such professions are defined in this act.
- (b) "Board" means the state board of technical professions.
- (c) "License" means a license to practice the technical professions granted under this act.
- (d) "Architect" means a person whose practice consists of:
 - (1) Rendering services or performing creative work which requires architectural education, training and experience, including services and work such as consultation, evaluation, planning, providing preliminary studies and designs, overall interior and exterior building design, the preparation of drawings, specifications and related documents, all in connection with the construction or erection of any private or public building, building project or integral part or parts of buildings or of any additions or alterations thereto, or other services and instruments of services related to architecture;
 - (2) representation in connection with contracts entered into between clients and others; and
 - (3) observing the construction, alteration and erection of buildings.
- (e) "Practice of architecture" means the rendering of or offering to render certain services, as described in subsection (d), in connection with the design and construction or alterations and additions of a building or buildings; the design and construction of items relating to building code requirements, as they pertain to architecture, and other building related features affecting the public's health, safety and welfare; the preparation and certification of any architectural design features that are required on plats; and the teaching of architecture by a licensed architect in a college or university offering an approved architecture curriculum of four years or more.
- (f) "Landscape architect" means a person who is professionally qualified as provided in this act to engage in the practice of landscape architecture, who practices landscape architecture and who is licensed by the board.
- (g) "Practice of landscape architecture" means the performing of professional services such as consultation, planning, designing or responsible supervision in connection with the development of land areas for preservation and enhancement; the designing of land forms and nonhabitable structures for aesthetic and functional purposes such as pools, walls and structures for outdoor living spaces for public and private use; the preparation and certification of any landscape architectural design features that are required on plats; and the teaching of landscape architecture by a licensed landscape architect in a college or university offering an approved landscape architecture curriculum of four years or more. It encompasses the determination of proper land use as it pertains to: Natural features; ground cover, use, nomenclature and arrangement of plant material adapted to soils and climate; naturalistic and aesthetic values; settings and approaches to structures and other improvements; soil conservation erosion control; drainage and grading; and the development of outdoor space in accordance with ideals of human use and enjoyment.
- (h) "Professional engineer" means a person who is qualified to practice engineering by reason of special knowledge and use of the mathematical, physical and engineering sciences and the principles and methods of engineering analysis and design, acquired by engineering education and engineering experience, who is qualified as provided in this act to engage in the practice of engineering and who

is licensed by the board.

(i) "Practice of engineering" means any service or creative work, the adequate performance of which requires engineering education, training and experience in the application of special knowledge of the mathematical, physical and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning and design of engineering works and systems, the teaching of engineering by a licensed professional engineer in a college or university offering an approved engineering curriculum of four years or more, engineering surveys and studies, the observation of construction for the purpose of assuring compliance with drawings and specifications, representation in connection with contracts entered into between clients and others and the preparation and certification of any engineering design features that are required on plats; any of which embraces such service or work, either public or private, for any utilities, structures, buildings, machines, equipment, processes, work systems, projects and industrial or consumer products or equipment of a mechanical, electrical, hydraulic, pneumatic or thermal nature, insofar as they involve safeguarding life, health or property. As used in this subsection, "engineering surveys" includes all survey activities required to support the sound conception, planning, design, construction, maintenance and operation of engineered projects, but excludes the surveying of real property for the establishment of land boundaries, rights-of-way, easements and the dependent or independent surveys or resurveys of the public land survey system.

(j) "Land surveyor" means any person who is engaged in the practice of land surveying as provided in this act and who is licensed by the board.

(k) "Practice of land surveying" includes:

(1) The performance of any professional service, the adequate performance of which involves the application of special knowledge and experience in the principles of mathematics, the related physical and applied sciences, the relevant requirements of law and the methods of surveying measurements in measuring and locating of lines, angles, elevation of natural and man-made features in the air, on the surface of the earth, within underground workings and on the bed of bodies of water for the purpose of determining areas, volumes and monumentation of property boundaries;

(2) the preparation of plats of land and subdivisions thereof, including the topography, rights-of-way, easements and any other boundaries that affect rights to or interests in land, but excluding features requiring engineering or architectural design;

(3) the preparation of the original descriptions of real property for the conveyance of or recording thereof and the preparation of maps, plats and field note records that represent these surveys;

(4) the reestablishing of missing government section corners in accordance with government surveys; and

(5) the teaching of land surveying by a licensed land surveyor in a college or university offering an approved land surveying curriculum of four years or more.

(l) "Person" means a natural person, firm, corporation or partnership.

(m) "Plat" means a diagram drawn to scale showing all essential data pertaining to the boundaries and subdivisions of a tract of land, as determined by survey or protraction. A plat should show all data required for a complete and accurate description of the land which it delineates, including the bearings (or azimuths) and lengths of the boundaries of each subdivision.

(n) "Geologist" means a person who is qualified to engage in the practice of geology by reason of knowledge of geology, mathematics and the supporting physical and life sciences, acquired by education and practical experience, who is qualified as provided in this act to engage in the practice of geology and who is licensed by the board.

(o) "Practice of geology" means:

(1) The performing of professional services such as consultation, investigation, evaluation, planning or mapping, or inspection, or the responsible supervision thereof, in connection with the treatment of the earth and its origin and history, in general; the investigation of the earth's constituent rocks, minerals, solids, fluids including surface and underground waters, gases and other materials; and the study of the natural agents, forces and processes which cause changes in the earth;

(2) the teaching of geology by a licensed professional geologist in a college or university offering an approved geology curriculum of four years or more by a person who meets the qualifications for education and experience prescribed by K.S.A. 74-7041 and amendments thereto; or

(3) representation in connection with contracts entered into between clients and others and the preparation and certification of geological information in reports and on maps insofar as it involves safeguarding life, health or property.

(p) (1) *"Home inspection" means a non-invasive limited visual examination of a residential dwelling of not more than four attached units, or any portion thereof designed to identify material defects at the time of the inspection of three or more of the following readily accessible systems and components:*

- (A) *Heating systems;*
- (B) *cooling systems;*
- (C) *electrical systems;*
- (D) *plumbing systems;*
- (E) *structural components;*
- (F) *foundations;*
- (G) *roof coverings;*
- (H) *exterior and interior components; and*

(I) *any other components and systems that are part of the residential dwelling and included in the standards of practice followed by the home inspector.*

(2) *The term "home inspection" also includes any consultation regarding the property that is represented to be a home inspection or that is described by any similar term.*

(3) *The term "home inspection" does not include:*

- (A) *A compliance inspection for any code or governmental regulation;*
- (B) *an examination for the conditions and operation of kitchen-type appliances, on-site water supplies or wells, private waste systems, the determination of the presence of wood-destroying organisms or pests, or the presence of fungi, mold, bacteria, asbestos,*

lead-based paint, gases or conditions of air quality; and

(C) an examination and evaluation of only two or less of the components listed in section (a)(1).

(q) "Home inspector" means an individual who performs a home inspection ~~as defined by this act.~~

(r) "Home inspection report" means a written report on the results of a home inspection which is issued for a home inspection.

The report shall include the following:

(1) A clear identification and description of those systems, structures or components which were inspected;

(2) a clear identification and description of those systems, structures or components designated to be inspected under the standards of practice approved by the board and which were not inspected, and the reason why they were not inspected;

(3) a clear identification and description of any material defects found to be in need of repair, including any recommendations for further evaluation; and

(4) a completed pre-inspection agreement.

(s) "Pre-inspection agreement" means a written contract between a customer and a home inspector to do a home inspection.

(t) "Pre-inspection notice" means a document which shall be provided to a customer prior to the start of the home inspection. ~~The pre-inspection notice shall contain, at a minimum, the following information:~~

~~—— (1) A clear description of the scope of the home inspection;~~

~~—— (2) a clear description of any limitations on the liability of the home inspector for any errors and omissions which may arise during the home inspection; and~~

~~—— (3) an identification of the national home inspection organizations approved by the board which the home inspector is a member of at the time of the home inspection; and~~

~~—— (4) an identification of the standards of practice approved by the board which the home inspector will be following during the home inspection.~~

(u) "Readily accessible" means available for visual inspection without requiring the moving of personal property, dismantling, destructive measures or actions that would likely involve risk to persons or property.

(v) "Dismantling" means to take apart or remove any component, device or piece of equipment that is bolted, screwed or fastened by any other means and that would not be taken apart or removed by a homeowner in the course of normal and routine household maintenance.

(w) "Material defect" means any condition that significantly affects the value, habitability or safety of the dwelling. Style, cosmetic defects or aesthetics shall not be considered in determining whether a system, structure or component is materially defective.

(x) "Registrant" means any person registered as a home inspector ~~under this act~~ **in accordance with the provisions of sections 1 through 7, and amendments thereto.**

(y) "Applicant" means any person who is applying for registration or renewal of registration ~~under this act~~ **the provisions of sections 1 through 7, and amendments thereto.**

Sec. 10. K.S.A. 74-7009 is hereby amended to read as follows: 74-7009. (a) The following nonrefundable fees shall be collected by the board:

(1) For an original license, issued upon the basis of an examination given by the board, an application fee in the sum of not more than \$200 plus an amount, to be determined by the board, equal to the cost of any examination required by the board in each branch of the technical professions;

(2) for a license by reciprocity under K.S.A. 74-7024, and amendments thereto, an application fee of not more than \$500;

(3) for a certificate of authorization for a corporation, the sum of not more than \$300;

(4) for the biennial renewal of a license, the sum of not more than \$200; ~~and~~

(5) for the biennial renewal of a certificate of authorization for a corporation, the sum of not more than \$300. ;

(6) for an application for an original registration of a home inspector, the sum of not more than \$200; and

(7) for the renewal of the registration of a home inspector, the sum of not more than \$200.

(b) On or before November 15, each year, the board shall determine the amount necessary to administer the provisions of this act for the ensuing calendar year including the amount to be credited to the state general fund, and shall fix the fees for such year at the sum deemed necessary for such purposes.

(c) The board shall remit all moneys received by or for it from fees, charges or penalties to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. Twenty percent of each such deposit shall be credited to the state general fund and the balance shall be credited to the technical professions fee fund, which fund is hereby created. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson of the board or by a person or persons designated by the chairperson.

Sec. 11. K.S.A. 74-7029 is hereby amended to read as follows: (a) It shall be a class A misdemeanor for any person to: (1) Practice or offer to practice or hold the person's self out as entitled to practice any technical profession unless duly licensed as provided in this act or holds a certificate of authorization issued under K.S.A. 74-7036 and amendments thereto; (2) present or attempt to use, as such person's own, the license, certificate of authorization or seal of another; (3) falsely impersonate any other practitioner of like or different name; (4) give false or forged evidence to the board or any member thereof in obtaining a license or certificate of authorization; (5) use or attempt to use a license or certificate of authorization that has expired or been suspended or revoked; (6) falsely advertise as a licensed practitioner or as the holder of a certificate of authorization; (7) use in connection with such person's name, or otherwise assume, or advertise any title or description intended to convey the impression that such person is a licensed practitioner or holds a certificate of authorization; (8) *perform home inspections, as defined in K.S.A. 74-7003, and amendments thereto, or assist any person in performing home inspections outside the guidelines of sections 1 through 7, and amendments thereto*; or ~~(8)~~ (9) otherwise violate any of the provisions of this act or any rule and regulation promulgated by the board in conformance with the revisions of this act.

(b) For the purposes of subsection (a)(1), a person shall be construed to practice or offer to practice or hold the person's self out as entitled to practice a technical profession if such person: (1) Practices any branch of the technical professions; (2) by verbal claim, sign, advertisement, letterhead, card or in any other way represents the person's self to be an architect, landscape architect, professional engineer or land surveyor; (3) through the use of some other title implies that such person is an architect, landscape architect, professional engineer or land surveyor or that such person is licensed to practice a technical profession; or (4) holds the person's self out as able to perform, or does perform, any service or work or any other service designated by the practitioner which is recognized as within the scope of the practice of a technical profession.

(c) The attorney general of the state or the district or county attorney of any county, at the request of the board, shall render such legal assistance as may be necessary in carrying out the provisions of this act. Upon the request of the board, the attorney general or district or county attorney of the proper county shall institute in the name of the state or board the proper proceedings against any person regarding whom a complaint has been made charging such person with the violation of any of the provisions of this act. The attorney general, and such district or county attorney, at the request of the attorney general or of the board, shall appear and prosecute any and all such actions.



March 25th, 2008

TO: Members of the Senate Commerce Committee
FR: Matt Fletcher, Chair, State Use Committee
RE: State Use Annual Vendor Report

Chairs Brownlee and Jordan, and members of the committee, thank you for the opportunity to share information with you on behalf of the State Use program of Kansas.

The Kansas State Use law, passed more than 50 years ago, requires that the State, along with State-funded entities such as the Regents system and Kansas school districts, purchase products made by Kansans who have significant disabilities. This law has helped thousands of Kansans learn job skills and earn wages, who otherwise might have never had such an opportunity.

Kansans with disabilities make these products with their own hands. They take great pride in the work that they do. These products are high-quality.

During the 2005 Legislative Session, legislation was passed that formed an oversight committee to review issues relative to State Use law and assist the Director of Purchases in administering the law. Since the creation of the State Use Committee, we have worked to improve the program in a number of ways.

While there are significant differences between some members of the committee regarding aspects of the 2005 legislation, as well as issues involving the pricing of products within the State Use program, progress is being made. The Committee met this January to determine a way to examine waivers requested by purchasers under the "Substantial Use" language contained in the 2005 legislation. The Committee has also formed a workgroup to create a pricing 'matrix' to be used in the future in determining competitive pricing for State Use items. Perhaps most important, since its inception, the Committee has provided a forum for all parties to the State Use program in discussing the tough issues that previously only erupted in the legislative arena. In this respect, the Committee's role has been invaluable.

Senate Commerce Committee

March 25, 2008

Attachment 3-1

Today, I have the pleasure of presenting the Vendors' report on State Use program usage in 2006 and 2007. This report was compiled by vendors of the State Use program who are members of the Coalition for Opportunity. The Coalition has provided a thorough picture of State Use program usage; A picture which indicates that vendors and purchasers in the State Use program have made great strides in meeting the provisions of Kansas State Use Law.

Within the report, you will find data on marketing efforts by State Use vendors as they work to increase awareness of the program. You will also find data that shows that USD participation in the program has increased significantly – close to \$1.3 million. You will also find a summary of waivers that have been granted to customers who needed to be exempted from State Use purchases - both great indicators that the program is maturing in meeting customer needs.

Today, the vendors of the State Use program are here in the Statehouse. I encourage you to take some time today to stop by their booths in the 2nd floor rotunda and see, first hand the high-quality products that are produced by Kansans with disabilities for the State Use program.

Thank you.

Evaluation of the Kansas Department of Commerce

Prepared for Kansas, Inc. by the University of Kansas
Institute for Policy and Social Research

Justin Marlowe, Ph.D.
Department of Public Administration/Institute for Policy
and Social Research
University of Kansas

Overview

- Background and Evaluation Questions
- Methodology
- Key Findings
- Recommendations

Senate Commerce Committee
March 25, 2008

Attachment 4-1

Background and Scope of Work

- The key question: Do the Kansas Department of Commerce (i.e. "Commerce") business assistance programs achieve their mission of "helping Kansans achieve prosperity"?
- Most recent evaluation completed in 1996
- Changes since then:
 - Evolving definition of business assistance
 - Rapid development of technical assistance, tax credits, human capital investment incentives, and other economic development initiatives in virtually every state
 - Trend toward "Bundling" of assistance to individual businesses

Background and Scope of Work

- Evaluation Questions:
 - Question 1: How is business assistance delivered across the state in terms of population, geography, industry codes, and business size/market share?
 - Question 2: How do Commerce activities affect the lifecycle of a Kansas business?
 - Question 3: Do stakeholders perceive Commerce services as integrated and effective?
 - Question 4: Do Commerce business assistance activities place the state in a strong position to compete for economic development activities, relative to other states that define and carry out business assistance in similar ways?

Methodology

- Research conducted July 2006 – October 2007
- Gathered data on multiple aspects of “effectiveness”
 - Historical: Reviewed Commerce documents and reports, prepared case studies of Commerce assistance to individual firms
 - Comparative: Reviewed business assistance programs in Arizona, California, Colorado, Missouri, and Idaho
 - Outputs: Gathered data on Commerce program outputs from FY2001 – FY2006
 - Perceptions within Commerce: interviewed Commerce employees, interviewed employees in Commerce “partner agencies”

Methodology

- Gathered data on multiple aspects of “effectiveness” (cont.)
 - Perceptions outside Commerce: held focus groups with business and civic leaders in Kansas communities; interviewed business executives, site location consultants, city/county administrators
 - Compliance and Accountability: Surveyed businesses and interviewed Commerce staff regarding oversight of business assistance outcomes and administration
 - Outcomes: Statistical analysis of firm performance, surveyed and interviewed business leaders regarding the impact of Commerce assistance

Key Findings

- Commerce business assistance programs achieve their stated mission
 - Clear evidence of business creation, expansion, and retention that would not have occurred without Commerce assistance
 - Commerce-assisted firms generally outperform non-assisted firms, particularly in industries where Commerce is most heavily invested
 - Virtually all stakeholders consider Commerce staff professional, responsive, and effective

Key Findings

- Assistance is administered consistent with Kansas population and business trends, and with Commerce's stated policy goals
 - Geographic distribution of assistance roughly corresponds to population
 - More than 65% of firms receiving assistance pay average wages of \$25,000-45,000
 - Bulk of assistance is targeted at above-average sized manufacturing firms

Key Findings

- Relative to other states, Commerce programs are sufficient, but not necessarily “strategic”
 - Nationwide trend toward flexible business assistance – direct cash payments, broad job creation incentives, depreciation credits on capital investment, “closing funds,” etc. – that are quite different from Commerce’s current emphasis on targeted assistance
 - No consensus among business leaders on how to respond to this challenge

Key Findings

- Evidence of perceived “mission fragmentation” among some business leaders, particularly in rural areas
 - Desire for specialized assistance and/or changes to existing programs for rural areas that might be inconsistent Commerce’s statewide policy goals
 - Perception that Commerce programs favor developing areas at the expense of the agency’s statewide mission

Key Findings

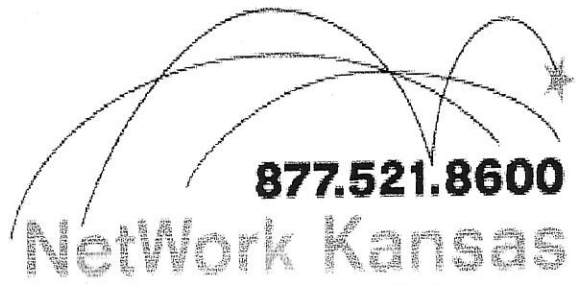
- Threats to future effectiveness:
 - Strong inter-personal relationships among Commerce staff and business leaders – arguably the backbone of Commerce’s success – are subject to rapid change
 - Need for more effective, regular, and pro-active communication between Commerce staff and clients

Recommendations

- Support investments in information technology and communication systems to improve information sharing among Commerce staff and clients
- Consider new assistance tools that provide Commerce staff the opportunity to respond to individual business development needs
- Expand and strengthen partnerships with regional economic development agencies within the current statewide economic development framework

Recommendations

- Implement a formal succession planning system to retain institutional knowledge and access to networks of business leaders
- Consider an expanded role for site location consultants and other business intermediaries in the compliance process for business assistance
- Consider lifting the \$50 million cap on the annual transfer from the Gaming Revenues Fund to the Economic Development Initiatives Fund



An Evaluation

of the

**Kansas Center for
Entrepreneurship**

November 2007

Senate Commerce Committee - March 25, 2008

An Evaluation

of the

Kansas Center for Entrepreneurship

Prepared by

RICHARD CAPLAN & ASSOCIATES

With assistance from

The John E. Arnold Company

Professor John Charnes, University of Kansas School of Business

Prepared for

KANSAS, INC.

Senate Commerce Committee

March 25, 2008

Attachment 5-1

Legislative Intent . . .

Section 74-99c04 "The purpose of the Kansas Center for Entrepreneurship is to:

- *Provide increased availability of an accessibility to capital, particularly at the seed capital investment stage,*
- *Encourage wealth creation through new jobs that increase the wage base promoting new business development and*
- *Encourage individuals to invest in the Kansas community entrepreneurship fund and assist regional and community organizations in providing seed funding for entrepreneurs."*

The statute was explicit that NetWork Kansas work through regional and local economic development organizations.

Approach. . .

1. A new call center provides entrepreneurial information out of a Wichita office
2. A website (www.networkkansas.com) supports this effort
3. Support and help from 400+ resource partners who provide direct services refer questions and referrals
4. Collaboration and assistance from state agencies, particularly the Department of Commerce and the Kansas Small Business Development Center
5. Provide the tools to be the "Portal" — single point of contact with a network of resources, increased access to capital, and help from the other organizations

Key Public Outreach Efforts . . .

- Signed up over 400 resource partners as of August 2007
- Staff routinely meets with several dozen organizations and groups
- As of July 2007 resource partners in 73 of the 105 counties
- 171 active clients working with NetWork Kansas in some way and have serviced 248 clients
- July 2006 = 1,447 inquiries to call center; June 2007 = 6,252 inquiries
- 80 active clients in Greensburg
- Initiated a *Client Satisfaction Survey in March 2006 (Results: 46% rate "Excellent" in satisfaction with the Call Center counselors, 36% rate "Above Average")*
- Plans to continue the surveys every six months

Network Kansas Tax Credits . . .

- Original 2004 legislation offering 50% tax credits did not attract contributions
- Revised 2006 legislation raising the tax credit rate to 75% proved successful resulting in NetWork Kansas becoming operation in March 2006
- As of the end of FY 2007, \$221,000 of donations made from eight donors

Budget Summary . . .

- Initial annual budget was \$450,000
- The Department of Commerce determines the annual budget working with the NetWork Kansas staff and the Board of Directors
- FY 2008 budget is higher using \$115,000 of carryover
- A contract with Kansas Small Business Development Center handles accounting and budgeting submissions
- The expenditures and budget in the NetWork Kansas 2006 Annual Report reflect the commitment to both transparency and accountability
- Donations for tax credits through June 2007 at \$221,000; An additional \$260,000 has been committed
- Donations sources include Board members, advisors, and other higher income individuals the staff has contacted

StartUp Kansas Funding Program . . .

Three ways a support partner can utilize StartUp Kansas; all require the support partner to provide a minimum 40% match for the project:

1. Direct grant to the entrepreneurial venture: Support partner must provide at least 40%. StartUp Kansas may provide a maximum of 60%.
2. Loan to the entrepreneurial venture: Support partner must provide at least 40%. StartUp Kansas may provide a maximum of 60%.
3. Equity position in the entrepreneurial venture.

StartUp Kansas may provide a maximum 60% match.

Users Evaluation Survey . . .

- The survey was distributed electronically and through regular mail to 252 individuals
- A total of 51 responses, for a response rate of 20%
- Response level is sufficient to reach statistically valid conclusions

SURVEY RESPONDENTS INCLUDED . . .

City of Parsons	City of Wichita
Cloud County Community College	Columbus Telephone Co.
Cowley College	El Dorado Main Street
Ellis County Coalition for Economic Development	Emporia Main Street
Emporia State University	Four Rivers Development, Inc.
Garden City Downtown Vision, Inc.	Haysville Community Development Office
Herington Economic Development Corporation	Hodgeman County Economic Development
IBSA, Inc.	Kansas Department of Commerce
Kansas Electric Power Cooperative	Kansas World Trade Center, Inc.
Kansas Women's Business Center	Kansas Small Business Development Center
Marion County Economic Development Department	McPherson County Small Business Dev. Assn.
Mid America Manufacturing Technology Center (MAMTC)	MidAmerica Minority Business Development
Pottawatomie County Economic Development Corp.	Rooks Co. Economic Development
Southwest Kansas Technical School	Support Kansas City, Inc.
Southwest Johnson County EDC	U.S. Small Business Administration
UMKC Entrepreneurial Legal Services Clinic	Western Kansas Business Consulting
Wichita Technology Corporation Type of Business	

Users Survey Results . . .

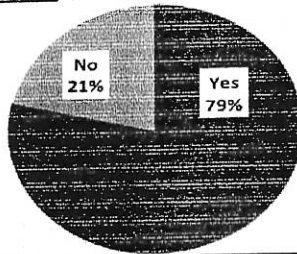
- 48% found the assistance “extremely useful”, 37% described their assistance as “somewhat useful”, 15% responded assistance was not useful
- 61% indicated that the staff was extremely effective vs. 6% indicated that the staff was “not useful”
- 77% would recommend NetWork Kansas / Start Up Kansas to others
- Leading reasons people contact NetWork Kansas include:
 - a) New business operation 25%
 - b) Business expansion 21%
 - c) Business attraction 11%

Users Survey Results . . . (continued)

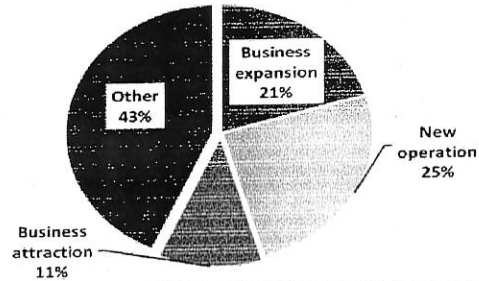
- 49% were initiated by NetWork Kansas which reflects on their outreach efforts
- 49% are in communication with NetWork Kansas on a monthly basis followed by 21% annually and 3% who communicate weekly
- 70% of the business ventures that had been in communication with NetWork Kansas were moving forward, 6% had discontinued their business development efforts

More specifically . . .

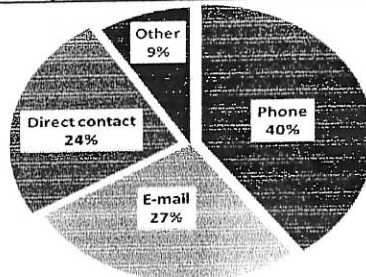
Have you had experience with Network Kansas? (51 responses)



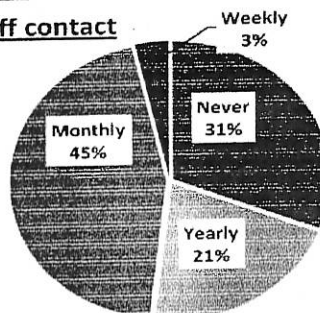
What prompted the interaction with NK?



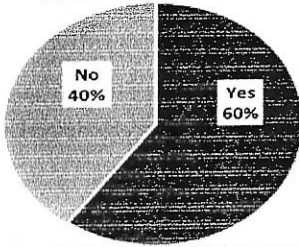
How was your contact with NK initiated?



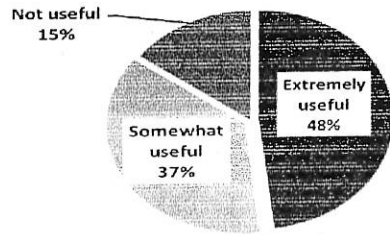
Frequency of NK staff contact



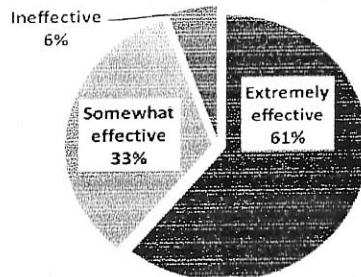
Did Network Kansas or SUK provide assistance?



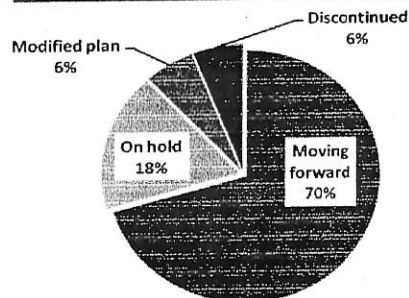
How useful was NK/SUK assistance?



How effective was NK and SUK staff?



Current status of your business venture?



Loans and Grants Made to Date . . .

- Five (5) loans have been made as of the September 2007
- Four (4) loans were pending as of October 2007
- Five (5) different resource partners have participated in the program for these nine (9) projects
- NetWork Kansas calculates the loans leveraged some \$1.7 million in additional funds from commercial loans and investments
- Five (5) applications have been denied plus another two (2) applications did not meet the statutory eligibility criteria

Conclusions . . .

1. The Network Kansas Board of Directors represent an appropriate mix of the state's entrepreneurial talent and serve the organization well.
2. The enabling legislation generates some confusion with regard to the operation of the organization.
3. The *Biz-Trakker* tool used by NetWork Kansas does a good job of providing the important information quickly to inquiries and allowing monitoring and reporting to be timely and efficient.
4. There has been good collaboration, cooperation and assistance from agencies of the state, particularly the Department of Commerce and the Kansas Small Business Development Center.

Conclusions . . . (continued)

5. The Board's decision-making criteria associated with the grants and loan process are rational, fair, and financially sound.
6. The focus of the loan and grant efforts have met the legislative intent of primarily serving rural areas of Kansas.
7. The regional foundations and the 75% rural business development tax credits have provided an enhanced awareness of tax credits for gap financing throughout the state.
8. The seven regional foundations are an addition to the leadership pool in the economic development field.

Conclusions . . . (continued)

9. NetWork Kansas has worked diligently to develop procedures, policies, and approaches to provide budding entrepreneurs with tools that are user-friendly and practical, and that avoided creating a bureaucracy-based organization.
10. The call center staff and supporting working manual are being used effectively and help working with and through a wide range of regional and local economic development organizations.
11. The expenditures of NetWork Kansas have been handled frugally.

Conclusions . . . (continued)

12. NetWork Kansas outreach and communications efforts are diverse, frequent, and for the most part well received by a majority of the entities they strive to serve.
13. A majority of resource partners and the seven regional foundations express the opinion that NetWork Kansas and StartUp Kansas are valuable additions to the Kansas economic development armament. Some are not pleased with the paperwork to process a loan, and StartUp Kansas has responded and made some changes to make it easier.

Recommendations

1. The Kansas Small Business Development Center and Fort Hays State University have done a good job of minimizing bureaucratic operations amongst all parties. It is recommended that relationships and roles be more clearly defined before the existing arrangements become too established.
2. An unduly complicated administrative process could be streamlined by having NetWork Kansas be more independent and report annually directly to the Kansas Secretary of Commerce and contract with an accounting firm for their limited accounting needs.
3. Network Kansas staff has made substantial efforts in trying to recruit and communicate with resource partners and economic development organizations. However, some of partners have not been contacted or are not aware of NetWork Kansas. Therefore, continuing to survey users every six months is a good practice.

Recommendations . . . (continued)

4. The StartUp Kansas grant and loan criteria are satisfactory. They should be refined to further include and consider the number of jobs retained and/or created.
5. The legislature needs to maintain the 75% Tax Credit level to ensure adequate funding is available for StartUp Kansas programs.
6. In the future, grant and local evaluation criteria be formalized and incorporated into a more detailed evaluation.

. . . In conclusion, based on this independent evaluation and analysis of the tools and practices that NetWork Kansas has established

- NetWork Kansas and StartUp Kansas are effective and have been operated cost effectively,
- The program has complied with the letter and intent of the enabling legislation, and
- With continued oversight from the Board of Directors, Network Kansas will have successes going forward on behalf of the State of Kansas.