Kansas Legislative Research Department

January 20, 2011

MINUTES

JOINT COMMITTEE ON ECONOMIC DEVELOPMENT

<u>September 27-28, 2010</u>
<u>Room 548-S–Statehouse</u>

Members Present

Senator Karin Brownlee, Chairperson
Representative Lana Gordon, Vice-chairperson
Senator Oletha Faust-Goudeau
Senator Laura Kelly
Senator Julia Lynn
Senator Bob Marshall
Representative Lisa Benlon
Representative Pat George
Representative Sharon Schwartz
Representative Joe Seiwert
Representative Mike Slattery
Representative Valdenia Winn

Staff Present

Reed Holwegner, Kansas Legislative Research Department
Kathie Sparks, Kansas Legislative Research Department
Michael Steiner, Kansas Legislative Research Department
Renae Jefferies, Office of the Revisor of Statutes
Doug Taylor, Office of the Revisor of Statutes
Marilyn Arnone, Committee Secretary

Senator Kelly was appointed by Senate Minority Leader Anthony Hensley to replace Senator Tom Holland.

Chairperson Karin Brownlee called the meeting to order at 9:15 a.m. She welcomed everyone to the meeting and introduced the staff. She asked the Committee members to introduce themselves.

National and Kansas Economies

Chairperson Brownlee recognized Alison Felix, Economist, Federal Reserve Bank of Kansas City, to help the Committee understand where the economy is going (Attachment 1). Ms. Felix referred to statistics derived from the Tenth Federal Reserve District, which is comprised of Kansas, Colorado, Oklahoma, Nebraska, Wyoming, part of New Mexico, and part of Missouri. Ms. Felix stated that, after the most severe recession since the Great Depression, the U.S. and Kansas economies are beginning to recover. The economy has faced many challenges in the last few years, such as a rise in unemployment, a slow-down in construction, and fiscal and monetary stimuli. After being very low in 2009, the Gross Domestic Product (GDP) is beginning to come up, and growth is anticipated in the next years. The recession was declared officially over in June 2009. Consumer consumption is the biggest part of the GDP, accounting for 70 percent of the economy. Consumer confidence and spending are up. This confidence has translated into higher retail sales which are up 3.6 percent. This is hopeful news for the holiday spending season. Inflation is subdued, and it is expected to remain so over the next couple of years.

Ms. Felix said Kansas was late to enter the non-farm employment dip, and it has been slower to come out as well. There was a sharp increase in unemployment in larger Kansas cities, mostly in eastern Kansas. There has been a slight increase in employment, mainly in the areas of energy and agriculture. At the beginning of 2010, nearly every industry in the state saw some growth, especially in construction and mining. The large jump in construction was due to the large projects of the Fort Riley Hospital and the Keystone Pipeline.

Ms. Felix stated that, in Kansas, 82 percent of employers expect the size of their businesses to remain the same. Business is better than a year ago, but businesses are not willing yet to increase their operations. Kansas manufacturing is increasing both in production and the volume of new orders. However, manufacturers remain cautious with capital expenditures, and inventories are expected to remain flat over the next six months. Oil industry activity is increasing while natural gas activity is flattening. In the second quarter of 2010, farm income and capital spending declined due to falling crop prices. The trend changed in June 2010 when prices rose sharply because of excessive rain and the condition of the Russian wheat supply. Prices now are expected to rise by 24 percent compared to a year ago. Livestock prices are doing well due to lower feed prices and an increase in world demand for protein.

Ms. Felix continued by saying farm land values have not been hit as hard as the housing industry, and they continue to have a healthy gain. Manufacturing, energy, and agriculture are all performing pretty well. Housing was a weak point during the recession. Although home sales have been down, there were two peaks shown in home sales that coordinate with the expiration of the two tax credits for homebuyers. Home sales have fallen sharply since the end of the tax credits. The Kansas foreclosure rate is about half the national level. Prices for homes in Kansas are still up by about 7 percent from five years ago, while national prices are down 4.5 percent. The larger cities in Kansas have seen high vacancy rates for commercial and retail space, especially in Wichita. The commercial vacancy rate in Kansas City seems to be leveling off, which is a positive indicator. The Kansas economy is expanding modestly, especially in manufacturing, agriculture, and energy sectors. The weak points are in the construction sector and in state and local government employment.

Ms. Felix stated there is an improvement in access to capital. This improvement seems to be following the national economy pattern. It also depends on who is asked. Bankers say there is no demand. Borrowers say capital is more expensive and hard to access.

A Committee member asked why Topeka has a higher home sales rate than Wichita. Ms. Felix answered it was more likely because Wichita was hit harder by the recession due to the aircraft industry.

Ms. Felix stated there has been a decline in most of the service areas, except for health industries, which have done fairly well.

When asked about the potential for a double dip recession, Ms. Felix answered that a double dip is not anticipated. The stimulus is beginning to fade but there is still growth. It is not anticipated that the gross domestic product (GDP) will fall into negative territory.

A Committee member asked about the value of commercial construction currently compared to the value before the recession. Ms. Felix said construction did fall sharply, but not as much in Kansas as it did nationally. It would be her guess that there would still be a net loss of jobs. The Kansas economy is doing better in construction activity and employment than the national economy. Building projects are coming not only from commercial or private construction but also public projects. Construction and manufacturing have been the hardest hit industries in this recession. Ms. Felix agreed there is a great deal of competition for projects.

A Committee member asked if the country was out of the recession, and who makes such a declaration. Ms. Felix explained the National Bureau of Economic Research made the declaration. The Bureau was careful not to say the nation was back to pre-recession levels. The Bureau looks at GDP growth, employment, and other indicators. Statistics indicate that the country has hit bottom and is starting up again.

A Committee member asked if unemployment figures reflect the number of people who do not have a job, having given up on looking for work, and who are no longer eligible to receive unemployment benefits because of the length of time. Ms. Felix answered that to be part of the work force, a person has to be either working or looking for a job. An individual can be working part-time or full-time. The U. S. unemployment rate is currently 9.6 percent. Using an alternative measurement of unemployment that includes the under-employed, the U.S. rate is 16.7 percent. There are no similar statistics for individual states, but Ms. Felix suggested that a rate for Kansas probably would be higher than the current unemployment rate of 6 percent.

Ms. Felix said business owners are more confident now than a year ago as they have seen some recovery. Typically after sharp declines, there is a more rapid recovery. Consumers are a part of the recovery, and when the sales look better, the confidence will grow. It takes time for people to feel good about the economy. Agriculture is up; the residential housing market is encouraging. Numbers are stronger, and there is an overall upward slope in the numbers. The holiday spending will be very important.

Ms. Felix said that a slower recovery was expected due, in part, to the housing oversupply. Unlike in previous post-recession periods, the construction sector would not be as strong of a contributor to early economic growth. The construction industry relies on financial credit which stopped flowing at the beginning of the recession. Credit is starting to flow again. The Legislature can create an environment for business to create jobs and gain confidence in the recovery. Kansas can project that it is a good place to do business and encourage industries from all sectors.

Chairperson Brownlee recognized Stan Ahlerich, President, Kansas, Inc. (Attachment 2). Mr. Ahlerich praised Ms. Felix' presentation as excellent and extremely accurate. He said that he would direct his remarks to further answer some of the questions that arose out of Ms. Felix's presentation.

When asked why consumers and businesses are waiting to spend money, Mr. Ahlerich answered that uncertainty in the world might be a big concern. The stock market is up, but businesses are using this time as a way to cut back on inventories and to cut workers. Everyone is asking what is so different in this recession. Kansas unemployment is very high in eastern counties, such as Sedgwick County and the adjacent counties.

A Committee member mentioned that money was available for loans, but not being used because there was no demand. It seemed that small businesses should be encouraged to take out loans in order to sustain existing businesses. The Senator asked to what extent businesses are applying for loans, but are being turned down because of the economy and a lack of collateral. Mr. Ahlerich said that private loan funds are available, but there is hesitation on the part of business owners who want to wait to see what happens to the economy. Then there is the financial regulatory side that will not allow loans on people who have not been good customers in the past. Mr. Ahlerich concluded that layoffs of workers can cause economic synergies because some workers will want to start their own businesses. In order to get financing, they will mortgage their homes or use credit cards. However, those funding mechanisms are not as readily available to individuals because the acquisitions of such debt led to the previous recession.

Mr. Ahlerich said the focus should be to increase manufacturing; he also suggested looking at tax comparisons with other states and the regulatory environment.

When asked if businesses are not borrowing money because of concern with the recent federal health care reform, Mr. Ahlerich answered that health care reform has led to increased uncertainty for employers. Businesses are hiring temporary help until more is known about the future.

STAR Bonds

Chairperson Brownlee called on Steve Kelly, Deputy Secretary for Business Development, Department of Commerce, to give his presentation on current Sales Tax And Revenue (STAR) Bonds projects (Attachment 3). STAR Bonds are a means to finance major commercial, entertainment, or tourism areas, using the incremental increase of sales tax revenues generated by the development to pay off the bonds. Mr. Kelly said that six STAR Bond projects are in some form of activity at the current time. Those projects include the Kansas City Wizards Stadium, the Cerner Office Complex, the Schlitterbahn Vacation Village, the Flint Hills Discovery Center in Manhattan, the Prairie Fire Museum Project in Overland Park, and the Mission Gateway Project on the site of the old Mission Mall.

Mr. Kelly concluded his remarks by saying that with the exception of Heartland Park in Topeka, all approved projects are able to make their bond payments based on sales tax. As required by statute, the City of Topeka has been covering its shortfall.

A Committee member asked Mr. Kelly if Mission Gateway was supposed to begin construction in June. The developer was given two years to begin construction, and the project's deadline to start was in June 2010. Mr. Kelly said the Commerce Department has the statutory discretion to provide extensions. In this instance an extension through December was given. The extension could have been longer, but the Commerce Department first wanted to be sure that substantial progress was being made. The Commerce Department will meet with the developer on progress before any further extensions are granted.

A Committee member asked how the Schlitterbahn Project was faring and what is Cerner's timeline; she wondered if there would be sufficient sales tax be able to pay for the bonds. With regard to Schlitterbahn, Mr. Kelly said its reporting would be done at the end of the year, but he deferred to Mike Hutfles, a Schlitterbahn representative, to give additional information.

After being recognized by Chairperson Brownlee, Mr. Hutfles said there have been delays based on the economy. The retail portion would not open before the fall of 2011, as was anticipated from the beginning. The water park was planned to open first, and everything else phased in after that. The project has been moved back about six months from projections made four years ago. It is now the goal to open in early spring of 2012. Most of the money has come from private funds. Receipts have been good at the water park. The payment of STAR Bonds has not been a major concern at this time. Mr. Kelly added that Cerner has timelines as to when the job begins and when it is completed. Cerner is in the design phase currently.

A Committee member asked Mr. Kelly, using Heartland Park in Topeka as an example, what happens to other projects if they cannot make the payments. She asked if cities or local units of government accept the responsibility of payment. Mr. Robert North, Chief Attorney for the Department of Commerce, said the liability on the bonds rests on the developer. However, Topeka is a special case because the city is required to cover the shortfalls. Usually a city or county is excluded from a guarantee on the bonds, and the state is not at risk financially. Mr. Kelly added that if the project fails, the property is placed on the market for sale. The investors assume the risk when they buy the bonds. This is one reason why developers are slow to issue bonds until they are sure that the sales tax will pay off the bonds. Mr. Kelly gave an example in Manhattan, where developers built the retail venues to the north first so that there was a sales tax base in place to service the debt. They recently issued the bonds after completing construction.

Chairperson Brownlee recognized Mr. John D. Peterson, an attorney with the firm of Polsinelli Shugart, PC, Overland Park, to discuss the issue of rolling over STAR Bonds for subsequent projects (Attachment 4). Mr. Peterson prefaced his remarks by saying that he and his firm had the privilege of participating in over half of the STAR Bonds projects that had been discussed by Mr. Kelly. He was before the Committee to present testimony with respect to possible changes to the STAR Bond law, as contained in 2010 SB 495, which would have restricted phased bond issuances. He spoke on his own behalf and was not representing any client.

Mr. Peterson explained the basic concept underlying the current STAR Bond statutes is to create a sales tax baseline and utilize increments above that base to pay off STAR Bonds. When Mr. Kelly and the Department of Commerce are approached initially to approve a STAR Bond project, the first thing they do is establish a geographic district. A STAR Bond project plan is created, reviewed, and approved. Then the existing sales tax revenue in the district is analyzed to determine a base.

Had SB 495 passed, it would have created a new base and subsequent increment process. If a STAR Bond project is approved, and if the first phase is to be financed with a STAR Bond issuance, then the revenues attributed to that first phase would become the new base. Future STAR Bond issuances within the district, and in conformance with the approved STAR Bond project plan, would have to stand on their own. Mr. Peterson agreed that the concept seemed to make sense on its face, but the implementation would have significant impact. It could have done away with putting together a first phase of a STAR Bond project. Mr. Peterson observed that it is excruciatingly hard to get STAR Bonds issued because there is no full faith credit, by either the State of Kansas or local municipalities, when the bonds are marketed to the public. These bonds are underwritten and marketed on the strength and evaluation of the project itself. If a project does not perform, it is the bondholders that are the losers. The incentive to purchase the bonds is tax exempt interest income.

It is important to bring things out of the ground so that other retailers and other attractions can see there is a viable economic development project. The first set of STAR Bond issuances are structured wholly in anticipation that there are going to be other payments. The underwriter needs to have the tools available legally to say to the market, when the project gets to a certain part of the next phase, there will be a refund of the first issuance. Mr. Peterson said it is critically important to underwrite the entire project. Otherwise one starts limiting the ability to finish the final phase of the project and keep strong financial underpinnings for it. In the reality of how a project is implemented, a cap is placed on the project, but the cap is never reached. The inability to cross-collateralize project phases would inhibit projects from starting.

A Committee member asked if a project's costs were frontloaded and then proceeded on an inverted curve where the rewards were at the end. Mr. Petersen answered that projects are significantly frontloaded. Until retailers are committed to make investments in the area and revenues come into the STAR Bond district, there is no source for the repayment of the bonds. When retailers get started, it is necessary to begin phase one of the project and get the STAR Bonds involved to help reduce some of the beginning costs. It is significantly important to roll phases together and spread out the costs during the allotted 20-year period.

When asked if cross-collateralizing was a good thing for a bond underwriter, Mr. Petersen answered that it does give the underwriter an opportunity to bring in more revenue when a second issuance is made.

A Committee member asked, since it is difficult to get capital now in the economy, would instituting caps limit the rewards and make investors less likely to take a chance. Mr. Petersen answered that there is activity now which is good, but there are probably going to be more restrictive capital markets well into the future.

The Committee recessed for lunch.

Afternoon Session

Trade Development

The Chairperson called on John Watson, Director, Trade Development Division, Department of Commerce, for an update report on international trade in Kansas (Attachment 5).

Mr. Watson explained that the Trade Development Division in the Department of Commerce is responsible for creating jobs through the promotion of international business. The two main goals are to build Kansas' export capacity and to recruit international investment in the state. According to statistics for calendar year 2009, the export economy in Kansas was $8.9 billion, the third highest level for the state. Two years ago it was $12.4 billion. The marketing staff has experience to help businesses, especially small businesses. There are advisors around the world, including offices in Mexico and China. Mr. Watson later added that the overseas advisors work on a contractual basis, and they are not state employees.

The Division helps businesses formulate an international marketing plan that is specific to their product. Trade Development coordinates with other organizations that are involved in trade, such as the Kansas World Trade Center. The Department does some trade seminars, but it is more active in recruiting businesses for trade shows.

The Commerce Department also hosts foreign delegations looking for trade opportunities in the state. China is the sixth largest export market for Kansas, doing $600 million worth of business. Trade Development receives unsolicited inquiries about Kansas products through its website and through the advisors in foreign countries.

The Kansas International Trade Show Assistance Program (KITSAP) helps introduce Kansas companies to foreign markets by funding their participation in trade shows. The Commerce Department has observed that it can be very valuable to have company executives attend trade shows in order to make the necessary contacts with trade representatives. The Department will reimburse up to $7,000 per year for a business to attend trade shows. This year the program has estimated a return of $53.77 for every $1 spent in trade show assistance.

The Department also recruits international companies in the U.S. which generated over 200 jobs and $20 million in capital investments. The latest one was a French vaccine company that invested in Lenexa. The Department also has participated in a wind energy conference in Europe.

Mr. Watson concluded his remarks by saying that the future depends on the international market. The Trade Development Division wants to help businesses and communities to understand the impact of international trade and be prepared for international business.

A Committee member asked if all the sales generated from KITSAP were international sales, and if so, why not encourage more businesses to attend the trade shows. Mr. Watson said the sales were international, and the Department would like to see more businesses take part in this program. The challenge is to motivate companies to take the necessary risks.

Mr. Watson said there have been positive results from the international trip the Governor took last year, including some that have not been announced publicly as of yet. He added that it is very significant to have Kansas leadership present at international events to talk directly to international trade leaders.

Mr. Watson said it was too early to tell what would be the result of the trips to China and Taiwan. There will be a trade mission back to China with Kansas State University regarding animal health. Most projects do not happen rapidly, but over a long period of time, as relations develop with another country.

Offices in Wichita and Overland Park were opened about ten years ago as a means to be closer to their customer base. The Wichita office can better serve western Kansas. Many businesses are adverse to trade risk, and the Department wants to make these businesses more comfortable in the export arena.

A Committee member asked how the delegates for trade missions were selected. Mr. Watson said pertinent businesses are asked to consider being part of a trip. Trade

Development seeks people who are experts in the type of product that is the focus on a trip. Representative Schwartz then asked if the Department interacts with the beef and pork councils. Mr. Watson said they visit regularly with these councils and with other agencies. The Department is interested in commodities and has recently been working on selling soybeans to China.

Chairperson Brownlee recognized Karyn Page, President and CEO, Kansas World Trade Center in Wichita (Attachment 6). The Kansas World Trade Center is a non-profit organization. About two-thirds of its revenue comes from the private sector and one-third from the public sector. Ms. Page suggested a five-step plan for the expansion of Kansas trade. The first step was to survey the resources available in both public and private sectors for international trade. At the same time, survey the needs of Kansas businesses to make sure that they match up services available with the needs of the companies. The next step would be to build a plan, and the state would later monitor the plan's implementation. In the third step, a trade advisory board should be appointed with representatives from various Kansas industries. The new board's meetings should be attended by state leadership who would listen to the needs of companies. In step four, resources should be distributed on a basis of need. Offices should be spread out over the state according to needs and location. Ms Page said that in the last step there needs to be sound metrics in place to monitor progress.

Ms. Page concluded her remarks by cautioning the Committee that results do not come overnight in international trade, but if Kansas were to lead with trade and innovation, along with training programs and commercialization, the state could partner with companies to succeed. The mission of the Kansas World Trade Center is to promote and facilitate trade. Ms. Page stated that a wide variety of advisors with different expertise could add value to the program.

When asked if any of the Kansas World Trade Center services are duplicative of what the Department of Commerce provides, Ms. Page answered that there is no duplication of services. She said that if a client was looking for counseling and the state would provide that service free of charge, she would direct that client to the state's service.

When asked if she agreed with the economists that had spoken earlier about the role that foreign markets would play in leading the U.S. out of the recession, Ms Page agreed. She was then asked if the Kansas World Trade Center had a social media presence to promote the Trade Center's services. Ms. Page said there was the equivalent of 3.5 employees in the office. There is a website that tells what programs are available.

Chairperson Brownlee introduced Edwin Keh from Hong Kong. Mr. Keh has worked in supply chains for the past 30 years, mostly in consumer products but on the commodity side, as well. He has managed international business for several companies and most recently was chief operating officer for procurement for Wal-Mart in its overseas operations. He spoke from personal experience in commerce.

Mr. Keh observed the growth of Chinese cities has been phenomenal, and there is an emergence of Chinese urban consumers. They are the fastest growing population of people on the face of the earth. This group of consumers is educated, knowledgeable, has a high income, and is the most sought after in the world today. China is a fast-changing, complex market. China used to be the largest exporter of corn. Then about five years ago, Chinese corn production slumped, and they import corn today. There are inefficient agricultural practices in the country. China's population is growing, but China cannot sustain its population without imports. This is something that Kansas could sell to China.

Mr. Keh noted the relatively inexpensive shipping costs when exporting to China. Ships leave Chinese ports loaded with goods while the ships come back to port empty. Including all the surcharges, it costs approximately $4,000 to ship a container from China to California. Going the other direction, from California to China, the same container only costs $400 to transport. It is with cheap logistics that Kansas can look at exporting some of these products.

There is a major race in China for infrastructure, including planes, trains, and cars. China has developed bullet trains using technology mostly from Germany and Japan. The U.S. offers expertise in the field of freight transportation. China is now the largest and youngest car market. In ten years, China will be the largest car parts market. Most U.S. cars cannot be imported into China because of emission failure. There is a tremendous need to build roads and other things associated with vehicles.

The demand for small private planes last year shrunk in the world by 34 percent but grew in China by 15.6 percent, and there still is a huge Chinese market for small planes. This demand would have grown faster, but the vast majority of air space in China is controlled by the military which allows only a small amount of air space for private use. Mr. Keh predicted this policy would change soon. China has only 165 commercial airports, but there are plans to build an airport, on average, every month from now until 2020. There are many young millionaires in China who, because of logistics, would require a private plane to get around. There is great importance placed on face-to-face relationships. The construction of airports would be another opportunity for Kansas.

In addition to aviation and corn, there are trade opportunities for Kansas in beef and education. Beef is not a traditional source of protein for the consumer in China, but beef is an opportunity for Kansas. Wagyu beef, the high end of beef, is extremely expensive in China. The current price in China for three ounces of wagyu beef is approximately $500. Kansas can develop and export this kind of beef. It is a matter of breeding the right cattle and giving the animals the right feed in order to get achieve wagyu beef. Very few farmers in Kansas grow wagyu beef.

American universities, such as the Ivy League schools and Duke University, are building entire campuses in China. Local Chinese municipalities are paying for these schools. Kansas has already missed the opportunity for general education, but Kansas has specific, world class education in engineering, food safety, and agribusiness. Kansas State University has one of only 25 nuclear reactors, and it has respect in the world for renewable energy. Niches could be capitalized upon. Agribusiness management, food safety, solar, and wind power are all educational opportunities in China.

Underpinning all of these opportunities is the need for personal relationships. Face-to-face encounters are most important to any kind of commercial partnership in China or Asia. This relationship has to be personal. It has to be developed at the right level, and it has to be developed over a long term. It has to be a relationship of trust and respect. By the term "right level" Mr. Keh meant the relationship between CEOs and the gubernatorial level. Good suppliers should be invited to this country and given high-level treatment. Kansas leaders should go to China to recognize suppliers for their best performances. Most contractual agreements involving China are done over a meal, and most agreements are made with a hand shake. Mr. Keh was not aware of such an agreement ever being broken. Relationships are something that cannot be outsourced; they must be done at the highest level.

Mr. Keh observed that Kansas has had a long relationship with Taiwan. Taiwan is a sensitive subject in China, and one that can be easily misunderstood. Kansas should make its position clear. The areas that had been discussed previously, such as aviation, education, and technology, are sensitive industries in China. Kansas should not mistake the Chinese economy for the U.S. economy, even if it has a western veneer. Unless there is approval from Beijing, Chinese provincial governments will not move on sensitive industries that are a national interest. Relationships need to be developed at the national level, as well as the provincial level.

Mr. Keh concluded his remarks by saying there is great opportunity to put the Kansas brand in China. Kansas needs to have a narrow, laser-like focus on what it has to offer China. Kansas should provide solutions for the Chinese economy, and in return there will be loyal, long-term relationships with Chinese consumers.

Mr. Keh said if an incident has offended China, state leadership has received a visit or communication from the Ambassador of China to the United States expressing concern. Mr. Keh added that it is very important to work with the Chinese in a positive, non-threatening way that is sensitive to the internal politics of the country.

Women and Minority Business Issues

The Chairperson recognized Rhonda Harris, Director of the Office of Women and Minority Owned Business Development, Department of Commerce (Attachment 7). Ms. Harris prefaced her remarks by explaining the Office's history. The Kansas Department of Commerce created the Office of Minority Owned Business Development to assist small and minority owned businesses. In 1971, the Office was established by Kansas statute and evolved through the years until 1993, when women were added to the services, and the name changed to the Office of Women and Minority Owned Business Development.

Today the Office provides information to minority and women entrepreneurs regarding resources for developing businesses, including technical, financial, business management, procurement, and contracting information. The Office collaborates with other agencies to identify services available to minority and women-owned businesses. The Office offers a number of programs and services, including the Disadvantaged Business Enterprise (DBE) certification. To qualify for DBE certification, a business has to be 51 percent owned and controlled by one or more socially and economically disadvantaged individuals. These groups had been presumed to be socially disadvantaged, but in order to be considered economically disadvantaged, the personal income cannot exceed $75,000. In 2008, Governor Sebelius expanded the certification program to include Minority Business Enterprises (MBE) certification and Women's Business Enterprises (WBE). There has been an increase in the volume of applications submitted for MBE and WBE certifications. As the economy continues to take its toll on small business owners, Ms. Harris anticipated the volume of work to grow as these groups struggle to keep open. Certification is viewed as a means to increase business operations.

Ms. Harris provided the Committee with the background on 2010 SB 511, which was introduced as a Committee bill in the 2010 Legislative Session on a motion made by Senator Faust-Goudeau. Since the Department of Commerce and others had concerns with the language contained in the bill, the Commerce Department has worked with an ad hoc committee of stakeholders to assist in modifying the bill's language so that it may be introduced during the 2011 Legislative Session. The language is being reworked so that it focuses on being an economic development program for Kansas' small, minority, and women-owned businesses. The goal is to generate new jobs and increase tax revenue for the State of Kansas.

It is the intent to create a goal program where small women- and minority-owned business can share contracts and procurement opportunities from the state.

Ms. Harris said the definition of a "small business" was one of the things that would have to be addressed in a future bill. She first wanted to see the definition used by the federal government. It may be the case that the definition of a small business may depend on the industry in which a given company works. Some businesses are classified by the number of employees or by gross revenue.

When asked why the executive order was necessary, Ms. Harris answered that the main reason the order was issued was that the state was losing out on contracts with women and small businesses. Contractors and private corporations were going to other states to find certified businesses because they wanted to work with a certain percentage of women and minority businesses that were certified. Kansas did not have a certification process. Senator Kelly followed up with asking if these vendors were for federal contracts. Ms. Harris answered they were private contracts.

Chairperson Brownlee recognized Reed Holwegner, Kansas Legislative Research Department (KLRD), to explain the provisions of 2010 SB 511 and its fiscal note (Attachments 8 and 9).

A Committee member then asked Ms. Harris if the concepts contained in the initial bill were a duplication of services already authorized by statute. Ms. Harris said the bill initially addressed the creation of business centers, but it was later recognized that there are already service centers set up in Kansas that could be utilized in partnership.

It was then asked if there was a problem with the ability to procure contracts and if she had any data. Ms. Harris said her office had looked for such data for a number of years. The certification programs helped to ascertain some data, including who certain businesses were and who is actually getting contracts with the state. It appeared to Ms. Harris that the disadvantaged businesses were being underutilized in the contracts with the State of Kansas.

A Committee member asked if the certified businesses which obtained contracts were public or private. Ms. Harris answered that it was the private sector that was using certified businesses. The private sector has set some of its own goals for use of women or minority-owned businesses, not required by state law.

Chairperson Brownlee recognized Eugene Anderson, Chairman, United Builders and Contractors. Mr. Anderson is a former Kansas Senator who served from 1984 until 1991 (Attachment 10). The United Builders & Contractors organization is an association of African American-owned construction, service and professional firms, food concessionaires, supply vendors, and related associates joined together to promote the growth and development of African American-owned businesses in the Wichita area. His organization believes it is important for all segments of a community to benefit from the expenditure of public dollars for goods and services. Citing local government expenditure data, Mr. Anderson said the opportunity for African American businesses for contracts in Sedgwick County, Wichita, and School District 259 is very poor. Despite numerous meetings and presentations with local officials, nothing had been achieved. He hoped that such legislation would correct disparities in state purchasing and also lead to local governments undertaking similar corrective actions.

The Chairperson recognized Prentice Lewis, United Builders and Contractors (Attachment 11). Mr. Lewis said that such legislation would be the best way for the business men and women to have a fair opportunity to compete for work on projects that their tax dollars help to finance.

Chairperson Brownlee recognized Brian K. Littlejohn, Sr., owner and CEO, Littlejohn and Sons Hauling, LLC (Attachment 12). Mr. Littlejohn's company is certified as a DBE and an MBE. His company hauls aggregate, rock, sand, dirt, asphalt, and demolition debris, primarily for commercial operations. As a small, start-up company, it is difficult for him to compete against larger, well established hauling companies, especially on sub-contractor jobs where no bidding is required. He hopes that such legislation would give companies like his a chance to establish a foothold in a business environment that is now tilted against them.

Chairperson Brownlee next called on Joe DeSanti from Hartford, Connecticut, representing the Diggs Construction Company (Attachment 13). Mr. DeSanti came to Kansas to tell the Committee about a Connecticut program that encourages contracts to be awarded to women- and minority-owned businesses. Mr. DeSanti explained the history of the Connecticut statute and how it became mandatory for disadvantaged contractors to be considered and awarded state contracts for public facilities. A plan has to start at the state level so the local levels understand what to do.

A construction manager is required to set aside 20 percent of total project construction costs for minority or women business enterprises (MWBE). Goals were to support MWBE firms and provide a fair opportunity to compete for work. The goals were accomplished by creating and implementing an MWBE regulations and goals plan. An MWBE Oversight Committee was established consisting of private, community, city, and construction representatives. The firms were certified at both state and local levels, and implemented a pre-qualification process. Bid packages based on the capacity and qualifications allowed MWBE firms to bid against each other on a competitive basis. Mr. DeSanti gave an example of how the program worked using his company's involvement with a contract for school buildings in Hartford (Attachment 14).

Chairperson Brownlee called on Chester A. Daniel, President and CEO, Urban League of Kansas (Attachment 15). The Urban League believes that legislation such as what was contained in SB 511 would be a step in the right direction to bring about equity and fairness in the access and full participation in public contracts. He added that a disparity study would assess the minority business population in a community and determine whether minority-owned businesses are under represented in local government contracting. It also could determine whether the under representation was due to race or social disadvantage or as a result of government purchasing procedures.

Chairperson Brownlee called on Lazone Grays, Jr., President and CEO, IBSA, Inc., (Attachments 16 and 17). IBSA is a nonprofit corporation founded and based in Topeka, providing employment services and business support focused on the low- to moderate-income community. Mr. Grays supports the efforts to strengthen and grow small, women, minority, and disadvantaged business concerns in Kansas. He believes the time is now to set policy that can effectively address such a longstanding problem for minority and women-owned business. Available data regarding equity in public-funded procurement shows that something must be done. With agencies and institutions as partners, better opportunities for the people are a probable result.

Chairperson Brownlee recognized Glenda Overstreet, representing the Topeka Branch and Kansas State NAACP (Attachment 18). The Topeka Branch of the NAACP is a proponent of such legislation concerning small and disadvantaged businesses. The Topeka Branch would like to ensure that appropriate steps are taken to regularly measure and monitor the compliance of any approved legislation. The reporting of specific results should be made available in an annual report to Kansas residents through the Commerce Department website. Ms. Overstreet requested that a disparity study be conducted to provide true statistics as to the awarding of contracts to women and minority businesses.

Representative Finney said the issue is a passion for her. She has a great deal of business experience and has seen the frustration of women and minority businesses in trying to procure jobs. She mentioned that some certified firms have had to go outside Kansas to find work.

Ms. Harris replied that it was the responsibility of the Department of Administration to gather information on small business vendors.

When asked how MWBEs in Connecticut could be made to bid against one another for contracts, Mr. DeSanti replied that bidding was achieved using a pre-qualification process.

The Chairperson directed staff to contact the Department of Administration to request the Division of Purchasing to brief the Committee on the state's contractual bidding process.

The meeting adjourned.

Tuesday, September 28

Data Centers

Chairperson Brownlee began the meeting by introducing Tim McKee, Executive Vice-president of Economic Development, Olathe Chamber of Commerce. Mr. McKee familiarized the Committee with data centers, the types of incentives that are being offered by other states and the reason why data centers are being sought (Attachment 19).

Data centers are large buildings that house computer servers within. Olathe views these data centers as great clients. The buildings are multi-million-dollar investments, which may be in use for approximately 30 years. These centers typically have few employees, but the few employees are highly paid computer engineers and computer techs. The data centers have little impact on school districts and local government services. Data centers are huge consumers of energy, and the taxes derived from that power are significant. Even while other types of commercial growth stalls, data centers have thrived. Tax incentives have become an essential economic development tool to attract new businesses and retain existing businesses. It is important for Kansas to remain competitive for this type of development.

Mr. McKee introduced Greg Kindle, Senior Manager for Economic Development, Kansas City Power and Light. Kansas City Power and Light works in partnership with local communities and the Commerce Department to bring these types of projects to Kansas. There are a number of incentives through the power company to offset costs and make it more attractive to locate in Kansas. The data center industry is fast growing at about 8 percent annually. A survey showed that 60 percent of those centers expect to expand in the next five years. Kansas is very competitive in this market with many available sites that have good infrastructure and low costs for available power. According to Mr. Kindle, Kansas often has progressed to the final round on many projects but then loses in the final site selection, due in part, to the sales tax on hardware.

However, Kansas has attracted projects because of the property tax exemption on equipment. For every 10,000 square feet that a data center occupies, it consumes one megawatt of power. One megawatt of power generates about $35,000 in taxes annually. The state is in a good position to attract the industry. The Committee's consideration of any additional tools that would allow for extra flexibility in attracting data centers would be helpful.

When asked what sources are used to generate the power for the data centers, Mr. Kindle answered that in their service territory, it would be 50 percent from coal, 25 percent from nuclear, 3 to 5 percent from wind, and the rest from gas.

A Committee member asked how competitive Kansas is in site selection. Mr. Kindle said Kansas City Power and Light had been very successful in finding good sites in a number of communities, especially in Johnson County where there is a good infrastructure and workforce. Mr. McKee interjected that the data centers did not have to be large in size. Small data centers work very well, and centers could be located in smaller communities, as well.

Mr. McKee introduced Tim Cowden, Senior Vice-president, Business Development, Kansas City Area Development Council (Attachment 20). Despite the recession, there is a need for data centers because of the high demand for data storage by corporations. The data center operations provide well paying jobs, desirable corporate citizens, and large capital investments. Salaries can be between $60,000 and $100,000 per year. Capital investment can be between $250 million and $2 billion. Kansas has been successful in securing data centers because of aggressive community incentives, competitive electricity costs, robust infrastructure, a high quality workforce, and excellent quality of life amenities. However, any kind of flexible exemptions authorized by the Legislature would allow for better equalization of the marketplace and position the state to attract future success.

Representative Benlon asked how often companies seek another abatement after the ten-year abatement period is up. Mr. Cowden answered that state law prohibits a second abatement on the same property. However, Missouri allows for 20 to 25 years on abatement, and other states have a longer abatement as well. Mr. Cowden was asked how many companies move to a different location upon the completion of the ten-year abatement period. Mr. Cowden answered this was rare because the cost of relocating is far greater than the abatement. However, if a company does move, the building stays and continues to generate taxes.

Mr. McKee introduced John Lenio, CBRE Economics Group in Phoenix, Arizona. Mr. Lenio represents clients looking for the best sites for data centers (Attachment 21). CBRE's Economic Incentives Group has been involved in numerous data center engagements, ranging from preliminary analysis to formal incentive negotiations. After a client reaches a short list of communities that meets its risk tolerance and geographic preference, economic and tax incentives tend to be the piece of the puzzle that seals the business case.

Most of the data centers' power usage ranges from 20 to 70 megawatts. Just from the power piece alone, the revenue is between $1 million and $2.5 million annually. The state receives approximately 50 percent of the taxes. The data centers are capital intensive, rather than labor intensive. Before incentives, Kansas brings in about $630,000 in tax revenue on $10 million of equipment. Kansas gets $315,000 in taxes for $10 million invested on site and building development. Data centers bring in additional sales and use tax revenue on equipment and construction materials, power usage, corporate income, and employee income. States are becoming more aggressive in attracting data centers. Kansas is viewed as a very neutral state with low environmental risk. Kansas tends to have common elements with Iowa, Illinois, North

Carolina, South Carolina, Oklahoma and Texas. These states, from a geographical standpoint, work well for a data center. The infrastructure, power, fiber optics, real estate, and environmental risks get a state in the game. Closing the deal is the tax structure and incentives. If basic things are equal, then taxes become the important issues that will win the center.

Kansas has a strong labor force with engineers and people with good technical knowledge. While there are only 40 to 60 jobs in a data center, there is a ripple effect which may create 100 jobs associated with the center. Data centers have an expected longevity of 20 to 30 years. Data centers usually are upgraded every five years. After the abatement is over, the use taxes are paid. Mr. Lenio suggested that the State's tax policy should allow the Secretary of the Commerce Department the discretion to authorize incentives for data centers once certain capital investment thresholds have been met. There could be different thresholds for metropolitan and rural counties.

Representative Slattery asked where Kansas falls on the short list for consideration of data centers. Mr. Lenio said Kansas currently ranks probably third or fourth out of the top eight states. Kansas could be first if it provided better tax incentives.

Representative George asked if taxes paid by employees are considered in the site selection analysis for a center. Mr. Lenio said that only the company's financial perspective is considered, but he added that the cost of living is also an important factor.

Chairperson Brownlee asked what tax incentive was missing. Mr. Lenio said that payroll rebates are more valued than tax incentives. The sales tax rate is also very important. Mr. Lenio suggested the Committee should consider either a full or partial exemption of sales and use taxes for targeted industries brought to Kansas.

Unemployment Insurance

Chairperson Brownlee welcomed Secretary Jim Garner, Department of Labor, for an update on the Unemployment Insurance (UI) Trust Fund (Attachment 22).

The UI Trust Fund is the repository of all the tax funds that are collected from employers in the State of Kansas. According to federal law, the fund can only be used for one purpose, to pay unemployment benefits. It is not used for state operations or for UI administrative operations. The state receives a grant from the federal Department of Labor for administrative operations of the UI system. In Kansas, UI taxes are assessed on the first $8,000 of wages paid annually. After an employee has earned $8,000 in wages, there is no further unemployment tax assessed. The majority of the income to the state trust fund is received in the first quarter of each year.

The full impact of the recession hit hard in Kansas with $766.8 million paid out in UI benefits in 2009, the largest payout in the history of the state trust fund. As of August, benefits in 2010 have been $395.3 million. Although predictions were made during the 2010 Session for depletion of the fund earlier, the fund was not actually depleted until February 2010. As of September 2010, the UI Trust Fund had a balance of $118 million, but it had an outstanding debt of $88.2 million received in advances from the U.S. Treasury when the fund balance dipped below zero. Kansas statute requires unemployment taxes to increase significantly in order to replenish the fund. Many employers were shocked by the increase because there had been no requirement for payments into the fund or a greatly reduced rate for several years because of the health of the fund.

The Legislature enacted 2010 House Bill 2676 to provide some relief for certain positive balanced employers. The expected contributions for the rest of 2010 equal $43 million. This is not only a Kansas problem, but a national one. Thirty-five states have borrowed funding from the U.S. Treasury for their UI Trust Funds during the current recession and have been advanced in excess of $40 billion.

The U.S. Treasury issues money to the states on a daily basis whenever its fund balance is zero or below, and only the amount needed to satisfy benefit payments for that day is transferred. Currently, there is no interest accruing on the borrowed money for 2010, and Congress may consider extending the no-interest policy for an additional calendar year, 2011.

The Department of Labor's current projection shows a total of $97.6 million needed to be borrowed from the federal government for 2010. In addition, the projection indicates that Kansas will have a positive balance in the fund and not require any additional borrowing in 2014. The projections made during the 2010 Session anticipated that Kansas would need to borrow $600 million and that positive employment trends would not occur until 2019. The reasons for the improved condition include a sharp decline in initial claims, a revision of unemployment rates by the Congressional Budget Office, and the stabilization and a slight improvement of job market and overall economy. Weekly paid benefits peaked in July of 2009, when $19 million in claims were paid in one week. The initial belief was that the summer of 2010 would bring higher claims than what occurred during July 2009, but that did not occur. However, the current rate of claims remains higher than normal.

The Social Security Act, Title 12, outlines the manner in which the UI loans may be repaid. The loan can be paid from reduced Federal Unemployment Tax Account (FUTA) credits, the UI Trust Fund contributions, state general funds, surcharges, or additional solvency taxes. The Social Security Act provides that the credits received by each employer be reduced by 0.3 percent after the second January when a state has had to borrow funding that has not been repaid. Currently, Kansas employers get 5.4 percent credit against the FUTA tax rate of 6.2 percent. The additional funds received as a result of the reduction are credited against the principal loan balance. This upcoming year will include the first January that Kansas has incurred debt, and the repayment of the loan would not be required until after January 2012.

If Congress does not extend the interest-free policy on UI borrowing, Kansas will have to make an interest payment no later than September 30, 2011. The state's UI Fund is prohibited by federal law to be used for interest payments. The state is required to have an alternative source of funding to pay the interest. If the state fails to make the interest payment, Kansas would be prohibited from borrowing additional funds, and employers could lose the total FUTA tax credits immediately. The interest rate projected by the Department of Labor, based upon past years' interest rates for 2011, is 3.6 percent. The rate is projected to decrease each year after 2011 until the outstanding loan is repaid. Based on the Department's projection for 2011, the interest owed would be $6.2 million. Kansas currently has no alternative means to make the interest payments to the federal government in statute.

During early 2010, the Employment Security Advisement Council (ESAC) made the following recommendations to repair the UI Fund:

- Increase the taxable wage base to $9,000 in 2011, $10,000 in 2012, and index it by 3.8 percent in future years;

- Add nine additional negative balance rate groups to the existing ten negative rate groups;

- Institute a two-year moratorium on the maximum weekly benefit amount; and

- Establish a special tax for the interest payment by instituting a percentage surcharge on the employers' current tax rate. The surcharge would be set by the Secretary of Labor each year after a determination of the amount needed to pay the interest due for that year. The assessment would be in addition to current contributions.

Secretary Garner explained that the wait time was down, until the extension of emergency unemployment compensation, a federal program, expired, and extended with different requirements. There were 30,000 people on the program which expired on June 2 and reinstated at the end of July with significant changes. The changes required that paper applications had to be mailed and processed to the 30,000 individuals, resulting in a considerable backlog. Several employees were at the call center set up; and several employees from other divisions transferred temporarily to the call center and worked overtime. The result of this undertaking is that currently, the wait time is back to normal.

The state sets the $8,000 base. There is a federal requirement that the states have to have a minimum base of $7,000. The State of Washington sets its base at $36,000; Oklahoma's base is $14,000; and Missouri's base is higher than Kansas'. The state plan must be approved by the Federal Department of Labor. Kansas statute requires the Department of Labor annually to establish the rate for each of the 51 rate classes of employers, with a maximum rate of 5.4 percent for positive balance employers. For the ten rate classes of negative balance employers, a surcharge of up to 2.0 percent on top of the 5.4 percent rate is allowed by statute.

A Committee member asked if $45.0 million has not been spent on a new computer system for the Department of Labor. Secretary Garner said that was correct; the Department received federal Reed Act funding for the new system. The case management system has been implemented. The document management system and the phone interactive voice system have been completed. Sixteen quarters of claim information have been loaded on the new system. A number of other things have been put into operation, and the whole project should be operational in 2011.

Secretary Garner hoped to begin some phases in December that would allow Kansans to be able to go directly to a website and file their claims.

Secretary Garner said there are 90 employees in the call center taking about 1,400 calls per day. Every day is a busy day, resulting in 5,000 to 8,000 calls per week.

Secretary Garner said the computer system will eventually reduce personnel. The Department is planning on scanning paper documents that will eliminate much of the data entry. A backup system has been installed, and in the worst situation, they would only lose a day's work. Recently, the Department received a federal grant to build a backup system in Wichita.

Secretary Garner said that in this recession, older male workers were hardest hit. Workers that have been in the manufacturing and construction industries have also been hit hard. The unemployment rate for people who have a high school education or less is significantly higher than the average rate. If someone fits two or more of these categories, it can be very difficult for that person to keep employment.

Secretary Garner said there was an increase in the first and second quarters this year in the number of employers that made partial payments in response to 2010 HB 2676, but that represents only about 1,000 to 1,500 employers out of the total 73,000 employers.

Secretary Garner said that the process for making the interest payment is the most pressing issue. The mechanism that pays off the interest can also be used to apply to the loan. Secretary Garner replied that as long as there is a rational basis for treating one group of taxpayers differently than others, it is at the discretion of the legislators if the mechanism to pay the interest has to be evenly applied to the employers with a positive and a negative balance.

Secretary Garner said there has been a push to have negative balance employers pay at a higher rate than positive balance employers. The fund pays out more benefits for negative balance employers than what they have paid into the trust fund. Tax notices go out in mid-December, and the first payments are due in April. The Chairperson said a mechanism needs to be created and finalized by March 1. It can be retroactively applied. The Committee should make recommendations for early in the 2011 Legislative Session.

A Committee member asked how the additional tax would be created to pay the interest. Secretary Garner answered that it could be an assessment on a percentage of the employer tax rate.

A Committee member asked how many negative payers Kansas has. Secretary Garner replied that the negative balance employers are a much smaller group than the positive payers. The negative employers are made up of large and small companies. Currently, the negative balance employers do pay a surcharge of up to 2 percent.

Finally, Secretary Garner informed the Committee that the Department provided training to librarians across the state this past summer to be able to help patrons file unemployment claims.

Opportunity and Enterprise Zones

After the lunch break, Chairperson Brownlee introduced Lavern Squier, Senior Vice-president, Overland Park Economic Development Council (Attachment 23). There are many things being done in Kansas that are helpful to the economy, but some trends are disturbing. The rural county population is declining.

According to Professor Joe Aistrup, Department of Political Science, Kansas State University, there are 55 rural counties not thriving in western and southeastern Kansas. Counties that are thriving are either metro-counties or near metro-counties. Rural regions adjacent to metro-counties are infused with urbanites seeking a rural lifestyle but who need to be within driving range of the urban area for their jobs. These rural areas are close enough to a metro area to enjoy the cultural, medical, and retail opportunities of an urban area. In these areas there are small agricultural operations that cater to the urban food markets. Some of these rural regions surround Sedgwick, Shawnee, Wyandotte, and Johnson counties. These centers usually have a population that is less than 40,000 and lack the economic power to benefit the adjacent communities. They are ringed by smaller rural communities which infuse dollars into the center. Thomas County in northwest Kansas and several counties in extreme southeast Kansas are considered rural trade centers, but the majority is in eastern Kansas.

Mr. Squier introduced Micki Dean, Harvey County Economic Council. She represents all of Harvey County with seven cities, the county, and an airport. The population of Harvey County is approximately 34,000 people. The smallest community has 600 people, and the largest has 19,000 people. The largest employer in Harvey County pulls employees from ten different zip codes from surrounding counties. The rural economic development team of Harvey County brought together the 12 largest companies in Harvey County to find out what each has to offer as core competencies. They are working together with nine counties—Reno, Harvey, Rice, Kingman, McPherson, Marion, Chase, Butler, and rural Sedgwick—to make economics work for their specific strengths.

Mr. Squier said it is time to build communities with a large enough economic scale so that smaller rural communities that ring the urban centers can survive and thrive. Kansas leaders need to think in terms of bringing communities together to share their talent and combine for the best possible situation. Not every community needs everything, especially in the rural areas. A better use of time and talent would be to plan urban growth centers. Urban centers could provide critical economies of scale, particularly in the job and economic infrastructure opportunities, so that people who want a rural lifestyle can commute into urban centers for jobs. Then additional jobs can be created in the surrounding areas. Urban centers can take advantage of larger trade centers, air service, educational facilities, health centers, and transportation.

A Committee member asked how to keep small businesses going in these areas when they cannot get operating capital. Mr. Squier said it is harder for a small town business to get capital because there is a smaller economy to back the business. Mr. Squier said the Legislature could perhaps consider starting an opportunity zone pilot program with funding to help get businesses into a community. This could encourage other businesses to come into a community to provide jobs and grow the economy.

A Committee member asked if regional foundations could loan money in some of these areas. Mr. Squier said there has been a renewed interest in regional foundations. They could be useful if given the tools, but there is competition for a foundation's money.

A Committee member commented that western Kansas needs affordable power to attract businesses. Instead of putting all the focus on eastern Kansas, maybe some thought should be given to developing more power in western Kansas to support industry. Chairperson Brownlee concurred that legislators need to take a bigger role in helping to set a vision for Western Kansas.

Chairperson Brownlee called on Darla Price, Business Finance Manager for the Department of Commerce, to talk about the State's Enterprise Zone Program (Attachment 24). Ms. Price explained that the entire state is an Enterprise Zone, offering three basic incentives to qualified companies. There is a $1,500 job tax credit for each job created; a $1,000 investment tax credit per $100,000 investment; and a sales tax project exemption. There is a $2,500 job tax credit for designated "Non-Metro Business Regions." There is a $1,000 tax difference between jobs created in a metro region versus a rural one.

The Commerce Department has approved applications from 99 rural counties to be designated as a Non-Metro Business Region. Qualified businesses locating in this region receive an enhanced job tax credit. County applications include a county-wide strategic plan which includes economic development goals and plans for achievement. The county is required to identify at least one county-wide incentive. Under the Enterprise Zone Program, a single county is designated as Non-Metro for three years, and a multi-county region may be designated for up to five years. The Commerce Department compiles quarterly reports for the Secretary of Revenue. Annual reports detailing the usage of local county incentives are filed with the Governor and the Legislature. Ms. Price provided the Committee with recent statistics.

Ms. Price answered questions by stating the following:

- It is difficult to know for certain if the statistics are truly reflective of new jobs that were created because of the tax credits;
- Any number of counties could come together and apply for the Enterprise Zone designation, but the Department mainly deals with single counties; and
- The credits could be carried forward indefinitely. A Committee member concluded that possibly the state could lose jobs and still be paying for the tax credits.

A Committee member expressed concern about the validity of the figures given, wondering if the jobs created could be attributable to the incentives that were granted and that more accurate information is needed from the Commerce Department and the Department of Revenue.

Follow-Up Regarding the State's Bidding Process

Chairperson Brownlee recognized Chris Howe, Director of the Division of Purchasing, and thanked him for coming before the Committee on such short notice. Mr. Howe said statutes direct how bids are taken. The Kansas Small Business Procurement Act was allowed to sunset in the mid 1980s, but one thing remained from that Act. The Secretary of the Department of Administration, through the Division of Purchasing, is to submit a small business report to the Governor and Legislature. After Mr. Howe was promoted to the position of Director of Purchasing, he discovered that this mandated report had not been done for years. Presently, the Purchasing Division is sorting through 225,000 vendors for information for this report. Completing this report is further complicated by the state's new accounting system, SMART, which handles data differently than the old system (Attachments 25 and 26).

Mr. Howe said a bidders' survey had been sent out. From the survey, information has been collected from about 2,500 vendors. Vendors are now being required to submit demographic information when they bid for a state contract. Thus far, the Purchasing Division has found records of 325 minority businesses that received a payment for rendered services and products.

Mr. Howe said there is a vendor protest policy that allows a vendor to file a protest letter with the Director of Purchasing. As the Director of Purchasing, he then reviews the protester's claims and makes a written determination. If a disgruntled vendor is not satisfied with the written determination, the Kansas Administrative Procedures Act provides for a hearing process.

Mr. Howe said that he has been in charge of all state purchasing, but since July 1, 2010, the Regents institutions were allowed to have a separate system. He added state agencies have the authority to independently make purchases valued at less than $5,000.

When asked if there has been any effort to solicit business from the minority or women-owned businesses, Mr. Howe said bids are posted on the Internet, and e-mails are sent to vendors registered with the state. There is room for improvement. This is typically accomplished at business conference seminars and on-line notification. He added that if qualified businesses are registered with the Commerce Department, they can be notified.

Mr. Howe said any bid over $50,000 is published. It would be unreasonable to expect Kansas government to notify every possible person who would want to participate in bids. It is incumbent on the business to pursue that information. The cost of notification would be enormous.

Mr. Howe said the new accounting system does not have the capability for on-line bidding. The Division is trying to find another way to do on-line bidding again as was provided under the old accounting system.

Interim Report

Chairperson Brownlee asked for comments, ideas, or recommendations to be included in the Interim Report from the Joint Committee on Economic Development to the Legislature. After discussion, the Committee agreed by general consensus to include the following comments in the Interim Report.

National and Kansas Economies

The Committee finds reason to be cautiously optimistic regarding the future of the national and state economies. The national recession was declared to have ended by the National Bureau of Economic Research. However, the nation's economic performance has not returned to pre-recession levels yet. Manufacturing, energy, and agriculture sectors have started to show signs of growth. Consumer spending and confidence are improving. Inflation is subdued, and it is expected to remain so over the next couple of years.

The Kansas economy is expanding modestly, especially in the manufacturing, agriculture, and energy sectors. The weaker industries in the state include the construction sector and public employment. In a recent survey, 82 percent of Kansas employers expected the size of their business to remain the same. Business is better than a year ago, but business are not willing yet to increase their operations. Kansas manufacturing is increasing both in production and the volume of new orders. However, manufacturers remain cautious with capital expenditures, and inventories are expected to remain flat over the next six months.

In six out of the last ten recessions, the housing market and related industries were the initial engines that lead the economy out of recession. However, in the current post-recession period, housing construction and home sales will not be available readily for growth because a national real estate bubble caused the economic recession.

STAR Bonds

The Committee concludes that projects within STAR Bond districts across the state have been significantly delayed due to the economic recession. The Committee received a report from the Department of Commerce on recent STAR Bond activities and the hearing. After hearing expert testimony on the usage of STAR Bonds, the Committee finds the crosscollateralization of STAR Bond debt from different project phases to be a moot issue. No further policy changes need to be considered at this time.

International Trade

The Committee encourages the new gubernatorial administration to become personally involved in pursuing new trade relations. These kinds of business relations require personal, face-to-face interaction. Significant sectors of the Kansas economy, such as aircraft, agriculture, and education, may grow through an expansion of international trade that is primarily focused towards China and emerging markets. Kansas needs to improve the marketing of its strengths to other countries.

International trade missions, the recruitment of international investment in Kansas, and trade show assistance are valuable tools for growing the state's economy. Despite the global recession, Kansas businesses exported nearly $9 billion in goods and services in 2009. This was the third highest export total in the state's history. Thus far in the current FY 2010, three foreign companies have spent almost $26 million in investment capital, creating over 200 jobs in the process. Through the Kansas International Trade Show Assistance Program (KITSAP), the state has encouraged six Kansas companies to attend seven international trade shows in the current FY 2010. Those six companies have reported sales of $1.25 million, which translates to a return on investment of $53.77 for every $1 spent on trade show assistance.

The Committee finds there to be a great opportunity to put the Kansas brand in other parts of the world. Kansas needs to have a narrow, laser-like focus on what it has to offer China and emerging markets. Kansas should provide solutions for these growing economies, and in return there will be loyal, long-term relationships with consumers from across the world.

The Committee also encourages the Board of Regents to learn from the Ivy League and other colleges and consider means to provide educational opportunities in China.

Opportunity for Women and Minority Businesses

The Committee waits to see the proposed legislation from an ad hoc Committee of stakeholders that has been working with the Department of Commerce to revise the language found in 2010 SB 511 regarding disadvantaged minority and women-owned businesses. The goals of generating new jobs and broadening the State's revenue stream are worthwhile. Any new programming goals should be organized within existing governmental programs, which should be more aggressively promoted by the Office of Women and Minority Owned Business Development. There should be no duplication of government services or operations.

Future discussions on this matter may involve learning how other states have approached this issue. The Committee notes that the recent efforts of the Division of Purchasing to comply with state statute which has been ignored until recently to compile information regarding small businesses that do business with the state and to report it annually to the Governor and the Legislature. The compliance efforts are further complicated by the state's new accounting system that recently went online.

Data Centers

The Committee notes the opportunity to promote Kansas as the preferred site for the location of data centers. These IT warehouses are used by large and small companies to store and manage their business data. The buildings are multi-million-dollar investments which may be in use for 30 to 40 years. These centers typically have few employees, but the few employees are highly paid computer engineers and computer techs. The data centers have little impact on government services. Data centers are huge consumers of energy, and the taxes derived from that power are significant. It is estimated that for every 10,000 square feet that a data center occupies, it consumes one megawatt of power. One megawatt of power annually generates approximately $35,000 in taxes for state and local government. Historically, when other types of commercial growth have stalled, data centers have been able to thrive. It is important for Kansas to remain competitive for this type of development.

As a means to encourage Kansas as the location for data centers, the Legislature should consider either a partial or full elimination of the sales tax on a data center's software. In order for a company to be eligible, it should be required initially to make a minimum capital investment of $200 million in a metro-county or $50 million in a nonmetro-county. The Secretary of the Department of Commerce could be authorized to verify the investment, grant the sales tax exemption, and verify compliance.

However, before such an exemption is granted, the Committee believes the Department of Commerce should be required to perform a readily quantifiable cost-benefit analysis that will ensure that the short-term forbearance of sales tax revenue will result in greater long-term economic growth.

Unemployment Trust Fund

The Committee recommends that the 2011 Legislative Session adopt and the Governor sign legislation by March 1, 2011 that will provide a process for collecting the estimated $6.2 million for the first interest payment on the loan from the federal government to the UI Trust Fund that is due on September 30, 2011. The state's UI Trust Fund contributions collected cannot be used to pay interest on advances according to federal law. The interest payments must be paid from an alternative source. The consequences to the state if the interest is not paid by the required deadline: Kansas employers may lose the Federal Unemployment Tax (FUTA) Credit of 5.4 percent and lose future borrowing privileges from the federal government to the UI Trust Fund. The timing is very important to the business of Kansas, as the first employer tax payment is due in April of 2011. The Kansas Department of Labor will require time to explain the new law to all the businesses and make appropriate administrative changes.

The Committee recommends that the Legislature consider having the negative balance employers bare the cost or the majority of the cost of the interest payment on the federal loan. A negative balance employer is one in which the employer has paid into the UI Trust Fund less than the employer's employees have taken out of the Fund. However, when considering the process for funding the surcharge, the Committee asks the Legislature to be mindful of the effect the surcharge could have on all small employers in Kansas if the charge is placed on all employers, rather than just negative balance employers. The Department of Labor should be afforded discretion in hardship cases to determine the amount of the surcharge.

The Committee recommends that the Legislature consider a process for paying off the loan. Under current federal law, when a state has had two consecutive Januaries with an outstanding loan balance, the federal government will decrease the amount of FUTA credit by 0.3 percent each year until the loan is repaid. Kansas will have two consecutive Januaries in the year 2012.

The Committee received an update on the new unemployment computer system that has been funded by federal Reed Act payments. While the computer system is not yet fully operational, the Department stated that the new system will afford employers and employees with great website access. In addition, a separate grant has been secured by the Department to provide for an off site backup system. However, the Department has said that some employers do not own computers, the Department will continue to provide a process by which these employers can file their reports through the mail. These forms then will be scanned into the new computer system. Finally, the telephone system which is used by employers and employees will also be updated to provide for ease of filing the necessary documents into the system.

The Committee applauds the efforts of the Department in providing training to library staffs across the state to help individual access the website for unemployment benefits. The Committee further encourages the Department in continuing this training for library staff in future years, especially as the new system becomes fully operational.

The Committee received testimony that there is a strong correlation between lack of higher education, less than a high school diploma, and high unemployment.

The Committee encourages the Employment Security Advisory Council (ESAC) to revisit its recommendations to provide for solvency in the UI Trust Fund and other related issues. In addition, the 2011 Legislature is encouraged to look closely at the ESAC's report when considering any legislation regarding the trust fund and employment.

The Committee recommends that the Kansas Department of Labor improve its notification to employers of the consequences of failure to fully pay the State Unemployment Tax. While enactment of 2010 HB 2676 provided that employers have 90 days past the due date to file their contribution without being charged interest for the first three quarters of each of 2010 and 2011, the determination for negative balance employers was not adjusted. Therefore, employers who do not pay their second quarter contributions may be determined to be a negative balance employer. The Committee feels this message could be given to employers in a stronger manner than occurred during the first two quarters of 2010.

Enterprise and Opportunity Zones

The Committee finds that economic prosperity needs to take place throughout Kansas and not just in the urban areas. Regional urban hubs in the state should be encouraged to cooperate economically with adjacent communities and counties.

The Committee recommends that state laws and administrative rules and regulations relating to business should be re-examined for the purposes of repealing obsolete and unnecessary requirements, making the economy in Kansas more conducive for growth.

Chairperson Brownlee thanked the Committee members for their input. The draft report will be sent to each Committee member for their input before the final report is submitted. The meeting of the Joint Committee on Economic Development adjourned at 5:10 p.m. on Tuesday, September 28, 2010.

Prepared by Marilyn Arnone
Edited by Reed Holwegner

Approved by the Committee on:

January 18, 2011
(Date)

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

H. Committee on Econ Dev.

~~SENATE JUDICIARY COMMITT~~EE GUEST LIST

DATE: Sept. 28, 2010 AM

NAME	REPRESENTING
Desmond Blake	Urban League of Kansas
Lazone Grays, Jr.	IBSA, Inc.
Nolan C. Jones	United Builders Black Contractors
Derek Hein	Hein Law Firm
Greg Kindle	KCP+L
John Lenio	CB Richard Ellis
Tim McKee	City of Olathe
Tim Cowden	KCADC
Michelle Butler	Cap. Strategies
Gene Meyer	Kansas Reporter
Megan Bottenberg	KDOL
Jim Garner	KDOL
Inayat Noormohmad	KDOL

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

Jt. Committee on Econ. Dev.

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: Sept. 28, 2010 PM

NAME	REPRESENTING
Dan Korber	KSINC
Steve Ahlert	Kansas Inc
Sara Forbes	Benchmark Communications
Rachelle Colombo	KS Chamber
DAN MORGAN	Builders' Assn.

Economic Outlook for the U.S. and Kansas

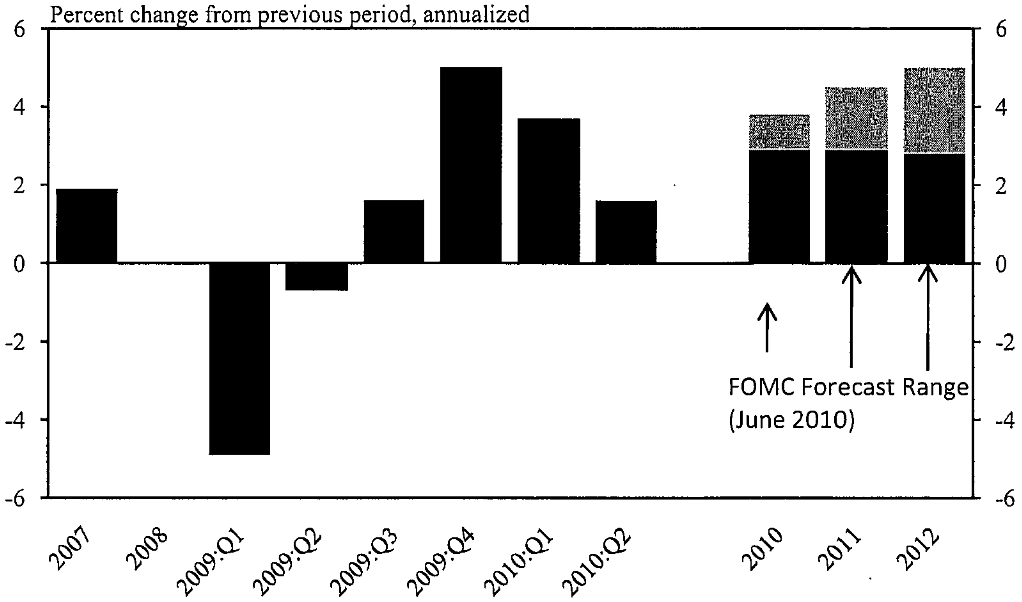
Alison Felix*
Economist
Federal Reserve Bank of Kansas City

Joint Committee on Economic Development
Kansas Legislature

Topeka, Kansas
September 27, 2010

* The views expressed are those of the presenter and do not necessarily reflect the positions of the Federal Reserve Bank of Kansas City or the Federal Reserve System. The presenter can be contacted at (816)881-2337 or Alison.Felix@kc.frb.org.

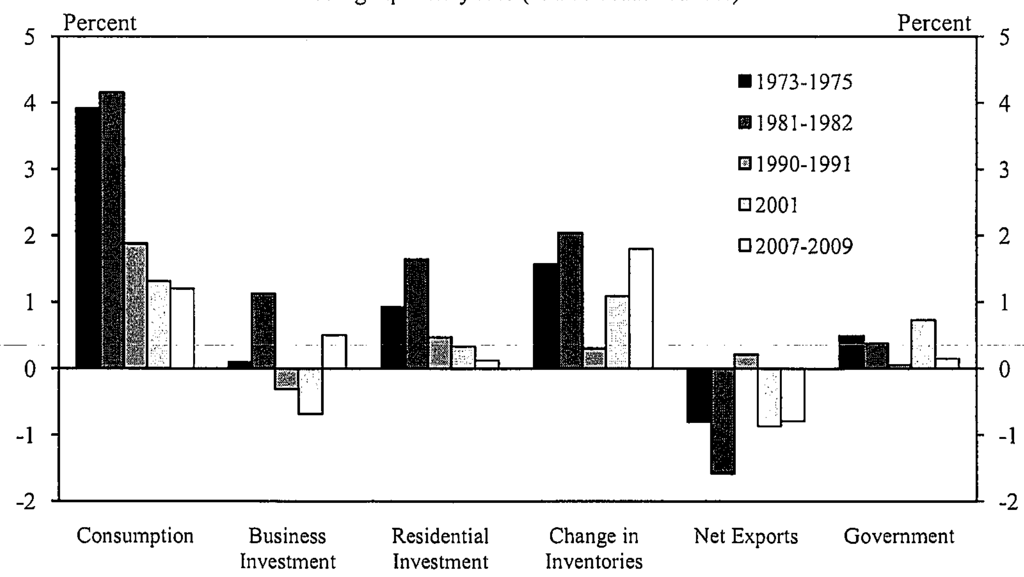
Chart 1: U.S. Real Gross Domestic Product



Source: Bureau of Economic Analysis; FOMC

Chart 2: Contributions to Real GDP by Component in the Year Following a Recession

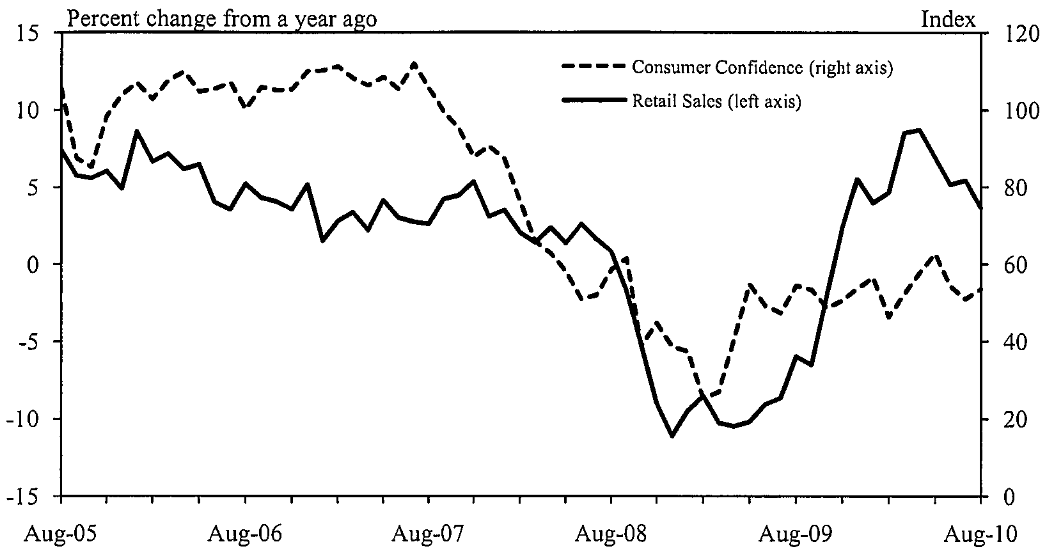
Average quarterly rate (at an annualized rate)



Source: Bureau of Economic Analysis

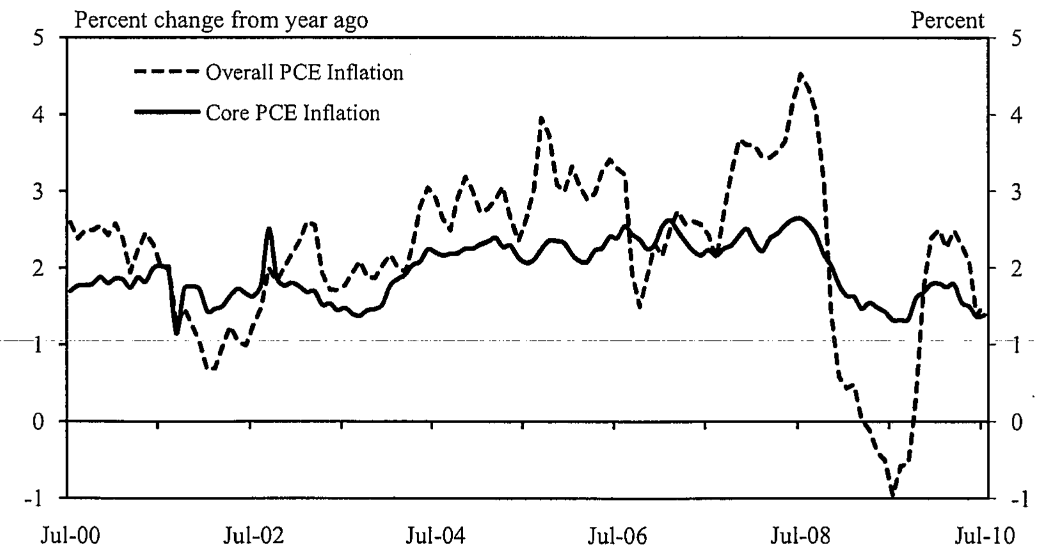
1-2

Chart 3: Retail Sales and Consumer Confidence



Source: Census Bureau and Consumer Confidence Board

Chart 4: Inflation



Source: Bureau of Economic Analysis

1-3

Chart 5: The Tenth Federal Reserve District

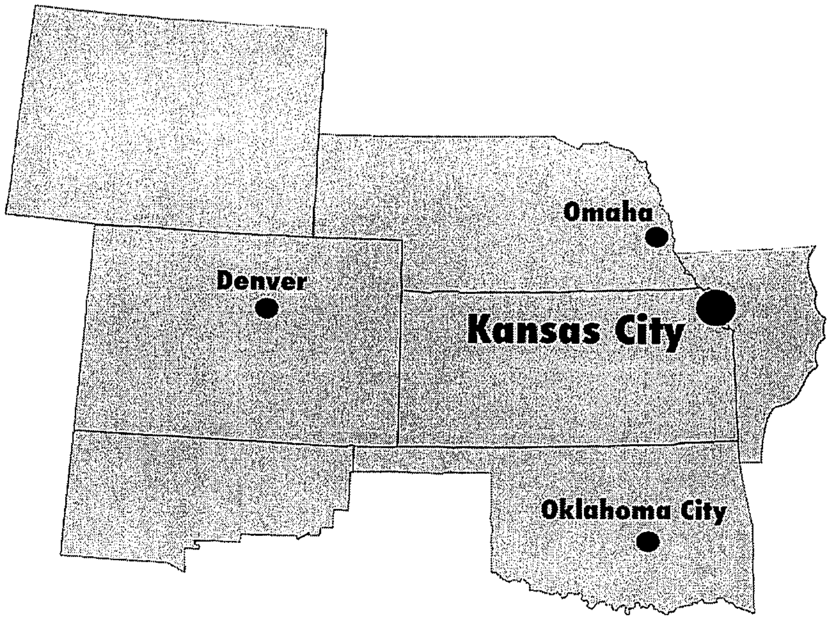
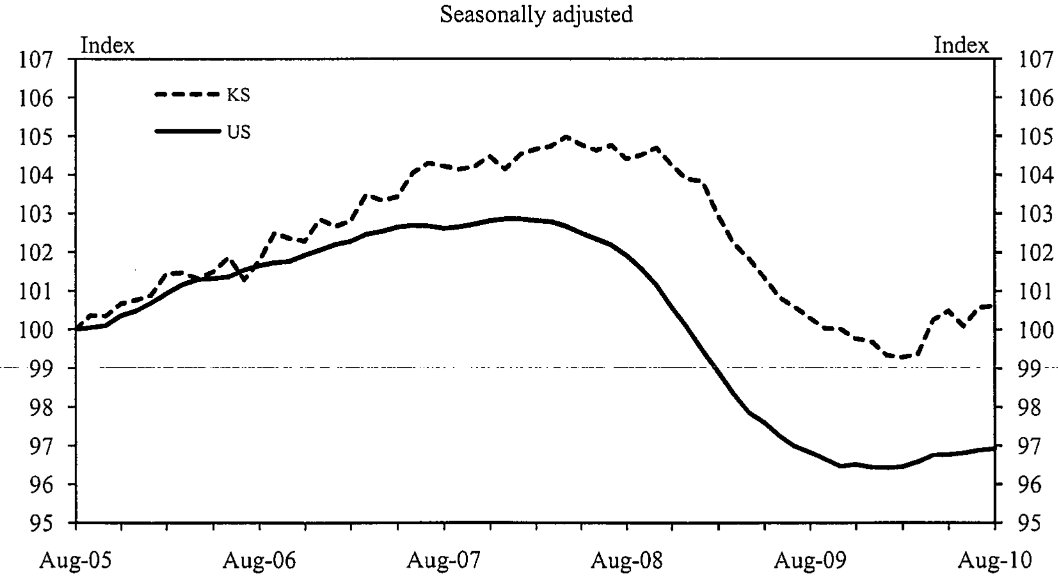


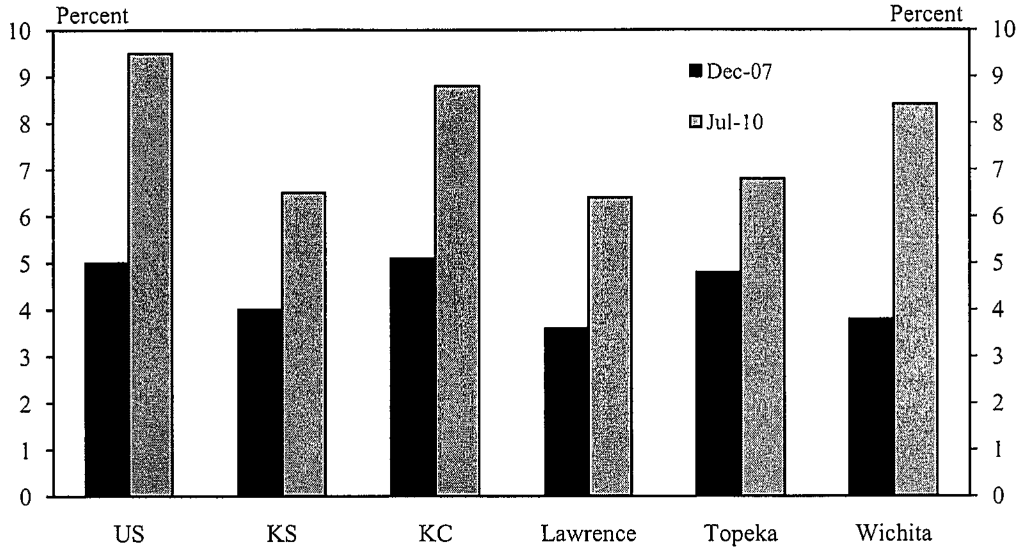
Chart 6: Nonfarm Employment (Excluding Federal Government)
Seasonally adjusted



Source: Bureau of Labor Statistics

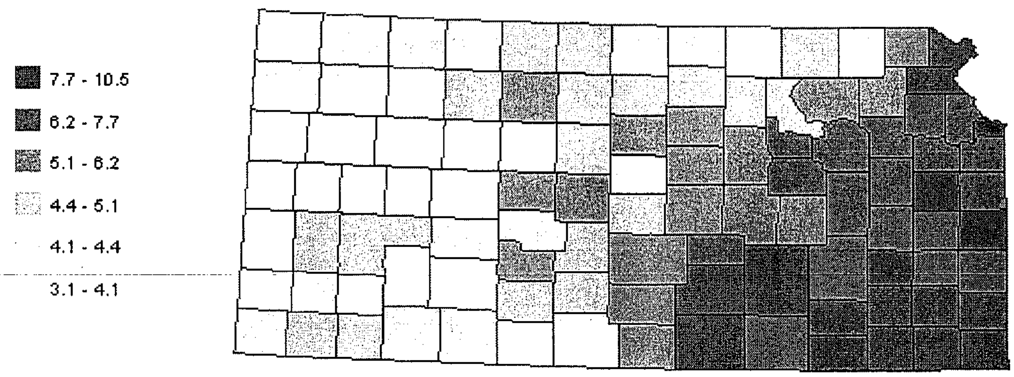
1-4

Chart 7: Unemployment Rate
Seasonally adjusted



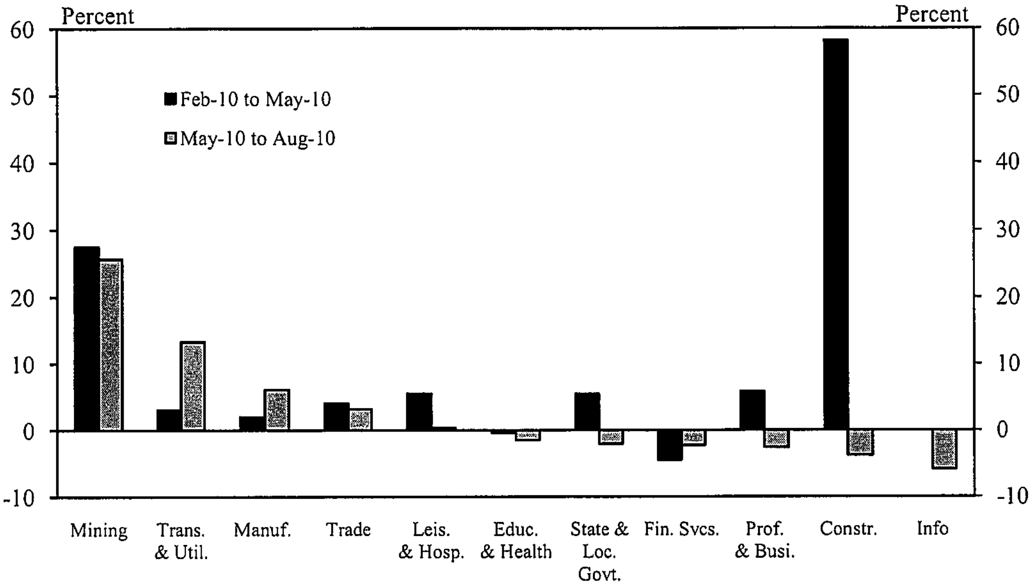
Source: Bureau of Labor Statistics

Chart 8: Unemployment Rates by County



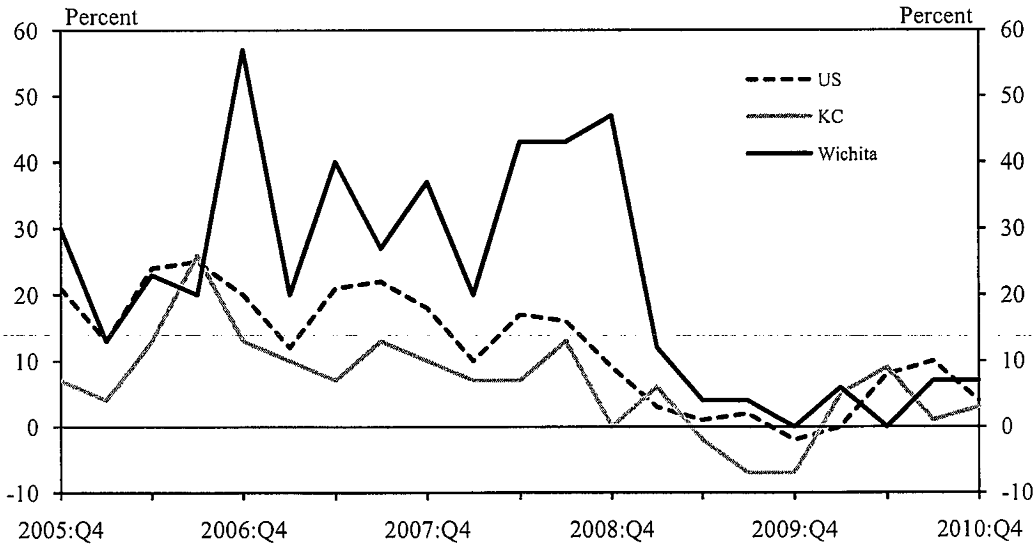
Source: Bureau of Labor Statistics

Chart 9: Kansas Employment Growth by Industry
Seasonally adjusted annualized rate



Source: Bureau of Labor Statistics

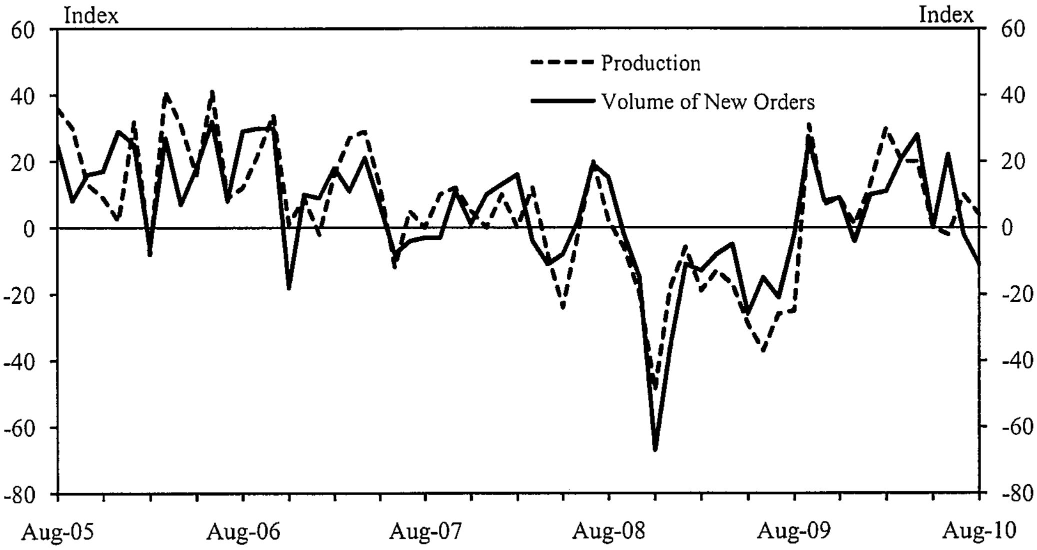
Chart 10: Net Percentage of Firms Expecting to Increase Employment



Source: Manpower Inc.

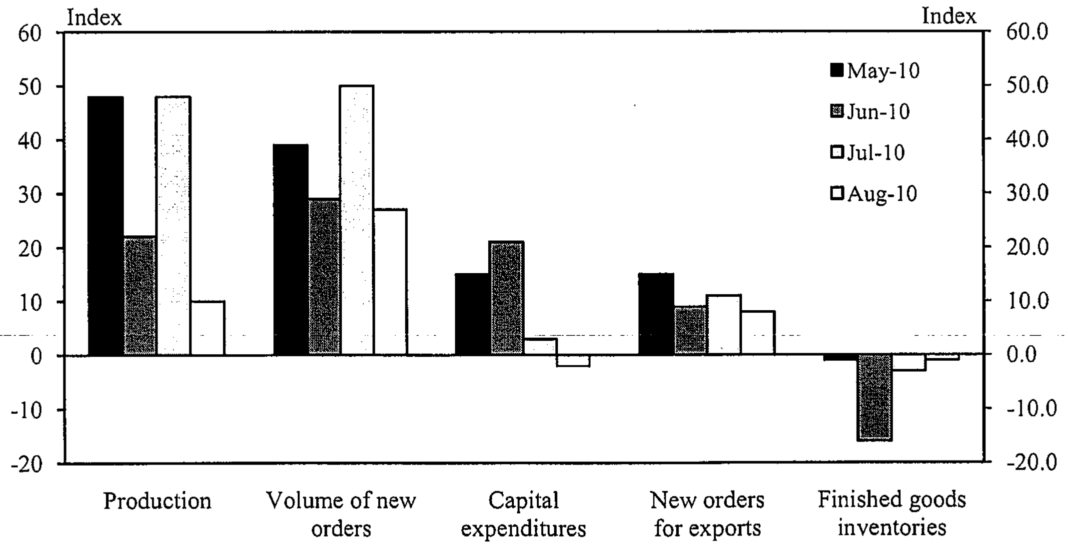
1-6

Chart 11: Kansas Manufacturing Activity
Seasonally adjusted; month-over-month



Sources: FRBKC Manufacturing Survey

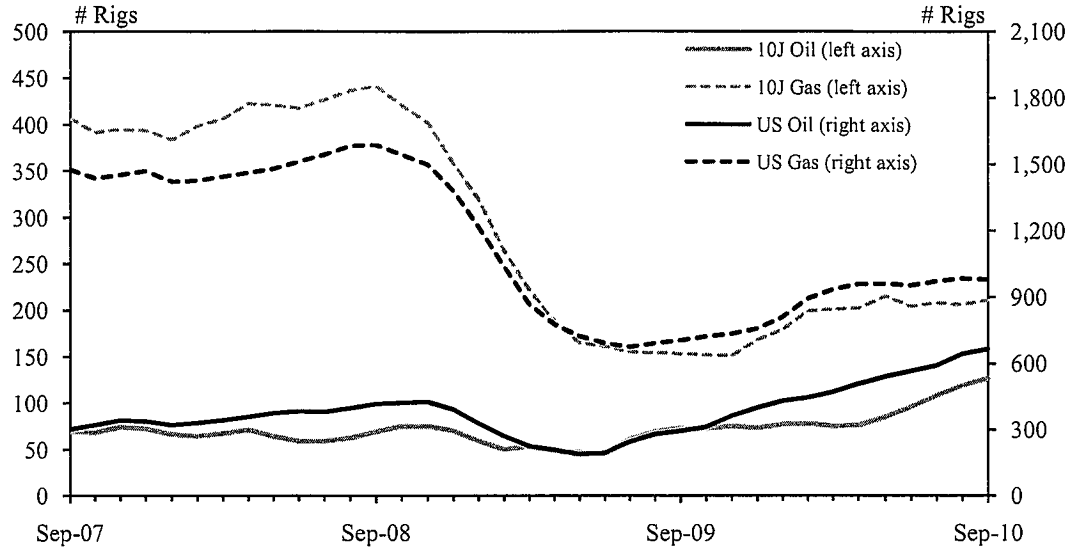
Chart 12: Kansas Manufacturing Expectations
Seasonally adjusted; six months ahead



Source: FRBKC Manufacturing Survey

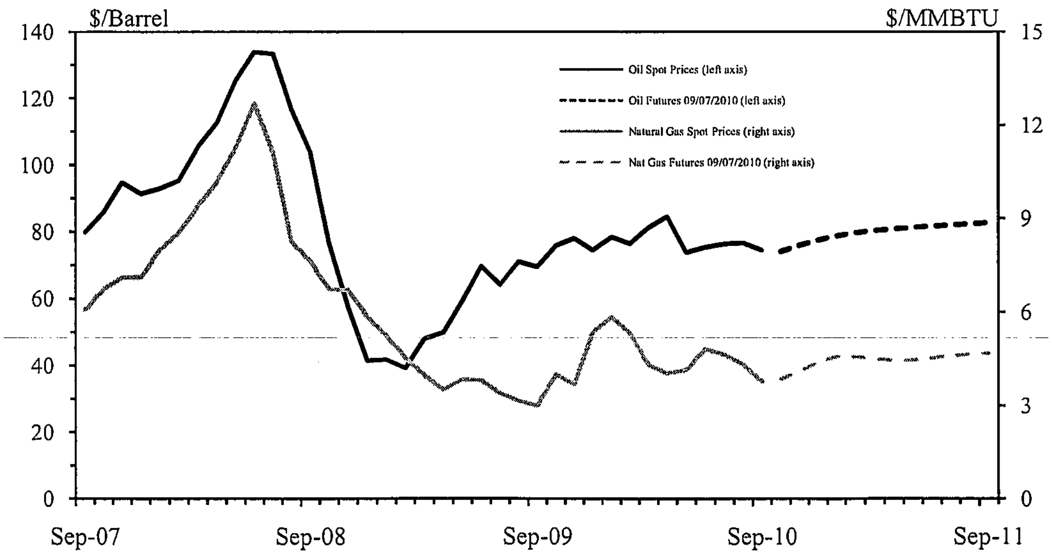
1-7

Chart 13: Number of Active Drilling Rigs



Source: Baker-Hughes

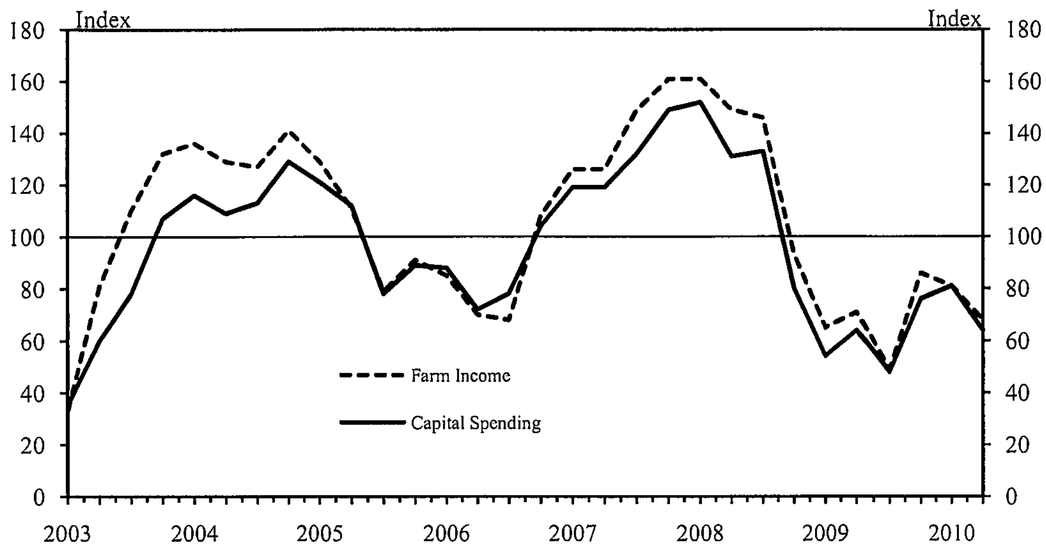
Chart 14: Oil and Natural Gas Prices



Source: Bloomberg Energy Services

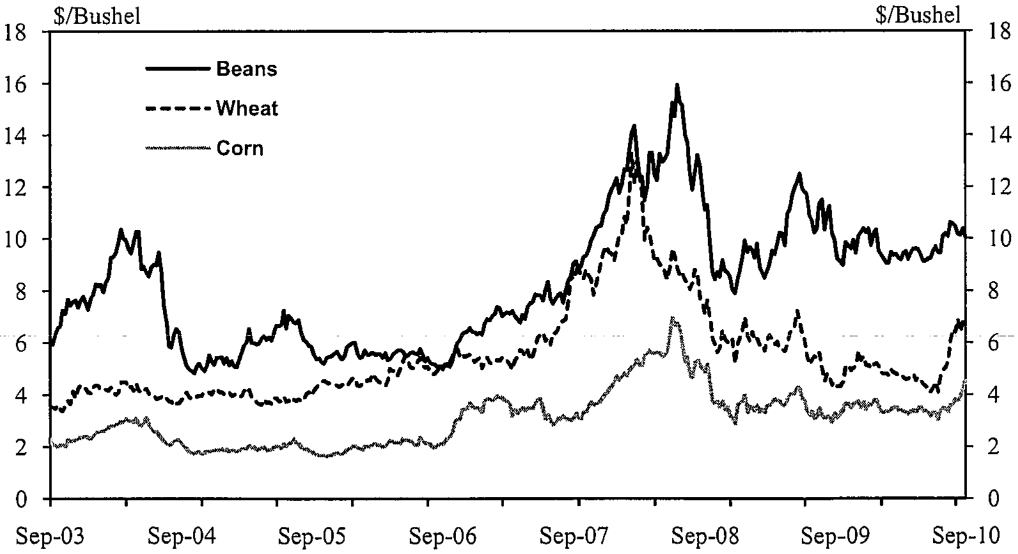
1-8

Chart 15: Tenth District Farm Income and Capital Spending



Source: FRBKC Ag Survey
Note: The index numbers are computed by subtracting the percent of bankers that responded "lower" from the percent that responded "higher" and adding 100.

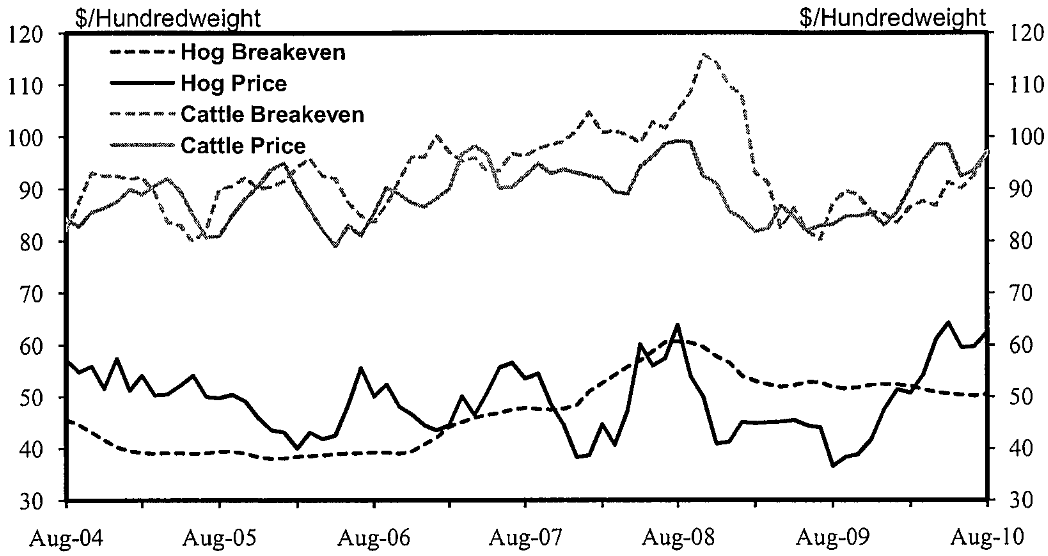
Chart 16: Crop Prices



Source: Commodity Research Bureau

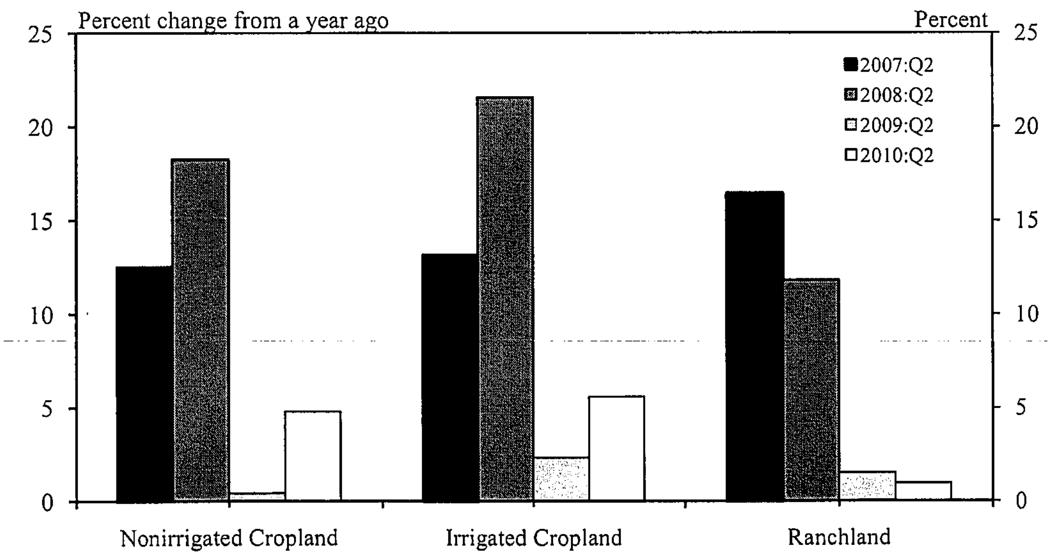
1-9

Chart 17: U.S. Livestock Prices and Breakeven Costs



Source: USDA and Iowa State University

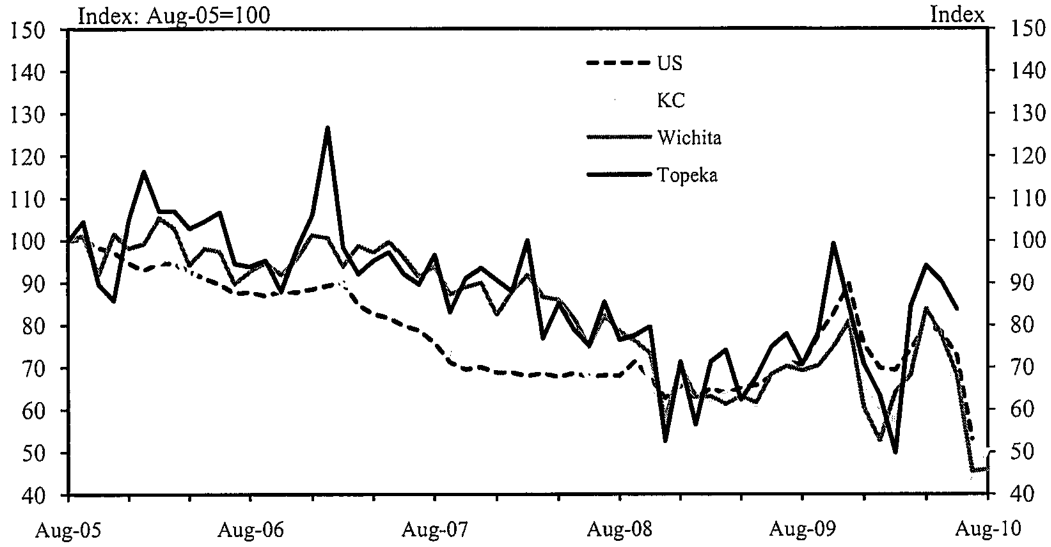
Chart 18: Tenth District Farmland Values



Source: FRBKC Ag Survey

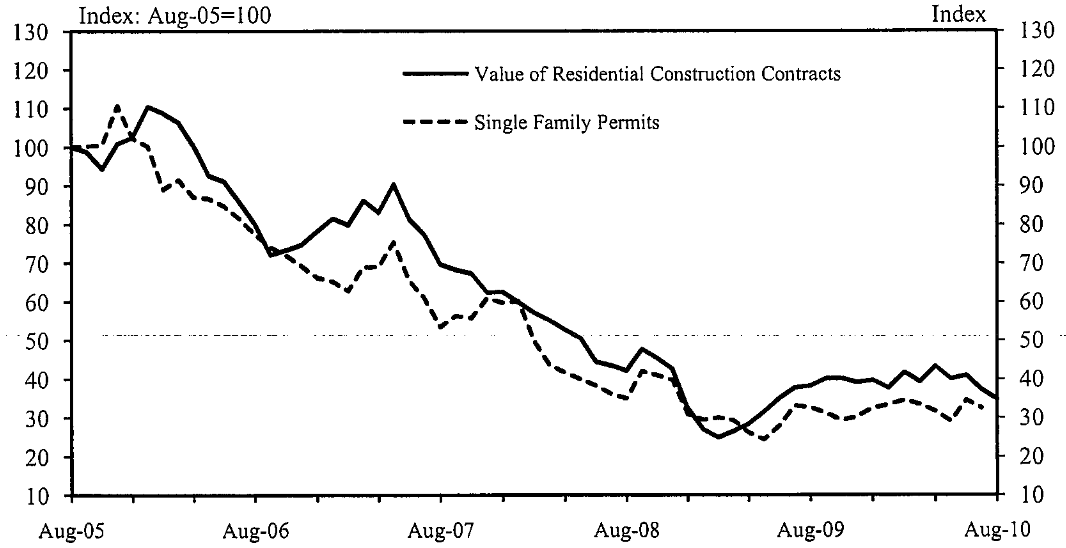
1-10

Chart 19: Existing Home Sales
Seasonally adjusted



Source: NAR and Local Realtor Reports

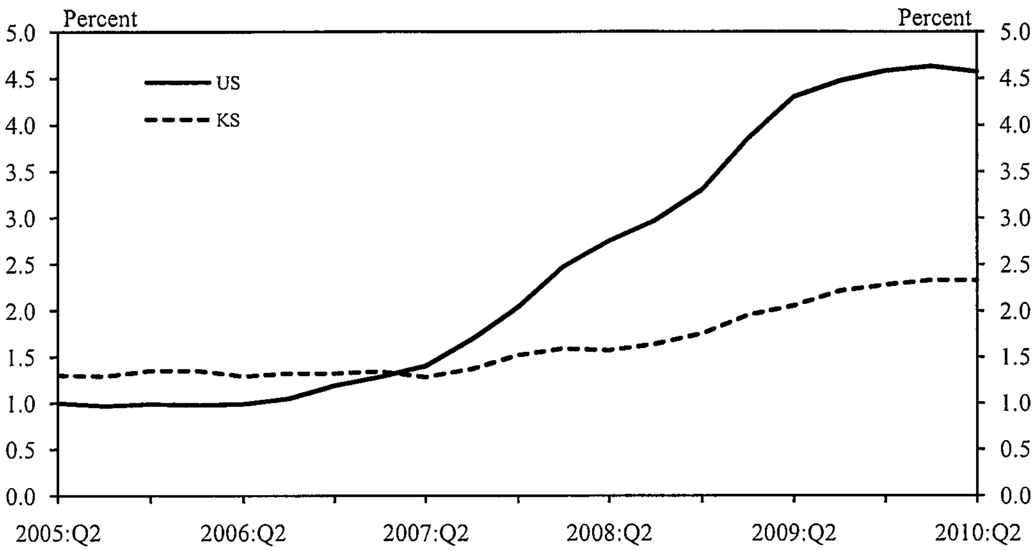
Chart 20: Kansas Housing Permits and Construction Contracts
Seasonally adjusted



Source: FW Dodge and Census Bureau

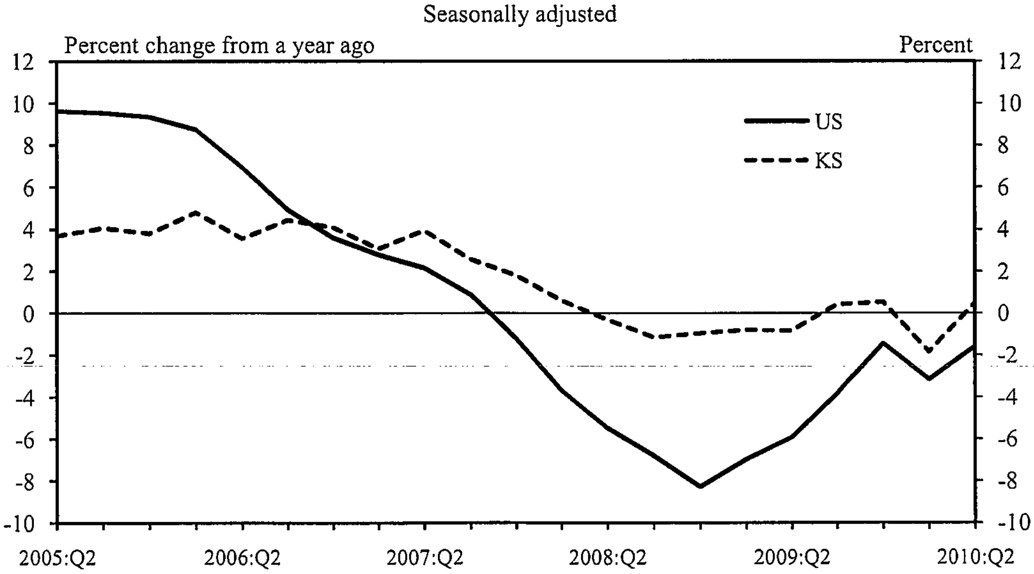
1-11

Chart 21: Foreclosure Rates



Source: Mortgage Bankers Association

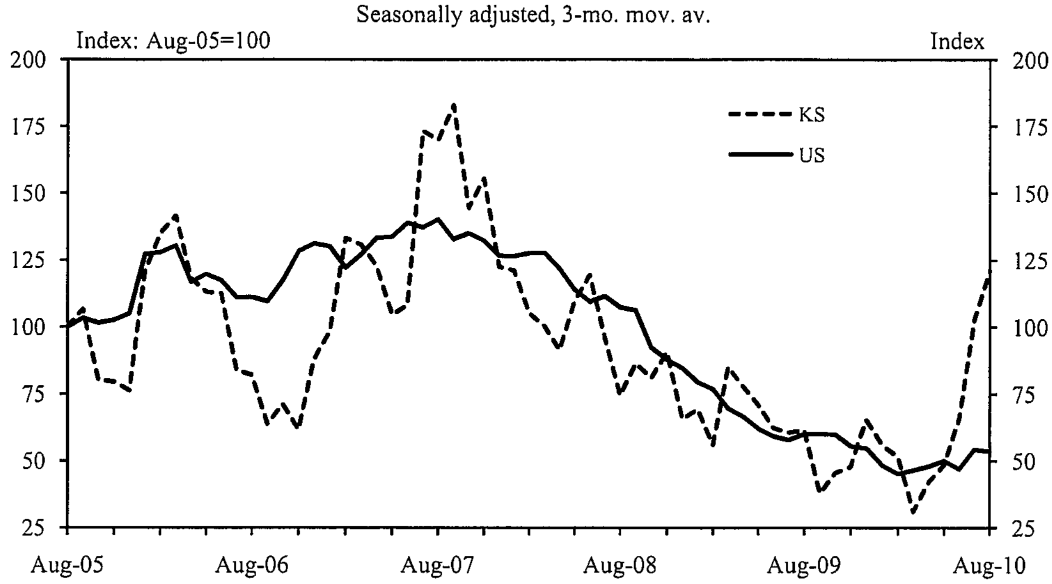
Chart 22: Home Price Appreciation
Seasonally adjusted



Source: FHFA

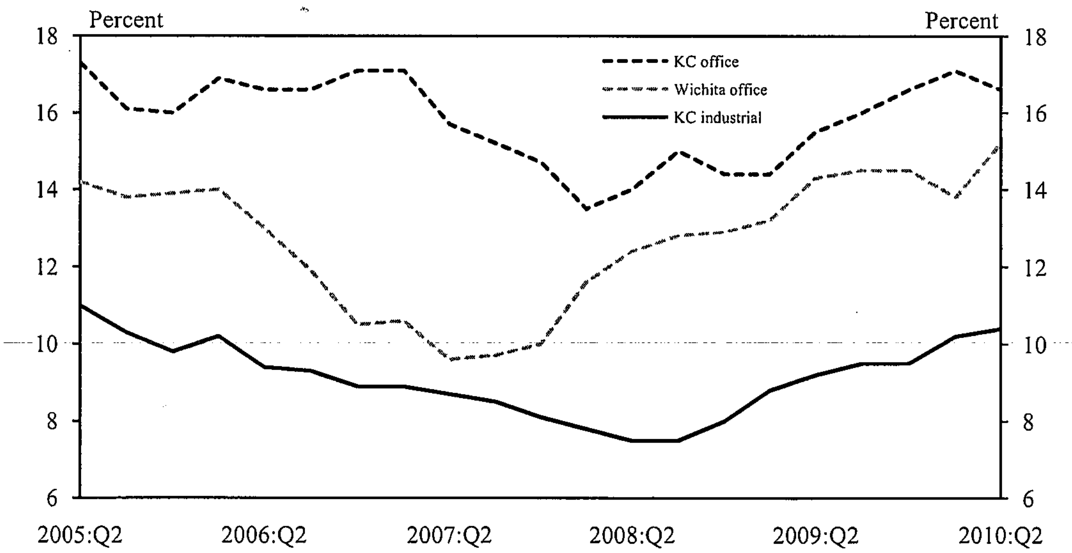
1-12

Chart 23: Value of Commercial Construction Contracts
Seasonally adjusted, 3-mo. mov. av.



Source: F.W. Dodge Inc.

Chart 24: Office and Retail Vacancy Rates



Source: Torto-Wheaton Research

1-13

Research Report

Joint Committee on Economic Development
September 27-28, 2010
Attachment 2

Indicators of the Kansas Economy (IKE)

Prepared by

Kansas, Inc.

September 2010

About IKE

The Kansas, Inc. Board of Directors initiated a project with the goal of identifying critical variables that explains the current condition of the Kansas economy relative to its surrounding states and the U.S. The Indicators of the Kansas Economy (IKE) project concept was the result of a perceived need for a single source of objective and consistent information that allows public and private leadership, as well as all interested Kansans to better understand the economy and enhance decision-making capacity.

Working with a broad range professionals, including researchers, university professors, state officials and business leaders, the Kansas, Inc. Board of Directors identified and reviewed a set of variables for their comprehensiveness and ability to depict key elements of the Kansas economy. Whenever possible, regional and national data was included to illustrate how Kansas compares to both the 6-State Region and the U.S. on a 1-, 5-, and 10-year period. The 6-State Region includes: Arkansas, Colorado, Iowa, Missouri, Nebraska and Oklahoma. When identifying variables efforts centered on data:

- Electronically accessible;
- Able to be captured for all states and the U.S.; and,
- Released annually, with a preference to monthly data.

Kansas, Inc. has received two grants from the Information Network of Kansas (INK) to significantly advance the sophistication, outreach and quality of the IKE project. Through these grants, Kansas, Inc. has partnered with University of Kansas, Institute for Policy and Social Research (IPSR); Wichita State University, Center for Economic Development and Business Research (CEDBR); and Kansas Geological Survey, Data Access and Support Center (DASC) to develop the framework for several variables to be displayed both interactively and electronically on a county, state, regional and national level. These efforts have also provided the model for a future IKE website where all data will be dynamically displayed and archived.

Throughout the IKE project an advisory committee, consisting of researchers, university professors, state officials and business leaders has provided insight and suggestions regarding the overall direction of the IKE project, adding significant value to the final product. Included within this version are several suggestions from the advisory committee regarding content, and several suggestions on additional variables, currently in the developmental stage will be included in future versions of IKE.

This updated release is another step in IKE becoming a one-stop resource of economic data for policymakers, university researchers, business leaders and the general public. As the Kansas economy changes, Kansas, Inc. recognizes the IKE project must continue to evolve to meet the needs of all individuals. Kansas, Inc. welcomes feedback to improve the value of the IKE project.

Kansas, Inc.

Indicators of the Kansas Economy
Key Trends

Sep-10

Employment and Unemployment

	Aug-10	Aug-09	Aug-05	Aug-00	1-yr Chg	5-yr Chg	10-yr Chg
Total Nonfarm Employment *(all employees, thousands)*							
Kansas	1,321.5	1,314.6	1,312.2	1,332.6	0.5%	0.7%	-0.8%
Private Sector Employment *(all employees, thousands)*							
Kansas	1,079.1	1,080.5	1,089.7	1,109.2	-0.1%	-1.0%	-2.7%
Manufacturing Employment *(all employees, thousands)*							
Kansas	162.4	163.6	181.0	199.7	-0.7%	-10.3%	-18.7%
Service Employment *(all employees, thousands)*							
Kansas	843.3	848.8	834.4	833.0	-0.6%	1.1%	1.2%
Public Sector Employment *(all employees, thousands)*							
Kansas	242.4	234.1	222.5	223.4	3.5%	8.9%	8.5%
Unemployment Rate *(%)*							
Kansas	6.7%	7.1%	5.0%	4.0%	-0.4%	1.7%	2.7%
Initial Claims for Unemployment *(all employees)*							
Kansas	13,379	20,750	8,256	7,660	-35.5%	62.1%	74.7%

Wages/Entrepreneurship

Private Establishment Data *(total private establishments, all employee sizes)*

	2009 (p)	2008	2004	1-yr Chg	5-yr Chg
Kansas	81,653	80,276	75,569	1.7%	8.1%

Private Industry Wage Levels *(average annual wages, all employees, all private establishments)*

	2009 (p)	2008	2004	1-yr Chg	5-yr Chg
Kansas	$ 38,511	$ 38,735	$ 33,013	-0.6%	16.7%

Energy

Oil Production and Price *(most recent month of production and price)*

	May-10	May-09	May-05	May-00	1-yr Chg	5-yr Chg	10-yr Chg
Production (bbl)	3,378,836	3,282,305	2,825,921	2,968,000	2.9%	19.6%	13.8%
Price ($/bbl)	$ 73.74	$ 59.03	$ 49.83	$ 28.79	24.9%	48.0%	156.1%

Natural Gas Production and Price *(most recent month of production and price)*

Production (mcf)	28,203,095	31,068,015	32,129,840	44,920,267	-9.2%	-12.2%	-37.2%
Price ($/mcf)	$ 4.04	$ 3.45	$ 6.02	$ 3.04	17.1%	-32.9%	32.9%

Agriculture

KFMA Average Net Farm Income by Region

Region	NW	NC	NE	SW	SC	SE	Avg. All Assn.
2008	$ 144,839	$ 104,516	$ 121,891	$ 82,605	$ 132,575	$ 133,820	$ 124,617
2009	$ 117,311	$ 88,274	$ 117,854	$ 84,462	$ 85,983	$ 119,381	$ 104,781
5-yr avg	$ 125,176	$ 73,098	$ 95,502	$ 65,258	$ 81,284	$ 94,246	$ 89,554
10-yr avg	$ 79,677	$ 54,393	$ 66,585	$ 45,922	$ 57,753	$ 74,425	$ 64,772

General Economic Data

Population

	2009	2008	2004	1999	1-yr Chg	5-yr Chg	10-yr Chg
Kansas	2,818,747	2,797,375	2,730,765	2,678,338	0.8%	3.2%	5.2%

Gross State Product *(millions of current dollars)*

	2008	2007	2003	1998	1-yr Chg	5-yr Chg	10-yr Chg
Kansas	122,731	116,986	93,560	76,005	4.9%	31.2%	61.5%
6-State Region	950,154	906,636	728,919	584,370	4.8%	30.4%	62.6%
U.S.	14,165,565	13,715,741	10,886,172	8,679,657	3.3%	30.1%	63.2%

Personal Income Estimates *(millions of dollars)*

	2010 (Q2)	2009	2005	2000	1-yr Chg	5-yr Chg	10-yr Chg
Kansas	113,945	110,673	90,876	76,684	3.0%	25.4%	48.6%
6-State Region	853,833	834,969	707,094	577,785	2.3%	20.8%	47.8%
U.S.	12,462,673	12,165,474	10,476,669	8,554,866	2.4%	19.0%	45.7%

Per Capita Personal Income Estimates *($)*

	2009	2008	2004	1999	1-yr Chg	5-yr Chg	10-yr Chg
Kansas	39,263	40,134	31,924	26,826	-2.2%	23.0%	46.4%
6-State Region	37,157	38,038	31,434	25,668	-2.3%	18.2%	44.8%
U.S.	39,626	40,673	33,881	28,333	-2.6%	17.0%	39.9%

Consumer Price Index

	Aug-10	Aug-09	Aug-05	Aug-00	1-yr Chg	5-yr Chg	10-yr Chg
Midwest Urban	208.6	205.6	189.7	168.2	1.5%	10.0%	24.0%
U.S. City Average	218.3	215.8	196.4	172.8	1.2%	11.2%	26.3%

Chicago Fed National Activity Index (CFNAI)

	Jul-10	Jun-10	May-10	Apr-10	Mar-10	Feb-09	Jul-09
CFNAI	-	(0.70)	0.19	0.17	0.43	(0.53)	(0.07)

Building Permits *(new privately owned housing units authorized)*

	Jul-10	Jul-09	Jul-05	Jul-00	1-yr Chg	5-yr Chg	10-yr Chg
Kansas	458	448	1,367	780	2.2%	-66.5%	-41.3%

Sales Tax Collections *($)*

	May-10	May-09	May-05	May-00	1-yr Chg	5-yr Chg	10-yr Chg
Kansas	155,266,526	156,297,205	136,546,208	123,415,641	-0.7%	13.7%	25.8%

Kansas, Inc.

Indicators of the Kansas Economy
Variables

2-7
8

Sep-10

IKE - Variables

General Economic Data — **Page**

Kansas, Inc.

Indicators of the Kansas Economy
Population

Sep-10

Short-Term (2008 to 2009)
- Kansas population up 21,372 (0.8%)
- 6-State Region population up 214,030 (1.0%)
- U.S. population up 2,631,704 (0.9%)

Long-Term (1999 to 2009)
- Kansas population up 140,409 (5.2%)
- 6-State Region population up 1,893,932 (9.2%)
- U.S. population up 27,966,382 (10.0%)

2009 Population Estimates

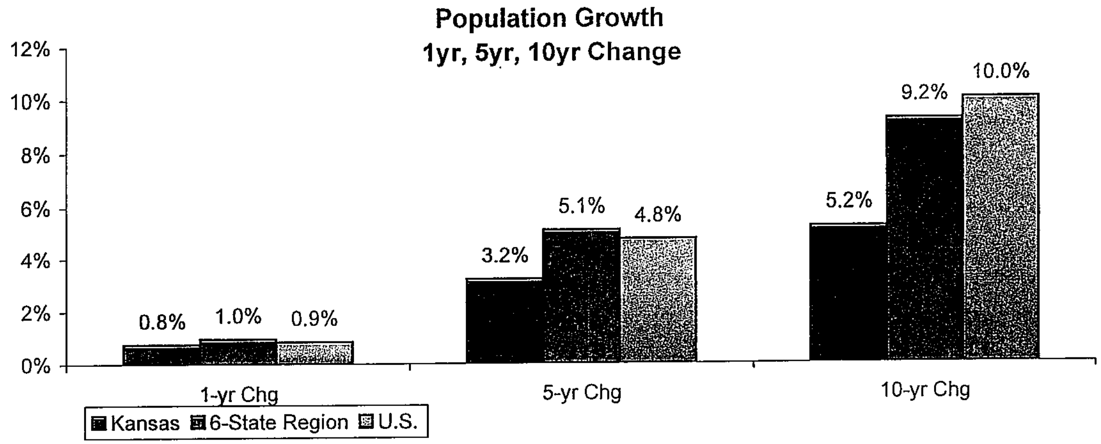
Region	Population
Kansas	2,818,747
Arkansas	2,889,450
Colorado	5,024,748
Iowa	3,007,856
Missouri	5,987,580
Nebraska	1,796,619
Oklahoma	3,687,050
6-State Region	22,393,303
U.S.	307,006,550

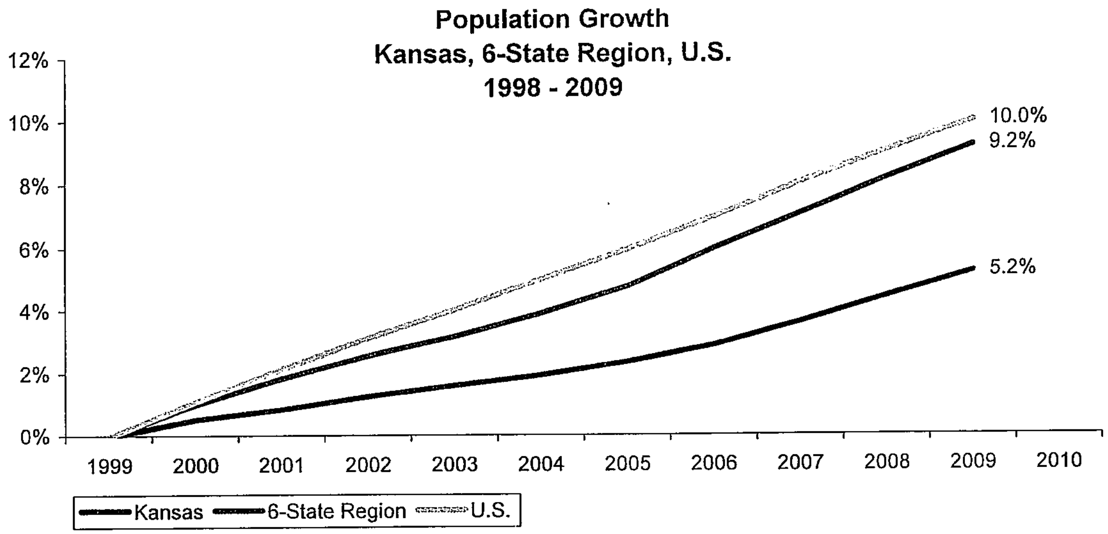
About the data and graphs

The U.S. Census Bureau publishes total resident population estimates and demographic components of change (births, deaths, and migration) each year. The reference date for estimates is July 1. Estimates usually are for the present and the past, while projections are estimates of the population for future dates. These estimates are developed with the assistance of the Federal State Cooperative Program for Population Estimates (FSCPE). These estimates are used in federal funding allocations, as denominators for vital rates and per capita time series, as survey controls, and in monitoring recent demographic changes. With each new issue of July 1 estimates, the estimates are revised for years back to the last census.

Population

	2009	2008	2004	1999	1-yr Chg	5-yr Chg	10-yr Chg
Kansas	2,818,747	2,797,375	2,730,765	2,678,338	0.8%	3.2%	5.2%
6-State Region	22,393,303	22,179,273	21,302,277	20,499,371	1.0%	5.1%	9.2%
U.S.	307,006,550	304,374,846	293,045,739	279,040,168	0.9%	4.8%	10.0%





Source: *2009 annual data*
U.S. Census Bureau *http://www.census.gov/popest/estimates.html*

Kansas, Inc.

Indicators of the Kansas Economy
Gross State Product

Sep-10

2-6

Short-Term (2007 to 2008)

- Kansas GSP up $5,745 million (4.9%)
- 6-State Region GSP up $43,518 million (4.8%)
- U.S. GSP up $449,824 million (3.3%)

Long-Term (1998 to 2008)

- Kansas GSP up $46,726 million (61.5%)
- 6-State Region GSP up $365,784 million (62.6%)
- U.S. GSP up $5,485,908 million (63.2%)

2008 Gross State Product

(millions of current dollars)

Region	Gross State Product
Kansas	$ 122,731
Arkansas	$ 98,331
Colorado	$ 248,603
Iowa	$ 135,702
Missouri	$ 237,797
Nebraska	$ 83,273
Oklahoma	$ 146,448
6-State Region	$ 950,154
U.S.	$ 14,165,565

About the data and graphs

GSP captures state economic growth, providing an overall analysis of the performance of the economy. GSP is the value added in production by the labor and property located in the state.

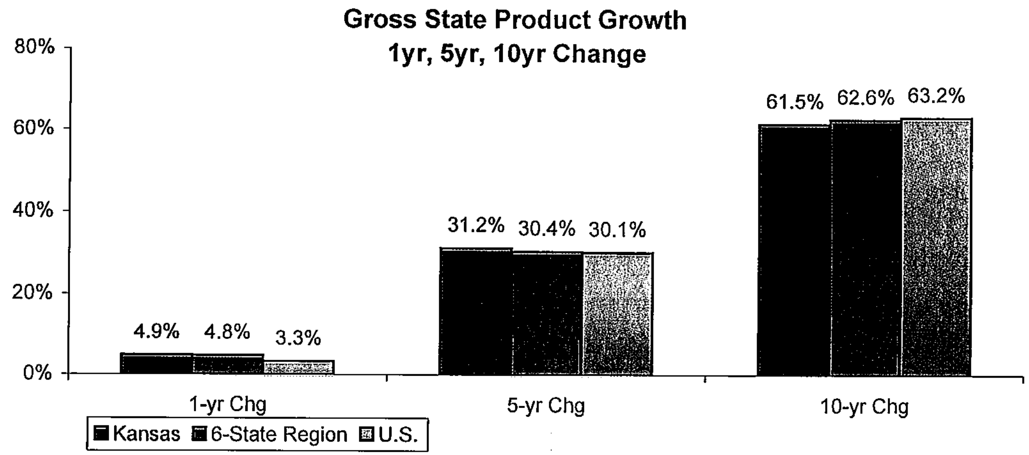
In concept, an industry's GSP, referred to as its "value added," is equivalent to its gross output (sales or receipts and other operating income, commodity taxes, and inventory change) minus its intermediate inputs (consumption of goods and services purchased from other U.S. industries or imported.)

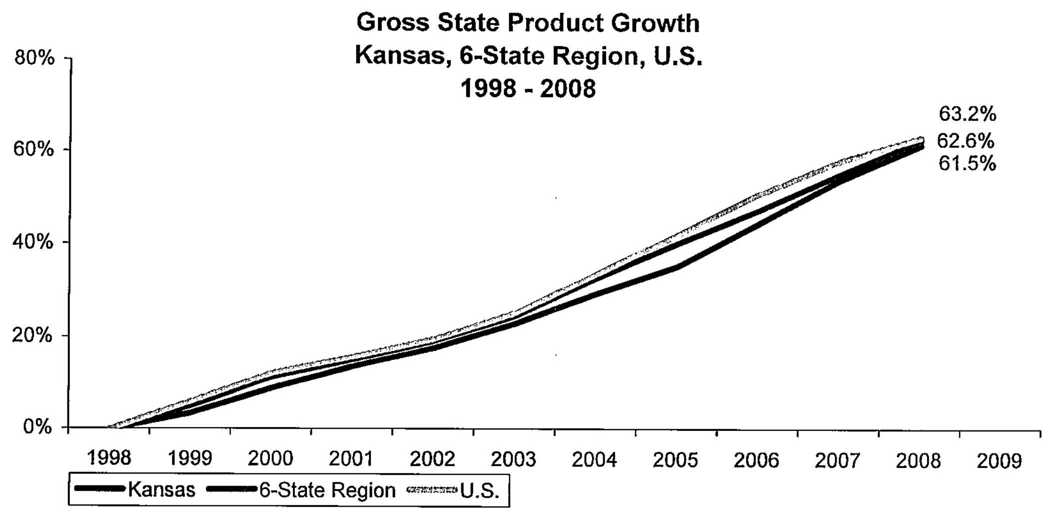
All GSP data is displayed in current dollars and are not adjusted for inflation.

Gross State Product (GSP)

(millions of current dollars)

	2008	2007	2003	1998	1-yr Chg	5-yr Chg	10-yr Chg
Kansas	122,731	116,986	93,560	76,005	4.9%	31.2%	61.5%
6-State Region	950,154	906,636	728,919	584,370	4.8%	30.4%	62.6%
U.S.	14,165,565	13,715,741	10,886,172	8,679,657	3.3%	30.1%	63.2%





Source: *2008 annual data*
U.S. Department of Commerce - Bureau of Economic Analysis http://www.bea.gov/regional/

Kansas, Inc.

Indicators of the Kansas Economy
Personal Income/Per Capita Personal Income

Sep-10

Short-Term (2008 to 2010)
- Kansas PI up $3,272 million (3.0%)
- 6-State Region PI up $18,864 million (2.3%)
- U.S. PI up $297,199 million (2.4%)
- Kansas PCPI down $871 (-2.2%)
- 6-State Region PCPI down $881 (-2.3%)
- U.S. PCPI down $1,047 (-2.6%)

Long-Term (1999 to 2010)
- Kansas PI up $37,261 million (48.6%)
- 6-State Region PI up $276,048 million (47.8%)
- U.S. PI up $3,907,807 million (45.7%)
- Kansas PCPI up $12,437 (46.4%)
- 6-State Region PCPI up $11,489 (44.8%)
- U.S. PCPI up $11,293 (39.9%)

About the data and graphs

Personal income is the income that is received by all persons from all sources and is reported quarterly and is seasonally adjusted at annual rates. Per capita personal income is the annual personal income divided by the population.

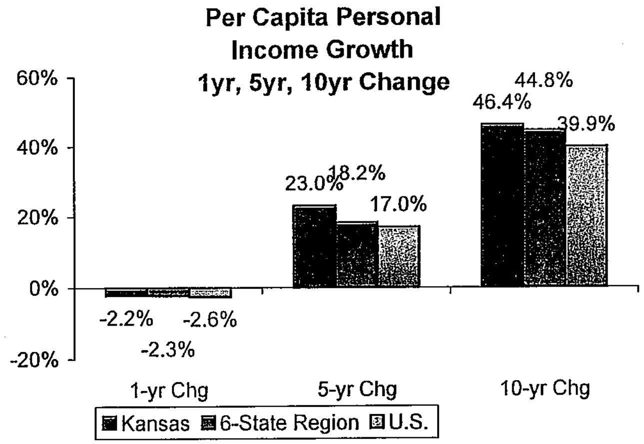
Personal income is calculated as the sum of wage and salary disbursements, supplements to wages and salaries, proprietors' income with inventory valuation and capital consumption adjustments, rental income of persons with capital consumption adjustment, personal dividend income, personal interest income, and personal current transfer receipts, less contributions for government social insurance. The personal income of an area is the income that is received by, or on behalf of, all of the individuals who live in the area; therefore, the estimates of personal income are presented by the place of residence of the income recipients. All state estimates are in current dollars (not [illegible]ted for inflation).

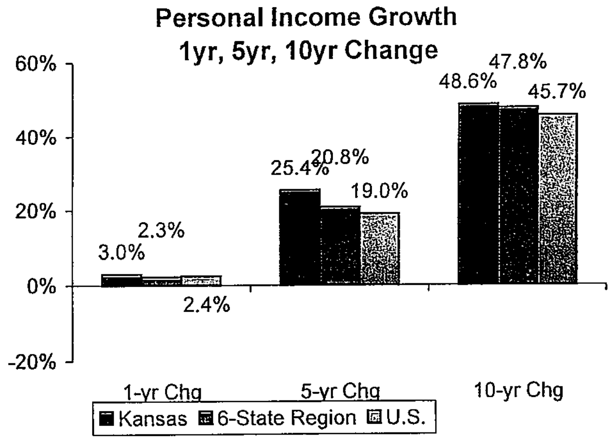
Personal Income Estimates (PI) - (millions of dollars)

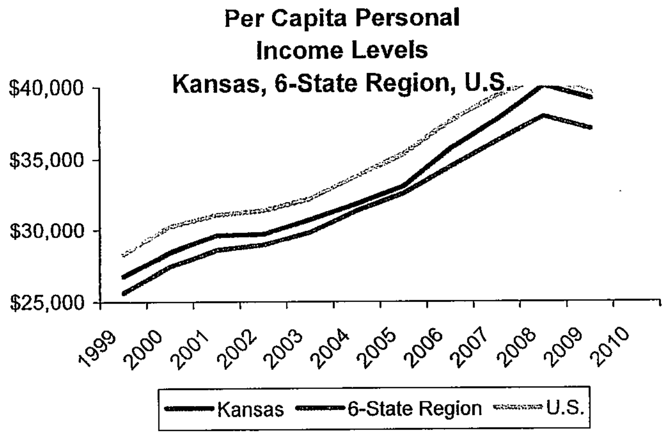
	2010 (Q2)	2009	2005	2000	1-yr Chg	5-yr Chg	10-yr Chg
Kansas	113,945	110,673	90,876	76,684	3.0%	25.4%	48.6%
6-State Region	853,833	834,969	707,094	577,785	2.3%	20.8%	47.8%
U.S.	12,462,673	12,165,474	10,476,669	8,554,866	2.4%	19.0%	45.7%

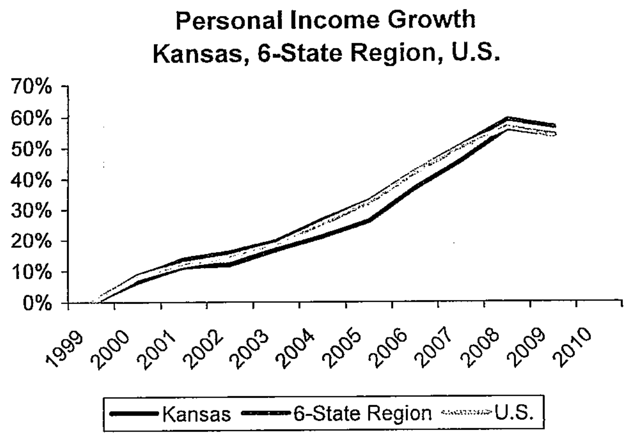
Per Capita Personal Income Estimates (PCPI) - ($)

	2009	2008	2004	1999	1-yr Chg	5-yr Chg	10-yr Chg
Kansas	39,263	40,134	31,924	26,826	-2.2%	23.0%	46.4%
6-State Region	37,157	38,038	31,434	25,668	-2.3%	18.2%	44.8%
U.S.	39,626	40,673	33,881	28,333	-2.6%	17.0%	39.9%









Source: *2009 annual data, 2010 quarterly data*
U.S. Department of Commerce - Bureau of Economic Analysis http://www.bea.gov/regional/

Kansas, Inc.

2-8

Indicators of the Kansas Economy
Consumer Price Index

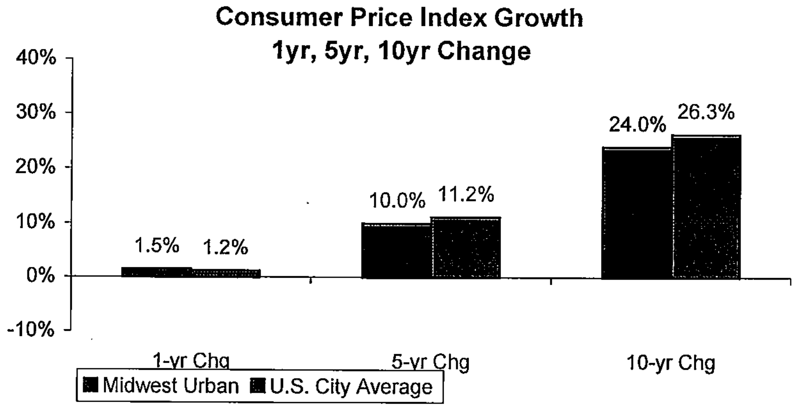
Sep-10

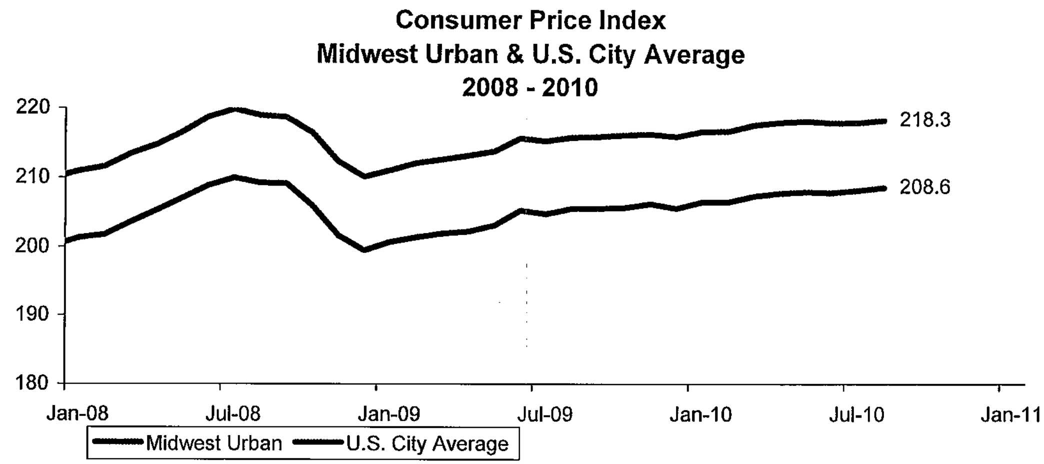
Short-Term (2009 to 2010)
- Midwest Urban CPI up 3.0 (1.5%)
- U.S. City Average CPI up 2.5 (1.2%)

Long-Term (2000 to 2010)
- Midwest Urban CPI up 40.4 (24.0%)
- U.S. City Average CPI up 45.5 (26.3%)

Consumer Price Index (CPI)

	Aug-10	Aug-09	Aug-05	Aug-00	1-yr Chg	5-yr Chg	10-yr Chg
Midwest Urban	208.6	205.6	189.7	168.2	1.5%	10.0%	24.0%
U.S. City Average	218.3	215.8	196.4	172.8	1.2%	11.2%	26.3%



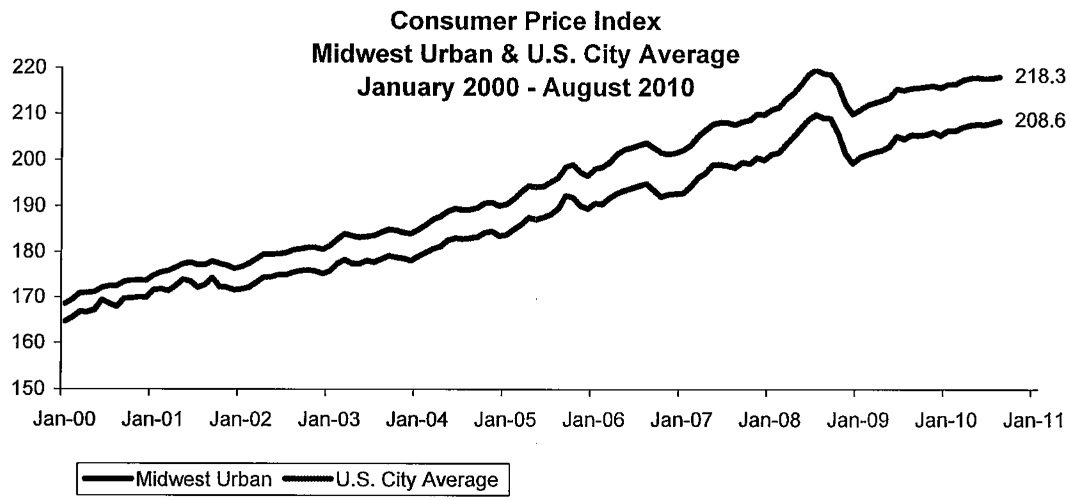


About the data and graphs

The CPI program produces monthly data on changes in the prices paid by urban consumers for a representative basket of goods and services. It is the most widely used measure of inflation.

The U.S. City Average is a measure of the average change over time in the prices paid by urban consumers throughout the United States for a market basket of consumer goods and services. It is adjusted to equal 100 during the base period of 1982-1984. The U.S. City Average CPI reflects spending patterns for all urban consumers, who represent about 87 percent of the total U.S. population.

The Midwest Urban Consumer Price Index is calculated in the same way ·he U.S. City Average CPI, however, the Midwest CPI is limited to n consumers within the Midwest Census region.



Source: *2010 monthly data*
U.S. Department of Labor - Bureau of Labor Statistics

http://stats.bls.gov/cpi/home.htm

Indicators of the Kansas Economy
Chicago Fed National Activity Index (CFNAI)

Short-Term (2010)

During July 2010, the CFNAI returned to its historical average of zero, up from -0.70 in June. Three of the four broad categories improved from June, but only the production and income category made a positive contribution. Production-related indicators made a contribution of 0.43 to the index in July; employment-related indicators made a neutral contribution to the index in July; sales, orders, and inventories indicators also made a neutral contribution to the index in July; and consumption and housing indicators made a contribution of -0.43 to the index in July. Forty-six of the 85 individual indicators made positive contributions to the index in May, while 39 made negative contributions. Fifty-six indicators improved from April to May, while 28 indicators deteriorated and one remained unchanged.

Long-Term (1990 to 2010)

Since January 1990 the CFNAI has demonstrated excellent predictive power as CFNAI values have fallen substantially prior to each of the two most recent recessions, from July 1990 to March 1991, and from March 2001 to November 2001.

About the data and graphs

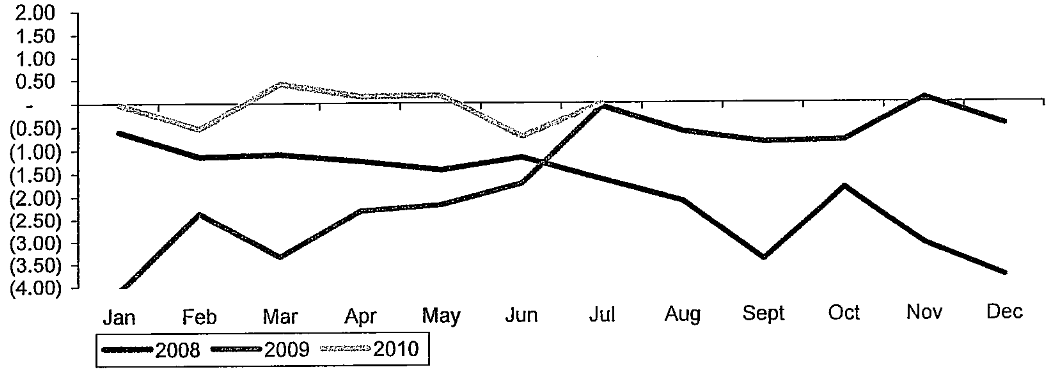
The performance of the U.S. economy has a major impact on the performance of the Kansas economy.

The Chicago Fed National Activity Index (CFNAI) is a monthly U.S. index designed to better gage overall economic activity and inflationary pressure.
The index uses 85 economic indicators from four broad categories of data: production and income; employment, unemployment and hours; personal consumption and housing; and sales, orders and inventories. **A positive number indicates above average growth while a negative number indicates below average growth. Sustained CFNAI readings above zero suggest increased inflationary pressures over the coming year.**

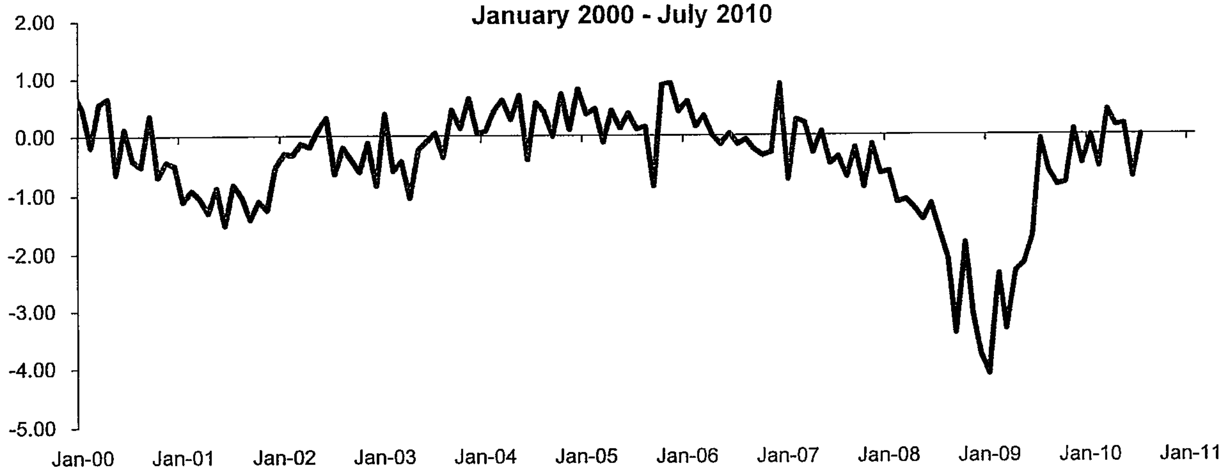
CFNAI

	Jul-10	Jun-10	May-10	Apr-10	Mar-10	Feb-09	Jul-09
CFNAI	0.00	-0.70	0.19	0.17	0.43	-0.53	-0.07

Chicago Federal Reserve National Activity Index
2008 - 2010



Chicago Federal Reserve National Activity Index
January 2000 - July 2010



Source: *2010 monthly data*
Federal Reserve Bank of Chicago

http://www.chicagofed.org/webpages/publications/cfnai/index.cfm

Kansas, Inc.

Indicators of the Kansas Economy
Building Permits

2-10

Sep-10

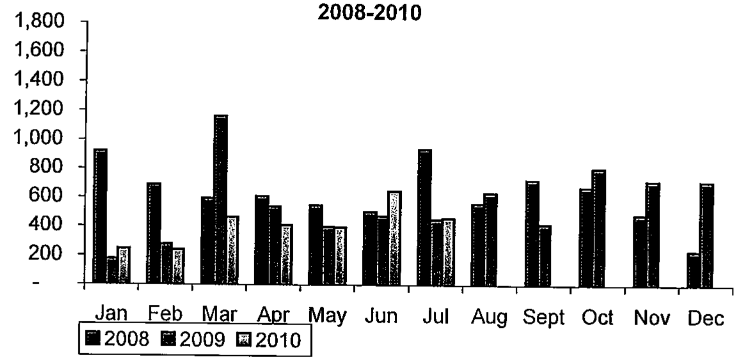
Short-Term (2009 to 2010)
- Kansas building permits up 10 (2.2%)
- 6-State Region building permits down 911 (-19.7%)
- U.S. building permits down 4,267 (-7.8%)

Long-Term (2000 to 2010)
- Kansas building permits down 322 (-41.3%)
- 6-State Region building permits down 7,075 (-65.6%)
- U.S. building permits down 77,898 (-60.7%)

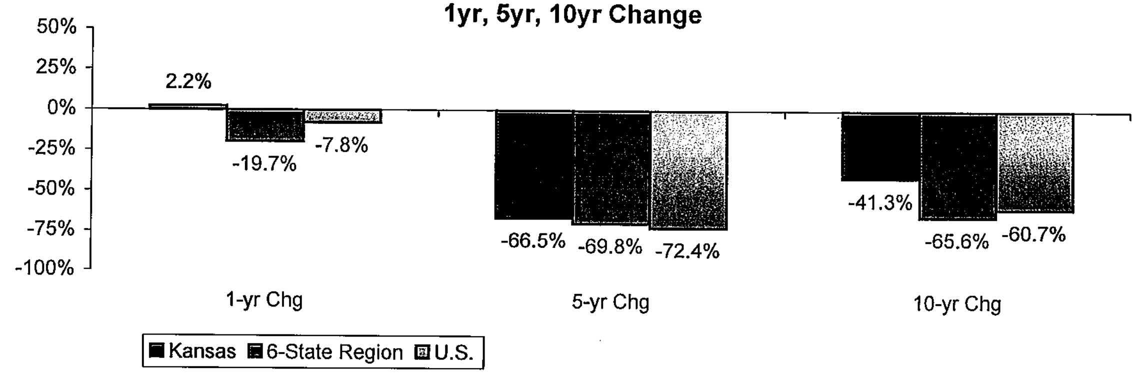
Building Permits
(new privately owned housing units authorized)

	Jul-10	Jul-09	Jul-05	Jul-00	1-yr Chg	5-yr Chg	10-yr Chg
Kansas	458	448	1,367	780	2.2%	-66.5%	-41.3%
6-State Region	3,716	4,627	12,320	10,791	-19.7%	-69.8%	-65.6%
U.S.	50,420	54,687	182,916	128,318	-7.8%	-72.4%	-60.7%

Building Permits Issued in Kansas 2008-2010

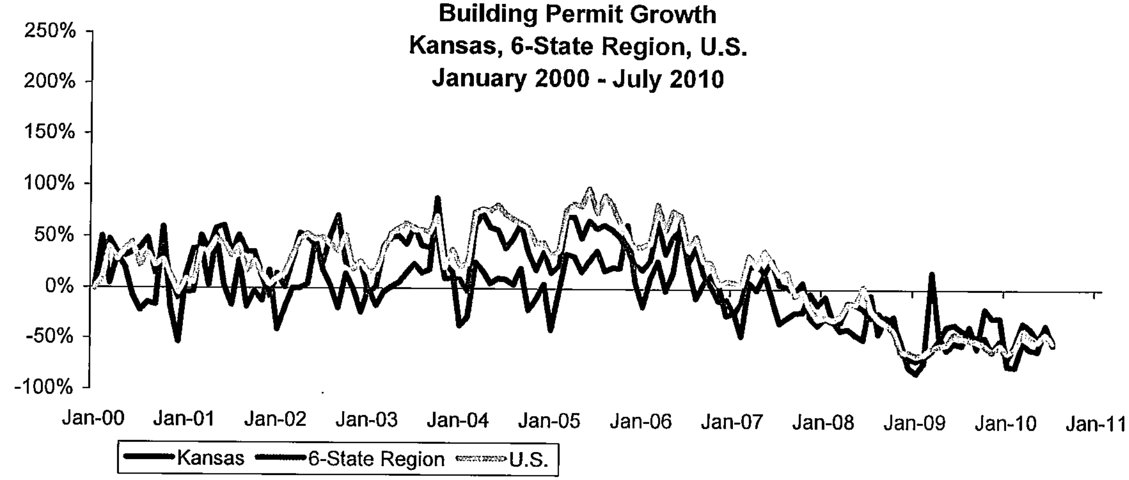


Building Permit Growth 1yr, 5yr, 10yr Change



Regarding building permits, a housing unit is a house, an apartment, a group of rooms or a single room intended for occupancy as separate living quarters. Separate living quarters are those in which the occupants live separately from any other individuals in the building and which have a direct access from the outside of the building or through a common hall.

Building Permit Growth Kansas, 6-State Region, U.S. January 2000 - July 2010



Source: *2010 monthly data*
U.S. Census Bureau

http://www.census.gov/econ/www/index.html

Kansas, Inc.

Indicators of the Kansas Economy
Kansas Sales Tax Collections

Sep-10

7-11

Short-Term (2009 to 2010)

- Kansas sales tax collections down $1,030,679 (-0.7%)
- $738,390,279 collected ytd through May 2010
- $1,866,223,078 collected total during 2009

Long-Term (2000 to 2010)

- Kansas sales tax collections up $31,850,885 (25.8%)
- $1,475,405,439 collected total during 2000

About the data and graphs

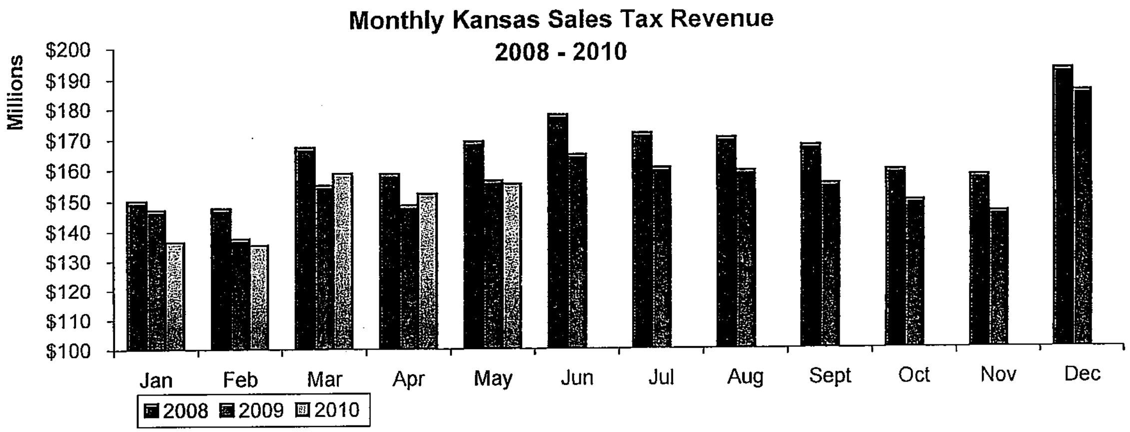
Monthly sales tax collections have trended higher as the economy has grown and two sales tax rate increases have been enacted. Annually, December typically collects the highest sales tax revenue, with January and February collecting the least. Consumers tend to delay purchases during a downturn in the economy, which can be reflected in lower sales tax collections in months proceeding and during a recession. Monthly sales tax collections tend to increase as the economy improves and consumer spending increases.

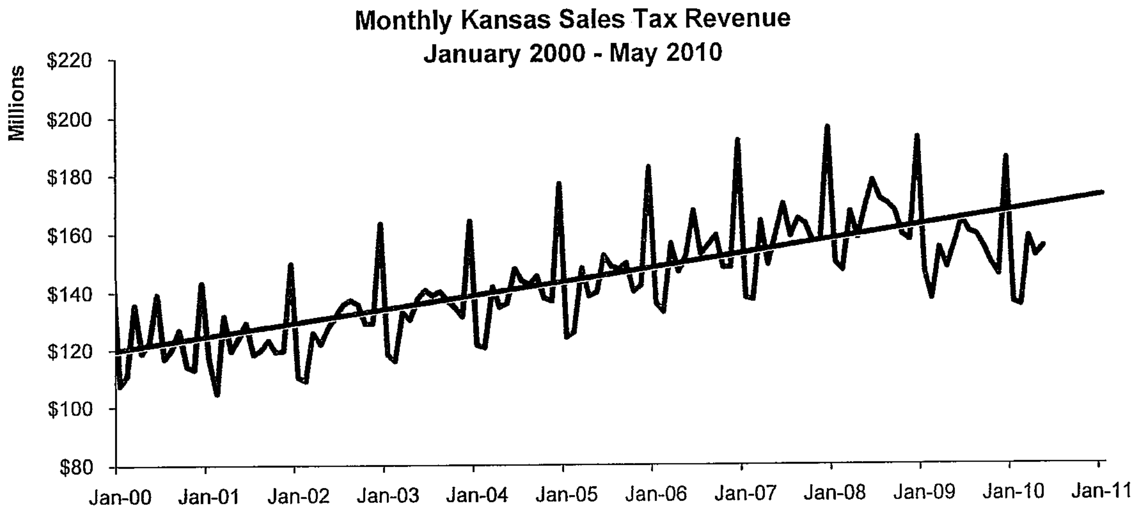
Tracking sales tax collections in Kansas gives insight into consumer behavior and demand. Sales tax collections can fluctuate widely from month to month. Since January 1990, state sales tax rates have increased on **three** occasions. In June 1992, the state sales tax rate increased from 4.25% to 4.90%; in July 2002 the state sales tax rate increased to 5.30%; **and in July 2010 the state sales tax rate increased to 6.30%.**

Various cities and counties in Kansas have an additional local sales tax. The entire listing of local sales tax rates is available at http://www.ksrevenue.org/salesratechanges.htm

Sales Tax Collections

	May-10	May-09	May-05	May-00	1-yr Chg	5-yr Chg	10-yr Chg
Kansas	$ 155,266,526	$ 156,297,205	$ 136,546,208	$ 123,415,641	-0.7%	13.7%	25.8%





Source: *2010 monthly data*
Kansas Department of Revenue http://www.ksrevenue.org/salesreports.htm

Kansas, Inc.

Indicators of the Kansas Economy
Total Nonfarm Employment

Sep-10

Short-Term (2009 to 2010)
- Kansas total nonfarm employment up 6,900 (0.5%)
- 6-State Region total nonfarm employment down 12,000 (-0.1%)
- U.S. total nonfarm employment up 278,000 (0.2%)

Long-Term (2000 to 2010)
- Kansas total nonfarm employment down 11,100 (-0.8%)
- 6-State Region total nonfarm employment down 41,000 (-0.4%)
- U.S. total nonfarm employment down 1,637,000 (-1.2%)

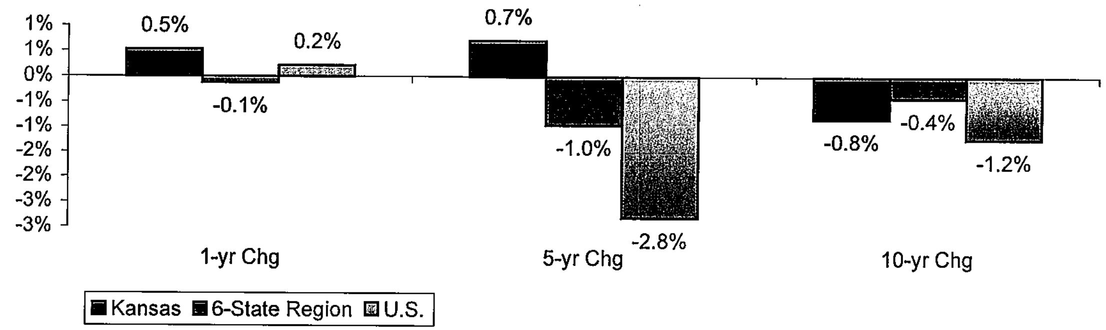
August 2010 Total Nonfarm Employment Levels
(all employees, thousands)

State	Employment
Kansas	1,321.5
Arkansas	1,156.6
Colorado	2,207.7
Iowa	1,459.0
Missouri	2,652.6
Nebraska	944.6
Oklahoma	1,533.5

Total Nonfarm Employment
(all employees, thousands)

	Aug-10	Aug-09	Aug-05	Aug-00	1-yr Chg	5-yr Chg	10-yr Chg
Kansas	1,321.5	1,314.6	1,312.2	1,332.6	0.5%	0.7%	-0.8%
6-State Region	9,954.0	9,966.0	10,050.1	9,995.0	-0.1%	-1.0%	-0.4%
U.S.	130,149.0	129,871.0	133,910.0	131,786.0	0.2%	-2.8%	-1.2%

Total Nonfarm Employment Growth
1yr, 5yr, 10yr Change

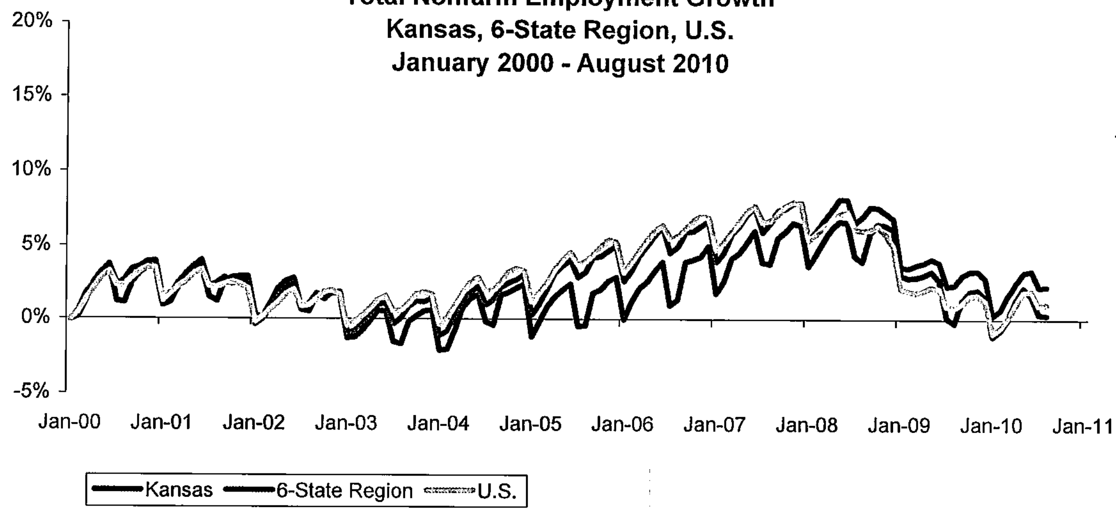


About the data and graphs

The Bureau of Labor Statistics (BLS) publishes several monthly data series on employment by sector from its Current Employment Statistics (CES) program. Data for the series come from a monthly survey of employers. The data are subject to major and minor revisions. The series counts the number of jobs in the state or region, not the number of employed people. Hence a person with two jobs, one in the manufacturing sector and one in the service sector, would be counted in both sectors. The data series chosen for IKE are not adjusted for seasonal variation.

BLS total nonfarm employment calculations does not include non-civilian employment.

Total Nonfarm Employment Growth
Kansas, 6-State Region, U.S.
January 2000 - August 2010



Source: *2010 monthly data*
U.S. Department of Labor - Bureau of Labor Statistics http://www.bls.gov/bls/employment.htm
Kansas Department of Labor - Labor Market Information http://laborstats.dol.ks.gov/

2-13

Kansas, Inc.

Indicators of the Kansas Economy
Private Sector Employment

Sep-10

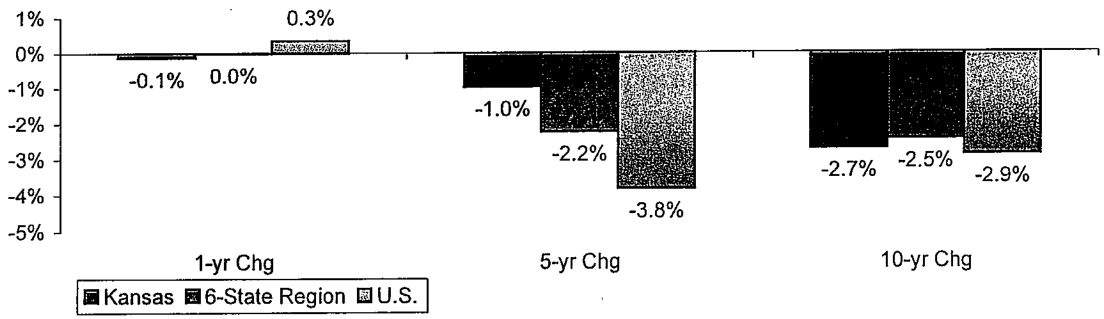
Short-Term (2009 to 2010)
- Kansas private sector employment down 1,400 (-0.1%)
- 6-State Region private sector employment down 700 (-0.0%)
- U.S. private sector employment up 372,000 (0.3%)

Long-Term (2000 to 2010)
- Kansas private sector employment down 30,100 (-2.7%)
- 6-State Region private sector employment down 207,400 (-2.5%)
- U.S. private sector employment down 3,237,000 (-2.9%)

Private Sector Employment
(all employees, thousands)

	Aug-10	Aug-09	Aug-05	Aug-00	1-yr Chg	5-yr Chg	10-yr Chg
Kansas	1,079.1	1,080.5	1,089.7	1,109.2	-0.1%	-1.0%	-2.7%
6-State Region	8,246.7	8,247.4	8,435.6	8,454.1	0.0%	-2.2%	-2.5%
U.S.	108,903.0	108,531.0	113,228.0	112,140.0	0.3%	-3.8%	-2.9%

Private Sector Employment Growth
1yr, 5yr, 10yr Change



August 2010 Private Sector Employment Levels
(all employees, thousands)

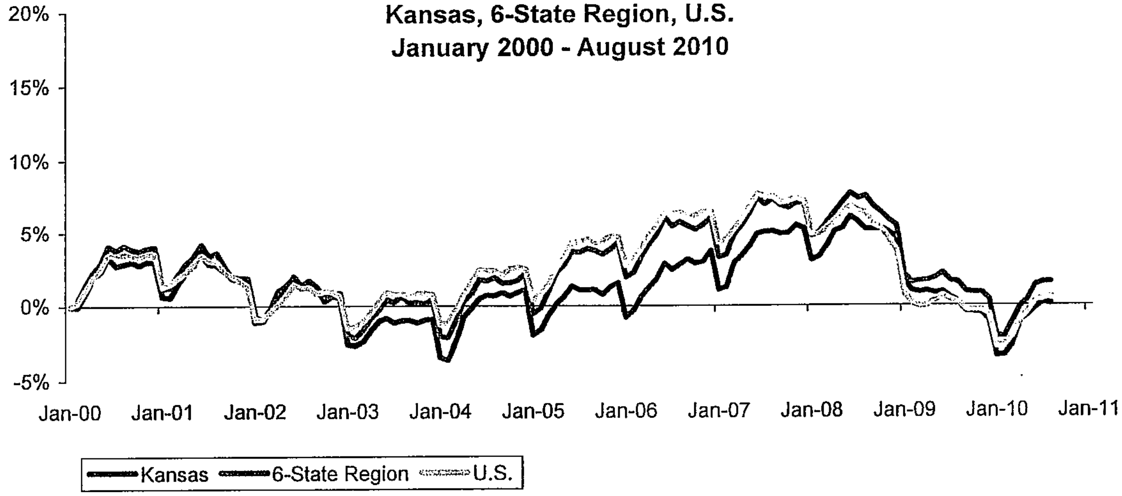
State	Employment
Kansas	1,079.1
Arkansas	951.5
Colorado	1,835.4
Iowa	1,230.9
Missouri	2,230.1
Nebraska	783.1
Oklahoma	1,215.7

About the data and graphs

The Bureau of Labor Statistics (BLS) publishes several monthly data series on employment by sector from its Current Employment Statistics (CES) program. Data for the series come from a monthly survey of employers. The data are subject to major and minor revisions. The series counts the number of jobs in the state or region, not the number of employed people. Hence a person with two jobs, one in the manufacturing sector and one in the service sector, would be counted in both sectors. The data series chosen for IKE are not adjusted for seasonal variation.

BLS private sector calculations include all nonfarm sectors, while excluding Federal, State, and Local government sectors.

Private Sector Employment Growth
Kansas, 6-State Region, U.S.
January 2000 - August 2010



ɘ: *2010 monthly data*
U.S. Department of Labor - Bureau of Labor Statistics http://www.bls.gov/bls/employment.htm
Kansas Department of Labor - Labor Market Information http://laborstats.dol.ks.gov/

2-14

Kansas, Inc.

Indicators of the Kansas Economy
Manufacturing Employment

Sep-10

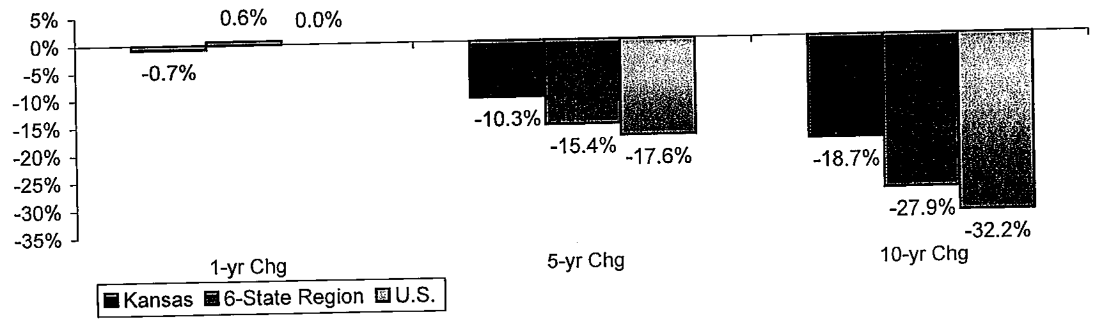
Short-Term (2009 to 2010)
- Kansas manufacturing employment down 1,200 (-0.7%)
- 6-State Region manufacturing employment up 6,200 (0.6%)
- U.S. manufacturing employment up 5,000 (0.0%)

Long-Term (2000 to 2010)
- Kansas manufacturing employment down 37,300 (-18.7%)
- 6-State Region manufacturing employment down 372,400 (-27.9%)
- U.S. manufacturing employment down 5,588,000 (-32.2%)

Manufacturing Employment
(all employees, thousands)

	Aug-10	Aug-09	Aug-05	Aug-00	1-yr Chg	5-yr Chg	10-yr Chg
Kansas	162.4	163.6	181.0	199.7	-0.7%	-10.3%	-18.7%
6-State Region	964.7	958.5	1,140.7	1,337.1	0.6%	-15.4%	-27.9%
U.S.	11,777.0	11,772.0	14,288.0	17,365.0	0.0%	-17.6%	-32.2%

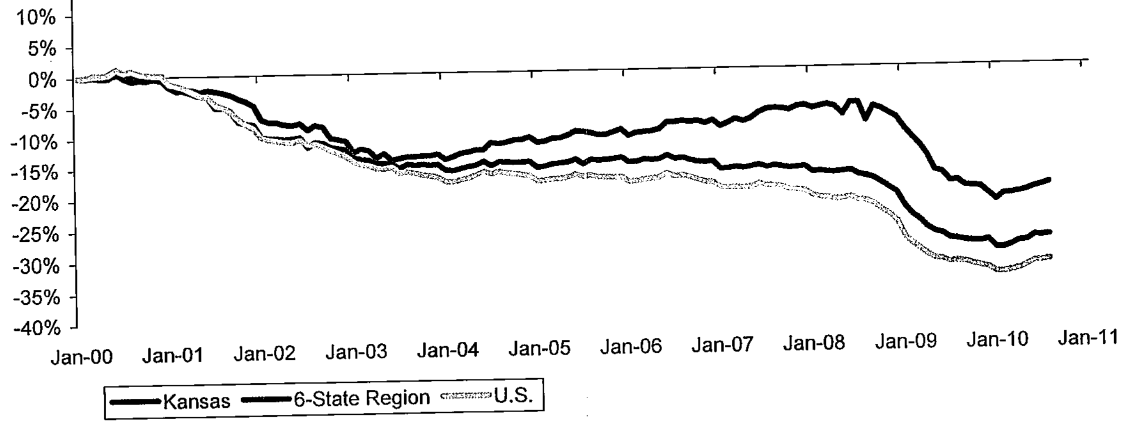
Manufacturing Employment Growth
1yr, 5yr, 10yr Change



August 2010 Manufacturing Employment Levels
(all employees, thousands)

State	Employment
Kansas	162.4
Arkansas	166.1
Colorado	124.3
Iowa	207.3
Missouri	251.6
Nebraska	92.6
Oklahoma	122.8

Manufacturing Employment Growth
Kansas, 6-State Region, U.S.
January 2000 - August 2010



About the data and graphs

The Bureau of Labor Statistics (BLS) publishes several monthly data series on employment by sector from its Current Employment Statistics (CES) program. Data for the series come from a monthly survey of employers. The data are subject to major and minor revisions. The series counts the number of jobs in the state or region, not the number of employed people. Hence a person with two jobs, one in the manufacturing sector and one in the service sector, would be counted in both sectors. The data series chosen for IKE are not adjusted for seasonal variation.

The manufacturing sector comprises establishments engaged in the mechanical, physical, or chemical transformation of materials, substances, or components into new products.

Source: *2010 monthly data*
U.S. Department of Labor - Bureau of Labor Statistics
Kansas Department of Labor - Labor Market Information

http://www.bls.gov/bls/employment.htm
http://laborstats.dol.ks.gov/

Kansas, Inc.

Indicators of the Kansas Economy
Service Employment

2-15

Sep-10

Short-Term (2009 to 2010)
- Kansas service employment down 5,500 (-0.6%)
- 6-State Region service employment up 13,800 (0.2%)
- U.S. service employment up 575,000 (0.6%)

Long-Term (2000 to 2010)
- Kansas service employment up 10,300 (1.2%)
- 6-State Region service employment up 220,400 (3.4%)
- U.S. service employment up 3,412,00.0 (3.9%)

August 2010 Service Employment Levels
(all employees, thousands)

State	Employment
Kansas	843.3
Arkansas	720.4
Colorado	1,571.1
Iowa	952.8
Missouri	1,865.4
Nebraska	641.4
Oklahoma	973.1

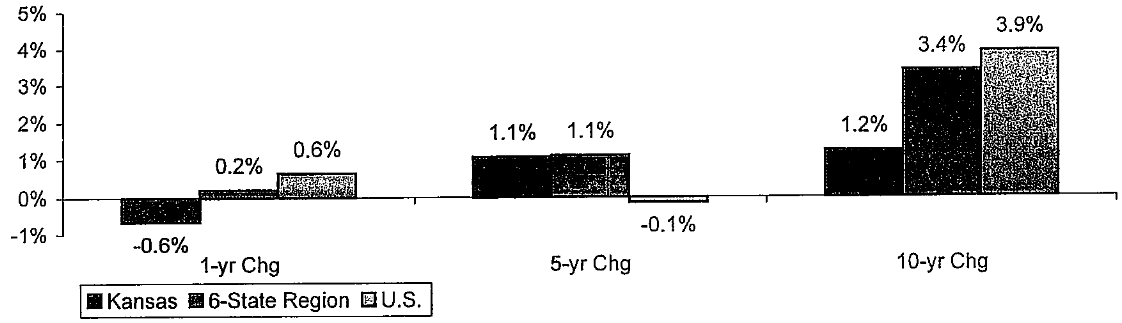
About the data and graphs

The Bureau of Labor Statistics (BLS) publishes several monthly data series on employment by sector from its Current Employment Statistics (CES) program. Data for the series come from a monthly survey of employers. The data are subject to major and minor revisions. The series counts the number of jobs in the state or region, not the number of employed people. Hence a person with two jobs, one in the manufacturing sector and one in the service sector, would be counted in both sectors. The data series chosen for IKE are not adjusted for seasonal variation. While BLS service sector calculations include government, *Kansas, Inc., has defined the overall service sector to include the following BLS sectors: trade, transportation, and utilities; information; finance; professional and business; education and health; leisure and hospitality; and other services.*

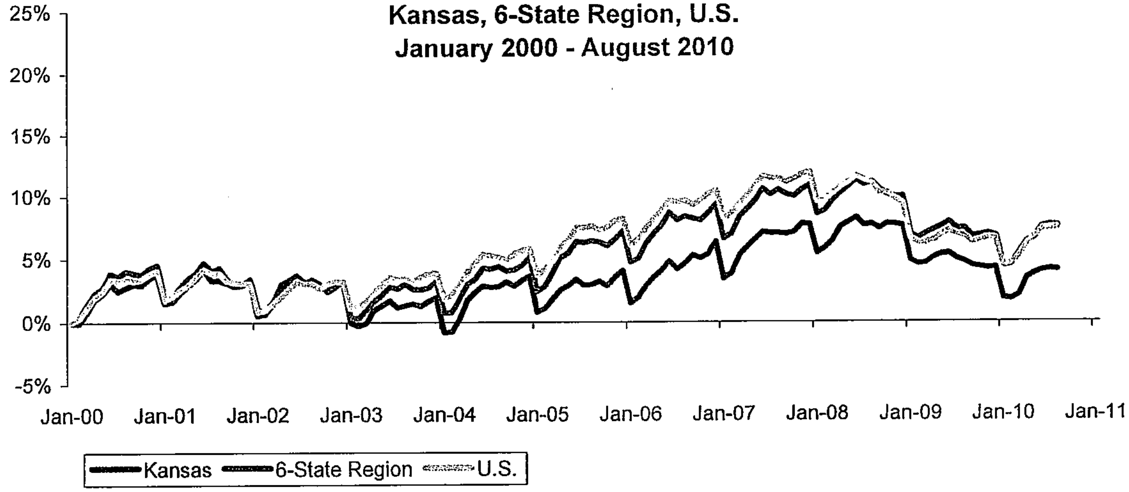
Service Employment
(all employees, thousands)

	Aug-10	Aug-09	Aug-05	Aug-00	1-yr Chg	5-yr Chg	10-yr Chg
Kansas	843.3	848.8	834.4	833.0	-0.6%	1.1%	1.2%
6-State Region	6,724.2	6,710.4	6,650.3	6,503.8	0.2%	1.1%	3.4%
U.S.	90,460.0	89,885.0	90,594.0	87,048.0	0.6%	-0.1%	3.9%

Service Employment Growth
1yr, 5yr, 10yr Change



Service Employment Growth
Kansas, 6-State Region, U.S.
January 2000 - August 2010



ə: 2010 monthly data
U.S. Department of Labor - Bureau of Labor Statistics http://www.bls.gov/bls/employment.htm
Kansas Department of Labor - Labor Market Information http://laborstats.dol.ks.gov/

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Kansas, Inc.

Indicators of the Kansas Economy
Public Employment

Sep-10

Short-Term (2009 to 2010)
- Kansas public sector employment up 8,300 (3.5%)
- 6-State Region public sector employment down 11,300 (-0.7%)
- U.S. public sector employment down 94,000 (-0.4%)

Long-Term (2000 to 2010)
- Kansas public sector employment up 19,000 (8.5%)
- 6-State Region public sector employment up 166,400 (10.8%)
- U.S. public sector employment up 1,600,000 (8.1%)

August 2010 Public Sector Employment Levels
(all employees, thousands)

State	Employment
Kansas	242.4
Arkansas	205.1
Colorado	372.3
Iowa	228.1
Missouri	422.5
Nebraska	161.5
Oklahoma	317.8

About the data and graphs

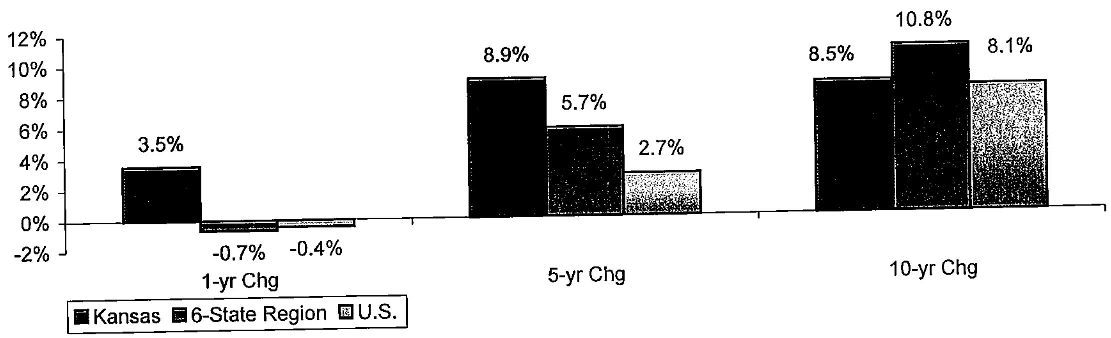
The Bureau of Labor Statistics (BLS) publishes several monthly data series on employment by sector from its Current Employment Statistics (CES) program. Data for series come from a monthly survey of employers. The data are subject to major and minor revisions. The series count the number of jobs in the state or region, not the number of employed people. Hence a person with two jobs, one in the public sector and one in retail, would be counted in both sectors.

The data series chosen for IKE are not adjusted for seasonal variation; hence the short term employment graph shows substantial decreases in July and August when many public school personnel are off the job. *Kansas, Inc. has included Federal, State, and Local Government.*

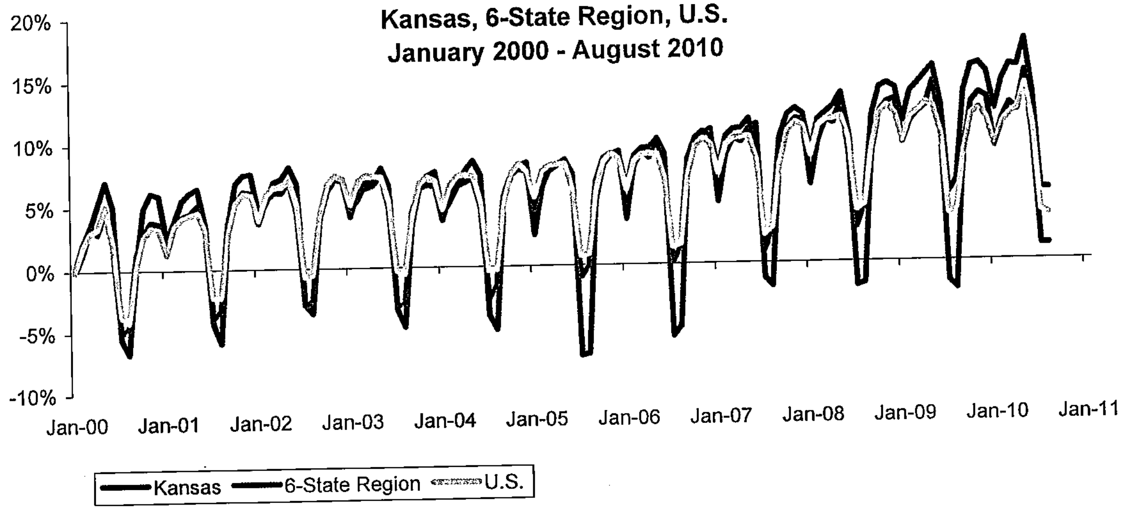
Public Sector Employment
(all employees, thousands)

	Aug-10	Aug-09	Aug-05	Aug-00	1-yr Chg	5-yr Chg	10-yr Chg
Kansas	242.4	234.1	222.5	223.4	3.5%	8.9%	8.5%
6-State Region	1,707.3	1,718.6	1,614.5	1,540.9	-0.7%	5.7%	10.8%
U.S.	21,246.0	21,340.0	20,682.0	19,646.0	-0.4%	2.7%	8.1%

Public Sector Employment Growth
1yr, 5yr, 10yr Change



Public Sector Employment Growth
Kansas, 6-State Region, U.S.
January 2000 - August 2010



Source: *2010 monthly data*
U.S. Department of Labor - Bureau of Labor Statistics
Kansas Department of Labor - Labor Market Information

http://www.bls.gov/bls/employment.htm
http://laborstats.dol.ks.gov/

Kansas, Inc.

Indicators of the Kansas Economy
Unemployment and Unemployment Rate

Sep-10

2-17

Short-Term (2009 to 2010)
- Kansas unemployment down 8,069 (-7.4%)
- 6-State Region unemployment up 3,105 (0.4%)
- U.S. unemployment down 64,000 (-0.4%)
- Kansas unemployment rate down (-0.4%)
- 6-State Region unemployment rate up (0.1%)
- U.S. unemployment rate down (-0.1%)

Long-Term (2000 to 2010)
- Kansas unemployment up 44,780 (80.7%)
- 6-State Region unemployment up 536,370 (160.4%)
- U.S. unemployment up 8,923,000 (152.9%)
- Kansas unemployment rate up (2.7%)
- 6-State Region unemployment rate up (4.5%)
- U.S. unemployment rate up (5.4%)

About the data and graphs

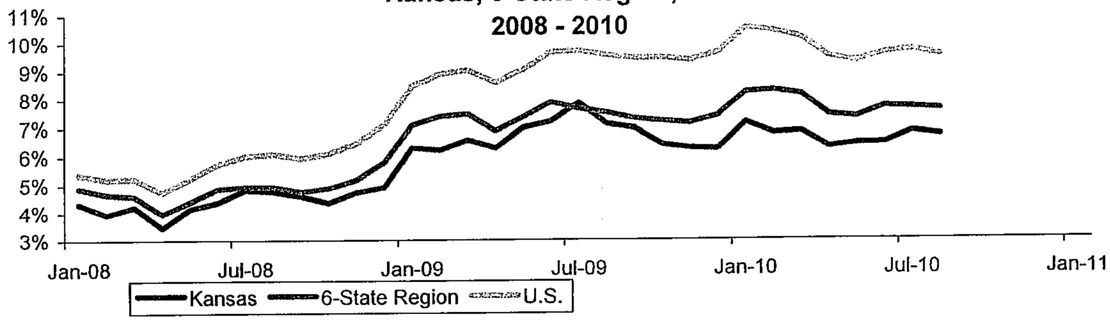
The unemployment rate represents the number unemployed as a percent of the labor force. As defined in the Current Population Survey, unemployed persons are persons aged 16 years and older who had no employment during the reference week, were available for work, except for temporary illness, and had made specific efforts to find employment sometime during the 4-week period ending with the reference week. Persons who were waiting to be recalled to a job from which they had been laid off need not have been looking for work to be classified as unemployed.

The unemployment rate contains a seasonal component, it rises during summer as new high school and college graduates enter the civilian labor force and in January, when retailers lay off holiday employees. The unemployment rate also contains a business cycle component, rising during recessionary periods when people currently in the labor force lose jobs.

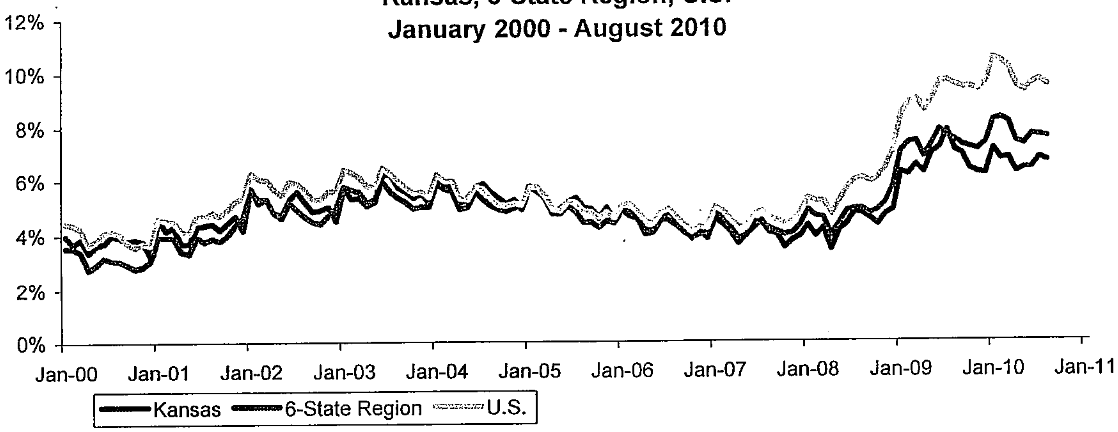
Unemployment and Unemployment Rate
(all employees)

	Aug-10	Aug-09	Aug-05	Aug-00	1-yr Chg	5-yr Chg	10-yr Chg
Kansas	100,289	108,358	73,327	55,509	-7.4%	36.8%	80.7%
6-State Region	870,723	867,618	504,302	334,353	0.4%	72.7%	160.4%
U.S.	14,759,000	14,823,000	7,327,000	5,836,000	-0.4%	101.4%	152.9%
Kansas (%)	6.7%	7.1%	5.0%	4.0%	-0.4%	1.7%	2.7%
6-State Region (%)	7.6%	7.5%	4.5%	3.1%	0.1%	3.1%	4.5%
U.S. (%)	9.5%	9.6%	4.9%	4.1%	-0.1%	4.6%	5.4%

Unemployment Rate
Kansas, 6-State Region, U.S.
2008 - 2010



Unemployment Rate
Kansas, 6-State Region, U.S.
January 2000 - August 2010



ɘ: *2010 monthly data*
U.S. Department of Labor - Bureau of Labor Statistics http://www.bls.gov/bls/employment.htm
Kansas Department of Labor - Labor Market Information http://laborstats.dol.ks.gov/

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Kansas, Inc.

Indicators of the Kansas Economy
Initial Claims for Unemployment

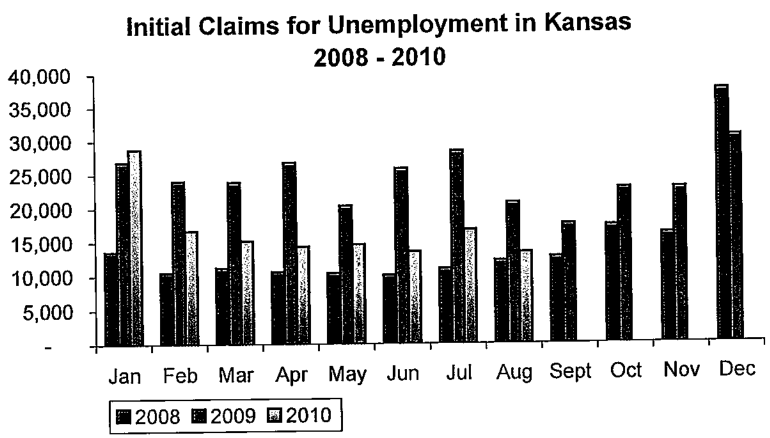
Sep-10

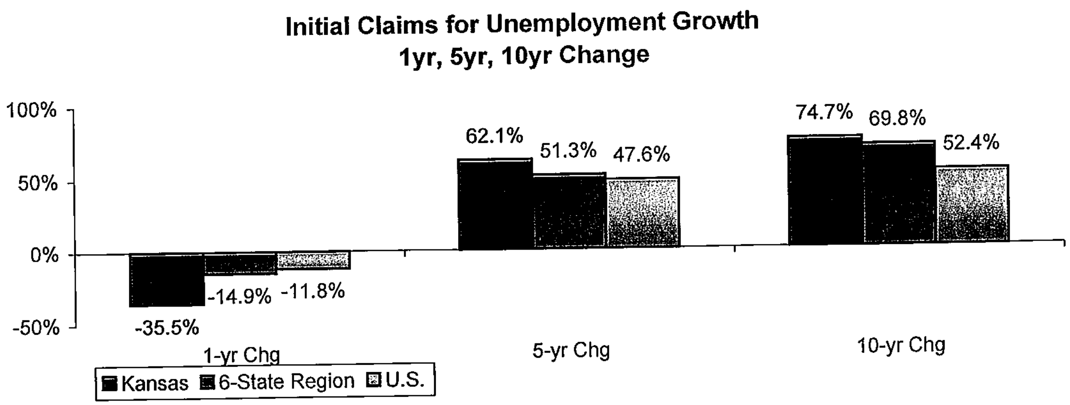
Short-Term (2009 to 2010)
- Kansas initial claims down 7,371 (-35.5%)
- 6-State Region initial claims down 19,832 (-14.9%)
- U.S. initial claims down 236,102 (-11.8%)

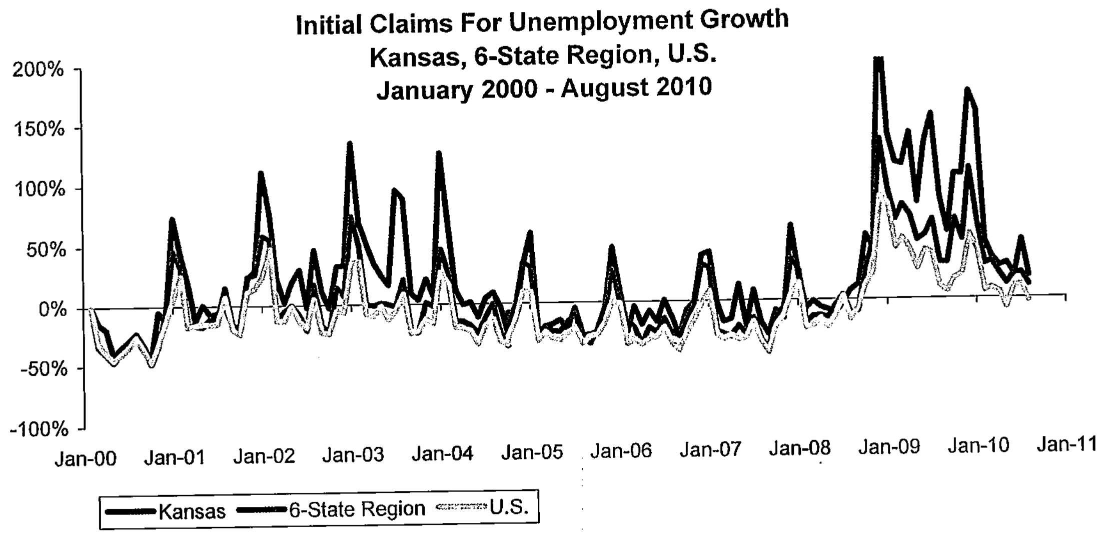
Long-Term (2000 to 2010)
- Kansas initial claims up 5,719 (74.7%)
- 6-State Region initial claims up 46,526 (69.8%)
- U.S. intial claims up 605,999 (52.4%)

Initial Claims for Unemployment
(all employees)

	Aug-10	Aug-09	Aug-05	Aug-00	1-yr Chg	5-yr Chg	10-yr Chg
Kansas	13,379	20,750	8,256	7,660	-35.5%	62.1%	74.7%
6-State Region	113,203	133,035	74,820	66,677	-14.9%	51.3%	69.8%
U.S.	1,761,386	1,997,488	1,193,132	1,155,387	-11.8%	47.6%	52.4%







About the data and graphs

Initial claims for unemployment count the number of applications of workers who separated from their jobs and who wish to begin unemployment compensation or to extend the period of eligibility. The data are collected by the U.S. Department of Labor, Employment and Training Administration. The data produced by this agency are not seasonally adjusted. Initial claims for unemployment typically rise as the economy moves into recession and fall as the economy recovers. Initial claims for unemployment traditionally peak in the winter months of ...vember, December, and January.

Source: *2010 monthly data*
U.S. Department of Labor - Employment and Training Administration   http://workforcesecurity.doleta.gov/unemploy/claimssum.asp

Kansas, Inc.

Indicators of the Kansas Economy
Private Industry Wage Levels

2-19

Sep-10

Short-Term (2008 to 2009)
- Kansas private industry wage level down $224 (-0.6%)
- 6-State Region private industry wage level up $43 (0.1%)
- U.S. private industry wage level down $225 (-0.5%)

Mid-Term (2004 to 2009)
- Kansas private industry wage level up $5,498 (16.7%)
- 6-State Region private industry wage level up $5,538 (16.8%)
- U.S. private industry wage level up $6,012 (15.4%)

2009 (p) Private Industry Wage Levels
(average annual wages, all employees, all private establishments)

State	Annual Wage
Kansas	$ 38,511
Arkansas	$ 35,122
Colorado	$ 46,813
Iowa	$ 36,316
Missouri	$ 40,179
Nebraska	$ 36,062
Oklahoma	$ 36,954

(p) - 2009 1st, 2nd, 3rd quarter avg weekly wage mulitplied by 52 weeks

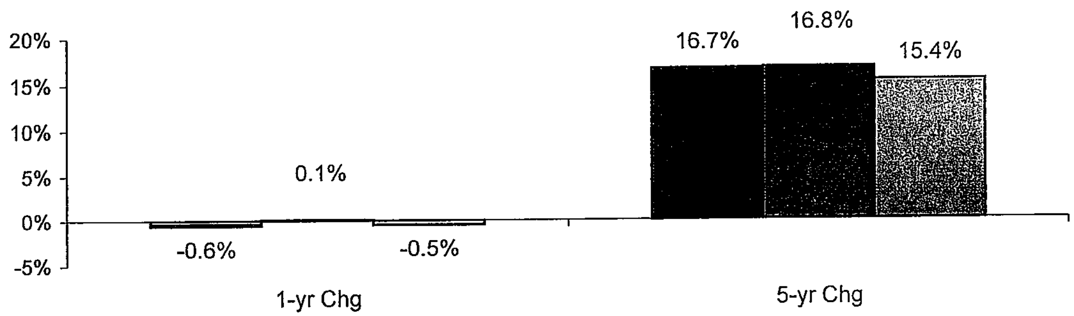
About the data and graphs

The Quarterly Census of Employment and Wages Program is a cooperative program involving the Bureau of Labor Statistics (BLS) of the U.S. Department of Labor and the State Employment Security Agencies (SESAs). The QCEW program produces a comprehensive tabulation of employment and wage information for workers covered by State unemployment insurance (UI) laws and Federal workers covered by the Unemployment Compensation for Federal Employees (UCFE) program. *Private Industry wage levels were calculated using QCEW program data. Wage levels were calculated as an average of all private industries and establishments.*

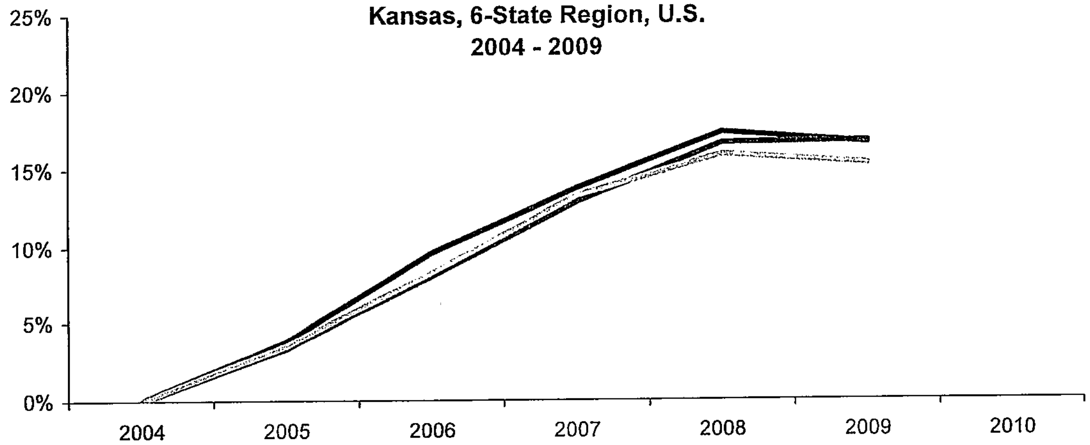
Private Industry Wage Levels
(average annual wages, all employees, all private establishments)

	2009 (p)	2008	2004	1-yr Chg	5-yr Chg
Kansas	$ 38,511	$ 38,735	$ 33,013	-0.6%	16.7%
6-State Region	$ 38,574	$ 38,531	$ 33,036	0.1%	16.8%
U.S.	$ 45,146	$ 45,371	$ 39,134	-0.5%	15.4%

Private Industry Wage Growth
1yr, 5yr, Change



Private Industry Wage Growth
Kansas, 6-State Region, U.S.
2004 - 2009



Source: *2009 annual data*
U.S. Department of Labor - Bureau of Labor Statistics

http://www.bls.gov/bls/employment.htm

Kansas, Inc.

Indicators of the Kansas Economy
Private Establishment Data

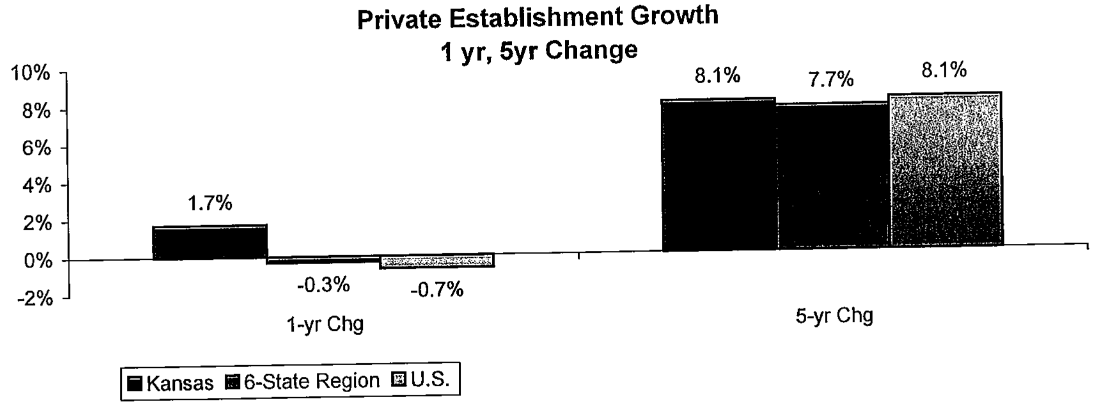
Short-Term (2008 to 2009)
- Kansas total establishments up 1,377 (1.7%)
- 6-State Region total establishments down 1,986 (-0.3%)
- U.S. total establishments down 57,436 (-0.7%)

Mid-Term (2004 to 2009)
- Kansas total establishments up 6,084 (8.1%)
- 6-State Region total establishments up 47,216 (7.7%)
- U.S. total establishments up 652,913 (8.1%)

Private Establishment Data

(total private establishments, all employee sizes)

	2009 (p)	2008	2004	1-yr Chg	5-yr Chg
Kansas	81,653	80,276	75,569	1.7%	8.1%
6-State Region	656,540	658,526	609,324	-0.3%	7.7%
U.S.	8,679,773	8,737,209	8,026,860	-0.7%	8.1%



Kansas Private Establishment Data

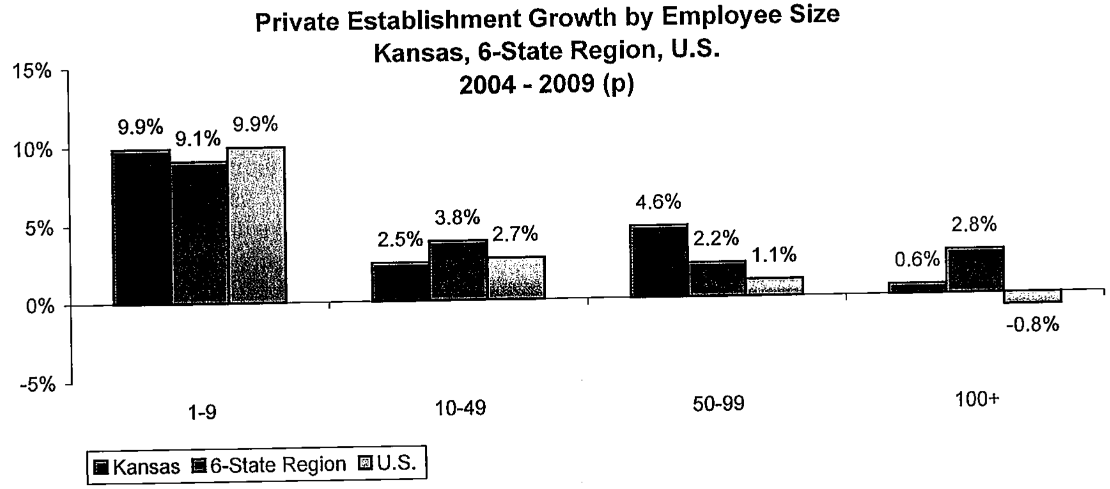
(total private establishments, by employee size)

Year	1-9	10-49	50-99	100+
2004	56,780	15,216	1,995	1,578
2005	57,852	15,206	2,029	1,599
2006	59,890	15,209	2,057	1,662
2007	59,748	15,549	2,114	1,691
2008	60,803	15,650	2,110	1,713
2009 (p)	62,386	15,592	2,087	1,588
1-yr Chg	2.6%	-0.4%	-1.1%	-7.3%
5-yr Chg	9.9%	2.5%	4.6%	0.6%

(p) - preliminary

About the data and graphs

According to the U.S. Small Business Administration, small businesses provide approximately 75 percent of the net new jobs added to the economy and employ 50.1 percent of the private work force. This data tracks the number of business establishments by employee size to help understand what size businesses are growing. The Quarterly Census of Employment and Wages (QCEW) program includes data on the number of establishments, monthly employment, and quarterly wages, by NAICS industry, by county, by ownership sector, for the entire United States. *This variable includes private establishments only, as determined by the QCEW program.*



Source: *2009 annual data*
U.S. Department of Labor - Bureau of Labor Statistics http://www.bls.gov/bls/employment.htm
Kansas Department of Labor - Labor Market Information *http://laborstats.dol.ks.gov/*

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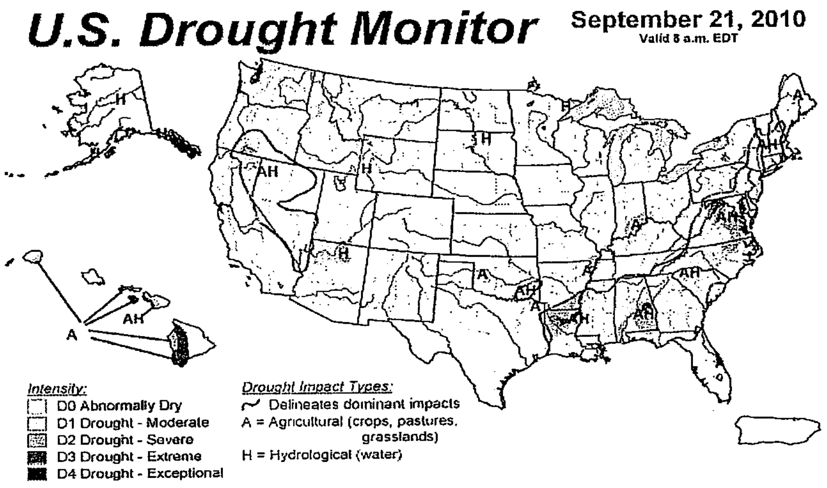
Kansas, Inc.

Indicators of the Kansas Economy
USDA Farm and Agriculture Data

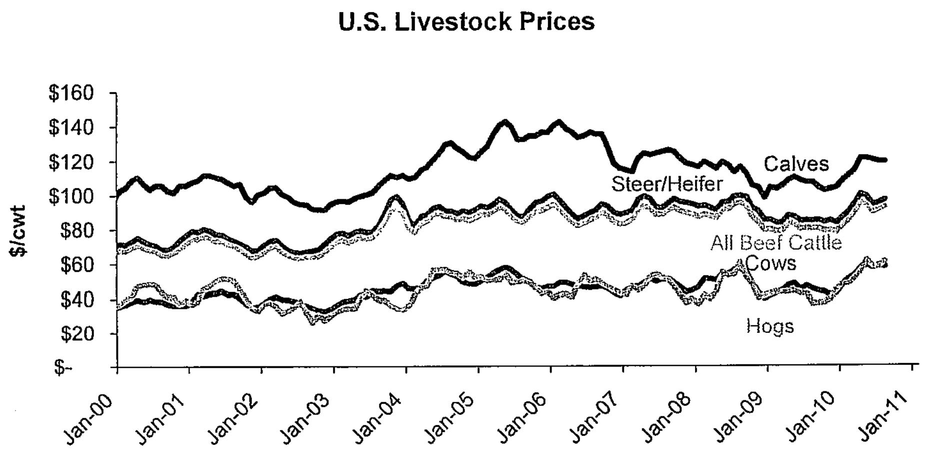
Sep-10

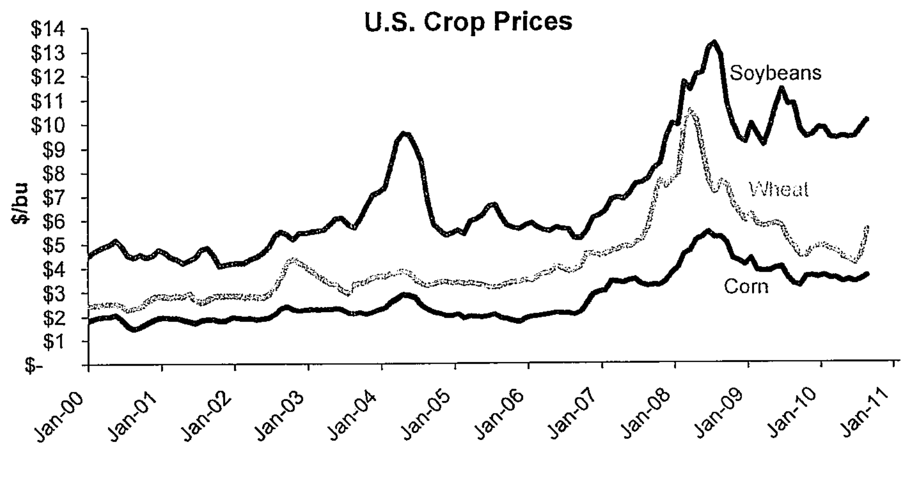
(8/2/2010 USDA Agricultural Prices) KANSAS: The August **All Farm Products Index** of Prices Received by Kansas farmers, at 143 percent of the 1990-92 base, is up 7 points from July and up 22 points from August 2009. The **All Crops Index** in August, at 195 percent of the 1990-92 base, is up 38 points from July and up 31 points from 2009. The **Meat Animals Index**, at 128 percent of the 1990-92 base, is up 3 points from July and 19 points above last year.

Wheat prices in mid-August, at $5.77 per bushel, are up $1.39 from July and $1.02 above last August. **Corn** prices in mid-August, at $3.65 per bushel, are up 24 cents from July and 52 cents above last August. Farmers received an average of $6.10 per cwt. for **grain sorghum** in mid-August, up 68 cents from July and $1.27 above last August. **Soybean** prices, at $10.30 per bushel in mid-August, are up 47 cents from July but 40 cents below last August. **All hay** prices averaged $107 per ton in mid-August, unchanged from July but $9 higher than last year. **Alfalfa hay** averaged $115 per ton, unchanged from July but $12 higher than last August. **Other hay**, at $70 per ton, is down $5 from July and $6 below last August.



All beef cattle were bringing an average of $97.20 per cwt. in mid-August, up $2.00 from July and $12.50 above the price last August. **Cow** prices, at $55.50 per cwt., are down 50 cents from July but $7.90 above the price last August. **Steers and heifers** averaged $98.00 per cwt., up $2.00 from July and $12.50 above August 2009. **Calf** prices in mid-August were $128.00 per cwt., up $1.00 from July and up $12.00 from August 2009. The **all hog** price of $57.70 per cwt. for mid-August is up $3.60 from July and up $24.80 from last August. **Sow** prices averaged $59.00, up $4.50 from July and $28.00 higher than August 2009. **Barrow and gilt** prices averaged $57.50 per cwt. in mid-August, up $3.50 from July and $24.30 above last August.





Source:	*2010 monthly data*	
	United States Department of Agriculture - NASS	http://www.nass.usda.gov
	National Drought Mitigation Center	http://www.drought.unl.edu

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Kansas, Inc.

Indicators of the Kansas Economy
Kansas Farm Management Association Data

Sep-10

Short-Term (2009)

- 1,477 farms reported farm operation data to KFMA
- KFMA farms averaged $463,742 in value of farm production
- KFMA farms averaged $358,961 in total farm expense
- KFMA average net farm income was $104,781
- SE region had the highest net farm income at $119,381
- SW region had the lowest net farm income at $84,462

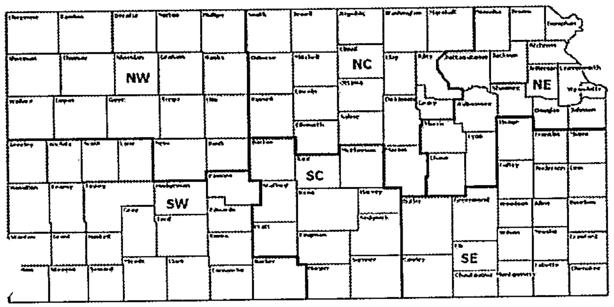
Long-Term (1999 to 2009)

- KFMA average net farm income varies widely from year to year
- 5-yr average net farm income was $89,554
- 10-yr average net farm income was $64,772

About the data and graphs

The Kansas Farm Management Association (KFMA) program is one of the largest publicly funded farm management programs in the U.S. Membership in the KFMA program includes nearly 2,500 farms and over 3,200 families.

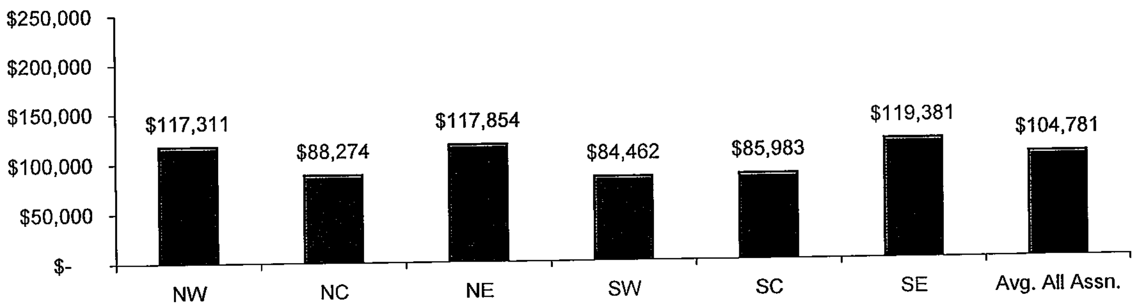
The goals of the KFMA program are to provide each member with information about business and family costs to improve farm business organization, farm business decisions, and farm profitability; and minimize risk. Through on-farm visits, whole-farm analysis, and other educational programs, Association Economists assist producers in developing sound farm accounting systems; improving decision making; comparing performance with similar farms; and integrating tax planning, marketing, and asset investment strategies. The KFMA program is organized into six regional associations.



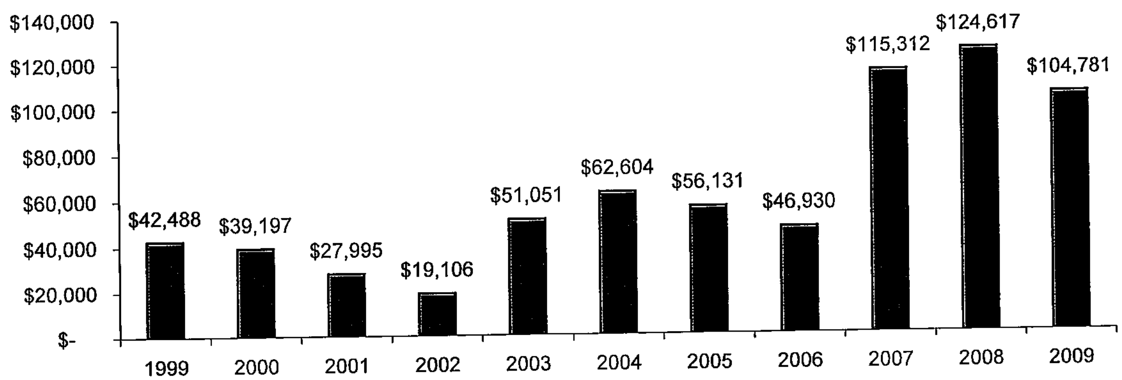
KFMA Average Net Farm Income by Region

Region	NW	NC	NE	SW	SC	SE	Avg. All Assn.
2008	$ 144,839	$ 104,516	$ 121,891	$ 82,605	$ 132,575	$ 133,820	$ 124,617
2009	$ 117,311	$ 88,274	$ 117,854	$ 84,462	$ 85,983	$ 119,381	$ 104,781
5-yr avg	$ 125,176	$ 73,098	$ 95,502	$ 65,258	$ 81,284	$ 94,246	$ 89,554
10-yr avg	$ 79,677	$ 54,393	$ 66,585	$ 45,922	$ 57,753	$ 74,425	$ 64,772

2008 Kansas Farm Management Association
Average Net Farm Income by Region



Kansas Farm Management Association
Average Net Farm Income
1999 - 2009



Source: *2009 annual data*
Kansas State University - Kansas Farm Management Association

www.agmanager.info/kfma

Kansas, Inc.

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Indicators of the Kansas Economy
Oil Production and Price

Sep-10

Short-Term (2009 to 2010)
- Kansas oil production up 96,531 bbl (2.9%)
- Oil price up $14.7 (24.9%)

Long-Term (2000 to 2010)
- Kansas oil production up 410,836 bbl (13.8%)
- Oil price up $45.0 (156.1%)

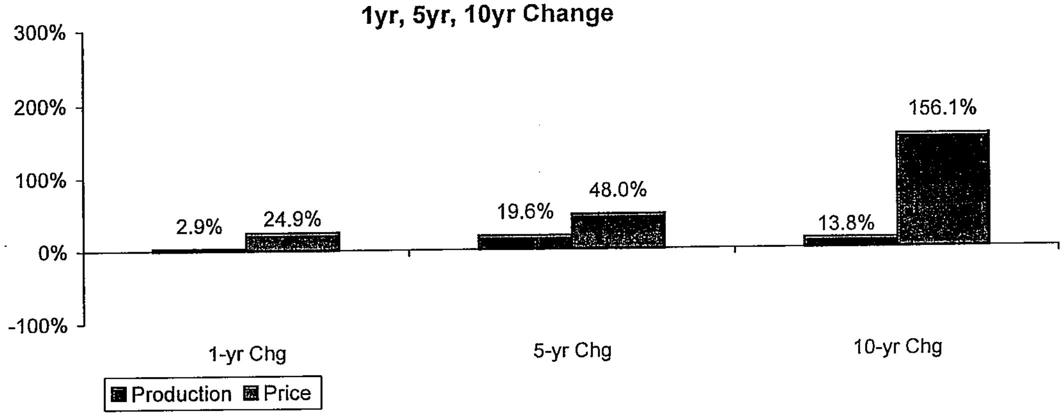
2010 Oil Production/Price

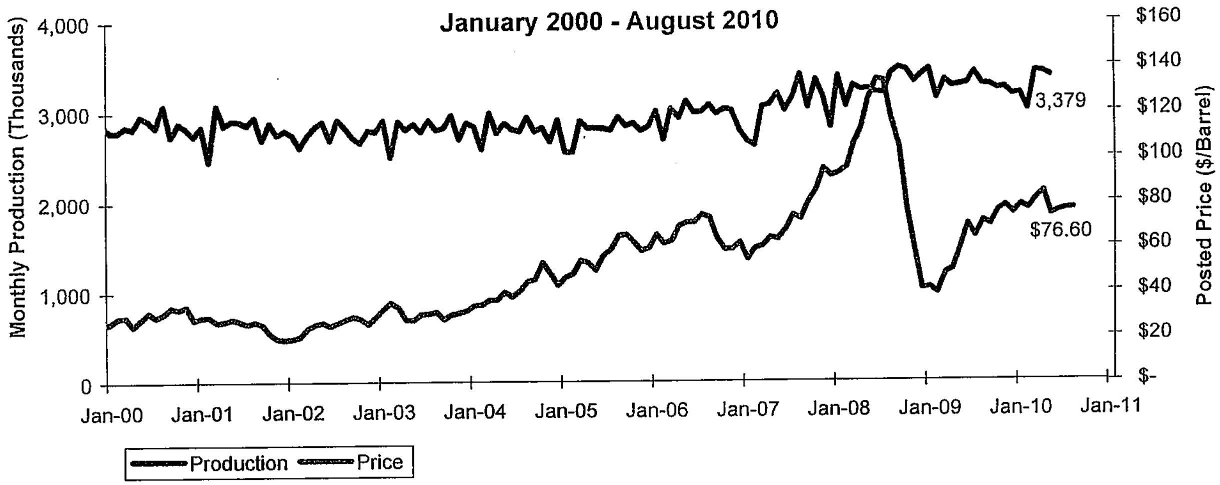
Month	Production*	Price	Month	Production*	Price
January	3,190,629	$ 78.33	July		$ 76.32
February	3,012,751	$ 76.39	August		$ 76.60
March	3,429,337	$ 81.20	September		
April	3,425,760	$ 84.29	October		
May	3,378,836	$ 73.74	November		
June		$ 75.34	December		

** Recent months production usually incomplete and revised upwards.*

Oil Production* and Price
(most recent month of both production and price information)

	May-10	May-09	May-05	May-00	1-yr Chg	5-yr Chg	10-yr Chg
Production (bbl)	3,378,836	3,282,305	2,825,921	2,968,000	2.9%	19.6%	13.8%
Price ($/bbl)	$ 73.74	$ 59.03	$ 49.83	$ 28.79	24.9%	48.0%	156.1%





About the data and graphs

Since the 1990's, monthly production of oil has steadily declined in Kansas. Kansas has experienced a natural decline in oil production as it becomes increasingly difficult to extract oil over time. CO_2 sequestration and other oil recovery techniques show great promise in recovering a larger share of the know oil reserves in Kansas. The higher prices received for oil along with new technology developments have helped to stabilize oil production levels since 1999.

These prices represent the Cushing, OK WTI Spot Price FOB ($/Barrel). The amount of oil produced is measured i· ··bl (barrels of oil).

e: 2010 monthly data
Kansas Geological Survey http://www.kgs.ku.edu/PRS/petro/interactive.html
Energy Information Administration http://www.eia.doe.gov/

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Kansas, Inc.

Indicators of the Kansas Economy
Natural Gas Production and Price

Sep-10

Short-Term (2009 to 2010)

- Kansas natural gas production down 2,864,920 mcf (-9.2%)
- Natural gas price up $0.6 (17.1%)

Long-Term (2000 to 2010)

- Kansas natural gas production down 16,717,172 mcf (-37.2%)
- Natural gas price up $1.0 (32.9%)

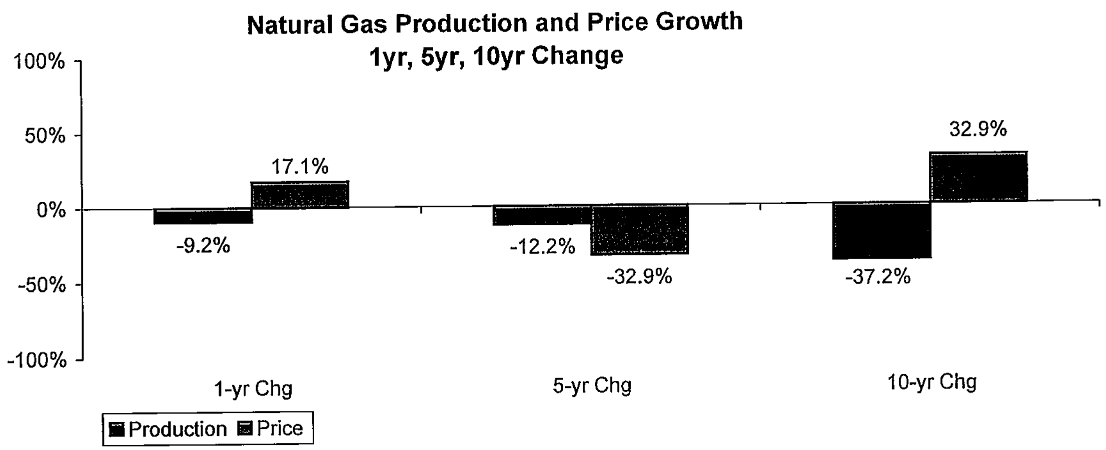
2010 Natural Gas Production/Price

Month	Production*	Price	Month	Production*	Price
January	28,254,664	$ 5.14	July		
February	26,035,618	$ 4.89	August		
March	28,401,686	$ 4.36	September		
April	27,394,706	$ 3.92	October		
May	28,203,095	$ 4.04	November		
June		$ 4.25	December		

** Recent months production usually incomplete and revised upwards.*

Natural Gas Production* and Price
(most recent month of both production and price information)

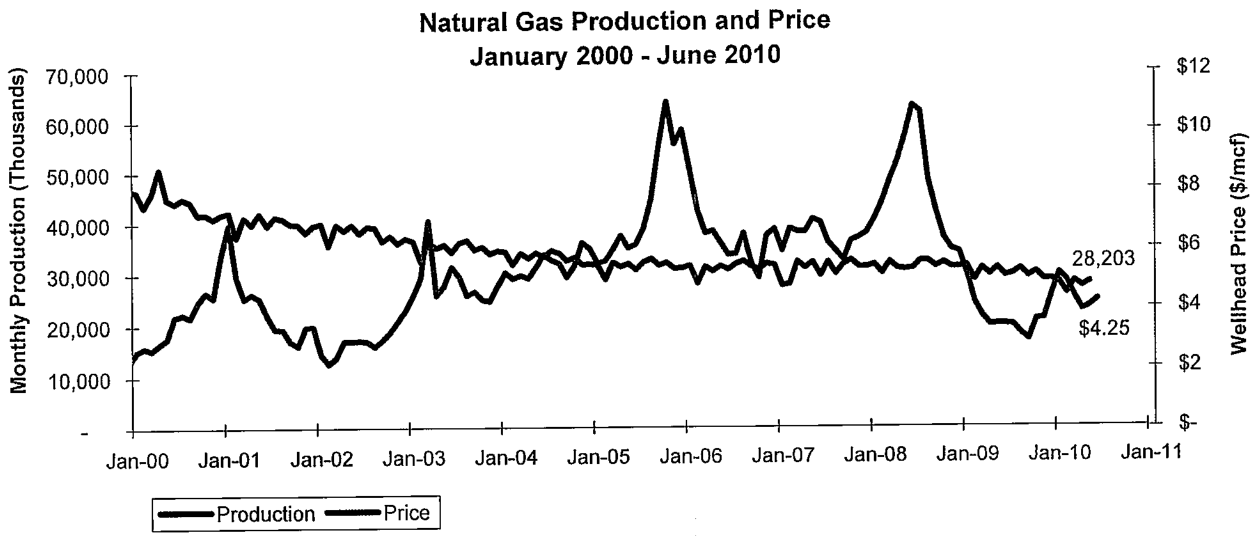
	May-10	May-09	May-05	May-00	1-yr Chg	5-yr Chg	10-yr Chg
Production (mcf)	28,203,095	31,068,015	32,129,840	44,920,267	-9.2%	-12.2%	-37.2%
Price ($/mcf)	$ 4.04	$ 3.45	$ 6.02	$ 3.04	17.1%	-32.9%	32.9%



About the data and graphs

Since the 1990's, the monthly production of natural gas has declined in Kansas, as the Hugoton natural gas field has decreased in production. The Hugoton natural gas field is the state's largest natural gas field and extends into Oklahoma and Texas. As with Kansas oil production, natural gas production is experiencing a natural decline in production. Price for natural gas has remained fairly constant in the 1990's, and since March 1999 prices have rose considerably.

These prices represent wellhead price, the value at the ·ıth of the well. The amount of natural gas produced ɜasured in Mcf's (thousand cubic feet).



Source: *2010 monthly data*
Kansas Geological Survey http://www.kgs.ku.edu/PRS/petro/interactive.html
Energy Information Administration http://www.eia.doe.gov/

September 8, 2010 - Tenth District - Kansas City - Growth in the Tenth District economy was modest in late July and August. Consumer spending increased slightly from the previous period, and high-tech and transportation firms reported moderate growth. Energy activity continued to expand solidly, and agricultural conditions improved with higher crop prices. Manufacturing production was flat, and factory orders declined slightly. The downturn in commercial real estate eased somewhat, while residential real estate markets weakened further. Bankers reported steady loan demand and an unchanged outlook for loan quality. Business contacts were moderately optimistic about future sales, but few planned to change employment or capital spending levels in the months ahead. Retail prices were largely unchanged from the previous survey, and wage pressures in most industries remained limited due to soft labor markets.

Consumer Spending - Consumer spending rose modestly from the previous survey, and contacts expected further growth in the months ahead. Retail sales edged higher and were above year-ago levels at a majority of stores and malls. Purchases of energy-saving appliances and clearance items were reported as strong at several stores, while sales of luxury items such as jewelry and dining room sets were generally characterized as weak. Store inventories rose somewhat, but most contacts were satisfied with current stock levels. Auto sales also increased slightly from the previous period, and nearly all dealers were optimistic about future sales. Auto inventories continued to decline, and some dealers were concerned about meeting expected demand as a result. Restaurant sales rose solidly from the previous period, and travel and tourism activity continued to improve.

Manufacturing and Other Business Activity - Manufacturing activity slowed in late July and August, while other business activity continued to expand. Factory production was flat compared to previous months, while shipments and new orders weakened. A producer of chemicals said distributors were only placing orders for product as needed and were unwilling to bring in inventory due to high levels of economic uncertainty. Growth in transportation services moderated slightly from previous surveys but remained solid, and a major supplier of diesel fuel reported continued solid sales. Most high-tech services firms reported strong growth in sales, although a few contacts noted softened demand. Business firms' expectations for future sales eased somewhat from the previous period but remained positive. Capital spending plans for the rest of the year remained essentially flat, with most firms citing economic uncertainty as the primary reason.

Real Estate and Construction - Residential real estate activity dropped sharply in late July and August, but the downturn in commercial real estate activity lessened somewhat. Housing starts declined, with several builders noting continued financing difficulties. Expectations for future homebuilding remained weak. Residential construction supply firms also reported a drop in sales. Home sales plummeted from the previous survey, especially for higher-priced homes, and home inventories rose across the District. Real estate agents blamed the steep drop in home sales on expired tax credits and increased customer uncertainty, and most expected little improvement in the near future. Mortgage lenders reported that overall mortgage demand improved slightly from last month, primarily due to a continued rise in refinancing loans. The downturn in commercial real [illegible]e stabilized somewhat in late July and August, but most contacts expected little improvement [illegible]ing months.

Banking - Bankers reported steady loan demand, stable deposits, and an unchanged outlook for loan quality. Overall loan demand was little changed after edging up in the previous survey. Demand was also stable in all major loan categories. As in previous surveys, a few banks tightened standards on their commercial real estate loans. However, credit standards on other types of loans were unchanged. Slightly more bankers reported an improvement in loan quality from one year ago than reported deterioration. Also, for the third straight survey, respondents expected no change in loan quality over the next six months. Deposits were flat, continuing the pattern since late last year.

Energy - Energy activity expanded further in late July and August. Virtually all contacts reported an increase in drilling activity, especially for oil, and were optimistic about the months ahead. Crude oil prices remained relatively profitable, and firms drilling for liquids in western Oklahoma were reported as operating at full capacity. However, several producers expressed concerns about low natural gas prices and potentially negative implications of proposed energy legislation. Natural gas prices eased in August, and most producers did not expect sizable increases in prices until well intc 2011, due to ample supply and average demand.

Agriculture - Agricultural conditions improved since the last survey period. The winter wheat harvest finished with above average yields. The majority of the corn and soybean crops were rated in good or better condition, though with isolated reports of heat stress, storm damage, and insect infestation. Crop prices rose on prospects of lower global grain supplies and Russia's ban on grain exports, boosting farm income expectations. Livestock prices generally held steady but higher feed costs narrowed profit margins. Farmland values rose further on strong demand from farm and non-farm buyers and a limited supply of land for sale during the growing season. However, the prospect of higher capital gains taxes in 2011 has prompted some farm owners to consider selling their farms before year-end. Agricultural credit conditions generally held steady.

Wages and Prices - Consumer prices were generally unchanged from the previous survey, and wage pressures in most industries remained subdued. Several manufacturers reported continued increases in materials prices, but only a few planned to raise finished goods prices. Construction supply firms reported declines in selling prices, which they generally expected to continue. The downward trend in overall retail prices in recent surveys flattened out slightly, and most contacts expected steady prices heading forward. Services firms reported no change in the prices charged to customers. Wage pressures were still contained in most industries, with labor markets remaining soft. However, some energy firms, auto dealers, and transportation firms reported a slight uptick in wage pressures due to difficulties finding qualified workers. Longer-term hiring announcements continued to rise, but near-term hiring plans generally remained modest.

About the data *The Summary of Commentary on Current Economic Conditions by Federal Reserve District, commonly known as the "Beige Book," is published eight times each year. Each Federal Reserve Bank gathers anecdotal information on current economic conditions in its District through reports from Bank and Branch directors and interviews with key business contacts, economists, market experts, and other sources. This document summarizes comments received from business and other contacts outside the Federal Reserve and is not a commentary on the views of Federal Reserve officials. The Federal Reserve Bank of Kansas City covers the 10th District of the Federal Reserve, which includes Colorado, Kansas, Nebraska, Oklahoma, Wyoming, and portions of western Missouri and northern New Mexico.*

Source: http://www.federalreserve.gov/FOMC/BeigeBook/2010/

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Kansas, Inc.

reated by the Legislature in 1986, Kansas, Inc. is an independent, objective, and non-partisan organization designed to conduct economic development research and analysis with the goal of crafting policies and recommendations to ensure the state's ongoing competitiveness for economic growth. To attain our mission, Kansas, Inc. undertakes these primary activities: 1) Identifying, building, and promoting a Strategic Plan for economic development efforts in the State of Kansas; 2) To complement the Strategic Plan, Kansas, Inc. develops and implements a proactive and aggressive research agenda, which is used to identify and promote sound economic development strategies and policies; 3) Through collaboration and outreach with economic development entities and other potential partners, Kansas, Inc. conducts evaluation reviews and provides oversight of economic development programs to benchmark development efforts in the State of Kansas.

Co-Chaired by the Governor, Kansas, Inc. is governed by a 17-member Board of Directors. Board members, as mandated by legislation, include four members of Legislative leadership, a representative from the Board of Regents, the Secretary of Commerce, the Commanding General of the Kansas Cavalry, a representative from labor, and eight members from the private sector representing key Kansas industrial sectors. Private sector members are appointed by the Governor and confirmed by the Kansas Senate.

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KANSAS
DEPARTMENT OF COMMERCE

STAR Bonds FY 2011 YTD Update

Joint Committee on Economic Development

By Steve Kelly
September 2010

STAR Bonds

Sales Tax Revenue (STAR) Bonds enable municipalities to issue bonds to finance major commercial, entertainment and tourism areas and use the sales tax revenues generated by the development to pay off the bonds.

Guiding principles:

1. State should be a minority partner in these projects.
2. State should not subsidize regular retail to compete with existing retail.
3. Project funding should be driven by the attraction, not the retail components.
4. Funding for common areas (parking, shared space, etc.) should be proportionate to the percentage of the destination's attraction and retail components.

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Kansas City Wizards Stadium

Construction is well underway on the 18,500-seat multi-use destination arena, which will be home to the Kansas City Wizards.

The structure is scheduled to be completed by the end of September. The seating area is nearing completion.

The project is 40 percent complete. More than $50 million of work has been installed.

The construction project currently employs 300 workers and will eventually employ 450.

The first soccer match in the new stadium is scheduled for June 2011.

Cerner Office Complex

Cerner is working on its timelines for the 600,000 square-foot Class A office park, which will bring 4,000 new jobs to Kansas.

This project is still in the early design phase.

Schlitterbahn Vacation Village

The project continues to attract retail and lodging partners.

The waterpark opened in May 2010 and drew visitors from all 50 states, Canada and Mexico.

To date, $178 million in private funds have been expended on the project.

No STAR Bonds have been issued at this time.

The developer continues to work with a large retail anchor in the Riverwalk retail area and intends to build a SkyVenture indoor skydiving experience.

Plans for expansion of the water park through the 2011 season are near completion with additional construction expected to begin this fall.

Flint Hills Discovery Center

The project includes a 30,000 square-foot center and museum, hotel/conference center, restaurants, entertainment venues and an outdoor park.

Economic impact includes more than $160 million in capital investment, 1,200 construction jobs and 1,000 permanent employees.

Construction has begun on the project. STAR Bonds were issued on December 1, 2009.

Groundbreaking was held for the Discovery Center on July 7, 2010, and building construction is anticipated to conclude in August 2011. A grand opening is scheduled for spring 2012.

Flint Hills Discovery Center
(continued)

A Hilton Garden Inn, conference center and parking garage broke ground on July 19, 2010. The opening is scheduled for fall 2011.

The north-end retail district is 65 percent constructed and open.

As of August 2010, revenues for the district totaled $2,451,085, which exceeds the revenue needed to meet the initial payment in 2010.

Prairie Fire Museum Project

$66 million in STAR Bonds were authorized in September 2009 for this $573 million museum project.

The project includes an American Museum of Natural History-affiliated museum with wetlands park, retail entertainment venues and prairie gardens.

The project will create 1,900 full-time jobs and 2,600 indirect/induced jobs.

Site work continues, including construction of 137th Street, underground trunk lines and the signature attraction – the Prairie Fire Museum – featuring American Museum of Natural History exhibitions. Architects have been hired to design the AMNH components.

Development is slated to begin in mid-2011.

Mission Gateway

$63 million in STAR Bonds authorized for $307 million project.

Project includes a 70,000 square-foot aquarium, movie dinner theater, hotel, retail and entertainment venues.

Project will generate 1,500 full-time jobs and 1,525 indirect or induced jobs with a total payroll of $58 million.

Project forecast to produce $120 million in annual retail sales.

The uncertain economic climate has slowed this project. The developer is making gradual progress, has signed leases with several tenants and signed a purchase agreement for a hotel. The developer remains committed to the project and expects to reach the leasing threshold that will allow opening of the construction loan by the end of 2010. The developer is optimistic that construction can restart in spring 2011.

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Polsinelli Shughart pc

Memorandum

TO: The Honorable Karin Brownlee, Chair
Joint Committee on Economic Development

FROM: John D. Petersen
Polsinelli Shughart pc

SUBJECT: STAR Bonds

DATE: September 27, 2010

Madam Chair, Members of the Committee: My name is John Petersen and I am an attorney with the law firm of Polsinelli Shughart pc. My principle practice is in the area of real estate development, zoning, land use and incentive financing. During the 2010 Legislative Session, S.B. 495 was introduced, and after the Senate hearings I approached Chairperson Brownlee and expressed my concerns on some potential, unintended consequences of the bill. After our discussion the Chair agreed to continue the discussion on this issue until the fall. I would also note that this testimony reflects my opinion and does not represent that of any of my firm's clients who may currently, or in the future, be involved with STAR bonds.

The Committee has asked for testimony with respect to possible changes to the STAR bond law which would restrict or further regulate phased bond issuances unless the revenue for such bond issuances is strictly limited to new revenue sources (i.e., new retailers that were not involved in the previous bond issuances).

In order to comment on this proposed change to the law, it is important to recognize that generally there are two circumstances in which phased bond issuances occur.

1. Phased bond issuances which in the aggregate is less than or equal to the original STAR bond approval amount and which are in furtherance of the original approved STAR bond plan; and

2. Later bond issuances which result in the total dollar amount of STAR bonds exceeding the original STAR bond approval amount and/or which fund major components not contemplated by the originally approved STAR bond plan.

Phased Issuances

It is our opinion that further restrictions on the first scenario would be very damaging to the State of Kansas and would not advance any public purpose nor would it save or increase the State's collection of tax revenues (in fact it would likely do the opposite). Phased bond issuances which, in the aggregate, do not exceed the original STAR bond approval amount and otherwise are consistent with the plan almost always occur where multiple retailers and attractions are

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contemplated by a single STAR bond approval. For instance, the development plan contains a particular tourist attraction plus several hundred square feet of retail (comprised of dozens of retailers).

The reality is that just because STAR bonds are approved by the Secretary does not mean that market conditions will immediately allow those bonds to be successfully issued. The vast majority of STAR bond approvals have been and will be for developments that will phase in over a number of years. This is the nature of real estate development. The nature of real estate finance is that costs are typically front-loaded because often you can't buy part of the land, build part of a sewer line, build part of a road, or build part of a tourist attraction. On the other hand, retail success tends to build over time. Thus in the early years of a development there is an imbalance between costs and revenues and STAR bonds cannot be issued unless there are identified and announced businesses to support those bonds

Because of the front-loaded nature of development costs, in order to finance large STAR bond projects, the business plan will have to allow for bond issuances in small amounts as soon as there is a credit-worthy revenue stream in the form of sales tax from announced tenants. Developers simply cannot wait for the entire development (especially where there is a tourist component) to be built before the public financing component begins to activate. However, first STAR bond issuance is just a subset of the approved STAR bond issuance. As additional retailers are attracted to the site, additional bonds must be issued to pay the Developer back for authorized costs. In theory the new proposal would not impact this.

However, in practice, most bonds can be more efficiently structured if the underwriter has the option of refinancing the original bond issuance, cross-collateralizing the two bond issuances or utilizing excess revenues from the first bond issuance to help support the second bond issuance. (Sometimes, the second bond issuance needs to support the first bond issuance). The reason for this is that all bonds of this type are issued based on future projections of sales. Neither the retailers, the City nor the State are "guaranteeing" that the bond holders will receive the projected revenues. The bond holders simply receive actual tax revenue irrespective of whether it is consistent with projections. The reality of these sales may differ from the original projections. Certainly sales at a single retailer tend to fluctuate to a degree that is often not anticipated in original projections. To guard against this fluctuation (and understanding no one has a crystal ball), bonds typically contain reserve funds and revenue cushions called coverage ratios. This means that if the sales tax is exactly in line with original projections the bonds will "over-perform" - i.e., there will be more revenue available annually than is necessary to pay the bonds. In these cases, the bonds typically pay back early.

On the other hand, if the revenues are less than projected, the coverages and reserve funds can help protect the bond holders against loss.

Effects of Proposed Restrictions

When the City and the State approve a STAR bond project they are approving an entire vision of a future real estate development and a multi-decade business plan for that development. It is generally to the benefit of the government, that the development as a whole generally be realized - not just one aspect or the other. This is because the administrative staffs of the government understand that the whole is greater than the sum of the development's parts. Critical mass of retailers, visitors and attractions is important to long term success, indirect benefits and direct benefits like tax generation. That does not mean that the government won't allow phased development, it simply means government wants to do what it can to insure that a critical mass eventually gets built.

The bond market works essentially the same way. While there is always a push to issue bonds as quickly as they can soundly be structured, bond underwriters need the flexibility to benefit from and spread risks across the entire development as it builds out. If the STAR bond law removes that flexibility and requires silos where bonds issued in 2010 cannot cross-collateralize with bonds issued for other retailers 2 years later - **the underwriters will either not be able to issue bonds or will require other ways to mitigate or compensate for this increased risk.** This can mean higher interest rates and other structural changes that make each STAR bond dollar that the State is contributing less valuable. This flatly contradicts the public interest which is that these revenues be used as efficiently as possible.

Thus we believe that the power of the STAR bond law would be greatly diminished (at great cost to the State) if additional rules removed the flexibility that underwriters currently have in structuring phased bond issuances. On the other hand, if the public good is served by one $10 million dollar STAR bond issuance - we don't believe that public good is less well served if two bond issuances of $5 million each occur instead.

Later Issuances

The second general situation in which phased bond issuances can occur is when the development has been successful and when the revenues being produced can support bonds in an amount over the total original STAR bond approval; or can be used to pay for a major component (something that was not contemplated in the original STAR bond plan). These types of bond issuances are already prohibited unless there are new STAR bond approvals at the local level and which are then approved by the Secretary of Commerce in his complete discretion. Increased regulation in this area likely does not implicate any of the concerns set forth above. The policy question is simply whether the Secretary's discretion should be more limited in an amendment situation than it would have been originally. We tend to believe the answer is no, but think it is critical that the Committee distinguish this situation from the phasing which fits more neatly within the original approval.

The Honorable Karin Brownlee, Chair
Joint Committee on Economic Development
September 27, 2010
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It is my hope that the above information has provided some insight into this issue. Thank you for allowing us to testify, and I would be happy to respond to your questions.

Respectfully submitted,

John D. Petersen

John D. Petersen

JDP:kjb

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KANSAS

DEPARTMENT OF COMMERCE

Trade Division FY 2011 YTD Update

Joint Committee on Economic Development

By John Watson
September 2010

Trade Development Division

Goal:

- To help Kansas companies expand sales to foreign markets and recruit foreign companies to establish facilities in Kansas.

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Programs and Services

- provide information on foreign markets and trends
- gather export data and foreign market research
- coordinate with local, federal and foreign agencies
- conduct export seminars
- help companies participate in international trade shows
- host foreign delegations to Kansas
- distribute foreign trade leads
- locate export financing packages
- maintain international consultants in key global markets, including Mexico and China

Exports

Despite the global economic recession, Kansas businesses totaled $8.9 billion in exports in 2009, the state's third-highest export total in history.

Prior to the global recession, Kansas had achieved record-high exports for four straight years — a trend that's likely to continue once the economy rebounds.

As a result, the Trade Development Division continues to see a high volume of activity and requests for assistance from Kansas businesses and foreign companies looking to buy Kansas goods.

International Investment Projects

In Fiscal Year 2010, we recruited three foreign companies to Kansas, resulting in 214 new jobs and $25.9 million in capital investment.

These projects were:

- CEVA Biomune, Lenexa (81 jobs, $13 million)
- Megastarter, Wamego (13 jobs, $5.5 million)
- Jupiter Group, Junction City (120 jobs, $2.4 million)

International Mission Trips

In fall 2009, Governor Parkinson and the Trade Development Division lead back-to-back trade missions to Taiwan and China to advance Kansas' business ties in Asia.

The itinerary began Oct. 18 in Taiwan, where the Governor and Trade Division staff met with Taiwanese business and government leaders.

The group then flew back to Kansas before leaving Nov. 6 for a nine-day trip to China to advance business ties and renew Kansas' longstanding sister-state relationship with Henan Province.

KITSAP

The Kansas International Trade Show Assistance Program (KITSAP) helps introduce Kansas companies to foreign markets by funding their participation in trade shows.

In Fiscal Year 2010, the Trade Development Division awarded a total of $23,247 to six Kansas companies to attend a total of seven international trade shows.

Those six companies reported sales of $1.25 million, which translates to a return on investment of $53.77 for every $1 in trade show assistance.

Exporter of the Year Award

Each year, the Trade Development Division presents the Governor's Exporter of the Year Award to a single Kansas company for exceptional international marketing success.

In Fiscal Year 2010, Governor Mark Parkinson and the Trade Development Division announced Osborne Industries as the 2010 Governor's Exporter of the Year.

Fiscal Year 2011 YTD Highlights

- Arranged for Governor Parkinson to meet with key aviation executives at the Farnborough Air Show in England in July.
- We recently attended HUSUM WindEnergy 2010, Europe's largest wind energy trade show. Staff also visited key companies in Denmark and attended a global wind supply chain conference in Germany.

Fiscal Year 2011 YTD Highlights

- Organizing an October animal health mission to China, enabling eight Kansas companies to exhibit at the first national convention of the Chinese Veterinary Association in Beijing.
- Working with KSU in their bid to establish a China-U.S. Animal Health Center facility in Kansas.

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WORLD TRADE CENTER

A New Perspective on State Trade Services: "Economic Growth Through Trade and Innovation"

Prepared by: Kansas World Trade Center, Inc. – Revised September 2010

Overview:

- ***The Kansas economy is strongly influenced by international business.***
- ***Kansas companies compete in a global economy and need globally sophisticated leadership and resources.***
- ***Kansas has strong industry clusters sustained through innovation (Aviation & aerospace, animal health & bio-sciences, clean energy).***
- ***Kansas can help its companies reach their global potential by providing strong public sector support.***
- ***The private sector will use its business-to-business expertise to create most efficient outcomes.***

5 Steps to Enhanced Trade Services:

1. Survey current trade resources available and determine business needs.
2. Develop a statewide strategic trade plan.
    a. Leadership, guidance, resources, support, and performance monitoring provided by State
    b. Plan implemented in the private sector, using business-to-business expertise
3. Appoint a trade advisory board, including:
    a. Kansas trade stakeholders to provide guidance, ensure accountability and monitor progress
    b. State leadership and private sector trade resource providers to attend and listen
4. Develop a public/private partnership for enhanced delivery of trade services and more efficient allocation of resources.
    a. *Public responsibilities (serve many)* are direct from the State government and visibly championed by the Governor's office
    b. *Private responsibilities (customized & individualized)* are delivered through contracts with the private sector and universities and must provide value to companies and thus should be fee-based
5. Establish performance measures & hold responsible parties accountable

Examples of public responsibilities by the State of Kansas:

- Leadership in developing relationships and promoting trade as an economic development strategy
- Marketing the State's industries and core competencies to the world
- Informing Kansas companies of available trade resources
- Facilitating trade by offering grants which assist and encourage exports
- Advocating to national and foreign governments to benefit the State's industries

Examples of private sector responsibilities:

- Research of international business opportunities
- Counseling and consultation for conducting international business
- Training for trade compliance, processes, culture and language
- Development of industry specific and special trade programs (e.g. inbound and outbound trade missions, Global Agri-Business Center, International Trade Conference)

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Joint Committee on Economic Development
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Attachment 6

KANSAS
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White Paper

What could we achieve if we worked together to develop and implement a statewide trade plan?

The Kansas economy is strongly influenced by international business. Kansas companies compete in a global economy and need globally astute leadership and resources. By providing strong support and access to meaningful resources, Kansas and its companies will be able to reach their global potential.

A statewide strategic trade plan should be developed by private sector contractors. The State's role is to provide guidance, resources, support, and performance monitoring. Private sector implementation will ensure continuity with the benefits of business-to-business expertise.

A statewide strategic trade plan should begin with a survey of current trade resources in the public and private sectors. Strengths and weaknesses should be identified. Once the plan is in place, the market should be surveyed regularly to identify new resources, changes in the global environment and demand fluctuations.

A trade advisory board of Kansas stakeholders should be formed to provide guidance, ensure accountability, and monitor progress. Trade advisory board members should be representative of the customer base, including a variety of industries.

The State should develop a public/private partnership for enhanced delivery of trade services to Kansas. Services that provide benefit to many should be supported and facilitated by the public sector. Customized or individualized services involving greater industry or business expertise should be delivered by the private sector and should be fee-based.

For example, an effective outbound trade mission involves identification of Kansas company and foreign country needs, marketing and promotion, and comprehensive communication and coordination between mission participants and the foreign hosts. The Governor's office must provide the leadership to open doors and build relations with foreign nations and provide official endorsement and assist with marketing. The private sector would provide trade mission support, including host country needs assessments, agenda development and host country support

Services should be distributed on the basis of customer needs and locations, taking into consideration how the customer currently conducts business and where they desire to do business. Areas with greater need for trade services due to higher trade volumes or greater quantities of businesses should have access to more personnel resources. Use of technology for delivery of services and communication is imperative.

As a general rule, services provided by the *private sector* should be fee-based. The State should provide cost-effective assistance to Kansas companies by supporting the infrastructure needed to deliver world-class services such as technology, trade resources and personnel training.

Careful consideration should be given to performance measurement. Accountability metrics must be performance-based and sensitive to the realities of international trade transactions. Suggested metrics include the State's overall export performance, number of trade shows and missions, number of satisfied customers and number of new markets entered.

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5 Steps to Enhanced Trade Services:

1. Survey current trade resources available and determine business needs
2. Develop a statewide strategic trade plan
    a. Leadership, guidance, resources, support, and performance monitoring provided by State
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    b. State leadership and private sector trade resource providers to attend and listen
4. Develop a public/private partnership for enhanced delivery of trade services and more efficient allocation of resources
    a. *Public responsibilities (serve many)* are direct from the State government and visibly championed by the Governor's office
    b. *Private responsibilities (customized & individualized)* are delivered through contracts with the private sector and must provide value to companies and thus should be fee-based
5. Establish measures performance & hold responsible parties accountable

Final Considerations:

- ❖ Lead with trade for economic growth. Companies that export are better equipped for survival and success
- ❖ Market, nurture, and fund innovation clusters and leading sectors
- ❖ Key component is partnership with the private sector

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State's Role in Trade Services Delivery

Support & Assist	Research & Report	Educate & Train	Build Relationships	Inform & Market
Provide referrals to trade service providers, e.g. Network Kansas	Utilize universities to conduct research	Support professional quality training as provided by the private sector	Build relationships with government & other organizations to effect policy issues (Advocacy)	Maintain statewide trade services network database
Support trade service providers with world class resources	Share research reports (e.g. white papers) with Kansas companies		Provide leadership for strategic inbound & outbound trade missions	Maintain Kansas company database
Advice & counseling provided by private sector	Provide referrals to private sector for individual research needs of company		Support international visitors for Kansas companies	Market key industries to the world through web-based applications, trade show participation & communication
				Inform Kansas companies & leaders of international trade compliance resources

Graphic representation of trade services to be delivered from the perspective of the State's role in overall delivery.

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DEPARTMENT OF COMMERCE

Office of Minority and Women Business Development FY 2011 YTD Update

Joint Committee on Economic Development

By Rhonda Harris
September 2010

Overview

- The Office of Minority- and Women-Owned Business provides information to minority and women entrepreneurs regarding resources for developing businesses, including technical, financial, business management, procurement and contracting information.
- The office collaborates with the Kansas Small Business Development Centers, Certified Development Companies, Chambers of Commerce, U.S. Small Business Administration and other agencies to identify services available for minority- and women-owned businesses.

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Attachment 7

Programs and Services

- Publish of the Kansas Directory of Minority-and Women-Owned Businesses
- Administrate the Kansas Statewide Certification Program for those seeking certification as a Disadvantaged Business Enterprise (DBE), Minority and/or Woman Business Enterprise (M/WBE)
- Coordinate business education workshops and seminars
- Provide general business assistance
- Offer networking opportunities

Disadvantaged Businesses Certification

Since 1994, our office has offered Disadvantaged Business Enterprise Certification (DBE), for those performing non-highway work.

In 2008, Governor Sebelius signed Executive Order 08-08 to expand the current Kansas Statewide Certification Program, where women and minority businesses could be certified as Minority Business Enterprises (MBEs) and Women Business Enterprises (WBEs).

As projected, we've seen an increase in the volume of applications submitted for MBE/WBE certification.

SB 511

SB 511 was introduced in the 2010 legislative session by Senator Faust-Goudeau.

The Department of Commerce and others had areas of concern with the passage of this bill, so we took the initiative to form a committee to assist in modifying the bill so that it could be resubmitted during the 2011 session.

The committee has met twice this summer. We're in the final stages of evaluation and hope to have the modified bill ready soon for re-filing.

SB 511
(continued)

Recommended changes to SB 511 include:

- Rework the language so that it focuses on being an economic development program for Kansas small-, minority- and women-owned businesses, rather than an affirmative action program for minority and women.
- Include in the bill that, at some point, a disparity study will need to be funded.
- Incorporate language in the bill to reduce legal challenges and building in more flexibility for legal sustainability.

SB 511

(continued)

Recommended changes to SB 511 include (continued):

- Reduce costly proposals.
- Remove proposals that duplicate existing services.
- Include additional definition of terms and provisions for clarification and consistency.
- Address any federal program references and conflicts of interest.
- Address any state statutes that may hinder implementation of this bill.

KANSAS
DEPARTMENT OF COMMERCE
KansasCommerce.com

SENATE BILL No. 511

By Committee on Commerce

2-2

AN ACT concerning small and disadvantaged businesses; enacting the Kansas small and disadvantaged business development act.

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

Section 1. Sections 1 through 14, and amendments thereto, shall be known and may be cited as the Kansas small and disadvantaged business development program act.

Sec. 2. As used in this act, unless the context requires otherwise, the following terms shall have the meanings ascribed to them in this section:

(a) "Broker" means a person that provides a bona fide service, such as professional, technical, consultant, brokerage or managerial services and assistance in the procurement of essential personnel, facilities, equipment, materials or supplies required for performance of a contract.

(b) "Committee" means the advisory committee on minority and women's business enterprises.

(c) "Director" means the assistant director for the office of minority and women business development enterprises established pursuant to K.S.A. 74-5011 and amendments thereto.

(d) "Goals" means annual overall agency goals, expressed as a percentage of dollar volume, for participation by minority and women-owned and controlled businesses and shall not be construed as a minimum goal for any particular contract or for any particular geographical area. It is the intent of this act that such overall agency goals shall be achievable and shall be met on a contract-by-contract or class-of-contract basis.

(e) "Goods or services" includes professional services and all other goods and services.

(f) "Office" means the office of minority and women business development established pursuant to K.S.A. 74-5010a and amendments thereto.

(g) "Person" includes one or more individuals, partnerships, associations, organizations, corporations, cooperatives, legal representatives, trustees and receivers or any group of persons.

(h) "Postsecondary educational institution" shall have the meaning ascribed to it in K.S.A. 74-3201b and amendments thereto.

(i) "Procurement" means the purchase, lease or rental of any goods or services.

(j) "Public works" means all work, construction, highway and ferry construction, alteration, repair or improvement other than ordinary maintenance, which a state agency or postsecondary educational institution is authorized or required by law to undertake.

(k) "State agency" shall have the meaning ascribed to it in K.S.A. 75-3044 and amendments thereto.

Sec. 3. There is hereby created within the department of commerce a Kansas small and disadvantaged business development program. The director shall administer the provisions of the Kansas small and disadvantaged business development program. In administering the provisions of the Kansas small and disadvantaged business development program act, the director shall be authorized to:

(a) Employ a deputy director and a confidential secretary, both of which shall be in the unclassified service, and such staff as are necessary to carry out the purposes of this act.

(b) Develop, plan and implement, in consultation with the committee, one or more programs to provide an opportunity for participation by qualified minority and disadvantaged businesses in public works and the process by which goods and services are procured by state agencies and postsecondary educational institutions from the private sector.

(c) Develop, in consultation with the committee, a comprehensive plan insuring that qualified minority and disadvantaged businesses are provided an opportunity to participate in public contracts for public works and goods and services.

(d) Identify, in consultation with the minority and women's business enterprises advisory committee, any barrier to equal participation by qualified minority and disadvantaged businesses in all state agency and postsecondary educational institution contracts.

(e) Establish annual overall goals for participation by qualified minority and women-owned and controlled businesses for each state agency and postsecondary educational institution to be administered on a contract-by-contract basis or on a class-of-contracts basis.

(f) Develop and maintain a central minority and disadvantaged business certification list for all state agencies and postsecondary educational institutions. No business shall be entitled to certification under this act unless it meets the definition of small and disadvantaged business as established by the office.

(g) Develop, implement and operate a system of monitoring compliance with this act.

(h) Adopt rules and regulations in accordance with the rules and regulations filing act, governing:

(A) Establishment of agency goals;

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(B) development and maintenance of a central minority and disadvantaged business certification program, including a definition of "small and disadvantaged business" which shall be consistent with the small business requirements defined under section 3 of the small business act, 15 U.S.C. Sec. 632, and the regulations promulgated thereunder;

(C) procedures for monitoring and enforcing compliance with goals, regulations, contract provisions and this act;

(D) utilization of standard clauses by state agencies and postsecondary educational institutions; and

(E) determination of an agency's or postsecondary educational institution's goal attainment consistent with the limitations of section 7 and amendments thereto.

The rules and regulations adopted by the director shall be consistent with section 8(a) of the small business act, public law 85-536, as amended on the effective date of this act.

(i) Submit an annual report to the governor and the legislature outlining the progress in implementing this chapter.

(j) Investigate complaints of violations of this chapter with the assistance of the involved agency or postsecondary educational institution.

(k) Cooperate and act jointly with the United States or other states, and with political subdivisions of the state of Kansas and their respective minority, socially and economically disadvantaged and women business enterprise programs to carry out the purposes of this act. However, the power which may be exercised by the office under this subsection permits investigation and imposition of sanctions only if the investigation relates to a possible violation of this act, including any rule and regulation adopted thereunder, and not to a violation of any local ordinance, rule, regulation, or resolution, however denominated, adopted by a political subdivision of the state.

(l) Establish ad hoc advisory committees, as necessary, to assist in the development of policies to carry out the purposes of this act.

(m) Enter into contracts necessary to carry out the provisions of this act.

Sec. 4. The rules adopted under subsection (h) of section 3, and amendments thereto, shall include requirements for standard clauses in requests for proposals, advertisements, bids, or calls for bids, necessary to carry out the purposes of this chapter, which shall include notice of the statutory penalties under sections 8 and 9, and amendments thereto, for noncompliance.

Sec. 5. Each state agency and postsecondary educational institution shall comply with the annual goals established for that agency or institution under this chapter for public works and procuring goods or services. This chapter applies to all public works and procurement by state agencies and postsecondary educational institutions, including all contracts and other procurement under chapter 75 of the Kansas Statutes Annotated and amendments thereto. Each state agency shall adopt a plan, developed in consultation with the director and the advisory committee, to insure that minority and women-owned businesses are afforded the maximum practicable opportunity to directly and meaningfully participate in the execution of public contracts for public works and goods and services. The plan shall include specific measures the agency will undertake to increase the participation of certified minority and women-owned businesses. The office shall annually notify the governor, the state auditor, and the joint legislative audit and review committee of all agencies and postsecondary educational institutions not in compliance with this chapter.

Sec. 6. It is the intent of this act that the goals established under this act for participation by minority and women-owned and controlled businesses be achievable. Notwithstanding any other law to the contrary, if necessary to accomplish this intent, any contract may be awarded to the next lowest responsible bidder in turn, or all bids may be rejected and new bids obtained, if the lowest responsible bidder does not meet the goals established for a particular contract under this act. The dollar value of the total contract used for the calculation of the specific contract goal may be increased or decreased to reflect executed change orders. An apparent low-bidder must be in compliance with the contract provisions required under this chapter as a condition precedent to the granting of a notice of award by any state agency or postsecondary educational institution.

Sec. 7. For the purpose of measuring a state agency's or postsecondary educational institution's goal attainment, any regulations adopted under subsection (h) of section 5, and amendments thereto, shall provide that if a certified minority and disadvantaged business is a broker of goods or materials required under a contract, the contracting agency or postsecondary educational institution may count only the dollar value of the fee or commission charged and not the value of goods or materials provided. The contracting agency or postsecondary educational institution may, at its discretion, fix the dollar value of the fee or commission charged at either the actual dollar value of the fee or commission charged or at a standard percentage of the total value of the brokered goods, which percentage must reflect the fees or commissions generally paid to brokers for providing such services.

Sec. 8. (a) No person, firm, corporation, business, union or other organization shall:

(1) Prevent or interfere with a contractor's or subcontractor's compliance with this act or any rule and regulation adopted thereunder;

(2) Submit any false or fraudulent information to the director concerning compliance with this act or chapter or any rule and regulation adopted thereunder;

(3) Fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain certification as a minority or disadvantaged business for the purpose of this act;

(4) Knowingly make a false statement, whether by affidavit, verified statement, report, or other representation, to any state official or employee for the purpose of influencing the certification or denial of certification of any entity as a minority or disadvantaged business enterprise;

(5) Knowingly obstruct, impede, or attempt to obstruct or impede any state official or employee who is investigating the qualification of a business entity that has requested certification as a minority or a disadvantaged business;

(6) Fraudulently obtain, attempt to obtain, or aid another person in fraudulently obtaining or attempting to obtain public moneys to which the person is not entitled under this act or any rule and regulation adopted thereunder; or

(7) Knowingly make any false statement or representation that any entity is or is not certified as a minority or disadvantaged business for purposes of obtaining a contract governed by this act or any rule and regulation adopted thereunder.

(b) Any person or entity violating this act or any rule adopted thereunder shall be subject to the penalties in section 9 and amendments thereto. No provision of this section, and amendments thereto, shall prevent the state agency or postsecondary educational institution from pursuing any such procedure or sanction as is otherwise provided by statute, rule and regulation, or contract provision.

Sec. 9. (a) If the director determines after notice and an opportunity for a hearing in accordance with the Kansas administrative procedure act that a person, firm, corporation or business has engaged in or is engaging in any act or practice constituting a violation of any provision of this act, any rule and regulation adopted thereunder or with a contract requirement established under this act, the director, in consultation with the appropriate state official, may withhold payment, debar the contractor, suspend, or terminate the contract and subject the contractor to civil penalties of up to 10% of the amount of the contract or up to $5,000, whichever is greater, for each violation. No civil penalty shall be assessed. The director shall adopt, by rule and regulation, criteria for the imposition of penalties under this section and amendments thereto.

(b) Any willful repeated violation, exceeding a single violation, may disqualify the contractor from further participation in state contracts for a period of up to three years. An apparent low-bidder must be in compliance with the contract provisions required under this chapter as a condition precedent to the granting of a notice of award by any state agency or postsecondary educational institution.

(c) The procedures and sanctions provided in this section, and amendments thereto, shall be in addition to all other remedies provided by law. No provision of this section, and amendments thereto, shall prevent any state agency or postsecondary educational institution administering the contract from pursuing such other procedures or sanctions as are otherwise provided by statute, rule and regulation or contract provision.

Sec. 10. The attorney general may bring an action in the name of the state against any person to restrain and prevent the doing of any act prohibited or declared to be unlawful in this chapter. The attorney general may, in the discretion of the court, recover the costs of the action including reasonable attorneys' fees and the costs of investigation.

Sec. 11. The office shall be the sole authority to perform certification of minority business enterprises, socially and economically disadvantaged business enterprises, and disadvantaged business enterprises throughout the state of Kansas. Certification by the state office will allow these firms to participate in programs for these enterprises administered by the state of Kansas, any city, town, county, special purpose district, public corporation created by the state, municipal corporation, or quasi-municipal corporation within the state of Kansas.

Sec. 12. The office shall establish and operate four regional small and disadvantaged business development centers within each congressional district of this state. Funding for such centers shall be based upon a percentage formula reflecting the disadvantaged business population of each region. Each such center shall be operated by a nonprofit organization which is well experienced in serving minority and disadvantaged populations across the state of Kansas and which is exempt from income tax under section 501(c)(3) of the federal internal revenue code of 1986 as in effect on December 31, 2009.

Sec. 13. Each city, county and unified school district is hereby authorized to adopt a minority and disadvantaged and business set-a-side procurement program similar to the program established under this act.

Sec. 14. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances shall not be affected.

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

KANSAS
DIVISION OF THE BUDGET

Mark Parkinson, Governor
Duane Goossen, Director
http://budget.ks.gov

March 11, 2010

The Honorable Karin Brownlee, Chairperson
Senate Committee on Commerce
Statehouse, Room 235-E
Topeka, Kansas 66612

Dear Senator Brownlee:

SUBJECT: Fiscal Note for SB 511 by Senate Committee on Commerce

In accordance with KSA 75-3715a, the following fiscal note concerning SB 511 is respectfully submitted to your committee.

SB 511 would create the Kansas Small and Disadvantaged Business Development Program within the Department of Commerce. This program would:

1. Develop programs to provide opportunities for participation by qualified minority and disadvantaged businesses in public works and the process that goods and services are procured by state agencies and postsecondary educational institutions from the private sector;

2. Develop a comprehensive plan insuring that qualified minority and disadvantaged businesses are provided an opportunity to participate in public contracts for public works and goods and services;

3. Identify any barrier to equal participation by qualified minority and disadvantaged businesses in all state agency and postsecondary educational institution contracts;

4. Establish annual overall goals for participation by qualified minority and women-owned and controlled businesses for each state agency and postsecondary educational institution to be administered on a contract-by-contract basis or on a class-of-contracts basis; and

5. Develop and maintain a central minority and disadvantaged business certification list for all state agencies and postsecondary educational institutions.

The bill requires that each state agency and higher education institution comply with the annual goals established for that agency or institution for public works and procuring goods or services. Each city, county, and unified school district would also be required to adopt a similar

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minority and disadvantaged business procurement program. The Kansas Small and Disadvantaged Business Development Program would be responsible for investigating complaints of violations and would be required to notify the Governor and Legislative Division of Post Audit of all agencies and institutions not in compliance.

The bill prohibits anyone from preventing or interfering with a contractor's or subcontractor's compliance with the bill or any regulation. The bill prohibits the submission of any false or fraudulent information to the director, and prohibits anyone from fraudulently obtaining or attempting to obtain certification. The bill also prohibits anyone from knowingly making a false statement, knowingly obstructing an investigation, fraudulently obtaining or attempting to obtain public monies to which the person is not entitled, or knowingly making any false statement or representation that any organization is or is not certified. The penalties for violating the provisions of the bill include withholding payment, banning the contractor, suspending or terminating the contract, or civil penalties of up to 10.0 percent of the amount of the contract or up to $5,000, whichever is greater, for each violation. The bill provides that a willful repeated violation may disqualify the contractor for a period of up to three years.

The bill requires that a regional small and disadvantaged business development center be established in each congressional district. Each center would be operated by a nonprofit tax-exempt organization which is experienced in serving minority and disadvantaged populations. Funding for the centers would be based on a percentage formula reflecting the disadvantaged business population of each congressional district.

Estimated State Fiscal Effect				
	FY 2010 SGF	FY 2010 All Funds	FY 2011 SGF	FY 2011 All Funds
Revenue	--	--	--	--
Expenditure	--	--	$568,576	$568,576
FTE Pos.	--	--	--	3.50

The Department of Commerce indicates implementing SB 511 would require $568,576 from the State General Fund in FY 2011. The estimate includes $168,576 for the salary and wages and operational expenses for 3.50 new FTE positions to manage this program. The Department of Commerce does not have data on the number of minority and disadvantaged populations in each congressional district to determine the specific level of funding for each regional office; however, it is assumed that it would cost approximately $400,000 to establish and setup the four regional offices that would be operated by nonprofit tax-exempt organizations.

State agencies, postsecondary educational institutions, and local governments would be required to comply with the annual goals for participation by qualified minority and women-owned and controlled businesses for public works and procurement contracts. The bill has the potential to increase the costs for goods and services purchased by state agencies, postsecondary educational institutions, and local governments if a disadvantaged bidder were required to be selected over a lower cost bidder; however, no precise fiscal effect can be estimated. Any fiscal effect associated with SB 511 is not reflected in *The FY 2011 Governor's Budget Report*.

Sincerely,

Duane A. Goossen

Duane A. Goossen
Director of the Budget

cc: Jeff Conway, Commerce
Kelly Oliver, Board of Regents
Sheila Head, Attorney General's Office
Melissa Wangemann, KS Association of Counties
Larry Baer, League of KS Municipalities
Pat Higgins, Administration

UNITED BUILDERS & CONTRACTORS, INC.

AN ASSOCIATION OF AFRICAN AMERICAN BUSINESSES

PRESENTATION ON SMALL AND DISADVANTAGED BUSINESS DEVELOPMENT BEFORE KANSAS HOUSE AND SENATE JOINT ECONOMIC DEVELOPMENT COMMITTEE

September 27, 2010

By

EUGENE ANDERSON

Good afternoon Chairperson Brownlee, Senators and Representatives. I am Eugene Anderson, Chairman of United Builders & Contractors. Thank you for holding a hearing on this measure.

Our organization is an association of African American owned construction, service and professional firms, food concessionaires, supply vendors, and related associates joined together to promote the growth and development of Wichita area African American owned businesses.

Before continuing this presentation, we would like to thank Senator Oletha Faust-Goudeau for her foresight and courage for introducing this measure. **Our members and our community sincerely thank you for seeking equitable treatment for small, disadvantaged and women owned businesses all across the State of Kansas.**

United Builders & Contractors primary objective is to break down and eliminate discriminatory procurement barriers in local and state government, and in the

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private sector. These barriers restrict participation of African American and other socially and economically disadvantaged businesses and entrepreneurs in the Wichita, Sedgwick County and Kansas economy. That is why a targeted and tractable statewide small and disadvantaged business development program with measurable and attainable goals is long over due.

We believe it is important that all segments of a community benefit from the expenditure of public dollars for goods and services. Creating opportunities for broader and more inclusive participation in the economy of a community enhances the economic growth and stability of the broader community. It helps to reduce crime and encourages many very bright, talented and creative young adults to remain in and invest in their communities.

Over the past five years our organization has been involved in efforts to gain reasonable access to tax-supported procurement contracts for African American business enterprises from The City of Wichita, Sedgwick County and the Wichita Public Schools (USD 259), as is mandated on federally assisted projects by the **"Public Works Employment Act of 1977, public law 94-369."**

After numerous meetings with city, county and USD 259 officials and at least two formal presentations before each governing body, nothing has been achieved. **These local governments have brought forth no plans to address the disparity in their purchase of goods and services even though they each are in violation of the Public Works Employment Act of 1977.**

Please consider that the City of Wichita payment reports from January 2006 through December 2008

highlights very graphically the disparity in city contracting. The City's total expenditures for goods and services during this three-year time period was $702,147,070.58. **During that same three-year period African American businesses received less than $2 million of those expenditures.**
An illustration of the disparity in Sedgwick County purchasing is their 2008 payment report that shows an expenditure of $222,850,195.76 for goods and services. **African American businesses received contract payments valued at only $53,103.87, or two tenths of one percent of total payments that same year.**

As bad as the City of Wichita and Sedgwick County's disparity records are, USD 259's is worse.

USD 259 reports 2008 expenditures for goods and services at $332,718, 537.74. **African American businesses received only $10,887.00 of total expenditures** Furthermore, USD 259 reports spending $951,158,424.99 on goods and services during a three-year period starting in 2006 and ending in 2008. **During that three-year time span African American businesses received only $352,718.95 of total expenditures.**

Copies of those financial reports are attached to our written presentation.

We do not have good data from the State of Kansas on their record of purchasing goods and services from minority, disadvantaged and women owned business enterprises. However, Sedgwick County attempted to gather that information from the state and they report that of the seven categories they sought information on in their survey, the state answered six with: **not required, information not available, not tracked, and no.**

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However, in spite of all we are sharing with you today, we remain hopeful that we can bring about a change in past and current practices of exclusion; after all, **we are all in this together.**

We have hope, and we believe that this body can initiate actions to correct the illegal and discriminatory purchasing practices of cities and counties throughout the state. That is why it is so important for this committee and the legislature to enact and send to the Governor the **"Kansas Small and Disadvantaged Business Development Act."**

Our organization believes that this legislation will not only correct disparity in state purchasing but will also lead to local governments undertaking similar corrective action steps that promotes diversity, ensures African American and other economically and socially disadvantaged businesses maximum opportunity to participate in, compete for and be utilized by these same governments when they use our tax dollars to purchase goods and services.

We appear before you today, asking that you consider the long history of African Americans being denied jobs, denied equal education, denied equal business opportunities and denied basic civil and human rights. Yet we support state, local and our national government, not only with our tax dollars, but also personal service in our Nations armed services, and public service in our communities to enhance the quality of life all across America.

For those reasons and others, we ask that you provide some relief through the passage of the **"Small and Disadvantage Business Development Act."**

Limited access to the marketplace is not a new problem for African Americans and other disadvantaged businesses. Historic denial of access to the marketplace is the reason congress enacted the minority business enterprise provision of the Public Works Employment Act of 1977. And that is why the state of Kansas should correct this age old problem within its boarders.

Major cities and counties and most states across the country have adopted diversity procurement policies with goals for minority, women owned, and disadvantaged business enterprise participation in their purchase of goods and services.

You should know that Miami FL has two procurement ordinances that established 51 percent annual procurement goals for minority and women owned business participation, (*17 percent for Hispanic, 17 percent for African American and 17 percent for women owned business.)*

In an effort to promote diversity in the purchase of goods and services when planning a $450 million renovation of the Truman Sport Complex in Kansas City, the Board of Jackson County Commissioners structured a plan that required 22 percent of goods and services for the project would be purchased from Kansas City area minority businesses, and eight percent of the work would be from women owned businesses. The Commission also required their tenants, the Kansas City Chiefs and the Kansas City Royals, to make similar minority participation commitments when using their private funds for improvements to the complex.

Our organization has surveyed more than 30 cities throughout the country seeking information about diversity purchasing programs.

Cities, counties and metro governments we surveyed that have recognized the **public value** in implementing progressive purchasing programs that ensure minority and women owned business with opportunities to provide goods and services include:

- **San Francisco, CA; Portland, OR; Miami, FL; Kansas City, MO; Nashville, TN; Tulsa, OK; Seattle, WA; Louisville, KY; Chicago, IL; Cleveland, OH; Hartford, CT. Jackson County, MO**

Today, our organization encourages this body to join other progressive states in enacting legislation that establishes enforceable diversity purchasing policies with measurable goals.
United Builders & Contractors, its members and supporters strongly urge you to pass the proposed Kansas **Small and Disadvantage Business Development Act.** Passage of this bill will help our businesses grow and prosper, leading to the creation of more jobs for residents of communities we represent. It will help develop a sound economic base in our communities, create job and business opportunities for our young people, reduce crime and hopefully decrease the need for more jail or prison bed space.

Thank you for the opportunity to appear before you today. We will be happy to respond to questions you may have.

ATTACHMENTS

CITY OF WICHITA 2008 EXPENDITURE FOR GOODS AND SERVICES

MINORITY GROUPS	1ST QUARTER	2ND QUARTER	3RD QUARTER	4TH QUARTER	TOTAL
ASIAN	$66,081.29	71,099.43	$267,780.70	$489,238.98	$894,200.40
AFRICAN AMERICAN	68,886.52	102,967.44	115,327.64	106,385.10	$393,566.70
HISPANIC	2,743,133.31	4,954,962.23	7,482,316.44	11,612,410.15	$26,792,821.92
NATIVE AMERICAN	123,567.62	277,335.58	359,042.50	642,107.96	$1,402,053.66
WOMEN	2,422,206.54	3,982,814.15	4,187,628.72	2,612,667.80	$13,205,317.21
TOTAL MINORITY RESULTS	**$5,423,875.28**	**$9,389,178.83**	**$12,412,096.00**	**$15,462,809.99**	**$42,687,960.10**
TOTAL G&S EXPENDITURES	**$38,279,423.82**	**$57,257,251.45**	**$68, 929,209.76**	**$73,961,678.94**	**$238,427,563.97**

Note1: In the second quarter of the total G&S expenditure line is a $521.00 payment to a veteran business enterprise that does not show again in th
Note 2: African Americans continue to lose ground in their effort to provide goods and service to Wichita city government. **and services to Wichita city goverr**
the other four minority groups tracked by the city's purchasing department have shown significant growth over the past three years, African Ameri
continue a long slide down the economic ladder.

Note 3: Three year comparison:

Wichita's 2006 purchase of G&S amounted to: $247,745,634.84
African Americans received only $873,065.93 in contract payments for the entire year

Wichita's 2007 purchase of G&S amounted to: $215,973,871.77
African Americans received only $642,560.67 in contract payments for the year.

Wichita's 2008 purchase of G&S amounted to $ 238,427,563.97.
African Americans received only $393,566.70 in contract payments.

Data Source: City of Wichita Emerging Business Enterprise Quarterly Reports, prepared by Janice K. Briggs
Purchasing Div., Department of Finance

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Sedgwick County 2008 Expenditure Report

FW: Sedgwick County 2008 Purchase of Goods and Services
"Baker, Iris" <ibaker@sedgwick.gov>
View Monday, June 8, 2009 7:40:40 AM
To: Prentice Lewis <plewis_builders@swbell.net>
Cc: "Buchanan, William P." <wbuchana@sedgwick.gov>; "Chronis, Chris" <cchronis@sedgwick.gov>; "Holt, Ronald" <rholt@sedgwick.gov>

Prentice, per your request, the following are 2008 statistics. The chart reflects the dollars spent on goods and services and also shows activity with and without the arena included. Feel free to call if you have questions. Thanks.

	Dollar Amount	Percent of Amount	Percent of Amount (less Dondlinger/Hunt expenditure)
Totals	$222,850,195.76*	3.39	4.92
African American	$53,130.87	.02	.03
Asian	$379,551.23	.17	.24
Hispanic	$3,378,802.47	1.52	2.20
American Indian	$192,299.04	.09	.13
Other	$1,463,315.01	.66	.95
Women Owned Business	$2,078,380.28	.93	1.36

*Of the $222,850,195.76 spent, $69,501,500.00 went to Dondlinger/Hunt for the Arena project.

Iris Baker
Purchasing Director
Sedgwick County Government
525 N. Main, Suite 823
Wichita, KS 67203
Ph: 316.660.7260 Fax: 316.383.7055
www.sedgwickcounty.org
ibaker@sedgwick.gov

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Wichita Public Schools

MINORITY GROUPS	1ST QUARTER	2ND QUARTER	3RD QUARTER	4TH QUARTER	TOTAL
ASIAN	$1,950.00	$820.50	$10,916.50	$221,814.82	$235,501.82
AFRICAN AMERICAN	$0.00	$0.00	$900.00	$9,987.00	$10,887.00
HISPANIC	$300.00	$100.00	$12,763.43	$0.00	$13,163.43
NATIVE AMERICAN	$5,247.00	$2,089.00	$30,200.32	$31,617.00	$69,153.32
WOMEN	$57,747.00	$93,197.38	$60,802.75	$101,502.21	$313,249.34
TOTAL MINORITY RESULTS	$7,497.00	$3,009.50	$54,780.25	$263,418.82	$328,705.57
TOTAL G&S EXPENDITURES	$65,244.00	$96,206.88	$115,583.00	$364,921.03	$641,954.91

Three year comparison:

2006 expenditures for G&S:	$300,373,789.73	
Asians received:	$699,290.53	0.232807%
African Americans received:	$322,078.76	0.107226%
Hispanics received:	$7,172.78	0.002388%
Native Americans received:	$82,227.47	0.027375%
Women Owed received:	$870,291.51	0.289736%
2007 expenditures for G&S:	$318,066,097.52	
Asians received:	$395,024.06	0.124196%
African Americans received:	$19,753.19	0.006210%
Hispanics received:	$6,895.84	0.002168%
Native Americans received:	$49,475.50	0.015555%
Women Owed received:	$409,154.03	0.128638%
2008 expenditures for G&S:	$332,718,537.74	
Asians received:	$235,501.82	0.070781%
African Americans received:	$10,887.00	0.003272%
Hispanics received:	$13,163.43	0.003956%
Native Americans	$69,153.32	0.020784%

rece. .d:
Women Owed received: **$313,249.34** 0.094148%

Data Source: USD 259 Purchasing a department in the Division of Operations.
Prepared by: Vickie Foss, CPPO
Purchasing Manager

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UNITED BUILDERS & CONTRACTORS, INC.

AN ASSOCIATION OF AFRICAN AMERICAN BUSINESSES

PRESENTATION
ON
SMALL AND DISADVANTAGED BUSINESS
DEVELOPMENT
BEFORE
KANSAS HOUSE AND SENATE JOINT ECONOMIC
DEVELOPMENT COMMITTEE
September 27, 2010

By

PRENTICE LEWIS

Good afternoon Chairperson Brownlee, Senators and Representatives. I am Prentice Lewis, Administrator for United Builders & Contractors (UBC). I too want to thank you for holding this hearing on issues affecting the continuing existence of a viable small, minority and woman-owned business sector in this state.

For generations skilled construction craftsmen have aspired to one day establish and operate their own companies as was the case with most members of United Builders & Contractors. Their careers started as carpenters, plumbers, electricians, cement workers and other crafts. Today however, they like the small farmer are in danger of becoming extinct.

Senator Anderson discussed with you the purpose of our organization and our desire for the legislature to enact a small and disadvantage business development act that will ensure businesses we represent have reasonable access to tax-supported government contracts. Such a law will have the effect of saving many of these small businesses from fading out of existence as has the small family farm.

At this point I want to provide you with my background in addressing the needs of the small businesses UBC represents.

In January of 1969 I was employed by the City of Wichita and worked as a counselor in a federally funded housing code enforcement program that operated in a low-income neighborhood, helping

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property owners bring their property into code compliance through grants and low interest loans.

Through that program, starting in 1968, a number of minority and small majority contractors received contracts through the City of Wichita to renovate owner occupied dwellings and other privately owned property. That program is where I began working to improve opportunities for minority contractors.

Some 42 years later, most African American contractors in Wichita are still relegated to performing on small rehab contracts through city government. Passage of the proposed Kansas Small and Disadvantaged Business Development Act will help open up greater opportunities for these contractors to perform on larger tax-supported projects for the state and for local governments.

In January of 1971 I left the City of Wichita and accepted the position of Director of Economic Development for the Urban League of Wichita (now the Urban League of Kansas), where I remained for 34 years. At Urban League I worked fulltime on small and minority business issues. At the League I headed up two separate, statewide studies of minority business enterprises, one for the National Urban League and the other for the Kansas Department of Transportation (KDOT).

I retired from the Urban League in December of 2004.and started working with UBC in 2005. Since early 2005 the organization has been involved in a consistent effort to encourage enactment of diversity in purchasing ordinances by the City of Wichita, Sedgwick County and the Wichita Public Schools (USD 259) without results.

It is clear, without enforceable laws, such as the proposed Kansas Small and Disadvantaged Business Development Act, disadvantaged and women owned businesses cannot compete effectively in the marketplace.

For decades their have been government programs and court rulings, pro and con **(Fullilove v. Klutznick, 448 U.S.. 448; Adarand Construction, Inc. v. Pena; Richmond v. J.A. Croson Co., 488 U.S. 469)** regarding set-a-sides and other special remedies to help underutilized minority businesses gain a foothold in the construction industry. However, minorities and disadvantaged contractors have not made significant progress in the industry and are no better off today than they were in the 1960s.

Throughout the United States, African Americans workers and contractors have gained only limited access to the construction industry. Not until President Johnson issued Executive Order 11246 in 1965 and the U.S. Department of Labor imposed equal opportunity employment standards for companies with federal contracts and their unions in Philadelphia in 1969, did conditions improve somewhat for minority construction job applicants. However, conditions did not, and have not, improve significantly for minority and disadvantaged contractors.

U.S. Department of Labor data highlights an annual 250,000 worker shortfall in the construction industry nationally. Based on other data, studies and reports, African Americans are excluded from equitable participation in the construction industry, including tax-supported projects, even though there are anti-discrimination laws and regulations on the books.

The problem is highlighted in the following study summaries, one prepared by the Urban League of Wichita for the Kansas Department of Transportation and the other for the City of Wichita by a city council appointed taskforce.

KANSAS DEPARTMENT OF TRANSPORTATION STUDY

The purpose of the KDOT study was to, 1) identify minority business enterprises in Kansas, 2) identify existing problems confronting minority contractors and minority business enterprises, 3) make specific recommendations for alleviation of identified problems, and 4) construct a register of Kansas minority contractors. The KDOT Study was completed and published in 1976.

"During calendar year 1975, the Kansas Department of Transportation (KDOT), awarded contracts valued in excess of $86 million, of which minority contractors received $2.58 million, or 3% of the total awarded. Furthermore, 93% of the value of the contracts awarded to minorities went to two firms, both owned by members of the same family. Due to increasing concern about the lack, of minority contractor participation in highway construction projects within the State of Kansas, the Kansas Department of Transportation entered into a contract with the Urban League of Wichita, Inc., to conduct a study of existing problems confronting minority contractors and minority business enterprises and to recommend a positive plan or program for improving the effectiveness of the current program.

Urban League conducted interviews with 139 minority entities throughout the state. Such minority business entities include those contractors, minority business enterprises, minority firms, and minority business firms stated herein, and are defined as businesses of which at least 50% are owned by minority group member(s), (minority group members are Blacks, Spanish surnamed Americans, American Orientals, American Indians, American Eskimos and American Aleuts), and which have been established as bona fide business entities for a period of at least two years.

Disadvantaged contractors and small contractors are defined as entities which may or may not be at least 50% owned by minority group member(s), and shall not have earned gross receipts of more than $500,000 each year for either of the past two years.

The identification of minority firms was accomplished with the aid of: the Kansas Office of Minority Business Enterprise - Wichita and Topeka, the United Contractors Association of Wichita, MO/KAN of Topeka and Kansas City, and Chambers of Commerce throughout Kansas.

Each interview took the form of the minority contractor responding to questions from a confidential questionnaire (see Appendix A). In addition to the minority business concerns and minority contractor interviews, seven majority contractors were interviewed utilizing the same

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technique with a slightly different questionnaire and selected officials of the KDOT were also interviewed.

DISCUSSION OF RESULTS

Once the data collection phase of the project had been completed, the minority contractor register was prepared, and is attached to this report as a separate document. This register not only identified minority contractors but also general experience, configuration of company, and areas of interest. Summary statistics for some of these categories are as follows: 63% of the minority firms interviewed was configured as a sole proprietorship, 22% as a corporation, and 14% as a partnership. Two firms did not identify their configuration.

Of the 139 interviewed firms, twelve had previous experience with the KDOT. The average number of years experience for these twelve firms is nineteen years. Of the twelve, seeding was the primary activity of six firms, heavy construction the activity of two firms, signing the activity of one firm, refuse hauling the activity of one firm, trucking the activity of one firm, and general construction the activity of one firm.

A comparison of the length of time contractors have spent in firms in current operation, with the total length of time spent in that field, revealed that minority contractors showed considerable stability. Of the contractors surveyed, less than 10% had been operating fewer than 2 years, while approximately 20% had been in business at least 20 years.

Bonding was identified as the most significant barrier to minority participation in KDOT contracts. Historically, bonding companies look at a contractor's liquid assets, capability, and character. Minority contractors, not unlike many majority contractors, received their construction training through employment with older majority construction firms. However, due to discriminatory employment practices, such as denial of promotions into foreman, superintendent, estimator and project manager positions, minority contractors, for the most part, were not able to gain the kinds of management and technical skills necessary to maximize the probability of successful growth and development. With such limitations, minority contractors find it almost impossible to measure up to the capability criteria of surety firms. Likewise, the difficulty in obtaining bonding along with discrimination in obtaining contracts, has kept minority contractors from developing adequate assets. Finally, due to the social structure in this state and country, minorities have not had the opportunity to develop social and business relationships with bankers, surety agents, etc., and thus have a difficult time in demonstrating their "character" to a surety company. Without the ability to become bonded on significant size jobs, the minority contractor is prevented from establishing a reasonable growth pattern. The problem of bonding is thus a crucial one for the future of minority contractors.

The viability of a strong group of Kansas minority contractors depends, in part, on an effective mechanism to secure easier credit and financing. There was found to be no strengths in these areas among the contractors surveyed. By contrast, it was typical to find among those majority contractors surveyed, instances where they provided financial and technical aide or assistance to small majority firms who also had normal access to adequate venture capital from financial institutions.

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These same inducements to entering the construction field were not found to be available to the minority contractor.

The second most often identified problem was prequalification. It is recognized that a need exists for prequalified contractors, but the present process also prevents the small business from engaging in growth oriented projects. The KDOT has taken a step in the right direction by not requiring CPA certification of financial position for contracts below $300,000. Nevertheless, the same effects of discrimination as discussed in bonding are felt in prequalification. The prequalification process requires the firm to have had considerable experience, a large amount of working capital, and the necessary equipment if the prequalification rating is to be reasonable. However, all of these areas are sensitive to discrimination against minority contractors. Because minorities have been prevented from engaging in significant construction projects in the past, it is unreasonable to expect them to have the type of financial statement that would allow them a high prequalification rating.

The lack of capital needed to obtain the necessary equipment for highway construction was also identified as a problem. Equipment used in highway construction requires a considerable outlay of capital that the minority contractor does not have. Even working capital for day to day operations is a significant problem and having to wait for payment of any work completed can put extreme strain on the financial position of a minority contractor.

Highway construction requires a variety of specialized skills that are often learned through on-the-job experience. As stated previously, many minority contractors acquired highway construction experience with majority firms before establishing their own but were denied opportunities for gaining specialized skills through promotions to more responsible positions with the company."

To day, I can not tell you if any of our recommendations to KDOT were adopted. I can say that there seems not to have been any significant increased government contracting with minority and women-owned businesses over their participation levels of the early 1970s. In fact, the reverse is most likely the case.

CITY OF WICHITA STUDY

In response to charges of overt discrimination by city agencies in the awarding of construction contracts, Wichita's governing body, the Board of City Commissioners, adopted, in 1977, a Minority Set-A-Side program requiring that 10 percent of the value of all Capitol Improvement Project work go to minority business enterprises. This program resulted from a two-year negotiation between a coalition representing minority contractors and representatives of majority construction firms. This program provided several minority contractors with opportunities to perform on city projects as prime and subcontractors. Unfortunately the program was terminated in December of 1979.

In 2003 charges of discrimination were again leveled at the city by minority contractors. In response the Wichita governing body established a Wichita Supplier Diversity Task Team to investigate the allegations of racial discrimination in the City's purchasing process. Among Task Team finding were the following:

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“**1**. A 1994 Disparity Committee Study concluded that there is effectively no Small Disadvantaged/Women Owned Business program in existence in the City of Wichita.

2. Recommendations from the 1994 Disparity Study largely either were not implemented or not accomplished.

3. The Small Disadvantage Business Enterprise trends with regard to the absolute amount purchased (down by 47% in 2003 compared to 2000) and the percentage of the total purchase (down from 2.4% in 2000 to 0.7 % in 2003) have declined steeply –and the latter is low by any measure.

4. The 1994 Disparity Study states that “the City has fallen short on its minority goals (The Diversity Task Team could find no evidence that there were ever any goals or metrics established.)

5. Goals and objectives for purchase from SD/WOBE’s are not a part of the City’s purchasing strategy.

6. There is a general feeling among business owners interviewed that previously established relationships with City personnel greatly influence purchasing decisions.

In its March 3, 2004 report to the City Council, the Wichita Supplier Diversity Task Team advised that “There is dramatic room for improvement in the level of purchases from small minority owned and small women owned businesses. However, this improvement will not

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occur without increased intent and effort by the City of Wichita. The City has to adopt a' find a way' attitude."

In an unrelated 2006 fourth quarter Financial Report to the Supplier Diversity Task Team, the City's Purchasing Department's total payments for goods and services for the three months ending December 31, 2006 were $ 67,254,650 African American firms received $255,428 or 0.00379 percent of the total.

Of the 15 African American firms listed in the report, two shared 74 percent of payments to the group. Other racial minority vendors achieved slightly better results. For example:

- Asian firms earned $410,595.90
- Hispanic firms earned $7,836,454.33
- Native American firms earned $648,780.95
- Women owned firms, not including African Americans, earned $2,491,461.90.

During the preceding three quarters of 2006 the City spent a total of $180,490,984. African Americans earned $617,637 For the whole of year 2006 the City of Wichita spent $247,745,635 for goods and services. However, African Americans received less than $1 million.

The Wichita Eagle newspaper has published several articles highlighting City Hall discussions, meetings and hearings regarding minority business complaints of limited opportunity to provide goods and services to the City of Wichita.

An illustration of how badly some minority businesses have been treated by their local governments is highlighted in the following case studies.

Case Study #1. Sarah's Ice Cream

Steve Habtemariam, an African American, and his family, dba Multi-Business Services Corp., and owners of Sarah's Ice Cream, received an expensive education in their attempt to continue in business as a concessionaire in the Wichita airport's main concourse while the city and its agent wanted to move a national brand competitor into Sarah's space.

In 2006, after 16 years of providing excellent service to the traveling public, visitors and airport employees, the Habtemariam's ran headlong into corporate America's desire for sameness and the city's desire for brand names in the airport. The Habtemariam's were told by Host Marriott, the city's agent and the airport's primary concessionaire, that his business would have to move from their current location to a less visible and less profitable spot in the airport terminal so that Starbucks Coffee could move into their current spot. In the eyes of Host Marriott and city administrators, Sarah's was just a small black owned business and not deserving of a prime business location in the gateway to Wichita.

Since the Habtemariam's contract for Sarah's Ice Cream was up for renewal Host Marriott assumed they could just order them to give up their space and there would be no problem. Only after the Habtemariam's appealed for and received support from the African American community and an appearance before the Wichita City Council, and an order from the Council did Host Marriott and the City Manager take the Habtemariam's desire to stay in their location seriously.

After months of additional negotiations a contract was agreed to, keeping Sarah's Ice Cream in its previous and desired location.

Case Study #2. McFadden Construction

John McFadden, an African American, dba McFadden Construction, has worked as a contractor on City of Wichita projects since 1980, first as a home builder and housing rehab contractor and then, starting in 1988, he focused on paving streets and sidewalks. Contracts he received ranged between \$100.000 and \$300,000. In 2006 McFadden decided that he had the experience and management capability to perform on much bigger projects. He therefore bid on and won a $1.3 million street paving project that also included underground utility work that he was to subcontract to a major general contractor in the city. However, a city purchasing department staffer, on his own, decided that McFadden should not have this particular project and went about seeking means to disqualify him. As a result, this city staffer discovered that the bonding company McFadden had used for six or seven years on city projects was not officially registered to do business in the state of Kansas and therefore McFadden in fact had no bonding.

McFadden's subcontractor offered to place the project under his bond but the city would not allow that and gave McFadden hours to come up with new bonding. That not being possible, the project was awarded to McFadden's bidding competitor. The city's action essentially put McFadden out of business.

Case Study #3. Minority Contractors & Consultants, Inc.

Moses Thompson, an African American, dba Minority Contractors and Consultants, Inc (MCCI), negotiated a contract with the City of Wichita for the removal of asbestos prior to demolition of the former LaQuinta Inn. Thompson submitted a $413,683 quote to the city purchasing department to perform the required work. In a face to face meeting with city staff, the staff responded to Thompson's bid with a $350,000 offer. Also at this meeting was Bob Helsel, representing Precision Environmental Services, a competitor of MCCI and agent of the City of Wichita. The city had hired Precision as the project manager of the hotel abatement project. Helsel suggested to the city staff that MCCI only be paid $300,000 for work on the project. The city accepted that suggestion and used it as its negotiating ceiling.

Reluctantly, MCCI agreed to accept a $300,000 contract to perform asbestos removal at the vacant LaQuinta Inn. However, before a contract was signed, MCCI received a letter from Purchasing Manager Melinda Walker with the following contract conditions:

1. Work with Precision Environmental Services, which is the City's third party contractor that will provide air monitoring and be the project manager.

2. Provide the City of Wichita with a "cost not to exceed" price for this Asbestos Abatement for the former La Quinta Inn.

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3. Your company will be able to provide a Performance Bond and Labor & Material Payment Bond in the amount of one hundred percent of the cost price.

4. Complete this job within the 60 working day time frame.

Conditions # 1 and # 4 concerned MCCI. The project was too big to complete in 60 days and Thompson had already explained to Walker and her staff that MCCI and Precision Environmental Services had a pervious working relationship and that relationship exposed Precision Environmental Services as having a prejudicial attitude toward MCCI, and Moses Thompson in particular. It was reported to Thompson, a year or so earlier, that Leon Conway, president of Precision, in a public meeting, was over heard to state "...not to worry about Moses, he (Conway) would break him." Based on the prior negative experience working with Precision, Thompson expressed his concern to city staff about Precision's participation on the project with him. The Walker letter implied that MCCI accept the conditions or there would be no contract.

MCCI was not the first choice of the Purchasing Division to perform abatement work even though MCCI was in the second year of a two-year contract with the city for asbestos inspection and abatement. Only after a complaint to the City Manager did Purchasing comply with contract #PB600055 and begin to negotiate with MCCI.

It is apparent that because Moses Thompson had the audacity to challenge the purchasing manager's decision to bid this project instead of negotiating with MCCI, plans were set in motion to drive MCCI out of business. The city's agent, Precision Environmental Services, through its employee Bob Helsel, set about trying to do just that through changes in work orders, re-inspections and delays designed to impede progress and drive up cost to MCCI. The result of this action is that MCCI encounter massive cost overruns on the project resulting in a loss of bonding, essentially putting the company out of business.

The mission statement in the city's Emerging and Disadvantaged Business Enterprise Policy and Procedure Manual states: "The City of Wichita is committed to ensuring equal opportunity, promoting diversity and enhancing economic opportunities for Emerging and Disadvantaged businesses." The program's Policy Statement in that

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same manual states in part "The City of Wichita is committed to the development and support of Emerging and Disadvantaged Business Enterprises. It is the policy and commitment of the City of Wichita to provide Emerging and Disadvantaged businesses the maximum opportunity to participate in, compete for and be utilized by the City of Wichita in its procurement of goods and services."

The actions of city staff in the above three cases and others involving African Americans are a clear violation of the city's diversity programs and raise questions about the purpose of their Emerging and Disadvantaged Business Enterprise Program. City payment reports from January 2006 through December 2008 highlight even more graphically the disparity in city contracting. The City's total expenditures for goods and services during this time frame were $702,147,070.58. During that same three-year period African Americans only received $1,909,193.30 in payments.

Sedgwick County, Kansas

Unlike the City of Wichita, Sedgwick County has no written equal opportunity or diversity procurement policies and programs, and no history of providing information about efforts to recruit minorities businesses, particularly African American, to provide goods and services. An example of the County's reaction to an African American business effort to secure a county contract is highlighted here.

Case Study. TCV Publishing, Carter-Sherman Broadcasting & DigiSigns, Inc.

Sedgwick County, Kansas published a Request for Proposal on May 25, 2006 to acquire "Out Reach Marketing/Media Services for the Sedgwick County Health Department (Northeast Wichita Healthy Start Initiative)." This program was targeting residents of Wichita's African American community. TCV Publishing, an African American owned newspaper publishing company targeting the African American community, Carter-Sherman Broadcasting, an African American owned broadcasting company, operated an urban radio station that broadcast an R&B and Hip Hop format and DigiSigns Inc., an African American owned digital sign and information display company, formed a joint venture and responded to the County's RFP. The County had sent Request for Proposal notice to 17 media and marketing firms, none of which were African American. Proposals were received and opened on June 6, 2006. Award to the best proposer was to take place on June 21, 2006 after acceptance by the Board of Sedgwick County Commissioners. While TCV Publishing and joint venture partners submitted the best overall proposal the recommendation to the Board of County Commissioners was to approve all responders.

After complaints by TCV to its County Commissioner and the County Managers office the project was withdrawn from the commission agenda. Almost a year later the Outreach Market/Media Services project was revived but changed to a straight purchase of services procurement. This action left TCV Publishing little chance of receiving contracts to provide service to Sedgwick County.

Following five years of meetings with Sedgwick County staff and the Board of Commissioners at which UBC repeatedly requested that the county enact diversity in purchasing resolution, the manager, in a March 31, 2010 email to the county commission chairman, stated "I am proud of our efforts in this area." Later, in a June 3, 2010 Wichita Eagle news article about the issue, the manage is quoted as saying "he thinks the county has done a pretty good job of being diverse in its purchasing." The Manager's statements follow a county report that shows 2008 expenditures of $222 million on goods and services with African Americans received only $ 53,000 of the total expenditures.

Wichita Public Schools, USD 259

In November of 2008 voters in Wichita passed a $370 million bond initiative for school construction. African American voters were credited with providing the margin of victory. The addition of some federal and state funds may bring the total available dollars to be expended on more than 91 projects to over $500 million.

The Wichita Board of Education, USD 259 adopted its first disadvantaged business enterprise purchasing policy in June of 2009. But even with this policy in place, USD 259's Director of Operations, at a meeting for contractors to discuss implementation procedures for the $370 million school construction program, stated in response to a question, "is there a diversity requirement on this program," "no, there is no diversity requirements." That statement in a room full of white contractors had the effect of hanging a Jim Crow era WHITES ONLY sign on USD 259's money trough. What makes matters worse is the fact that federal dollars will be used to build safe rooms in new and remodeled schools.

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USD 259's plans for 91 projects does not include provision for utilizing African American businesses and especially the nationally known local architect highlighted here.

Case Study. McAfee3 Architects (Charles F. McAfee, FAIA, NOMA, PA)

Charles F. McAfee, born, raised and a lifelong resident of Wichita, Kansas, is a graduate of the University of Nebraska, School of Architecture. While maintaining the office he opened in Wichita in 1963 as his headquarters, years ago he branched out to offices in Dallas, Texas and Atlanta, Georgia which are managed by two daughters who themselves are well experienced architects. McAfee is the only African American owned and managed architectural firm in the state of Kansas. The 46 year-old award winning firm specializes in Design, Program Development and Management, and, Planning and Construction Administration.

The Wichita Public Schools has already selected architectural firms to design the projects. The McAfee firm was not among those selected to design any of the 91 projects, not even projects in the African American Community.
It's ironic that in 2009, Charles McAfee, in his hometown, was still unable to overcome the fact that he is African America, while at the same time he is celebrated as an award winning designer and finds great success in other areas of the country. For example, McAfee was the lead architectural firm for the design and building of the $1 Billion 32 venues 1996 Atlanta Olympics. And yet, with all of his experience and expertise, the Wichita Public Schools was not able to let McAfee design one project, not even one in the African American community.

USD 259 reports 2008 expenditures for goods and services at $332,718, 537.74 and African American payments at only $10,887.00. USD 259 reports spending $951,158,424.99 on goods and services during the three year period of 2006 through 2008. During that same time span African American received only $352,718.95 in contract payments.

STATE OF KANSAS

There is not good data available on expenditures for the purchase of goods and services by the state of Kansas from African American and other disadvantaged businesses. However, the Kansas Department of Transportation, Office of Civil Rights, provided the following

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information on KDOT's expenditure of federal aid funds during FY 2009. State allocated funds are not included.

"Total dollars awarded to prime contractors:
$469,589,858.12
Total Amount committed to DBEs:
$39,075,409.00

Amount to DBEs breakdown by ethnicity & gender:

Black American	$ 3,175,964.83
Hispanic American	5,064,612.56
Native American	7,894,221.37
Asian/Pacific American	1,943,493.60
Non-Minority Women	20,997,116.64

This information is based on federal aid projects let by KDOT for the period: 10/1/08 through 9/30/09."

Debra A. Hepp
Program Consultant II
Office of Civil Rights
Kansas Department of Transportation

CONCLUSION

Upon returning home from World War II, thousand of veterans, including African Americans, used their GI Bill to pursue their education and job training goals. Many African American veterans received training in construction trades. A number of these men migrated to Wichita, seeking work in the construction industry. They came from Arkansas, Texas, Mississippi, Georgia, Alabama, Louisiana and Oklahoma. Their timing was bad. Major contractors in Wichita were not hiring African Americans as craftsmen during the late 40s, 50s, and early 60s.

Those veterans who remained in Wichita worked odd jobs to earn enough money to purchase basic tools of their trade and went into business as small job contractors. Some of these men were the contractors I worked with beginning in 1969. Today, I am working with some of their sons. The sons are confronted by many of the same barriers that their fathers first faced more than 60 years ago.

The solution to this problem is for the legislature to enact the proposed Kansas Small and Disadvantaged Business Development Act. Passage of this bill will say to prime proposers, bidders and government employees and officials on state projects that government will mandate opportunities for African American, other minority and women owned business participation on tax-supported projects. That is the only way the businessmen and women our organizations represents will have a fair opportunity to compete for work on projects that their tax dollars help finance.

Thank you for listening. I will be happy to answer questions you may have.

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Littlejohn & Sons Hauling, L.L.C.

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Wichita, Kansas, 67214
Brianlittlejohn616@sbcglobal.net
(316) 518-5423

Testimony in Support of SB 511
September 27, 2010

Submitted by Brian K. Littlejohn, Sr.
100% Owner, Operator, and C.E.O.
Littlejohn & Sons Hauling, L.L.C.
Kansas House District 84
Kansas Senatorial District 29
Sedgwick County Commission District 4

Senator Karen Brownlee, Chair
Senate Committee on Economic Development

Good afternoon, Madam Chair, and members of the Committee on Economic Development. I thank you for the opportunity to testify in support of Senate Bill 511. In addition, I thank you, Senator Oletha Faust-Goudeau, for its introduction.

My name is Brian K. Littlejohn, Sr. I am 100% owner, president, and C.E.O. of Littlejohn & Sons Hauling, L.L.C.

Littlejohn & Sons Hauling has been certified by the Kansas statewide certification program as a disadvantaged business enterprise (D.B.E.) and a minority-owned business enterprise (M.B.E.). We have also met the requirements for certification as a bona fide minority business enterprise as defined by the National Minority Supplier Development Council, Inc. (N.M.S.D.C.) and as adopted by the Mid-American Minority Business Council (MAMBC).

My company hauls aggregate, rock, sand, dirt, asphalt, and demolition debris, primarily for commercial operations. As a small, startup company, we find it difficult to compete against larger, well-established hauling companies, especially on sub-contractor jobs where no bidding is required and contracts often are awarded on a "good-old-boys" basis.

SB 511 would require that a certain proportion of the sub-contractors on public projects, especially those involving federal funds, be minority-owned businesses like mine. It is hoped that these "set asides" will level the playing field and give companies like mine a chance to establish a foothold in a business environment that is, at present, tilted against them.

Without the enactment of SB 511 into law, my company and many other minority-owned or disadvantaged-owned sub-contractors will find it almost impossible to break through. In many cases, I can underbid the established firms, but without a track record, it is difficult to persuade big contractors to take a chance on a small, unknown subcontractor like my company. It's like the want ads that require applicants to have a certain number of years of experience: without that experience, how do you get a job where you can accrue that experience? SB 511 is one way to break that stranglehold.

I thank the committee for their time and interest in this issue, I thank my Senator, Senator Oletha Faust-Goudeau for introducing SB 511, and I will gladly answer any questions the committee might have.

Sincerely,

Brian K. Littlejohn, Sr., C.E.O.
Littlejohn & Sons Hauling, L.L.C.

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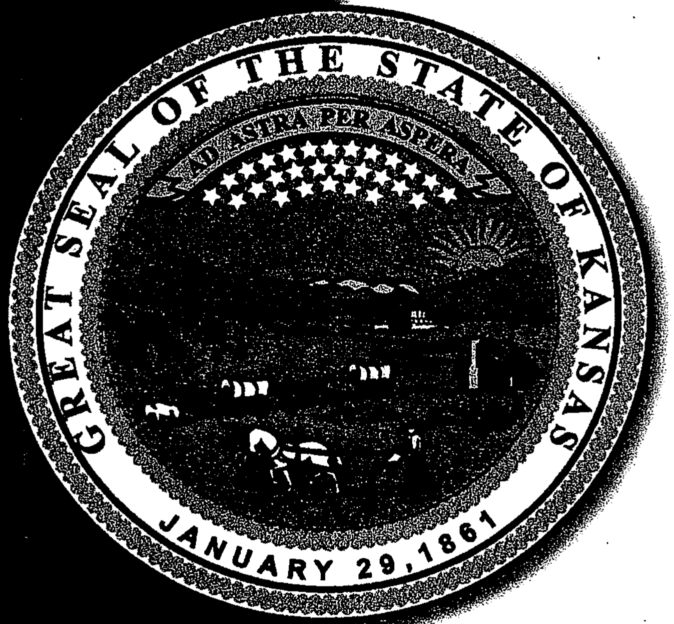
KANSAS STATEWIDE CERTIFICATION PROGRAM



CERTIFIES

Littlejohn & Sons Hauling, LLC

Disadvantaged Business Enterprise (DBE)\ Minority Business Enterprise (MBE)

NAICS Code/Work Type(s): **484220-Specialized Freight Trucking, Local**

7/14/2010	2/15/2013
Effective Date	Expiration Date

Rhonda Harris
Rhonda Harris, Director
Office of Minority & Women Business
Kansas Department of Commerce

DWatson
Doria Watson, Administrator
Office of Civil Rights
Kansas Department of Transportation

12-A

MidAmerica
Minority Business Development Council

MIDAMERICA MINORITY BUSINESS DEVELOPMENT COUNCIL

THIS CERTIFIES THAT

Littlejohn & Sons Hauling, LLC

Has met the requirements for certification as a bona fide Minority Business Enterprise as defined by the National Minority Supplier Development Council, Inc. (NMSDC) and as adopted by the MidAmerica Minority Business Development Council .

****NAICS Code(s): 562111; 484220**

****Description of their product/services as defined by the North American Industry Classification System (NAICS)**

July 31, 2011
Issued Date

KC1269905
Certificate Number

July 31, 2011
Expiration Date

Lonnie C. Scott
Lonnie Scott, President, MAMBDC

By using your assigned (through NMSDC only) password, NMSDC Corporate Members may view the original certificate by logging in at: http://www.nmsdc.org

NMSDC

An affiliate of the National Minority Supplier Development Council, Inc. (NMSDC)

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DIGGS CONSTRUCTION, LLC

PRESENTATION BEFORE THE

KANSAS HOUSE & SENATE JOINT ECONOMIC DEVELOPMENT COMMITTEE

HEARING ON MINORITY BUSINESS

September 27, 2010

Kansas Small and Disadvantaged Business Development Act (formerly SB 511)

Presented by:

Diggs Construction, LLC
Dale Diggs, Jr. – President & CEO
Joseph DeSanti – Director, Hartford Office

DIGGS

"Your people, our people - building together"

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I. STATE & LOCAL LAW OVERVIEW
(CONNECTICUT)

DIGGS

"Your people, our people - building together"

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CONNECTICUT LAW OVERVIEW

AN ACT CONCERNING THE MUNICIPAL SET-ASIDE PROGRAM FOR SMALL CONTRACTORS AND MINORITY BUSINESS ENTERPRISES

General Statute 4a-60g

It is found and determined that there is a serious need to help small contractors, minority business enterprises, nonprofit organizations and individuals with disabilities to be considered for and awarded state contracts for the construction, reconstruction or rehabilitation of public buildings, the construction and maintenance of highways and the purchase of goods and services. Accordingly, the necessity, in the public interest and for the public benefit and good, of the provisions of this section and sections 32-9f to 32-9p, inclusive, as amended by this act, is declared as a matter of legislative determination.

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EEO/MWBE REGULATIONS AND GOALS IMPLEMENTATION PLAN FOR THE HARTFORD SCHOOL BUILDING PROGRAM

- This EEO/MWBE Regulations And Goals Implementation Plan For Hartford School Building Program (the "Plan") has been developed to implement the existing City of Hartford EEO/MWBE regulations and goals for the following school projects designated by the Hartford School Building Committee.

- The Plan is divided in four major areas: monitoring, enforcement, reporting, and closeout. The oversight of implementation of this Plan is the responsibility of the program manager for the Projects (the "Program Manager"). The Plan describes the policy and procedures to be followed in order to insure compliance with the City of Hartford's existing EEO/MWBE requirements and goals.

- <u>MWBE 15% Set Aside Requirement and 50% Goal</u>. Construction Manager is required to set-aside for minority/women business enterprises ("MWBE") a minimum of 15% of total project construction costs of the Project (including change orders) (the "Required Percentage of MWBE Utilization"). The City has established an overall goal of 50% MWBE utilization, therefore, Construction Manager has been encouraged to exceed the set-aside requirement stipulated. The City's Minority/Women Business Registry (the "Registry") shall be used as a reference by Construction Manager in selecting the MWBE Contractor Parties, provided that any Contractor so selected is certified by the City as an MWBE prior to the time of commencement of construction of the Project.

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II. DEVELOPING THE PROGRAM

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GOALS OF THE CITY OF HARTFORD
SCHOOL BUILDING PROGRAM

- Support MWBE firms
- Provide MWBE firms a fair opportunity to compete for work
- Provide a benefit to Hartford by spurring economic growth through local MWBE firms
- Build for the future by strengthening local MWBE firms
- Provide an opportunity for MWBE firms to work as first tier contractors
- 20% of the construction work was designated for Pre-qualified MWBE firms

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HOW DID WE DO IT?

- Created & implemented a MWBE regulations & goals plan
- Established MWBE Committee
- Certified at local level
- Pre-qualification Process
- Create bid packages based on the capacity and qualifications
- MWBE firms bid against each other on a competitive basis
- Detailed scope reviews
- MWBE firms must self perform 70% of the work

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III. RESULTS

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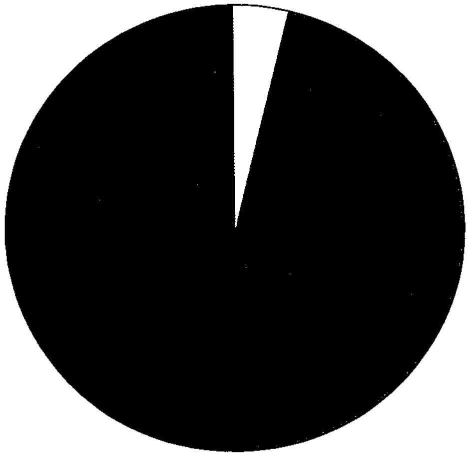
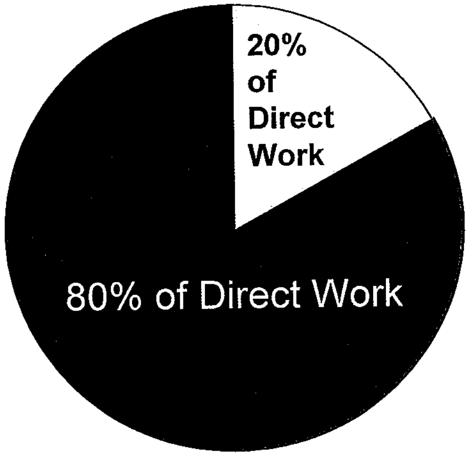
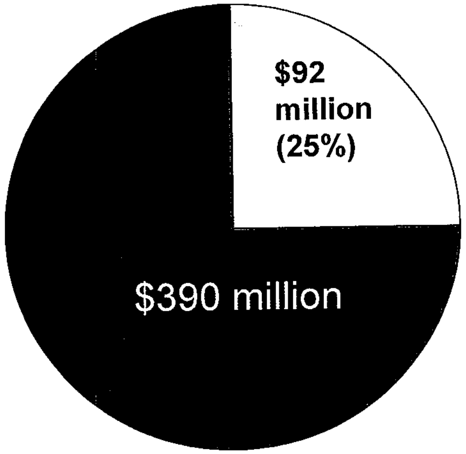
PRE-PROGRAM
MWBE vs. Non-MWBE



PROGRAM GOALS



PROGRAM ACTUAL



MWBE Capacity Pre-Program Actual

- 6-7 firms - $400,000 to $750,000
- 20-30 firms - less than $400,000

MWBE Capacity Program Goals

- 7 firms - $1.0 MM or more
- 10-15 firms - $500,000 to $1.0 MM
- 30+ firms - up to $499,999

MWBE Capacity Program Actual

- 7 firms - $1.0 MM or more
- 25 firms - $500,000 to $1.0 MM
- 49 firms - up to $499,999

□ MWBE ■ Non MWBE Contractors

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CONTRACTOR PARTICIPATION

4-M Plumbing & Heating LLC
Acronom Masonry
Adam Ahern Sign Solutions
Advanced Reprographics, LLC
Advantage Cleaning LLC
All State Traffic Control, LLC
Allen's Asbestos, LLC
American Steel
Anderson Electrical Contractors ATR*
ATR Electrical Contractor, LLC*
Automatic Door Systems, Inc.
BRD Builders, LLC
Barrall & Konover Floors
Bear Steel Erectors, Inc.
Beaulieu Company, LLC
Braga Landscaping
Brayman Hollow Masonary, Inc.*
Brand Fire Safety Service
Brinkley Masonry Construction Co., Inc.
Burrell Associates, LLC
CF Reid Construction
CMC Painting, Inc.
Capaso Restoration, Inc.
Capital Masonry Company, Inc.
Castle Concrete
Cinderella's Cleaning Contractors, Inc.
City Electrical Enterprises, LLC
Connecticut Reliable Welding LLC
Contemporary Millwork & Kitchens
Costar Metal & Iron Service, Inc.
CT Mason
Custom Metalworks of Ansonia, Inc.
D&O Painting and More Co. LLC
D.H. Bolton, LLC
Data-Link Corporation
Davisified General Contractors
Direct Electrical Services
Dresca Construction, Inc.
Drywall Technique, LLC.
EDI Landscaping
Electric Diversified Specialty Services
Electrical Power Solutions*
Erection and Welding Contractors, LLC
Errol & Vincent Construction Company, LLC
Essex Newbery Contracting Corp.
FAR Cleaning Services
FBMW, Inc.
Fine Line Builders, LLC
Fine Painting Inc.
First Class Construction, LLC
G&D Mechanical Inc.
General Welding & Fabrication, Inc.
Gold Seal Roofing & Sheetmetal, Inc.
Helcon, LLC*
Horizon Services Corp
Intercept Recovery & Protection Agency, LLC
J. Cohn & Son, Inc.
JAKS Flooring
JFC Steel Construction, LLC
Jay's Landscaping, LLC
JoCal Construction Co., Inc.*
K&R Trucking Company, Inc.
L&P Gates Co. Inc.*
LK Sheet Metal, Inc.
Liberty Landscapes, LLC
Lighthouse Cleaning, LLC
Long and Grier Trucking, Inc.
Lowe Carting & Recycling
Lugo Carpet Installation
MCM Acoustics, LLC
Mackenzie Painting Company
Marelex Trucking
Massey Trucking
Materials Technologies Corporation
McCarthy Concrete
McDowell Building Foundations, Inc.
Mohegan Painting Co.
Micon Electrical Contractors, LLC*
Moor Metals Inc.
NT Olivia
Native Sons Limited
New England Masonry & Roofing Comp.
New Haven Scaffolding
Northwest Contractor, LLC
Orion Industries, LLC
Oscars Abatement
P&L Electric, LLC
PJ's Construction
Penney's Construction Company, LLC
Pertel Communications of N.E. Inc.
Phoenix General Contracting, LLC
Plus Contractors, LLC
Preferred Verticals, Inc.
Printabilities
Proconci Services, LLC.
Professional Paining, Inc.
Pro-tect Inc.
Protechnical Services, LLC
RC Rizzo Construction
RDR Corporation
RK Insulation Contractors, Inc.
Reliable Mechanical Contractors
Reynolds Welding & Fabrication, LLC
Rizzo Construction Co. Inc.
Rokap Inc. DBA Sign Stop
Rollo Construction
Roth Supply LLC
Rowe Enterprises, LLC*
Roweski Paining, LLC
SOS Construction
Shabazz Service Enterprise, LLC
Shirley's Cleaning
Structures by Design
Sunshine Masonry Construction, LLC
Superior Environmental Corp.
T. Keefe & Sons, LLC Test-Con
TNT Irrigation LLC
Team Plus, LLC
Test-Con, Inc.
The Fence Co.
Torrington Concrete Foundation LLC
Ultimate Abatement Inc.
Unitech Security System, LLC
United Carpet Installers
Urban Contracting, LLC*
Van Dzant, LLC
Virgo Trucking, Inc.
Waterbury Masonry Contractors
Wesconn Company Inc.
Williams Welding, LLC
Yumbla's Construction, LLC
RCMS Controls, Inc.

Black – MWBE Pre-Qualified Contractors

Blue – MWBE Contractors Awarded Work

Bold Blue – Contracted Contractors/Hartford

* Hartford Contractors With Multiple Contracts

Total of 245 MWBE Contracts

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CHALLENGES, OBSTACLES, LESSONS LEARNED & SOLUTIONS

- Achieving MWBE goals though second and third tier means historically does not achieve the goal of preparing MWBE firms for future success. ***We made it mandatory that 100% of the MWBE goal must be achieve with first tier contractors.***

- It is a financial burden for MWBE firms to provide a bid/payment/performance bonds. ***We eliminated the requirement for bonds (contracts must be executed within 30 days of bid opening).***

- Many MWBE firms are unable to wait 60-90 days for progress payments We ***Eliminated the "pay when paid" clause in the construction manager contracts.***

- Provided a forum for the MWBE and Construction Manager to proactively discuss contract specific issues. **Mandated monthly meetings to review payment status, change orders, relationship building, provided forum for mutual discussions.**

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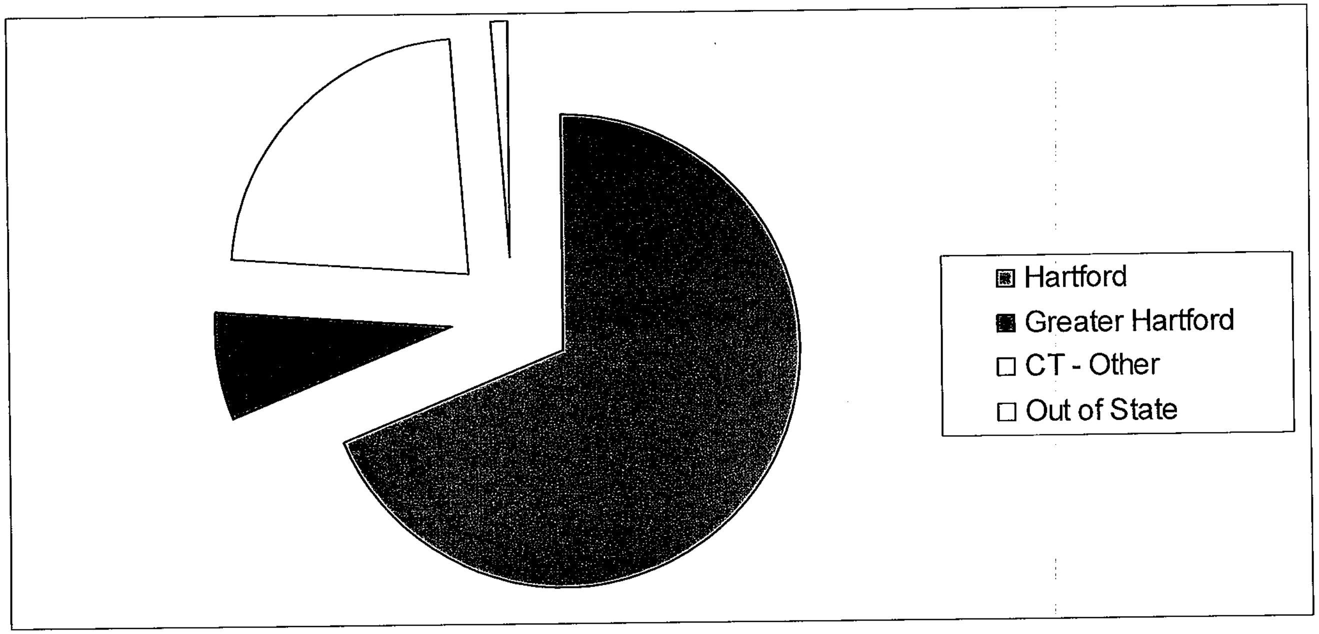
MWBE PROGRAM ACCOMPLISHMENTS

- Over 75% of the MWBE firms awarded contracts are from the Hartford and Greater Hartford Area
- Over $30 million in contracts to Greater Hartford MWBE firms



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MWBE/EEO PROGRAM ACCOMPLISHMENTS

	MWBE Participation Goal	Minority/ Women Goal	Hartford Residents Goal
	20%	*15%*	*30%*
Phase I			
Noah Webster	23	36	24
James H. Naylor	33	30	28
Sarah J. Rawson	30	42	28
Hartford High	30	33	18
Alfred E. Burr	24	35	21
Phase II			
SMSA	17*	46	32
University High	28	44	32
Phase III & IV			
Kinsella	26	50	31
Annie Fisher	34	46	34
Capital Prep	33	47	32
Mary Hooker	34	54	28

*Eliminated $1.5 million of MWBE work after construction began

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DIGGS CONSTRUCTION, LLC

Diggs Construction is a Limited Liability Corporation. Diggs provides construction related services from our offices in Connecticut, Kansas, Missouri, and Texas. Diggs Construction is a minority-owned company exclusively owned by Dale Diggs and over 50% of its professional employees are minorities.

Year Founded:	1977
Corporate Office:	Wichita, Kansas
Other Offices:	Kansas City, Missouri Hartford, Connecticut Houston, Texas
Construction Delivery Methods:	Program Management, General Contracting, Construction Management, Design/Build, Pre-Construction Services, Contract Administration
Construction Experience:	Healthcare, Hospitality, Multi-unit Housing, K-12 Schools, Universities, Government, Industrial

Diggs Construction, LLC is a full service construction firm that provides Program Management, Construction Management, Contract Administration and General Contracting solutions to a broad array of clients in several geographic locations. Our goal is to assist and to serve your construction needs.

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The Connecticut General Assembly

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Hartford, CT 06106-1591

December 23, 1996 96-R-0922

TO:

FROM: John Rappa, Principal Analyst
Saul Spigel, Chief Analyst

RE: Small and Minority Business Set-aside Program

You wanted to know the legislative history and intent of the act that established the set-aside for small contractors (PA 76-185) and the act that expanded the program to minority business enterprises (PA 82-358), including the major arguments made by proponents and opponents. You also wanted to know the arguments for and against subsequent amendments to the program.

SUMMARY

The law requires most state agencies to set aside a certain percentage of the contracts they let for construction, goods, and services each year for small contractors and to reserve a certain percent of those contracts for small businesses owned by members of specified minority groups. The legislative history of the program can be divided into three phases.

In the first phase, the legislature established the program's scope, method of calculating set-aside amounts, and basic eligibility requirements. The program began as a voluntary one involving only department of Transportation and Public Works construction contracts and only small, not minority, contractors. The legislature quickly made the program mandatory and expanded it to goods and services contracts.

The formula for calculating awards and eligibility criteria have changed little since this period. Agencies had to average the value of their contracts over a three-year period and set aside a certain percent (first 15% to 25%, later at least 25%). Businesses had to operate in the state for at least a year to become eligible and had to meet gross revenue criteria.

Joint Committee on Economic Development
September 27-28, 2010
Attachment 14

In the middle period the legislature expanded the program in several ways. It extended it to all state and quasi-public agencies and required the separate set-aside for small, minority businesses. It extended the program to more businesses by increasing the allowable gross revenue limits, and it allowed them to obtain larger contracts. It also created a legislative committee to review state programs supporting small business.

Next, the legislature turned to compliance issues. It adopted a series of acts to ensure that larger, white male-owned businesses were not using minority-owned fronts to obtain set-aside contracts. It did this by imposing ownership and control requirements and authorizing various agencies to audit contractors and penalize violators. It also required its legislative committee to report annually on minority set-aside contracts.

PA 76-185 VOLUNTARY SET-ASIDE PROGRAM

Description

PA 76-185 established a voluntary small business set-aside program. It allowed the departments of Transportation (DOT) and Public Works (DPW) (which was later placed under the Department of Administrative Services (DAS)) to reserve 25% of a construction contract over $50,000 for small businesses to bid on. The act authorized the Department of Commerce (now the Department of Economic and Community Development) to adopt regulations for awarding set-aside contracts.

The program was open to businesses with annual gross revenues under $1 million that were organized and doing business in the state for at least one year. Businesses also had to meet certain size standards set in the regulations. A single business could receive up to $250,000 a year in set-aside awards.

Legislative Intent

The state needed the bill to prevent a few large contractors from monopolizing state contracts, Senator Schneller explained during the Senate debate.

> I think what we have to look at here is whether we have a philosophy that says we're going to try to preserve some work for our smaller contractors so that all the work . . . will not be gobbled up by your large major contractors. And I have no doubt that there will be a small cost to the state . . . . But I think we have to balance that cost against the economic desirabilities of maintaining some business in the contracting field for the smaller contractor (*Senate Proceedings*, April 20, 1976, p. 1234).

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rublic Hearing

Most of the people who testified at the State and Urban Development Committee hearing on March 16, 1976 supported the bill. But most assumed that it created a minority business, as opposed to a small business, set-aside program.

Contractor Assistance Organizations. Four of the eight people who testified were affiliated with contractor assistance organizations. T.G. Walsh of the Contractors Assistance Center wanted the bill to apply to all state contracts, not just those let by DOT and DPW. In response to a question as to the practicality of this, Walsh replied that "Based on the volume of work that seems to be coming down the line from other departments, I think they should be considered. We have a lot of contractors, minority contractors and small business in the state that really need assistance . . . . (*State and Urban Development Committee Public Hearings*, March 16, 1976, p. 128.)

Marty Johnson with Unity Contractors Association supported the bill because "equal employment opportunity requires more than nondiscriminatory clauses alone." Set-asides "help to eradicate the effects of the past and present discrimination against the minority in small contractors." They do this without compromising the benefits of competitive bidding, which was Representative Mazzola's concern (p. 129).

Mazzola feared that setting aside contracts exclusively for minority contractors would undermine competitive bidding by reducing the pool of eligible contractors. He asked whether setting aside contracts for minority businesses would require the state to award a contract to a contractor if he was the only bidder; Johnson responded that it would not (p. 130).

Clarence Thomas, also with Unity Contractors, backed minority business set-asides "Because some of your large contractors have cornered the market and unless some special provisions are made to assist small contractors, you know you have virtually a monopolistic situation" (p. 130).

Steve Wilson of the Construction Contractors Assistance Center of New Haven opposed the bill because it did not apply to all departments. In response to Mazzola's concerns about shrinking the pool of potential bidders, he cited two executive orders putting the burden on the departments to seek out and inform minority contractors about state contracts.

State Agencies. Representatives of the Commerce and Public Works departments supported the bill, but the latter raised several administrative concerns. Leonard Gatison from Commerce stated that set-asides he used on the federal level effectively helped minority businesses, and "would be very vital for the Department of Commerce to aid in the economic development of small minority businesses" (p. 129).

DPW representative Matt Walton stated that his department supported the bill in principle, but identified several administrative problems. Set-asides increase administrative costs "in terms of the additional time to process the paperwork involved." Requiring the state to break up a project into several components for separate bidding could also increase costs. Walton stated that set-asides could cause disputes between general contractors and subcontractors but did not explain why. Walton also believed that the $1 million ceiling was too high for small business set-asides. Under the bill, a firm could bid on a set-aside contract if it grossed less than this amount in the prior year. During a recession when revenues decline for all firms, the $1 million ceiling would allow relatively large firms to

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compete against smaller ones for set-aside contracts. Walton suggested lowering the ceiling to $250,000 (p. 131).

Walton seemed to acknowledge Mazzola's concern that the bill could require an agency to award a set-aside contract to a single bidder, but added that "I don't think they would get carte blanche as far as what we pay them to do the work" (p. 132).

Tractor Trainers Developing Office. Rudy Mendez, who spoke on behalf of this organization, supported the bill and addressed several questions posed by Mazzola and Walton.

The state could avoid the problem of awarding a set-aside contract to a single bidder by requiring at least two bids, Mendez explained. He added that "the state . . . has the right to refuse any or all bids if it is in the best interest of the state. This is a general condition."

He argued that the lower unit costs for small contracts would offset the extra time required to administer them. And he saw no disputes arising between general contractors and their subcontractors since "the state is going to be acting more or less as the coordinator" between the two. Mendez stated that "we are not asking for a waiver of the performance bond requirement." And he suggested modifying the $1 million ceiling by making it an average over the last two or three years (which the legislature eventually did) instead of the last year.

Mendez argued that minority business set-aside contracts preserve jobs, which saves the state money in the long run. Henry Gionfriddo, who did not identify who he represented, argued that over 50% of the construction dollars going to small contractors revert to the community compared to 5% of those dollars going to large contractors (p. 136).

Senate Debate

The Senate amended and adopted the bill on April 30. Senator Smith introduced Senate "A," which put a $250,000 cap on the total amount of set-aside contracts a small business could receive per year. Senator Rome supported the amendment, but "still had reservations about the bill." He was concerned that set-asides would curtail competition and thus discourage small contractors from producing a top notch job. Senators Hennessey and Schneller spoke in favor of the amendment and the underlying bill.

Senator Schneller explained the amended bill and, in response to a question from Senator Rome, indicated that it would still require contractors to post bonds and meet the other bidding requirements (*Senate Proceedings*, April 20, 1996, pp. 1230-36).

House Debate

The House adopted the bill on April 26 in concurrence with the Senate and with no debate on either Senate "A" or the bill.

PA 77-425: MANDATORY SET-ASIDE

Description

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This act made the set-aside mandatory by requiring DOT and DPW to let a certain amount of contracts each year to small businesses. It required each agency to calculate the average value of the contracts let over the three previous years, excluding any contract subject to federal laws prohibiting restrictive bidding. The agencies then had to take 15% to 25% of that amount as their annual set-aside goal. They could meet their goals by setting aside whole contracts or parts of a contract. The act also allowed them to set-aside contracts under $50,000.

It extended the set-aside program to contracts for goods and services, not just construction. It required the agencies to pay contractors no later than 30 days after a payment was due on the contract. The act doubled the total value of set-aside contracts a business could receive in one year from $250,000 to $500,000.

Public Hearing

There was little testimony on the bill at the State and Urban Development Committee hearing. Two speakers endorsed the bill without commenting on its specifics. They were Robert Brubaker, Contract Compliance Director for the New Haven Commission on Equal Opportunities, and Albert Mero, who represented the Greater New Haven Business and Professional Men's Association and the Construction Contractors' Assistance Center.

House Debate

The House amended and adopted the bill on May 12. Representative Coatsworth introduced the amendment, which exempted agencies from the set-aside requirement when it conflicted with federal law, based the share of contracts agencies had to set aside on the average value of the contracts let over the three previous years, and raised the amount of set-aside contracts a business could receive from $250,000 to $500,000 per year. The House adopted the amendment without debate on a voice vote (*House Proceedings*, May 12, 1977, pp. 3312-13).

During discussion of the underlying bill, Representative Stevens asked Coatsworth why it required agencies to pay set-aside contractors within 30 days of the payment due date. Coatsworth responded that the provision was added as a "way to stimulate small business" and help them overcome cash flow problems. Stevens then asked what recourse the bill gave contractors who were not paid within 30 days; Coatsworth replied that they had "the recourse of law." Stevens stated that he supported the bill but sharply criticized the 30-day payment requirement as a "sham" since it imposed no penalty or provided any other special remedy (pp. 3315-16). The House passed the bill on a roll call vote.

Senate Debate

On May 24, the Senate adopted the bill on consent in concurrence with the House. Senator Putnam introduced the bill. There was no debate.

PA 82-358: MINORITY BUSINESS SET-ASIDE

Description

PA 82-358 created a separate set-aside for small businesses owned by minority group members. It required agencies to let 25% of the small business set-aside exclusively to these businesses, which it defined as those owned by women, Blacks, Hispanics, Asians, North American Indians, and Pacific

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islanders. The act established a four-member legislative committee to review public works contracts, loans, and performance bonds awarded to small businesses. It required the House speaker, House minority leader, the Senate president pro tempore, and the Senate minority leader each to appoint one member.

The act also changed certain bid and performance bond requirements. It raised the threshold value of contracts requiring these bonds from $1,000 to $10,000 for general contracts and from $1,000 to $20,000 for subcontracts.

Legislative Intent

In introducing the bill in the House, Representative Brooks indicated that the bill "basically ensures greater participation of minorities in this community by simply . . . providing under . . . certified legislation a percentage of 25% of the 15% minimum to minority contractors and suppliers" (*House Proceedings*, April 23, 1982, p. 4217).

Public Hearing Testimony

Most of the 13 people who testified on the bill (HB 5153) before the Government Administration and Elections Committee supported it, and some recommended broadening its scope.

Legislators. All four of the legislators who testified on the bill supported it. Representative Brooks stated that minority businesses needed a separate set-aside because they "are suffering tremendously from . . . [the] economic downturn" and urged the committee to define minority businesses. The purpose of the review committee, he explained, was to help the legislature monitor whether the agencies were complying with the set-aside requirement, not to manage the bidding process. Representative Dyson and Senator Daniels agreed with Brooks (*Government Administration and Elections Public Hearing*, March 23, 1982, pp. 152-155).

Representative Mosley stated that economic conditions warranted a minority business set-aside program, "By helping out minority businessmen, this will allow them to hire more minorities and to assist in alleviating the unemployment problem in the minority community" (p. 160).

Executive Branch Officials. Representatives of the Connecticut Commission on Human Rights and Equal Opportunities (CHRO) and DOT disagreed on the need for the bill. Sam Hyman representing CHRO stated that a set-aside requirement was needed because "very few minority owned . . . businesses are participating in state contract awards," a statement which he based on a CHRO survey of agency contract awards. The survey also found that the agencies did not meet the minimum 15% small business set-aside goal. CHRO supported extending the set-aside requirement to all agencies and to contracts for goods and services, Hyman stated. He also recommended placing the review committee within the executive instead of the legislative branch to avoid violating the separation of powers (p. 195).

DOT's Assistant Chief Administrative Officer John McGill stated that a minority set-aside requirement seemed "totally arbitrary and unfair to those small businesses who are not minority contractors or suppliers." McGill was commenting on a provision that apparently required agencies to reserve two-thirds of the small business set-aside for minority-owned small businesses. (The requirement was eventually reduced to 25%.) He argued that the relatively small number of minority-

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owned firms bidding on DOT contracts did not justify reserving two-thirds of the set-aside contracts exclusively for them (pp. 178-180).

Trade Associations. Most contractor trade association representatives supported the need for a minority business set-aside requirement, but argued that the bill was flawed. Otis Smith, president of Connecticut Allied Legal Rights Association, supported the bill's intent, but criticized it for providing no mechanism to enforce the set-aside. He also backed legislative action to extend this requirement to private construction projects financed with state economic development funds (p. 182).

Jeffery Walsh, construction advisor for the Sagamore Group, also criticized the bill for lacking an enforcement mechanism. State agencies administering federal construction dollars have not complied with federal set-aside requirements, he claimed. Walsh also stated that the bill would not work unless the state provided technical assistance (unspecified) to minority businesses (pp. 183-84). Gerald Clark, president of the Greater New Haven Business and Professional Association, agreed with Walsh and implied that the lack of an enforcement mechanism could lead minority businesses to give up and go out of business (p.185).

Joseph Harrington, president of Unity Commercial Association, supported the bill, but stated that its definition of "contractor" should include minority-owned distributors and manufacturers. He claimed that government agencies had used that definition to exclude these businesses from

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bidding on set-aside contracts (p. 188). He also recommended dropping the 25% ceiling on the amount of set-aside contracts agencies could let each year and raising the annual revenue limit from $1 to $2 million.

The Associated General Contractors of Connecticut opposed the bill. Its general counsel, Mark Soycher, stated that a minority-business set-aside was unnecessary since "In all likelihood, minority contractors to be assisted by this legislation are currently eligible for the same benefits under the existing small contractor set-aside programs." The fact that minority businesses have not received many small business set-aside contracts "would appear to be more a public relations problem than a legislative problem," he added.

Soycher implied that a separate set-aside for minority businesses would not help them secure state contracts unless other (unspecified) changes were made to the bidding system, which, he claimed prevented general contractors from "directly soliciting subcontract bids from minority contractors who may lack the financial and performance history to bid such work on their own." (pp. 176-77).

Minority Business Representatives. Representatives of two minority businesses endorsed the bill (pp. 184-5). Carlson Harvey, representing Carlson Industry, stated only that he agreed with Walsh. Juan Scott, a minority group consultant, stated that the bill would help revitalize cities. He cited a University of New Haven study that found commercial and residential property values increased in neighborhoods where minority owned businesses grew (pp. 186-7).

House Debate

Summary. The House debate centered on the bill's potential unintended consequences. Opponents claimed that the bill was self-defeating because it made a contractor's race and sex criteria for awarding a contract while containing no safeguards to keep majority-owned firms from bidding on minority set-aside contracts. Proponents argued that the bill was needed to give minority- and women-owned businesses a chance to gain experience and establish a track record by working on state projects. The debate also dealt with technical issues regarding the bill's definitions and an amendment on bid and performance bond requirements.

Discrimination. The bill's opponents claimed that setting aside contracts for any particular group was wrong. Representative Torpey stated that "Making discrimination by color either way is wrong. And two wrongs never made a right" (p. 4241). Representative Farr agreed, but supported the bill as a necessary evil: " . . . but I think when we look at what exists in our society and what it is that we hoped to accomplish in our society, there is no other way to do it that I know of that we can employ, except what we are dealing with here today" (p. 4231). Still, Farr was concerned that setting aside contracts for specific groups would deny them the "opportunity to work together getting to know each other based upon their competency and the ability to get things done" (p. 4231).

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Representative Brooks agreed that society should be blind to color and sex, but argued that the bill was needed to deal with "certain realities that exist." Representative Dyson argued along the same lines. Representative Migliaro also supported the bill, arguing that "a lot of minorities out there of all races, creeds, and colors who aren't getting a fair shake and if this bill would help them, regardless of who they are, and if they can be given a chance to demonstrate their qualifications in that field, then so be it" (p. 4248).

Potential for Abuse. Several members argued that the bill did not prevent majority-owned firms from bidding on set-aside contracts. Representative Farr attributed this to its definition of "minority," which included Blacks, Hispanics, Asians, North American Indians, and women but set no criteria for determining ownership and operational control. Questioned by Farr about this, Brooks stated that federal criteria would apply. Under these criteria, a firm qualified if a minority member owned 51%. Farr asked if the minority also had to be the firm's chief operating officer, to which Brooks replied "not necessarily" since "as long as the firm is owned 51% or over by a minority, that is the criteria and the bottom line" (p. 4227).

Brooks acknowledged that an individual could put his stock in a company under his wife's name and qualify as a minority firm (p. 4228). Farr argued that this is what happens under the federal set-aside law, "that minorities do in fact own 51% of the shares of stock, but most of the profits are taken out by the non-minority members of that firm" (p. 4230).

Representative Joyner agreed, adding that the bill would give certain majority-owned firms an advantage over all the others: "all we're going to do with this bill is we're going to have a lot of wives owning stock in their husband's corporations" (p. 4233). Representative Brooks countered that this was not happening on the federal level (pp. 4233-34). Representative Swennson discussed a woman-owned firm that was awarded a contract in her district. When Swennson visited the work site, she "never did see the female. There were a lot of trucks down there but the name of the company was completely covered over with tape. . . ." She later learned that the "owner" was "the daughter of one of the biggest contractors in the state" (p. 4244).

Representative Allyn cited other examples of how majority-owned firms could undermine the bill. Representative Van Norstrand also faulted the bill's definition of minority, stating that "you start out with a definition that's probably got about 70% of the population in it." It also undermines competitive bidding, since "Anytime you set aside and have a targeted reserve, there are going to be people who will seek it rather than compete through the normal bidding process" (p. 4237).

Technical Issues. Representative Van Norstrand asked Representative Brooks if an agency had to carry over the unused portion of the set-aside amount and presumably add it to the subsequent year's goal. Van Norstrand speculated that the agencies would not meet their set-aside requirements since "There are plenty of minority applicants, but not enough qualified firms." Brooks responded that the requirement would carry over, but argued that agencies would meet their annual set-aside goals since they had lists of "prequalified minority contractors." Van Norstrand also stated that the bill's definition of Indian was too loose, after Brooks explained that it was the same as the federal definition. The bill defined Indians as "American Indians and persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification." Van Norstrand stated that he would "have a difficult time tracking down how you would establish a minority business enterprise if in fact the principles were Indians, based on that definition" (p. 4240).

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***Amendment*.** Representative Scully introduced an amendment raising the thresholds above which contractors had to post bid and performance bonds. He explained that the lower thresholds hurt small businesses that cannot secure these bonds or must put up cash bonds, "which again are very expensive to a small man starting out in business."

Representative Joyner agreed with the amendment's intent, but opposed a provision raising the threshold for subcontracts to $20,000. That provision, he stated, would prevent general contractors from asking for a bond on a subcontract up to that amount and thus discourage them from using subcontractors. The House adopted the amendment.

Senate Debate

The Senate adopted the bill on consent and in concurrence with the House. Senator Baker introduced the bill and explained its provisions. There was no debate.

PA 83-390: EXPANDING TO ALL STATE AGENCIES

Description

***Program Expansion*.** This act expanded the set-aside requirement to all state agencies authorized to contract for goods and services. Previously, only DOT and DAS had to set aside contracts. (DPW was incorporated into the new DAS in 1977; the two were separated in 1987.) The act required agencies to award these contracts under competitive procedures approved by DED. It also allowed towns to adopt set-aside programs similar to the state's.

***Eligibility for Minority Business Set-Aside*.** The act tightened the definition of a minority business. It required the minority owners to hold at least 51% of the capital stock, actively participate in the firm's daily affairs, direct the management, and set the policies.

***Annual Gross Revenue Limits*.** The act raised the annual gross revenue limits for small contractors from $1 to $1.5 million. It also raised the total amount of set-aside contracts a business could receive annually from $500,000 to $750,000.

***Exemptions*.** The act allowed the DED commissioner to exempt goods and services small businesses customarily do not provide. But it eliminated his authority to impose size limits on small and minority businesses eligible for set-asides

Public Hearing Testimony

The three people who spoke on the bill (SB 889) before the Planning and Development Committee supported it. Economic Development Deputy Commissioner Peter Burns stated that the bill clarified the definition of small and minority business and made other changes needed to make the set-aside program workable, such as exempting items, like fuel oil. Jeanne Milstein, speaking for the Permanent Commission on the Status of Women, stated that the bill would increase business opportunities for minority and women business owners. Sam Hyman from CHRO agreed, stating that few minority-owned businesses were receiving set-aside contracts under PA 82-358 (*Planning and Development Committee Proceedings*, March 3, 1983, pp. 238-266).

Floor Debates

14-10

The Senate and House adopted the bill without debate. Senator Wilbur Smith offered two amendments, which the Senate adopted by voice votes. Senator Robertson summarized the bill. The Senate then adopted the amended bill on a roll call vote (*Senate Proceedings*, May 17, 1983, pp. 3022-3030). Representative Garavel introduced the amended bill in the House, which adopted the bill in concurrence with the Senate.

PA 84-412: EXPANDING TO QUASI-PUBLIC AGENCIES

Description

Adjustments. This act extended the set-aside requirement to state authorities, such as the Connecticut Development Authority. It also exempted agencies from the requirement if their contracts averaged less than $10,000 over a three-year period.

The act gave agencies more flexibility in meeting set-aside goals. An agency could require a general contractor to subcontract with an eligible small business and count the subcontract toward the set-aside goal. But it could not substitute the subcontract for the general contract when calculating the three-year average or do anything else that would diminish the annual set-aside goal.

Separate DOT Set-Aside. The act authorized a separate $5 million annual DOT set-aside for small businesses "owned and controlled by socially and economically disadvantaged persons," as defined by the federal Small Business Administration. It also allowed the DOT commissioner to spend up to $300,000 annually to help these firms bid on contracts.

Legislative Review Committee. The act expanded the authority of the legislative review committee and renamed it the Minority Business Enterprise Review Committee. Under the act, the committee may review state-guaranteed small business loans and bonds in addition to public works contracts, loans, and bonds.

Public Hearing Testimony

DAS's chief administrative officer Frank Rondo was the only person who testified on the bill before the Planning and Development Committee. He supported the bill because it made it easier for DAS to meet set-aside goals when letting construction contracts. Prior law required all agencies to set-aside contracts or portions of contracts. Rondo stated that it was not feasible to split up a large construction contract among two or more general contractors. He also claimed that there were not enough qualified minority- and women-owned construction contractors. The bill allowed DAS to meet its set-aside goals by requiring general contractors to subcontract with minority-and women-owned firms and count the subcontract amount toward its set-aside goal (*Planning and Development Committee*, March 20, 1984, pp. 413-14).

House and Senate Debate

The House and Senate adopted the bill without debate. The House first referred the bill to the Government Administration and Elections Committee on April 18. That committee added a provision authorizing the separate DOT set-aside and made technical changes. The House adopted the bill on May 3 and the Senate adopted it on consent on May 7.

14-11

PA 85-364: APPLYING SET-ASIDES TO SUBCONTRACTORS

Description

This act required set-aside contractors to award 25% of any work they subcontracted to businesses eligible for set-aside awards. The act also authorized state agencies to require set-aside contractors to do at least 15% of the work with their own forces.

Public Hearing Testimony

No one testified before the Government Administration and Elections Committee on sHB 7842, which became the act.

House and Senate Debate

The House and Senate adopted the bill without debate. Representative Schmidle introduced the bill and reviewed its provisions, explaining that "it is mirroring, reflecting the same kind of requirements that we have for general contractors for subcontractors who decide they must subcontract out . . . . " (*House Proceedings*, May 2, 1985, p. 3988.)

Representative Krawiecki's motion to pass retain the bill was accepted. On May 7, the House referred the bill to the Planning and Development Committee, which reported it out without changes on May 10. The House then adopted the bill on consent on May 16. The Senate adopted it on consent on May 23.

PA 85-370: ADJUSTING THE FORMULA TO DETERMINE SET-ASIDE AMOUNTS

The 1985 legislature also set conditions under which agencies could base their set-aside goals on the value of contracts they expect to let during a fiscal year. It allowed agencies to do this if the three-year formula for calculating annual set-aside goals yielded an amount that was less than 15% of the value of contracts the agency expected to let or more than 25% of that amount.

Public Hearing Testimony

No one testified before the Legislative Management Committee on sHB 7725, which became the act. The original version of the bill applied only to contracts let by the Legislative Management Committee for building the Legislative Office Building (LOB) and its parking garage and for restoring the Capitol. It required the committee to set aside between 15% and 25% of the total value of these contracts, instead of 15% to 25% of the average value of the contracts it let for the three previous fiscal years.

The bill was referred from Legislative Management to the Planning and Development Committee, which reported the bill out without changes, and then to the Government Administration and Elections Committee, which did not act on it. The Senate petitioned the bill out of that committee on May 15.

House and Senate Debate

Senator Matthews introduced the bill and offered Senate Amendment "A," which was adopted without discussion on a voice vote. That amendment rewrote the bill, extending the exception for

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calculating set-aside goals to all agencies. Matthews stated that the underlying bill was needed to correct "statistical anomalies" that would arise when Legislative Management calculated set-aside goals for the years during which it was constructing the LOB and restoring the state capitol. Before these projects were approved, Legislative Management normally let less than $2 million in contracts a year. The value of these projects far exceeded that amount. As a result, the formula for calculating set-aside amounts created "an unusual bulge in legislative expenditures" that "would throw the present system out of balance and would distort the intent and spirit of the set-aside law," she stated (*Senate Proceedings*, May 15, 1985, p. 2947).

If Legislative Management calculated its set-aside based on the three years before the LOB and restoration contracts were let, small and minority-owned businesses would qualify for a relatively small share of the contracts. It would then have to set-aside almost all of its contracts in the subsequent years, Matthews explained. The bill based the average on the value of the construction contracts instead of the contracts that had been let over the three previous years. The amendment extended the option to other agencies when the three-year average yielded an amount less than 15% of the value of contracts an agency expects to let or more than 25% of that amount. The Senate adopted the amended bill on consent.

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The House adopted the bill in concurrence with the Senate without debate. Representative Abercrombie introduced the Senate Amendment, making the same points as Senator Matthews (*House Proceedings*, May 24, 1985, p. 8497-8501).

PA 87-577: ENSURING SET-ASIDE COMPANY COMPLIANCE AND BROADENING ELIGIBILITY

Description

Enforcement. The act added measures to insure that set-aside contractors complied with the law. It established procedures allowing agencies or the DED to audit contractors, imposed a $10,000 penalty for each violation, and authorized agencies to suspend contract payments when contractors failed to comply.

The act also allowed agencies to require a contractor to provide certain documents, including certificates of incorporation, partnership agreements, or other organizational documents; federal income tax returns; and bills showing that fair market value was paid for any equipment bought or leased from another contractor.

Eligibility. The act expanded the program in several ways. It raised the minimum annual revenue limit from $1.5 to $3 million and doubled the total set-aside contracts a business could receive annually from $750,000 to $1.5 million. The act also made small businesses owned by people of Spanish and Portuguese descent eligible for minority business set-aside awards. Lastly, it authorized funds to help minority businesses buy the materials and labor needed to complete work under a set-aside contract.

Contract Compliance. The act required set-aside contractors to do 15% of the work with their own forces. (PA 85-364 left this to the agencies' discretion.) All small businesses receiving set-aside contracts also had to show that 51% of the ownership rested with the people who control the management and run the firm daily. Previously, this requirement applied only to minority-owned businesses. The act prohibited a contractor from subcontracting any part of a set-aside contract with a business that he managed, or in which he had employees or an interlocking ownership.

Public Hearing Testimony

The Planning and Development Committee heard HB 7440, which became the act. DED Commissioner John Carson supported those sections of the bill raising the minimum revenue limits and doubling the total set-aside awards a firm could receive per year, but only stated that he wanted to work with the committee on those sections dealing with compliance. Former Senator Wilbur Smith opposed the bill for raising the minimum revenue limits, while John Norton, the executive director of the Transportation Accountability Board, claimed that the set-aside program was driving up construction costs.

Raising Program Limits. Carson cited administrative and economic reasons for raising the annual gross revenue limit. He stated that it was needed to conform the set-aside program eligibility criteria to DED's grant and loan programs, which had a $5 million limit. (The bill the committee reported did not raise the limit, but the legislature ultimately raised it to $3 million.) Raising the limit would also allow more firms to qualify for set-aside awards, Carson stated.

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Representatives Maddox and Meyer expressed concern that raising the limit would simply make it harder for businesses to receive set-aside awards. Carson responded that certification did not require the state to notify businesses about set-aside contracts. The state's job "is to certify and set aside the opportunity for these companies to bid, but it is required of them, as it is of a majority companies [(sic)], to have somebody that better go out and find out who is letting contracts at this point."

Carson stated that raising the revenue limit "would not increase the numbers participating by an obscene rate." He also noted that state contracting jumped significantly after the set-aside program was established in 1977. The highway infrastructure projects accounted for much of the increase, allowing for "a larger pool for those agencies who are participating in the program to choose from as they let those contracts, so that they can get a maximum amount of participation and, hopefully, the best competitive bids possible" (p. 1006).

Carson stated that increasing the annual amount of set-aside contracts a firm could receive from $750,000 to $1.5 million would make it easier for DOT and DAS to award set-aside contracts.

> Again, state agencies have indicated that this would benefit them from the inherent economy of not being required to break down contracts on larger projects for inclusion in meeting their goals in the State's Set-Aside Program. Expectations are that this would be particularly beneficial to the DOT and the DAS by increasing the number of eligible firms who will be able to bid on projects (*Planning and Development Committee*, March 23, 1987, p. 1002).

Wilbur Smith testified against the bill's raising the revenue limits, disputing claims that the current limits made it difficult for agencies and general contractors to comply with set-aside requirements (p. 1031).

Tighter Enforcement. Carson did not explicitly oppose provisions tightening enforcement and compliance standards. He hinted that the committee may have been overreacting to newspaper articles about how one firm abused the program and stated that DED was going to study several randomly chosen firms to determine if the problem went further. He asked whether tightening the requirements could unintentionally preclude the participation of minority- and women-owned businesses and other small businesses (p. 1003).

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But Carson later speculated that the law did not effectively prevent majority-owned firms from bidding on set-aside contracts. In responding to Senator Barrows' question as to why the state has not prosecuted these firms, Carson said "under the law, you could set up a small business, a minority- or women-owned business, and utilize the facilities and have some acting interacting management or directorships, use some of the resources of majority firms, which I think everyone has always known is one way of giving business a helping hand to get going, and the question is—do we want to continue the process where there is a spirit of spouses or employees who are doing this, as opposed to genuine interested minority- and women-owned businesses (p. 1007).

Smith said that the state did not effectively enforce set-aside requirements, dismissing claims that the law was flawed or that agencies did not have enough staff to enforce it. He also claimed that state agencies knowingly certify illegitimate set-aside contractors. He cited a 1984 legislative study of set-aside abuses that lead DOT to decertify "24 firms in one fell swoop" without first investigating them. "That says to the mind, if you really want to look at it, how they knew that they were fraudulent to begin with. And they let them do business--so they know what firms that they wanted to decertify because the feds had told them to clean up their act" (p. 1032).

Other Issues. John Norton, The Transportation Accountability Board's executive director, used the public hearing to critique the set-aside program, making many points that did not address the bill. He claimed that the program was generating "excessively high, non-competitive bids" and that its requirements did not prevent "the fraudulent attempt by any company to establish a paper company, set it up, get benefits . . . , and without any equipment or employees or its own office or anything—simply turn that job over to another going concern who then goes ahead and does the work . . . ." (p. 1018). He then described how the set-aside requirement artificially inflated bids during the bidding process.

Norton stated that set-aside contractors should do at least half the work with their own forces, not 15% as the bill provided. He also supported uniform eligibility standards for certifying minority- and women-owned businesses and set-aside percentages that change to reflect the economy.

House Action

The House referred the substitute bill to the Judiciary Committee, which stripped the sections imposing civil penalties on wilful violators and suspending payments to them and made firms owned by Spanish and Portuguese people eligible for minority business set-aside awards.

The House added three amendments. Representative Blumenthal introduced House "A," which raised the maximum gross revenue limit from $1.5 to $3 million and increased the total dollar value of set-aside contracts a firm could receive in a year from $750,000 to $1.5 million. Blumenthal stated that these changes would "increase the availability and effectiveness of the set-aside program . . . (*House Proceedings*, May 28, 1987, p. 10916).

Blumenthal then introduced House "B," which restored the $10,000 fine and the suspension of payments provisions the Judiciary Committee removed. Blumenthal explained that the penalties were needed to enforce the other changes the bill was making. He specifically mentioned the ownership requirement and the prohibition against certain contractor-subcontractor relationships, stating that these changes "preclude the kind of selective abuse, and I emphasize the word 'selective' because we don't think it's been very frequent, that may have occurred in certain instances" (p. 10918). The amendment also added a notice, hearing, and possible court action process for accomplishing enforcement.

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Representative Perry introduced House "C," which required the DED commissioner to establish an interim financing program for minority-owned firms that must purchase materials and labor needed to complete a state contract (p. 11975).

All three amendments were adopted without discussion.

Representative Young asked several questions about the application of the set-aside requirement. He asked what would happen if no small businesses bid on a set-aside contract, to which Blumenthal replied that the awarding agency could bid the contract to any bidder. In light of this, Young asked if it were possible for an agency never to meet the 25% requirement, "because cumulatively we may not find enough small contractors . . . . " Blumenthal stated that the law was flexible in that it required agencies to set-aside between 15% and 25% of the average value of contracts they let over the three previous years (pp. 11077-78).

The House then adopted the bill.

Senate Action

The Senate adopted the bill on consent in concurrence with the House. Senator Barrows introduced the bill, explaining that it imposed several restrictions on contractors' eligibility and their relationships with subcontractors, allowed agencies to audit contractors and to request certain documents from them, and made Spanish- and Portuguese-owned businesses eligible for set-aside awards (*Senate Proceedings*, June 1, 1987, p. 5011-13).

PA 88-351: INCREASING SET-ASIDE GOALS

Description

Set-Aside Goal. The act changed the set-aside goal. (It also made many changes to affirmative actions requirements governing state contracts.) Prior law gave agencies a range for meeting their annual set-aside goals, from 15% to 25% of the average value of the contracts let over the three previous years. The act eliminated the 25% cap and instead made it the minimum required amount.

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Contract Requirements. The act extended the subcontracting requirement to more types of contractors. Under prior law, agencies could only require general contractors to subcontract a part of their work with set-aside eligible contractors. The act allowed them to impose this requirement on trade contractors and other entities such as nonprofit corporations. It also reimposed the requirement (removed by PA 87-577) that minority-owners actively manage their own firms.

Enforcement. The act allowed the CHRO to audit small and minority contractors, a right that was previously limited to DED and the contracting agencies.

It increased the membership of the Minority Business Enterprise Review Committee from four to eight members, giving each of the four appointing authorities one extra appointment. It required the committee to study minority business set-aside awards on an ongoing basis. The act permitted the committee to request contract compliance information from agencies, but required it to consult with DOT, DED, DPW, and CHRO in contract matters. It required the committee to report its findings and recommendations to the Legislative Management Committee annually by February 1.

Public Hearing Testimony

The Judiciary Committee heard HB 6025, which became PA 88-351. There was no testimony on the set-aside changes since the House added them after the bill reached the floor.

House Debate

Representative Coleman introduced the House amendment that changed the set-aside program. He stated that it increased "the percentage of work set aside under the state set-aside program from a minimum of 15% to a maximum of 25% and expanded the Minority Business Enterprise Review Committee and authorized it to conduct studies and make annual reports to the Legislative Management Committee (*House Proceedings*, May 3, 1988, pp. 8059-60).

Several legislators questioned whether the amendment addressed problems that arose during the LOB construction and State Capitol restoration. Representative Krawiecki asked if the amendment incorporated comments that were made at the "the last Legislative Management meeting." Coleman responded that it reflected "a consensus of a variety of people who sit down together and discuss some of the problems related to the set-aside programs and affirmative action on state construction projects." He added that the provision allowing agencies to impose set-aside requirements on trade contractors and other entities came from the attorney general and Morganti, Inc. (The law initially allowed agencies to meet set-aside goals by imposing set-aside requirements only on general contractors.)

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Senate Debate

Senator Barrows introduced the amended bill as an affirmative action measure and did not mention its set-aside provisions. Senator Robertson opposed House "A," which raised the set-aside goal to 25% for all agencies. He cited reports from DOT indicating that it had difficulty meeting the 15% minimum and from DPW indicating that it had met the 15% but would have great difficulty reaching the higher level. Robertson argued that requiring agencies to set aside 25% would extend the bidding process and increase project costs. He moved to reject House "A." The motion was defeated on a roll call vote. There was no further debate, and the bill passed in concurrence with the House.

PA 90-253: TIGHTENING COMPLIANCE ENFORCEMENT

Description

This act extended the prohibition against a set-aside program contractor subcontracting with a business with which it shares ownership, management, or employees to any business with which it is affiliated. Affiliation covers situations in which the contractor or the other business directly or indirectly controls, is controlled by, or are under common control of a third party. The act allowed DED, CHRO, and the awarding agency to investigate the small contractor or minority-owned business to determine its eligibility for the program or compliance with its requirements. And it required DED to study racial discrimination against minority and ethnic contractors before and after the set-aside program began.

Public Hearings

No one testified on the bill (HB 5051) during the Government Administration and Elections Committee public hearing.

House and Senate Discussion

Neither house debated the bill. The introducers (Rep. Coleman and Senator Abercrombie) explained the bill as described above.

PA 92-189: ADDING BUSINESSES OWNED BY PEOPLE WITH DISABILITIES

Description

This act makes people with physical disabilities a minority group for purposes of the set-aside program.

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Public Hearing

No one testified on the bill (5201) in the Government Administration and Elections Committee public hearing.

House and Senate Discussion

Neither chamber discussed the bill.

PA 93-359: ADDING NONPROFIT AGENCIES

Description

This act allowed nonprofit corporations to bid on small and minority business set-aside contracts let by the Department of Housing (now Department of Economic and Community Development) to cover the predevelopment costs (e.g., title searches, appraisals, legal fees) of a housing project. The nonprofit must have been doing business in Connecticut and maintained its principal place of business here for at least one year before applying for DED certification. To bid on a minority set-aside contract, more than half of the people who daily operate and direct the nonprofit must be members of a minority group or people with disabilities.

Public Hearing

The bill originated in the Housing Committee. In its original form it extended the set-aside program to all nonprofit corporations. The Connecticut Association of Housing Development Corporations and Pat Spring of Co-Opportunities, Inc, a nonprofit developer, supported the concept. Raphael Podolsky of Connecticut Legal Services and others (unfortunately large portions of the day's hearing were not recorded so we cannot identify many of those who testified on the bill) suggested it be limited to nonprofits that were operated by members of groups eligible for the set-aside program. The Public Works Department opposed the bill on the grounds that it would dilute the set-aside program; the Transportation Department opposed it because it believed nonprofits' tax exempt status would give them an unfair competitive advantage over small and minority for-profit contractors.

House and Senate Discussion

The House amended the bill to limit nonprofits' participation to DOH predevelopment costs. There was no discussion. In the Senate, Senator Milner introduced the bill as correcting a technical problem created when DOH redefined business to exclude nonprofits. He explained that limiting nonprofits' eligibility for set-aside contracts to predevelopment costs restored past practice.

14-20

PA 93-409: RAISING ELIGIBILITY LIMITS AND RELAXING SURETY REQUIREMENTS

Description

This act increased the number of firms that can participate in the set-aside program by raising the eligibility limit on contractors' annual gross revenues from $3 to $10 million. And it raised the annual ceiling on contracts a single contractor may receive from $1.5 to $10 million. The act required (1) agencies awarding contracts to accept letters of credit from contractors instead of performance bonds, (2) participating agencies to set annual program goals and report on their result, (3) DED to establish a two-year contractor certification process, and (4) the DED commissioner to adopt through regulations a process involving all state agencies to ensure that small and minority businesses have fair access to all state competitive contracts.

Public Hearing

The bill (SB 984) originated in the Planning and Development Committee. The Department of Transportation submitted the only testimony on it. The department favored making the program more accessible by increasing the revenue limits and adopting regulations.

House and Senate Debate

The debate in both houses focused on the use of letters of credit instead of performance bonds. Senator Milner indicated that the provision was intended to overcome the problem of small businesses' inability to secure performance bonds. He indicated that DOH had discontinued using such letters because it wanted to conform to the practice of other departments, which did not use them. He indicated that the governor's office supported the idea.

In the House, Representative Prelli questioned allowing letters of credit to cover only 25% of contracts over $100,000. He believed that this amount did not sufficiently protect the state. Representative Coleman informed him that agency practice was to break projects into five parts; if the credit were carried over from part to part it would cover the project. Representative DiMeo questioned whether small businesses would find it any easier to obtain letters of credit rather than bonds. Representative Coleman responded that participants in the Housing Department letter of credit program had not had difficulty securing these letters.

PA 95-334: FURTHER RELAXING SURETY REQUIREMENTS

Description

This act (1) extended the use of letters of credit to all bonds required in the state contracting process (e.g. bid, labor, and material bonds), not just performance bonds; (2) specified that companies must have done business in Connecticut and maintained the same ownership and management for the year immediately preceding applying for set-aside certification; (3) gave state agencies three extra months, from July 1 to September 30, to set their annual set-aside contracting goals for the year and an extra month, to November 1, to begin submitting their quarterly status reports; and (4) required CHRO to receive the quarterly status reports.

Public Hearing

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The House added the set-aside sections to the bill (HB 7007) that became PA 95-334 through an amendment. They were originally part of SB 1151, which originated in the Commerce Committee. That bill was requested by DED.

Deputy Commissioner Peter Dibble testified that the requirement to have done business in the state for one year immediately before certification was already DED policy. He maintained that postponing goal setting and reporting was requested by a variety of agencies that let set-aside contracts. Setting goals by July 1 was difficult because agencies closed their books on June 30, and, since the first quarter ended September 30, extending the reporting deadlines gave agencies a month to prepare the reports.

CHRO supported the bill. It testified that requiring the businesses to have been doing business for the year prior to certification would (1) allow the business to establish a track record thus providing DED a better basis on which to make a certification decision, (2) weed out under-capitalized businesses that might have presented a risk to the state if they received a contract on which they could not perform, and (3) prevent companies from trying to change their corporate structure to qualify as a minority-owned business. The reporting deadline changes, CHRO believed, were more realistic. The agency also asked for an amendment to the bill (which was incorporated in PA 95-334) to receive agencies' quarterly progress reports. This would help CHRO perform its statutory responsibilities to monitor contractors good faith efforts to subcontract with minority-owned business and investigate and prosecute fraudulent minority-owned businesses.

House and Senate Discussion

Representative Betkowski introduced House Amendment "A," which contained the set-aside provisions. The changes, he said, strengthened the program against fraud and abuse. He also contended that requiring the business to have the same ownership for at least one year was already implied in the law. The House passed the amended bill without debate, and the Senate passed it on consent without discussion.

JR:SS/pa/lc

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General Assembly

File No. 417

January Session, 2007

House Bill No. 6418

House of Representatives, April 10, 2007

The Committee on Planning and Development reported through REP. FELTMAN of the 6th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING THE MUNICIPAL SET-ASIDE PROGRAM FOR SMALL CONTRACTORS AND MINORITY BUSINESS ENTERPRISES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 7-148u of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

(a) As used in this section:

(1) "Small contractor" means any contractor, subcontractor, manufacturer or service company (A) which has been doing business and has maintained its principal place of business in the state for a period of at least one year prior to the date of application for certification under this section, (B) which had gross revenues not exceeding [three] ten million dollars in the most recently completed fiscal year prior to such application, and (C) at least fifty-one per cent of the ownership of which is held by a person or persons who are active in the daily affairs of the business and have the power to direct the management and policies of the business.

(2) "Minority business enterprise" means any small contractor (A) fifty-one per cent or more of the capital stock, if any, or assets of which are owned by a person or persons (i) who are active in the daily affairs of the enterprise, (ii) who have the power to direct the management and policies of the enterprise, and (iii) who are members of a minority, as such term is defined in subsection (a) of section 32-9n, or (B) who is an individual with a disability.

(3) "Individual with a disability" means an individual (A) having a physical impairment

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that substantially limits one or more of the major life activities of the individual, or (B) having a record of such an impairment.

(b) Notwithstanding any provision of the general statutes or of any special act or any municipal charter or home rule ordinance, a municipality may, by ordinance, set aside in each fiscal year, for award to small contractors, on the basis of a competitive bidding procedure, municipal contracts or portions of municipal contracts for the construction, reconstruction or rehabilitation of public buildings, the construction and maintenance of highways and the purchase of goods and services. The total value of such contracts or portions thereof to be set aside shall be [not more than] <u>at least</u> twenty-five per cent of the average of the total value of all such contracts let by the municipality for each of the previous three fiscal years, provided a contract that may not be set aside due to a conflict with a federal law or regulation shall not be included in the calculation of such average. Contracts or portions thereof having a value of not less than twenty-five per cent of the total value of all contracts or portions thereof to be set aside shall be reserved for awards to minority business enterprises.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*October 1, 2007*	7-148u

PD *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill is permissive. It allows municipalities to adopt the same small contractor set aside standard that the state uses. This is not expected to increase the cost to municipalities that adopt the set aside standard because it is not expected to significantly reduce the number of businesses that are eligible to bid on municipal projects.

The Out Years

State Impact: None

Municipal Impact: None

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OLR Bill Analysis

HB 6418

AN ACT CONCERNING THE MUNICIPAL SET-ASIDE PROGRAM FOR SMALL CONTRACTORS AND MINORITY BUSINESS ENTERPRISES.

SUMMARY:

This bill expands the number of contractors eligible to participate in municipal small and minority contractor set-aside programs and potentially increases the value of contracts that municipalities that opt to create such programs must set aside. It raises, from $3 million to $10 million, the annual gross revenue limit for eligible contractors. By law, an eligible business must also have (1) maintained its principal place of business in Connecticut for at least one year and (2) at least 51% of its ownership in the hands of people who have the power to direct its management and policies and who are active in its daily affairs.

The bill potentially increases the value of contracts that municipalities that opt to operate set-aside programs must annually reserve for bidding by small contractors. Under current law, they must reserve up to 25% of the previous three-years' average value of their contracts for building and highway construction, highway maintenance, and goods and services purchases. The bill requires them to reserve at least 25% of that value. It continues to require them to reserve at least 25% of the total set-aside for minority-owned small contractors, which are eligible businesses owned by members of racial or ethnic minorities, women, or people with disabilities.

EFFECTIVE DATE: October 1, 2007

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable

Yea 17 Nay 3 (03/23/2007)

TOP

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CHAPTER 98*
MUNICIPAL POWERS

*General legislation as to power of municipalities to create or abolish appointive offices does not affect charter provisions. 111 C. 674, 675. Ordinance should be construed so that no clause, sentence or word is superfluous, void or insignificant. 146 C. 70. Municipal corporation has only powers expressly conferred upon it by general statutes or by special act and those which are fairly to be implied as necessary to carry into effect powers expressly given. 147 C. 60. Municipalities cannot enact ordinances contrary to public policy of state as declared in state legislation. Id. When charter provision requires that act be done by ordinance, action taken in some other form cannot receive effect unless it is established that it was taken with all the formalities of, and published in the same manner as, an ordinance. Id., 401. Where general assembly has delegated to local government power to deal with particular field of regulation, fact that statute regulates same subject in a limited way does not, ipso facto, deprive local government of power to act in a more comprehensive, but not inconsistent, manner. Id., 546. Where legislative body acts in good faith and with no intent to evade effect of referendum, it may pass legislation covering same subject matter if legislation differs essentially from measure previously rejected by voters. 148 C. 47. Where mode in which power granted to municipality is to be exercised is prescribed by statute, that mode must be followed Id., 517. Where statute and ordinance dealing with same matter conflict, statute prevails. Id. Sec. 7-148 et seq. cited. 211 C. 690. Purposes of Home Rule Act. 258 C. 313.

Towns can exercise no powers except such as have been expressly granted to them or by fair implication conferred upon them by state. 21 CS 347.

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Sec. 7-148r. Municipal fee for access to computer-assisted mass appraisal system database. Any municipality may by ordinance impose a reasonable fee for public access to its computer database developed pursuant to section 12-62f for the purpose of revaluation.

(P.A. 95-283, S. 5, 68.)

History: P.A. 95-283, S. 5 effective July 6, 1995.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 7-148s. Municipal fee for use of geographic information system. Any municipality may by ordinance impose a reasonable fee for the use of its geographic information system.

(P.A. 91-249.)

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Sec. 7-148t. Conflict of interest for members of land use and purchasing commissions and boards. Notwithstanding the provisions of any special act or municipal charter and in addition to any provisions of sections 8-11, 8-21 and subsection (c) of section 22a-42, no member of any municipal commission or board having any jurisdiction or exercising any power over any municipal land use or purchasing decisions shall appear for or represent any person, firm, corporation or other entity in any matter pending before the commission or board. No member of any such commission or board shall participate in any hearing or decision of the board or commission of which he is a member upon any matter in which he knowingly has a pecuniary interest. In the event of such disqualification, such fact shall be entered on the records of the commission or board and any municipality may, by ordinance, provide that an elector may be chosen, in a manner specified in the ordinance, to act as a member of such commission or board in the hearing and determination of such matter, except that replacement shall be made first from alternate members of such commission or board designated pursuant to the general statutes or any special act or municipal charter or ordinance, if any.

(P.A. 83-540.)

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Sec. 7-148u. Municipal set-aside program for small contractors and minority business enterprises. (a) As used in this section: 14-27

(1) "Small contractor" means any contractor, subcontractor, manufacturer or service company (A) which has been doing business and has maintained its principal place of business in the state for a period of at least one year prior to the date of application for certification under this section, (B) which had gross revenues not exceeding ten million dollars in the most recently completed fiscal year prior to such application, and (C) at least fifty-one per cent of the ownership of which is held by a person or persons who are active in the daily affairs of the business and have the power to direct the management and policies of the business.

(2) "Minority business enterprise" means any small contractor (A) fifty-one per cent or more of the capital stock, if any, or assets of which are owned by a person or persons (i) who are active in the daily affairs of the enterprise, (ii) who have the power to direct the management and policies of the enterprise, and (iii) who are members of a minority, as such term is defined in subsection (a) of section 32-9n, or (B) who is an individual with a disability.

(3) "Individual with a disability" means an individual (A) having a physical impairment that substantially limits one or more of the major life activities of the individual, or (B) having a record of such an impairment.

(b) Notwithstanding any provision of the general statutes or of any special act or any municipal charter or home rule ordinance, a municipality may, by ordinance, set aside in each fiscal year, for award to small contractors, on the basis of a competitive bidding procedure, municipal contracts or portions of municipal contracts for the construction, reconstruction or rehabilitation of public buildings, the construction and maintenance of highways and the purchase of goods and services. The total value of such contracts or portions thereof to be set aside shall be not more than twenty-five per cent of the average of the total value of all such contracts let by the municipality for each of the previous three fiscal years, provided a contract that may not be set aside due to a conflict with a federal law or regulation shall not be included in the calculation of such average. Contracts or portions thereof having a value of not less than twenty-five per cent of the total value of all contracts or portions thereof to be set aside shall be reserved for awards to minority business enterprises.

(P.A. 83-390, S. 3; P.A. 92-189, S. 1; June Sp. Sess. P.A. 07-4, S. 68.)

History: P.A. 92-189 amended Subsec. (a) by setting forth definitions of "small contractor" and "minority business enterprise" instead of construing the terms as defined in Sec. 32-9e and by adding definition of "individual with a disability"; June Sp. Sess. P.A. 07-4 amended Subsec. (a)(1)(B) to change $3,000,000 to $10,000,000 and made technical changes in Subsec. (a), effective July 1, 2007.

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Sec. 7-148v. Requirements for competitive bidding. Notwithstanding the provisions of any municipal charter or any special act to the contrary, any municipality may, by ordinance, establish requirements for competitive bidding for the award of any contract or the purchase of any real or personal property by the municipality. Such ordinance may provide that, except as otherwise required by any provision of the general statutes, sealed bidding shall not be required for contracts or purchases having a value less than or equal to an amount established in the ordinance, which amount shall not be greater than seven thousand five hundred dollars. Nothing in this section shall be deemed to invalidate any ordinance

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Sec. 2-559. Set-aside program for small contractors and minority business enterprises.
(a) *Definitions.* As used in this section, the following terms have the following meanings:
(1) *Minority* means:
a. Black Americans, including all persons having origins in any of the Black African racial groups not of Hispanic origin,
b. Hispanic Americans, including all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race,
c. Women,
d. Asian Pacific Americans and Pacific Islanders, or
e. American Indians and persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification;
(2) *Small contractor* means any contractor, subcontractor, manufacturer or service company which has been doing business and has maintained its principal place of business in the state for a period of at least one (1) year prior to the date of application for certification under this section and which had gross revenues not exceeding three million dollars ($3,000,000.00) in the most recently completed fiscal year prior to such application. Notwithstanding the provisions of this section, the city may, by means of administrative regulation, change the gross revenue amount to correspond with changes in the state's gross revenue amount. In case of any conflict between this section and the city's administrative regulations regarding the gross revenue amount, the administrative regulations adopted pursuant to this section shall control. (Ord. No. 4-88, 1-25-88)
(1) *Minority business enterprise* means any small contractor, fifty-one (51) percent or more of the capital stock, if any, or assets of which is owned by persons who:
a. Are active in the daily affairs of the enterprise,
b. Have the power to direct the management and policies of the enterprise, and
c. Are members of a minority.
(b) *Percentage of city contracts allotted.* Under the provisions of Section 7-148u of the General Statues, there shall be set aside in each fiscal year, for award to small contractors on the basis of a competitive bidding procedure, city contracts or portions of city contracts for the construction, reconstruction or rehabilitation of public buildings, the construction and maintenance of highways and the purchase of goods and services. The total of such contracts or portions thereof to be set aside shall be not more nor less than twenty-five (25) percent of the average of the total value of all such contracts let by the city for each of the previous three (3) fiscal years, provided a contract that may not be set aside due to a conflict with a federal law or regulation shall not be included in the calculation of such average. Contracts or portions thereof having a value of not less than twenty-five (25) percent of the total value of all contracts or portions thereof to be set aside shall be reserved for awards to minority business enterprises.
(Code 1977, § 2-277; Ord. No. 25-83, 9-26-83; Ord. No. 4-88, 1-25-88)
Cross references: Commission on human relations, § 2-156 et seq.; commission on the status of women, § 2-231 et seq.; Hartford Advisory Commission for the Handicapped, § 2-276 et seq.; employment resource development commission, § 2-311 et seq.; affirmative action plan, § 2-626 et seq.; licenses and permits generally, Ch. 21.
State law references: Similar provisions, G.S. §§ 32-9e(1), 32-9e(3), 32-9m(a).

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ARTICLE X. AFFIRMATIVE ACTION PLAN*

*__Cross references:__ Commission on human relations, § 2-156 et seq.; discrimination by contractors with city, § 2-558.

DIVISION 1. GENERALLY

Sec. 2-626. Definitions.
The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:
Construction work includes, but is not limited to, demolition, repair, alteration, rehabilitation and construction of residential, commercial, industrial and institutional buildings, sidewalks, curbs, streetwork and other structures or public facilities.
Good faith effort means every reasonable attempt to comply with the provisions of this article and the Hartford Affirmative Action Plan and every possible measure to achieve the level and participation of minority group and female workers and trainees, professionals and nonprofessionals, established by the plan has been taken.
Minority or *minority group person* means a person of Black, Puerto Rican, Spanish-American, Oriental or American Indian ethnic or racial origin and identity. For purposes of this article, the term "minority group persons" shall also include women.
Organizations includes the following trades, labor organizations and all subcontractors working in or connected with the construction industry: Bricklayers, carpenters, lathers, operating engineers, painters, glaziers, roofers, iron workers, teamsters, asbestos workers, boilermakers, electrical workers, elevator constructors, plumbers, sheet metal workers, steamfitters, pipe fitters, laborers' unions, tile setters, and any other groups involved in construction work. For purposes of this article, the term "organizations" includes vendors of construction materials who employ at least fifteen (15) individuals.
Qualified means skilled in a craft or trade or available for training in a craft or trade.
Women includes women of all races and ethnic groups.
(Code 1977, §§ 2-323, 2-345.1)
Cross references: Definitions and rules of construction generally, § 1-2.

Sec. 2-627. Purpose.
This article is adopted for the purpose of ensuring equal employment opportunity for minority group persons and women in all phases of construction work, including the bidding process, performed pursuant to major contracts offered and awarded by the city under the provisions of the Charter and this Code.
(Code 1977, § 2-321)

Sec. 2-628. Legislative policy and findings.
It is declared and found that:

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(1) Many contractors, labor unions, hiring halls, crafts and trades in the construction industry in the Greater Hartford Area have discriminated, and continue to discriminate, against minority group persons;
(2) It is the intention of the city not to aid or abet such discrimination by awarding contracts to contractors who practice or have practiced discrimination against minority group persons and women, or who have subcontracted to or engaged the services of individuals and organizations that deny or have denied equal employment opportunity to minority group persons and women;
(3) The continuing effects of past and present discrimination against minority group persons and women by the construction industry may be prevented, mitigated and/or eliminated by an affirmative action plan;
(4) There is a sufficient number of qualified minority group workers and women in the Greater Hartford Area to make such an affirmative action plan feasible and desirable;
(5) The normal employee attrition and anticipated growth in the construction industry are such that an affirmative action plan will not adversely affect the existing labor force;
(6) A contractor who refuses to agree to, and comply with, an affirmative action plan designed to effectuate the purpose of this article, is precluded from being a "responsible bidder" as that term is used in the Charter and this Code;
(7) The Thirteenth and Fourteenth Amendments to the United States Constitution, Article 1, Section 20 of the Constitution of the State of Connecticut, 42 United States Code, Section 1981, 42 United States Code, Section 2000(e), Presidential Executive Order Numbers 11246 and 11375, the Governor's Executive Order Number 3, and chapter II, sections 5 and 7 and chapter VIII, section 11 of the Charter authorize and mandate that the city adopt an affirmative action plan to be incorporated in all major construction or improvement contracts to ensure that no public funds are used to promote, maintain or effectuate the denial of equal employment opportunity.
(Code 1977, § 2-322)

Sec. 2-629. Enforcement.
Except as otherwise provided, the city manager shall be responsible for the administration and enforcement of this article.
(Code 1977, § 2-324)

Sec. 2-633. Certification.

(a) If an organization which performs substantial construction work beyond the Greater Hartford Area declines to submit the affidavit referred to in section 2-632, the city manager may certify that such organization be allowed to participate in the construction work required by a city contract. The city manager shall not consider certification unless and until such organization has submitted the following documents and data:

(1) The number and classification of minority group persons and women who are members of or employed by such organization;

(2) The percentage of members, employees and/or trainees of such organization who are minority group persons and women in both the Greater Hartford Area and the total area within the jurisdiction of such organization;

(3) The percentage of members, employees and/or trainees of such organization who are minority group persons and women within each trade or training program within such organization in both the Greater Hartford Area and the total area within the jurisdiction of such organization;

(4) The total area within which such organization performs construction work;

(5) An affidavit by an authorized official of such organization stating it will not practice discrimination in the future in regard to minority group individuals and will eliminate any continuing effects of past discrimination;

(6) An affidavit by an authorized official of such organization stating that it agrees with the city's affirmative action plan and will make a good faith effort to comply with its provisions;

(7) An affidavit by an authorized official of such organization indicating the specific number of new minority and female journeymen or apprentices it expects to admit during the next twelve (12) months.

(b) The city manager shall certify such organization only if the city manager makes the following findings:

(1) The organization's nature, number of employees and scope of employment are such that it cannot reasonably be expected to adopt the city's affirmative action plan as a contractual provision;

(2) Public funds will not be used, directly or indirectly, to promote or maintain discrimination against minority group persons and women as a result of such certification; and

(3) The documents and data submitted clearly indicate that such organization has accepted, is accepting or will in the immediate future be accepting adequate minority group and women participation in its operations.

(c) Any person aggrieved by the city manager's decision to certify or not to certify an organization may appeal such decision to the contract enforcement committee. The contract enforcement committee shall have a public hearing after providing notice in a newspaper of substantial circulation in the Greater Hartford Area. The contract enforcement committee may overrule the city manager's determination by majority vote. At all times during such proceedings, the burden of proof will be on the party challenging the city manager's determination.

(d) If the city manager determines that any organization certified under subsection (a) is not in compliance with any affidavit submitted, or has submitted inaccurate data, a public hearing will be held by the contract enforcement committee consisting of at least three (3)

members of the council, duly designated by the council. Such committee shall establish its own bylaws and procedures. Before any public hearing is held, notice thereof shall be published in a newspaper of substantial circulation in the Greater Hartford Area. If such committee determines by majority vote that the certified organization is not in compliance with its affidavits and/or has submitted false or misleading data, it may authorize any or all of the following actions:
(1) Cancel, terminate or suspend any further construction work to be performed by such organization under the contract;
(2) Declare that such organization is ineligible for futher city contracts until it fully complies with its affidavits and/or provides accurate data;
(3) Publish, or cause to be published, the name of such organization in a newspaper of substantial circulation in the Greater Hartford Area; and
(4) Any further measures necessary to effectuate the purpose of this article.
(Code 1977, § 2-328)

Sec. 2-634. Job referral banks.
For the purpose of assisting in the placement of minority and female workers, the council shall designate by resolution one (1) or more public or private agencies as job referral banks for minority and female workers, contractors and subcontractors. Such job referral banks shall compile lists by trades of all qualified minority group and female workers in the Greater Hartford Area for construction work, and shall make such lists available to any contractor or organization upon request. The city manager shall inform all contractors bidding for or receiving city contracts of the names and addresses of all agencies so designated.
(Code 1977, § 2-329)

Sec. 2-635. Compliance.
(a) Whenever the city manager determines that a contractor or organization, other than an organization certified under section 2-633, has failed to meet the goals established by the city's affirmative action plan or to comply with other provisions of the plan, there shall be a presumption that such contractor or organization has breached the city contract awarded. The city manager shall, by certified mail, notify the contractor or organization of his findings and may cancel the contract, withhold payments due thereunder or for projects the total cost of which are in excess of five million dollars ($5,000,000.00), impose liquidated damages as set forth in section 2-720 of this Code in addition to any other penalties as provided herein. The contractor or organization may appeal the decision of the city manager to the contract enforcement committee within ten (10) days from the date of notification of the city manager's decision by written notice of appeal. The contract enforcement committee shall be a subcommittee of the health and human services standing committee of the court of common council. Upon the request of the contractor or organization, the contract enforcement committee shall hold a public hearing on such appeal. At all times during the proceedings of the appeal, the burden of proving compliance with this article and the city's affirmative action plan will be on the contractor or organization. During the pendency of the appeal, the decision of the city manager, or his or her designee, shall remain in full force and effect. If the contract enforcement committee sustains the appeal of the contractor or organization by majority

vote, the contract, if canceled, may be reinstated or any payment withheld ordered paid to the contractor.

(b) If the contract enforcement committee sustains the city manager by majority vote, it may authorize any or all of the following actions:

(1) Reaffirm the action taken by the city manager;

(2) Institute any further action, including but not limited to, canceling, terminating or suspending any future contract work to be performed by such contractor or organization under the contract, declaring such contractor or organization ineligible for future city contracts until it fully complies with this article and the city's affirmative action plan, and publishing or causing to be published the name of such contractor or organization in a newspaper of substantial circulation in the Greater Hartford Area.

(c) The contractor or organization shall be liable for any and all damages, losses or delays as a result of any determinations made by the city manager or by the contract enforcement committee, that such contractor organization has failed to comply with the provisions of this article. All contracts entered into between the city and any contractor or subcontractor shall provide that the city shall not be liable for any of such damages, losses or delays.

(Code 1977, § 2-330; Ord. No. 59-90, 8-13-90; Ord. No. 19-99, 11-22-99)

DIVISION 2. CITY CONTRACTS PARTICIPATION CRITERIA

Sec. 2-651. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alaskan Native or *American Indian* means all persons having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.

Asian or *Pacific Islander* means all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands and Samoa.

Black (not of Hispanic origin) means all persons having origins in any of the Black racial groups of Africa.

Hispanic means all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.

MBE/WBE means minority business enterprise or women business enterprise respectively.

(Code 1977, § 2-334(A); Ord. No. 44-83, 10-24-83)

Cross references: Definitions and rules of construction generally, § 1-2.

Sec. 2-652. Purpose.

The purpose of this division is to establish formal review criteria by which any minority or female company shall be evaluated regarding its particpation in any city or city-related construction contract containing MBE/WBE preference requirements.

(Code 1977, § 2-334; Ord. No. 44-83, 10-24-83)

Sec. 2-653. Minimum in-business time period requirement for certification of MBE/WBE.

(a) A business requesting MBE/WBE certification must have been in business for a minimum of one (1) year preceding an application for certification, and must present official documentation evidencing this requirement.

(b) Acceptable documentation to be supplied to evidence the requirement of this division is as follows:

(1) *Corporations.* Copy of certificate of incorporation filed with the secretary of state, articles of incorporation and corporate bylaws. Include any documents amending the foregoing;

(2) *Limited partnerships.* Copy of certificate of limited partnership filed with the secretary of state, and, if written, a copy of the limited partnership agreement. Include any amendments to the foregoing;

(3) *General partnerships.* If written, a copy of the partnership agreement, with amendments, if applicable, and business invoices such as payroll receipts, office space leasing agreement or deed if applicable, tax withholding forms, bond or insurance invoices, accounting and bookkeeping statements;

(4) *Joint ventures.* See section 2-622 for joint ventures;

(5) *Sole proprietorships.* If a trade name license is required to operate, a copy of the license, and business invoices such as payroll receipts, business leasing agreement or deed if applicable, tax withholding forms, bond or insurance invoices, accounting and bookkeeping statements.

(c) For all of the business organizations listed in subsection (b), also include the following requirements:

(1) Copy of contractor's license if required by state, county or city laws or ordinances;

(2) Copy of federal income tax returns for the year immediately preceding the application for certification.

(Code 1977, § 2-334(B); Ord. No. 44-83, 10-24-83)

Sec. 2-654. Requirement of substantial ownership of business assets of the MBE/WBE by minority owners.

(a) The MBE/WBE must be at least fifty-one (51) percent owned and controlled by minority group members. In the case of MBE/WBE which is a corporation, at least fifty-one (51) percent of the stock must be owned and controlled by minority group members. At least fifty-one (51) percent of the MBE/WBE business assets must be owned by the minority owners. The MBE/WBE may not share assets with a nonminority-owned firm unless there is documentable evidence that a fair compensation is being paid for such assets.

(1) Shareholder agreements must evidence that the minority owners own at least fifty-one (51) percent of the stock and have all of the powers attendant thereto. Partnership agreements must evidence that the minority partners owns at least fifty-one (51) percent of the partnership assets, with all powers attendant thereto;

(2) Business place leasing agreement or mortgage note or deed must evidence that minority owners are obligated for at least fifty-one (51) percent of the payments thereunder;

(3) Barring extenuating circumstances, the MBE/WBE must have its own telephone. The MBE/WBE may not share telephone services with a nonminority firm;

(4) The MBE/WBE must have its own employees. The employees of the MBE/WBE may not simultaneously be employees of a nonminority-owned business.

(b) The following documentation must be submitted in order to verify the ownership percentage which the minority member holds in the MBE/WBE:

(1) Shareholder agreement, partnership agreement;

(2) Any other written agreement that could affect the nature of the minority member's legal or beneficial ownership or control of the MBE/WBE, including but not limited to management contracts, limitations on voting rights of stock and buy/sell agreements affecting the minority member's interest in the business;

(3) Include a brief description of any nonwritten agreement of the type set forth in this division.

(Code 1977, § 2-334(C); Ord. No. 44-83, 10-24-83)

Sec. 2-655. Requirement of substantial involvement in the daily operation of the MBE/WBE by minority owners.

A substantial portion of the minority owners' working time must be spent on the operation of the MBE/WBE.

(1) The minority owner of the MBE/WBE must not be engaged in other business or professional pursuits which preclude him from devoting what would be reasonably deemed an adequate amount of time to conduct the business operations of the MBE/WBE;

(2) The minority owner of the MBE/WBE must control the day-to-day operations of the MBE/WBE:

a. Barring extenuating circumstances, the minority owner of the MBE/WBE must be either the sole or one (1) of the required signatories on the operation's checks, invoices and contracts,

b. The minority owner of the MBE/WBE must be actively involved in the negotition of the contracts of the MBE/WBE,

c. The minority owner of the MBE/WBE must have substantial control over the hiring and firing of the employees of the MBE/WBE,

d. The minority owner of the MBE/WBE must substantially supervise jobs that the firm undertakes, both on and off the job site,

e. The minority owner of the MBE/WBE must have unrestricted access and authority over necessary payroll, tax, personnel, and other records and books of the firm.

(Code 1977, § 2-334(D); Ord. No. 44-83, 10-24-83)

Sec. 2-656. Certain relationships between owners and officers of MBE/WBE and other firms working on same project prohibited.

(a) An MBE/WBE is prohibited from satisfying a substantial amount of its purchasing requirements from a firm which is owned by a nonminority owner of the MBE/WBE.

(b) An MBE/WBE is prohibited from using the assets and facilities of a firm which is owned by a nonminority owner of the MBE/WBE unless there is documentable evidence that a fair compensation is being paid for the use of such assets and facilities.

(Code 1977, § 2-334(E); Ord. No. 44-83, 10-24-83)

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IMPORTANT: Read instructions on bottom of Certification Page before completing this form. Failure to comply with instructions may cause disapproval of proposed Regulations.

STATE OF CONNECTICUT

REGULATION

OF

Department of Administrative Services

CONCERNING

The Set-Aside Program

Section 1. The Regulations of Connecticut State Agencies are amended by adding sections 4a-60h-1 to 4a-60h-6, inclusive, as follows:

(NEW) Section 4a-60h-1. Definitions

As used in sections 4a-60h-1 to 4a-60h-6, inclusive, of the Regulations of Connecticut State Agencies:

(1) "Applicant" means any person or entity applying for certification as a "small business enterprise" or a "minority business enterprise" pursuant to section 4a-60g of the Connecticut General Statutes;

(2) "Commissioner" means the Commissioner of Administrative Services or the Commissioner's designee;

(3) "Individual with a disability" means "individual with a disability," as defined in subdivision (7) of subsection (a) of section 4a-60gof the Connecticut General Statutes;

(4) "Minority business enterprise" means "minority business enterprise," as defined in subdivision (3) of subsection (a) of section 4a-60g of the Connecticut General Statutes; and

(5) "Small business enterprise" means "small contractor," as defined in subdivision (1) of subsection (a) of section 4a-60g of the Connecticut General Statutes.

(NEW) Section 4a-60h-2. Application of Program to Individuals with a Disability

An applicant seeking certification as a minority business enterprise pursuant to subsection (k) of section 4a-60g of the Connecticut General Statutes based on a disability shall provide documentation substantiating that the applicant's owner is an individual who (1) has a physical or mental impairment that substantially limits one or more of the individual's major life activities or (2) has a record of such impairment. The documentation shall be from a licensed physician.

(NEW) Section 4a-60h-3. Letters of Credit

(a) A letter of credit submitted pursuant to subsection (i) of section 4a-60g of the Connecticut General Statutes shall be clean, irrevocable, unconditional and issued or confirmed by a qualified United States financial institution, as defined in subsection (a) of section 38a-87 of the Connecticut General Statutes.

(b) The letter of credit shall comply with the requirements established in subsections (a) through (h), inclusive, of section 38a-88-8 of the Regulations of Connecticut State Agencies.

(NEW) Section 4a-60h-4. Random Site Visits

(a) At the Commissioner's discretion, he or she may conduct on-site visits during the initial application or re-certification process or at any time while the certification is valid.

(b) An automated random selection process will determine which applicants, minority business enterprises and small business enterprises shall be subject to an on-site visit unless an on-site visit is otherwise required by state or federal statute or regulation.

(c) The Commissioner shall conduct the visit during regular business hours at the principal place of business of the applicant, minority business enterprise and small business enterprise or at the project site or both. The Commissioner shall not be required to provide advance notice of the on-site visit.

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(d) The Commissioner may examine all books, records and files that the Commissioner deems relevant in determining eligibility for certification pursuant to section 4a-60g of the Connecticut General Statutes.

(e) The Commissioner may question any employee of the applicant, minority business enterprise or small business enterprise when, in the discretion of the Commissioner, such questioning will assist the Commissioner in determining eligibility for certification.

(NEW) Section 4a-60h-5. Time Limits for Approval or Disapproval of Applications.

The Commissioner shall notify the applicant if he or she has approved or disapproved its application for certification not later than 30 days after the Commissioner begins his or her review of the application.

(NEW) Section 4a-60h-6. Access to Competitive Contracts Outside of the Set-Aside Program.

The Commissioner shall notify all applicants, small business enterprises and minority business enterprises of the existence of the State Contracting Portal and shall provide instructions about registering to receive notification of all contracting opportunities posted on the State Contracting Portal.

Statement of Purpose: The purpose of these regulations is to comply with section 4a-60h of the Connecticut General Statutes, which requires the Department of Administrative Services ("DAS") to adopt regulations in connection with the administration of the set-aside program. In summary, these regulations create (1) provisions concerning the application of the program to individuals with a disability; (2) guidelines for a legally acceptable format for and content of letters of credit; (3) procedures for random site visits; (4) time limits for approval or disapproval of applications; and (5) a process to ensure that certified businesses have access to competitive contracts outside of the set-aside program. The legal effects of these regulations are to clarify some of the procedures relating to the set-aside program and to ensure that DAS's requirements regarding letters of credit are consistent with existing regulations.

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STATE OF CONNECTICUT
REGULATION
OF
Department of Administrative Services
Concerning
The Set-Aside Program

CERTIFICATION

Be it known that the foregoing: (check one) X Regulations ☐ Emergency Regulations

Are: X Adopted ☐ Amended as hereinabove stated ☐ Repealed

By the aforesaid agency pursuant to:

X Section _____4a-60h____ of the General Statutes.

☐ Section _____________ of the General Statutes, as amended by Public Act No. _________ of the

___________ Public Acts
(enter year)

☐ Public Act Number ___________ of the _________ Public Acts.
(enter year)

(If applicable) **After publication in the *Connecticut Law Journal* on** March 25, 2008 **of the notice of proposal to:** (enter publication
x Adopt ☐ Amend ☐ Repeal **such regulations**

(If applicable) **And the holding of an advertised public hearing on** _____________________.
(enter date)

WHEREFORE, the foregoing regulations are hereby:
X Adopted ☐ Amended as hereinabove stated ☐ Repealed

EFFECTIVE: (check one, and complete as applicable)
X When filed with the Secretary of the State
(OR)
☐ The ______________ day of ____________________ 20______.

In Witness Whereof:	DATE	SIGNED *(Head of Board, Agency or Commission)*	OFFICIAL TITLE, DULY AUTHORIZED
Approved by the Attorney General as to legal sufficiency in accordance with Section 4-169, as amended, of C.G.S.		SIGNED	OFFICIAL TITLE, DULY AUTHORIZED

For Regulation Review Committee Use

☐ Approved

☐ Disapproved

☐ Disapproved in part, *(Indicate Section Numbers disapproved only)*

☐ Rejected without prejudice

By the Legislative Regulation Review Committee in accordance with Section 4-170, as amended, of the General Statutes.	DATE	SIGNED *(Administrator, Legislative Regulation Review Committee)*

Two certified copies received and filed, one such copy forwarded to the Commission on Official Legal Publications in accordance with Section 4-172, as amended, of the General Statutes.

DATE	SIGNED *(Secretary of the State)*	BY

INSRUCTIONS

1. One copy of all regulations for adoption, amendment or repeal, except emergency regulations, must be presented to the Attorney General for his/her determination of legal sufficiency. (Section 4-169 of the General Statutes.)
2. Original and eighteen copies of all regulations for adoption, amendment or repeal must be presented to the standing Legislative Regulation Review Committee for its action. (Section 4-170 of the General Statutes.)
3. Each regulation must be in the form intended for publication and must include the appropriate regulation section number and section heading. (Section 4-172 of the General Statutes.)
4. Indicate by "(NEW)" in heading if new regulation. Amended regulations must contain new language in capital letters and deleted language in brackets. (Section 4-170 of the General Statutes.)

Additional information regarding rules and procedures of the Legislative Regulation Review Committee can be found on the Committee's web site: http://www.cga.ct.gov/rr/

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The DAS Contractor Prequalification Program (C.G.S §4a-100) requires all contractors to prequalify before they can bid on a contract or perform work pursuant to a contract for the construction, reconstruction, alteration, remodeling, repair or demolition of any public building or any other public work by the state or a municipality, estimated to cost more than $500,000 and which is funded in whole or in part with state funds, except a public highway or bridge project or any other construction project administered by the Department of Transportation.

CHAPTER 58a
PREQUALIFICATION AND EVALUATION OF CONTRACTORS

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Sec. 4a-100. Prequalification of contractors and substantial subcontractors. Fees. Application. Renewal. Revocation. Notice to Commissioner of Public Works and Commissioner of Administrative Services re certain contractors. (a) As used in this section: (1) "Prequalification" means prequalification issued by the Commissioner of Administrative Services to bid on a contract or perform work pursuant to a contract for the construction, reconstruction, alteration, remodeling, repair or demolition of any public building or any other public work by the state or a municipality, except a public highway or bridge project or any other construction project administered by the Department of Transportation, or to perform work under such a contract as a substantial subcontractor; (2) "subcontractor" means a person who performs work with a value in excess of twenty-five thousand dollars for a contractor pursuant to a contract for work for the state or a municipality which is estimated to cost more than five hundred thousand dollars; (3) "principals and key personnel" includes officers, directors, shareholders, members, partners and managerial employees; (4) "aggregate work capacity rating" means the maximum amount of work an applicant is capable of undertaking for any and all projects; (5) "single project limit" means the highest estimated cost of a single project that an applicant is capable of undertaking; (6) "contract" means an agreement for work for the state or a municipality that is estimated to cost more than five hundred thousand dollars and is funded, in whole or in part, by state funds; and (7) "substantial subcontractor" means a person who performs work with a value in excess of five hundred thousand dollars for a contractor pursuant to a contract for work for the state or a municipality which is estimated to cost more than five hundred thousand dollars.

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(b) (1) Any person may apply for prequalification to the Department of Administrative Services. Such application shall be made on such form as the Commissioner of Administrative Services prescribes and shall be accompanied by a nonrefundable application fee as set forth in subdivision (2) of this subsection. The application shall be signed under penalty of false statement.

(2) The application fee shall be as follows:

Aggregate Work Capacity Rating	Fee
$5,000,000.00 or less	$600.00
$5,000,000.01 - $8,000,000.00	$750.00
$8,000,000.01 - $10,000,000.00	$850.00
$10,000,000.01 - $15,000,000.00	$1,000.00
$15,000,000.01 - $20,000,000.00	$1,500.00
$20,000,000.01 - $40,000,000.00	$2,000.00
$40,000,000.01 or more	$2,500.00

(c) The application form shall, at a minimum, require the applicant to supply information concerning:

(1) The applicant's form of organization;

(2) The applicant's principals and key personnel and any names under which the applicant, principals or key personnel conducted business during the past five years;

(3) Any legal or administrative proceedings pending or concluded adversely against the applicant or any of the applicant's principals or key personnel within the past five years which relate to the procurement or performance of any public or private construction contract and whether the applicant is aware of any investigation pending against the applicant or any principal or key personnel;

(4) The nature of any financial, personal or familial relationship between the applicant and any public or private construction project owner listed on the application as constituting construction experience;

(5) A statement of whether (A) the applicant has been disqualified pursuant to section 4b-95, this section or section 31-57c or 31-57d, (B) the applicant is on the list distributed by the Labor Commissioner pursuant to section 31-57a, (C) the applicant is disqualified or prohibited from being awarded a contract pursuant to section 31-57b, (D) the applicant has been disqualified by another state, (E) the applicant has been disqualified by a federal agency or pursuant to federal law, (F) the applicant's registration has been suspended or revoked by the Department of Consumer Protection pursuant to section 20-341gg, (G) the applicant has been disqualified by a municipality, and (H) the matters that gave rise to any such disqualification, suspension or revocation have been eliminated or remedied; and

(6) Other information as the commissioner deems relevant to the determination of the applicant's qualifications and responsibilities.

(d) The applicant shall include a statement of financial condition prepared by a certified public accountant which includes information concerning the applicant's assets and liabilities, plant and equipment, bank and credit references, bonding company and maximum bonding capacity, and other information as the commissioner deems relevant to an evaluation of the applicant's financial capacity and responsibility.

(e) Information contained in the application shall be current as of the time of filing except that the statement of financial condition shall pertain to the applicant's most recently-completed fiscal year.

(f) The commissioner shall determine whether to prequalify an applicant on the basis of the application and on relevant past performance according to procedures and criteria set forth in regulations which the commissioner shall adopt on or before October 1, 2005, in accordance with chapter 54. Such criteria shall include, at a minimum, the record of the applicant's performance, including, but not limited to, written evaluations of the applicant's performance on public or private projects, the applicant's past experience on projects of various size and type, the skill, ability and integrity of the applicant and any subcontractors used by the applicant, the experience and qualifications of supervisory personnel employed by the applicant, the maximum amount of work the applicant is capable of undertaking as demonstrated by the applicant's financial condition, bonding capacity, size of past projects and present and anticipated work commitments, and any other relevant criteria that the commissioner prescribes. Such regulations shall also (1) provide that the criteria considered shall be assigned separate designated numerical values and weights and that the applicant shall be assigned an overall numerical rating on the basis of all criteria, and (2) establish prequalification classifications, aggregate work capacity ratings and single project limits. Such prequalification classifications shall be used to establish the types of work a contractor or substantial subcontractor is qualified to perform and the aggregate work capacity ratings shall be used to establish the maximum amount of work a contractor or substantial subcontractor is capable of undertaking.

(g) (1) The applicant shall indicate the prequalification classifications, aggregate work capacity ratings and single project limits that are sought. The commissioner may issue a certificate of prequalification to any applicant who meets the requirements of this section. Such certificate shall be effective for one year from the date issued and shall indicate the contractor's or substantial subcontractor's prequalification classifications, aggregate work capacity ratings and single project limits. The commissioner may cause the initial certificate of prequalification to be effective for a period not to exceed two years and may require the applicant to remit payment of the application fee, as set forth in subsection (b) of this section, for the first twelve months of certification as well as a prorated application fee, as described in subdivision (3) of this subsection, for any additional period of certification beyond the first twelve months.

(2) A prequalified contractor or substantial subcontractor may apply at any time for additional prequalification classifications, aggregate work capacity ratings or single project limits by submitting the applicable increase in fee, a completed update statement and other information the commissioner requires.

(3) The commissioner may renew a prequalification certificate upon receipt of a completed update statement, any other material the commissioner requires and a nonrefundable fee in an amount not less than one-half of the application fee for the applicable aggregate work capacity rating as set forth in subsection (b) of this section.

(h) Not later than sixty days after receiving a completed application, the commissioner shall mail or send by electronic mail a notice to the applicant concerning the commissioner's preliminary determination regarding the conditions of the prequalification certification, a denial of certification, a reduction in the level of certification sought or nonrenewal of certification. Any applicant aggrieved by the commissioner's preliminary determination may request copies of the information upon which the commissioner relied in making the preliminary determination, provided such request is made not later than ten days after the date the notice was mailed or sent by electronic mail to the applicant. Not later than twenty days after the date the notice was mailed or sent by electronic mail, the applicant may submit additional information to the commissioner with a request for reconsideration. The commissioner shall issue a final determination regarding the application not later than ninety days after the date the commissioner mailed or sent by electronic mail the notice of the preliminary determination, which ninety-day period may be extended for an additional period not to exceed ninety days if (1) the commissioner gives written notice to the applicant that the commissioner requires additional time, and (2) such notice is mailed or sent by electronic mail during the initial ninety-day period.

(i) The commissioner may not issue or renew a prequalification certificate to any contractor or substantial subcontractor (1) who is disqualified pursuant to section 31-57c or 31-57d, or (2) who has a principal or key personnel who, within the past five years, has a conviction or has entered a plea of guilty or nolo contendere for or has admitted to commission of an act or omission that reasonably could have resulted in disqualification pursuant to any provision of subdivisions (1) to (3), inclusive, of subsection (d) of section 31-57c or subdivisions (1) to (3), inclusive, of subsection (d) of section 31-57d, as determined by the commissioner.

(j) The commissioner may revoke a contractor's or substantial subcontractor's prequalification or reduce the contractor's or substantial subcontractor's prequalification classification or aggregate work capacity ratings, after an opportunity for a hearing, if the commissioner receives additional information that supports such revocation or reduction. During the course of such hearing process, the commissioner may suspend a contractor's or substantial subcontractor's prequalification certificate if the commissioner determines that there is probable cause to believe that such contractor or substantial subcontractor engaged in conduct that significantly undermines the skill, ability or integrity of such contractor or substantial subcontractor. Any such suspension shall not exceed a period of three months and shall be accompanied by a written decision of the commissioner that sets forth the reasons for and duration of such suspension. The commissioner shall send notification of any such suspension to such contractor or substantial subcontractor by certified mail, return receipt requested. Such contractor or substantial subcontractor may file a response, in writing, not later than thirty days after receipt of such notice. The commissioner shall review any such response submitted by a contractor or substantial subcontractor within such thirty-day period.

(k) (1) Any substantial evidence of fraud in obtaining or maintaining prequalification or any materially false statement in the application, update statement or update bid statement may, in the discretion of the awarding authority, result in termination of any contract awarded the contractor by the awarding authority. The awarding authority shall provide written notice to the commissioner of such false statement not later than thirty days after discovering such false statement. The commissioner shall provide written notice of such false statement to the Commissioner of Public Works, the Commissioner of Consumer Protection and the President of The University of Connecticut not later than thirty days after discovering such false statement or receiving such notice.

(2) The commissioner shall deny or revoke the prequalification of any contractor or substantial subcontractor if the commissioner finds that the contractor or substantial subcontractor, or a principal or key personnel of such contractor or substantial contractor, within the past five years (A) has included any materially false statement in a prequalification application, update statement or update bid statement, (B) has been convicted of, entered a plea of guilty or nolo contendere for, or admitted to, a crime related to the procurement or performance of any public or private construction contract, or (C) has otherwise engaged in fraud in obtaining or maintaining prequalification. Any revocation made pursuant to this subsection shall be made only after an opportunity for a hearing. Any contractor or substantial subcontractor whose prequalification has been revoked pursuant to this subsection shall be disqualified for a period of two years after which the contractor or substantial subcontractor may reapply for prequalification, except that a contractor or substantial subcontractor whose prequalification has been revoked on the basis of conviction of a crime or engaging in fraud shall be disqualified for a period of five years after which the contractor or substantial subcontractor may reapply for prequalification. The commissioner shall not prequalify a contractor or substantial subcontractor whose prequalification has been revoked pursuant to this subdivision until the expiration of said two-year, five-year, or other applicable disqualification period and

the commissioner is satisfied that the matters that gave rise to the revocation have been eliminated or remedied.

(l) The commissioner shall provide written notice of any revocation, disqualification, reduction in classification or capacity rating or reinstated prequalification to the Commissioner of Public Works, the Commissioner of Consumer Protection and the President of The University of Connecticut not later than thirty days after any final determination.

(m) The provisions of this section and section 4a-101 shall not apply to subcontractors who are not substantial subcontractors.

(n) The commissioner shall establish an update statement for use by contractors and substantial subcontractors for purposes of renewing or upgrading a prequalification certificate and an update bid statement for purposes of submitting a bid pursuant to section 4b-91.

(o) Any contractor or substantial subcontractor aggrieved by the commissioner's final determination concerning a preliminary determination, a denial of certification, a reduction in prequalification classification or aggregate work capacity rating or a revocation or nonrenewal of certification may appeal to the Superior Court in accordance with section 4-183.

(P.A. 03-215, S. 3; 03-278, S. 129; June 30 Sp. Sess. P.A. 03-6, S. 146(g), (h); P.A. 04-141, S. 2; 04-189, S. 1; P.A. 06-134, S. 16, 22; P.A. 07-202, S. 3, 4; Sept. Sp. Sess. P.A. 09-7, S. 159.)

History: P.A. 03-215 effective July 1, 2004; P.A. 03-278 amended Subsec. (a)(2) by redefining "subcontractor", effective July 1, 2004; June 30 Sp. Sess. P.A. 03-6 replaced Commissioner and Department of Consumer Protection with Commissioner and Department of Agriculture and Consumer Protection, effective July 1, 2004; P.A. 04-141 added Subsec. (a)(4) and (5) defining "aggregate work capacity rating" and "single project limit", amended Subsec. (f) to establish October 1, 2005, deadline for adoption of regulations by the commissioner and add provision re single project limits, amended Subsec. (g) to include references to single project limits and add provisions enabling the commissioner to issue prequalification certificates for an effective period not to exceed two years, amended Subsec. (h) to allow for the sending of the commissioner's preliminary determination by electronic mail, and made technical changes in Subsecs. (i) and (k)(2); P.A. 04-189 repealed Sec. 146 of June 30 Sp. Sess. P.A. 03-6, thereby reversing the merger of the Departments of Agriculture and Consumer Protection, effective June 1, 2004; P.A. 06-134 redefined "prequalification" in Subsec. (a) to include any other public work and except public highway or bridge projects, effective January 1, 2007, and further amended Subsec. (a) to redefine "prequalification" to include reference to work performed under such a contract as a substantial subcontractor and to define "substantial subcontractor", amended Subsec. (c) to delete former Subdiv. (3) re applicant's experience and redesignate existing Subdivs. (4) to (7) as Subdivs. (3) to (6),

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amended Subsec. (f) to change performance look back period from within the past five years to a period of not less than the past three years and add references to substantial subcontractors, amended Subsec. (g) to provide for fee of not less than one-half of application fee and eliminate minimum fee of $600 in Subdiv. (3) and add references to substantial subcontractors in Subdivs. (1) and (2), amended Subsecs. (i) to (n), inclusive, to include references to substantial subcontractors and make technical changes, and added Subsec. (p) re regulations to establish a schedule of application fees for substantial subcontractors, effective October 1, 2007; P.A. 07-202 redefined "prequalification" in Subsec. (a)(1), defined "contract" in Subsec. (a)(6), amended Subsec. (i) to insert "or renew", amended Subsec. (j) to enable commissioner to suspend contractor's prequalification certificate if commissioner determines there is probable cause to believe contractor engaged in conduct that significantly undermines contractor's skill, ability or integrity, amended Subsec. (k) to require substantial evidence of fraud, include references to update bid statement, include President of The University of Connecticut in list of persons to receive notice of false statement and require opportunity for a hearing prior to any revocation, amended Subsec. (l) to include reference to President of The University of Connecticut, amended Subsec. (n) to include update bid statement and made technical changes, effective July 10, 2007, and amended Subsec. (f) to delete provision re performance for a period of not less than the past three years, redesignated existing Subsec. (a)(6) as Subsec. (a)(7) and deleted Subsec. (p) re adoption of regulations, effective October 1, 2007; Sept. Sp. Sess. P.A. 09-7 amended Subsec. (j) to add references to substantial subcontractors, amended Subsec. (k) to make a technical change in Subdiv. (1), and replace references to person with references to contractor, substantial contractor, or principal or key personnel of such contractor or substantial contractor, add provision re entering plea of guilty or nolo contendere, or admitting to crime related to procurement or performance of any public or private construction contract, and eliminate provision re 5-year look back period in Subdiv. (2), amended Subsec. (n) to replace reference to bidders with reference to contractors and amended Subsec. (o) to replace reference to applicant with reference to contractor or substantial contractor, effective October 5, 2009.

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Sec. 4a-101. Standard contractor evaluation form. Regulations. Public agency to complete and submit evaluation form. Contractor responses. Contractor liability to subcontractors and substantial subcontractors. (a) On or before October 1, 2005, the Commissioner of Administrative Services shall adopt regulations, in accordance with chapter 54, to establish a standard contractor evaluation form. Such form shall include, at a minimum, the following evaluation criteria: (1) Timeliness of performance; (2) quality of performance; (3) cost containment, including, but not limited to, the contractor's ability to work within the contract's allotted cost, the accuracy of the contractor's billing, and the number and cause of change orders and the manner in which the contractor determined the price on the change orders; (4) safety; (5) the quality of the contractor's working relationship with the agency and the quality of the contractor's supervision of the work area; (6) communication with the agency; (7) the quality of the contractor's required documentation; (8) the performance of the contractor's subcontractors and substantial subcontractors, to the extent known by the official who completes the evaluation; and (9) the contractor's and any subcontractor's compliance with part III of chapter 557, or chapter 558, or the provisions of the federal Davis-Bacon Act, 40 USC, Sections 276a to 276a-5, inclusive, as from time to time amended, to the extent known by the official who completes the evaluation.

(b) Each public agency shall compile evaluation information during the performance of the contract and complete and submit the evaluation form to the commissioner after completion of a building project under the agency's control if the building project is funded, in whole or in part, by state funds. Such evaluation information shall be available to any public agency for purposes of assessing the responsibility of the contractor during a bid selection and evaluation process. The designated official from such agency shall certify that the information contained in the evaluation form represents, to the best of the certifying official's knowledge, a true and accurate analysis of the contractor's performance record on the contract. The commissioner shall include the evaluation in the contractor's prequalification file. The official shall mail a copy of the completed evaluation form to the contractor. Any contractor who wishes to contest any information contained in the evaluation form may submit a written response to the commissioner not later than thirty days after the date the form was mailed as indicated by the postmark on the envelope. Such response shall set forth any additional information concerning the building project or the oversight of the contract by the public agency that may be relevant in the evaluation of the contractor's performance on the project. The commissioner shall include any such response in the contractor's prequalification file.

(c) As used in this section, "public agency" means a public agency, as defined in section 1-200, "contract" means an agreement for work for the state or a municipality that is estimated to cost more than five hundred thousand dollars and is funded, in whole or in part, by state funds, "subcontractor" means a person who performs work with a value in excess of twenty-five thousand dollars for a contractor pursuant to a contract and "substantial subcontractor" means a substantial subcontractor, as defined in section 4a-100.

(d) Upon fifty per cent completion of any building project under a public agency's control, the agency shall advise the contractor in writing of the agency's preliminary evaluation of the contractor's performance on the project.

(e) No public agency, employee of a public agency or certifying official of a public agency shall be held liable to any contractor for any loss or injury sustained by such contractor as the result of the completion of an evaluation form, as required by this section, unless such agency, employee or official is found by a court of competent jurisdiction to have acted in a wilful, wanton or reckless manner.

(f) Any public agency that fails to submit a completed evaluation form, as required by this section, not later than seventy days after the completion of a project, shall be ineligible for the receipt of any public funds disbursed by the state for the purposes of the construction, reconstruction, alteration, remodeling, repair or demolition of any public building or any public works project until such completed evaluation form is submitted.

(g) Notwithstanding the provisions of this section, any public agency of the state, when evaluating the performance of a contractor's subcontractors or substantial subcontractors, to the extent known, may rely on an evaluation of such subcontractors or substantial subcontractors that is conducted by the contractor. No contractor shall be held liable to any subcontractor or substantial subcontractor for any loss or injury sustained by such subcontractor or substantial subcontractor as the result of such evaluation provided to a public agency, unless such contractor is found by a court of competent jurisdiction to have acted in a wilful, wanton or reckless manner.

(P.A. 03-215, S. 4; 03-278, S. 130; P.A. 04-141, S. 3; P.A. 06-134, S. 17, 23; P.A. 07-202, S. 5, 6; Sept. Sp. Sess. P.A. 09-7, S. 160.)

History: P.A. 03-215 effective October 1, 2004; P.A. 03-278 amended Subsec. (c) by redefining "subcontractor", effective October 1, 2004; P.A. 04-141 amended Subsec. (a) to require adoption of regulations re contractor evaluation form by October 1, 2005, amended Subsec. (b) to add requirements that public agency compile evaluation information during performance of contract, that evaluation information be available to any public agency for purposes of assessing the contractor during a bid process and that the information in the evaluation form be certified by the agency, added Subsec. (e) re liability to contractor for loss or injury sustained by the contractor as a result of the evaluation form and added Subsec. (f) re penalty for failure of an agency to file evaluation forms; P.A. 06-134 amended Subsec. (c) to redefine "public agency" to eliminate exception for The University of Connecticut, effective January 1, 2007, and also amended Subsec. (a)(8) to include reference to the performance of substantial subcontractors, amended Subsec. (c) to define "substantial subcontractor", and added Subsec. (g) re municipal reliance on evaluations of substantial subcontractors performed by contractors, effective October 1, 2007; P.A. 07-202 amended Subsec. (c) to define "contract" and redefine "subcontractor", effective July 10, 2007; Sept. Sp. Sess. P.A. 09-7 amended Subsec. (g) to delete reference to Subsec. (a), replace reference to political subdivision with reference to public agency and add provision re contractors not being liable to subcontractors and substantial subcontractors for loss or injury sustained as result of evaluation unless a court finds contractor to have acted in a wilful, wanton or reckless manner, effective October 5, 2009.

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Sec. 4b-91. (Formerly Sec. 4-137a). Bidding for public building contracts. Prequalification requirements. (a) Every contract for the construction, reconstruction, alteration, remodeling, repair or demolition of any public building or any other public work by the state except a public highway or bridge project or any other construction project administered by the Department of Transportation, which is estimated to cost more than five hundred thousand dollars, except a contract awarded by the Commissioner of Public Works for (1) a community court project, as defined in subsection (j) of section 4b-55, (2) the downtown Hartford higher education center project, as defined in subsection (l) of section 4b-55, (3) a correctional facility project, as defined in subsection (m) of section 4b-55, (4) a juvenile detention center project, as defined in subsection (n) of section 4b-55, or (5) a student residential facility for the Connecticut State University System that is a priority higher education facility project, as defined in subsection (f) of section 4b-55, shall be awarded to the lowest responsible and qualified general bidder who is prequalified pursuant to section 4a-100 on the basis of competitive bids in accordance with the procedures set forth in this chapter, after the Commissioner of Public Works or, in the case of a contract for the construction of or work on a building or other public work under the supervision and control of the Joint Committee on Legislative Management of the General Assembly, the joint committee or, in the case of a contract for the construction of or work on a building or other public work under the supervision and control of one of the constituent units of the state system of higher education, the constituent unit, has invited such bids by notice posted on the State Contracting Portal. Every contract for the construction, reconstruction, alteration, remodeling, repair or demolition of any public building or any other public work by a public agency that is paid for, in whole or in part, with state funds and that is estimated to cost more than five hundred thousand dollars, except a public highway or bridge project or any other construction project administered by the Department of Transportation, shall be awarded to a bidder that is prequalified pursuant to section 4a-100 after the public agency has invited such bids by notice posted on the State Contracting Portal. The Commissioner of Public Works, the joint committee, the constituent unit or the public agency, as the case may be, shall indicate the prequalification classification required for the contract in such notice. As used in this section, "prequalification classification" means the prequalification classifications established by the Commissioner of Administrative Services pursuant to section 4a-100. As used in this section, "public agency" means public agency, as defined in section 1-200.

(b) The Commissioner of Public Works, the joint committee or the constituent unit, as the case may be, shall determine the manner of submission and the conditions and requirements of such bids, and the time within which the bids shall be submitted, consistent with the provisions of sections 4b-91 to 4b-96, inclusive. Such award shall be made not later than ninety days after the opening of such bids. If the general bidder selected as the general contractor fails to perform the general contractor's agreement to execute a contract in accordance with the terms of the general contractor's general bid and furnish a performance bond and also a labor and materials or payment bond to the amount specified in the general bid form, an award shall be made to the next lowest responsible and qualified general bidder. No employee of the Department of Public Works, the joint committee or a constituent unit with decision-making authority concerning the award of a contract and no public official, as defined in section 1-79, may communicate with any bidder prior to the award of the contract if the communication results in the bidder receiving information about the contract that is not available to other bidders, except that if the lowest responsible and qualified bidder's price submitted is in excess of funds available to make an award, the Commissioner of Public Works, the Joint Committee on Legislative Management or the constituent unit, as the case may be, may negotiate with such bidder and award the contract on the basis of the funds available, without change in the contract specifications, plans and other requirements. If the award of a contract on said basis is refused by such bidder, the Commissioner of Public Works, the Joint Committee on Legislative Management or the constituent unit, as the case may be, may negotiate with other contractors who submitted bids in ascending order of bid prices without change in the contract, specifications, plans and other requirements. In the event of negotiation with general bidders as provided in this section, the general bidder involved may negotiate with subcontractors on the same basis, provided such general bidder shall negotiate only with subcontractors named on such general bidder's general bid form.

(c) No person may bid on a contract or perform work pursuant to a contract that is subject to the provisions of subsection (a) of this section unless the person is prequalified in accordance with section 4a-100.

(d) Each bid submitted for a contract described in subsection (c) of this section shall include an update bid statement in such form as the Commissioner of Administrative Services prescribes and, if required by the public agency soliciting such bid, a copy of the prequalification certificate issued by the Commissioner of Administrative Services. The form for such update bid statement shall provide space for information regarding all projects completed by the bidder since the date the bidder's prequalification certificate was issued or renewed, all projects the bidder currently has under contract, including the percentage of work on such projects not completed, the names and qualifications of the personnel who will have supervisory responsibility for the performance of the contract, any significant changes in the bidder's financial position or corporate structure since the date the certificate was issued or renewed, any change in the contractor's qualification status as determined by the provisions of subdivision (6) of subsection (c) of section 4a-100 and such other relevant information as the Commissioner of Administrative Services prescribes. Any bid submitted without a copy of the prequalification certificate, if required by the public agency soliciting such bid, and an update bid statement shall be deemed invalid. Any public agency that accepts a bid submitted without a copy of such prequalification certificate, if required by such public agency soliciting such bid, and an update bid statement may become ineligible for the receipt of funds related to such bid.

(e) Any person who bids on a contract described in subsection (c) of this section shall certify under penalty of false statement at the conclusion of the bidding process that the information in the bid is true, that there has been no substantial change in the bidder's financial position or corporate structure since the bidder's most recent prequalification certificate was issued or renewed, other than those changes noted in the update bid statement, and that the bid was made without fraud or collusion with any person.

(f) Any person who receives information from a state employee or public official that is not available to the general public concerning any construction, reconstruction, alteration, remodeling, repair or demolition project on a public building or any other public work prior to the date that a notice for bids on the project is posted shall be disqualified from bidding on the project.

(g) Notwithstanding the provisions of this chapter regarding competitive bidding procedures, the commissioner may select and interview at least three responsible and qualified general contractors who are prequalified pursuant to section 4a-100 and submit the three selected contractors to the construction services award panels process described in section 4b-100a and any regulation adopted by the commissioner. The commissioner may negotiate with the successful bidder a contract which is both fair and reasonable to the state for a community court project, as defined in subsection (j) of section 4b-55, the downtown Hartford higher education center project, as defined in subsection (l) of section 4b-55, a correctional facility project, as defined in subsection (m) of section 4b-55, a juvenile detention center project, as defined in subsection (n) of section 4b-55, or a student residential facility for the Connecticut State University System that is a priority higher education facility project, as defined in subsection (f) of section 4b-55. The Commissioner of Public Works, prior to entering any such contract or performing any work on such project, shall submit such contract to the State Properties Review Board for review and approval or disapproval by the board, pursuant to subsection (i) of this section. Any general contractor awarded a contract pursuant to this subsection shall be subject to the same requirements concerning the furnishing of bonds as a contractor awarded a contract pursuant to subsection (b) of this section.

(h) Any agency that seeks to have a project awarded without being subject to competitive bidding procedures shall certify to the joint committee of the General Assembly having cognizance of matters relating to government administration and elections that the project is of such an emergency nature that an exception to the competitive bidding procedures of this section is required. Such certification shall include input from all affected agencies, detail the need for the exception and include any relevant documentation.

(i) In the event that the General Assembly approves legislation authorizing an exception to the competitive bidding process for a project, the State Properties Review Board shall complete a review of the contract for such project and approve or disapprove such contract no later than thirty days after the Commissioner of Public Works submits such contract to the board. Such review shall be conducted in accordance with the provisions of section 4b-3. In the event that such review does not occur within the thirty-day period prescribed by this subsection, such contract shall be deemed to be approved.

(j) On and after October 5, 2009, no person whose subcontract exceeds five hundred thousand dollars in value may perform work as a subcontractor on a project for the construction, reconstruction, alteration, remodeling, repair or demolition of any public building or any other public work by the state or a municipality, except a public highway or bridge project or any other construction project administered by the Department of Transportation, which project is estimated to cost more than five hundred thousand dollars and is paid for, in whole or in part, with state funds, unless the person is prequalified in accordance with section 4a-100. The provisions of this subsection shall not apply to a project described in subdivision (2) of subsection (a) of this section.

(P.A. 73-528, S. 1, 12; P.A. 74-246, S. 1, 11; P.A. 75-425, S. 23, 57; P.A. 77-614, S. 73, 610; P.A. 82-438, S. 5, 6; 82-447, S. 1; P.A. 84-48, S. 12, 17; P.A. 87-496, S. 41, 110; 87-529, S. 5; P.A. 88-116, S. 4; P.A. 89-353, S. 3, 8; P.A. 92-228, S. 6, 9; P.A. 93-30, S. 4, 14; May Sp. Sess. P.A. 94-2, S. 5, 203; P.A. 95-230, S. 39, 45; P.A. 96-235, S. 14, 19; P.A. 97-293, S. 21, 26; P.A. 98-21, S. 4; 98-59, S. 2, 3; P.A. 99-26, S. 4, 39; 99-75, S. 8; 99-241, S. 50, 66; P.A. 00-192, S. 17, 102; P.A. 02-140, S. 3; P.A. 03-215, S. 1; P.A. 04-141, S. 1; P.A. 05-287, S. 10, 11; P.A. 06-134, S. 18, 19, 24; P.A. 07-202, S. 7; 07-213, S. 1; Sept. Sp. Sess. P.A. 09-7, S. 161.)

History: P.A. 74-246 required award of bid within 60 days of bid opening rather than previous 90 days and clarified procedure for negotiation of contract when bids exceed available funds and including provision for negotiations between bidders and sub-bidders; P.A. 75-425 required bidding on projects estimated to exceed $250,000 rather than $500,000 as previously; P.A. 77-614 replaced public works commissioner with commissioner of administrative services; P.A. 82-438 provided that legislative management committee is responsible for bidding procedures involving work on the state capitol building; P.A. 82-447 amended section to replace references to sub-bidders with references to subcontractors; P.A. 84-48 included any construction of or work on any building under the supervision and control of the joint committee on legislative management as being under the control of said committee where "state capitol building" was previously mentioned; P.A. 87-496 replaced administrative services commissioner with public works commissioner; P.A. 87-529 provided that a constituent unit of the state system of higher education is responsible for bidding procedures involving work on a building under the supervision of the constituent unit; P.A. 88-116 added provision re manner, conditions, requirements and time for bids; Sec. 4-137a transferred to Sec. 4b-91 in 1989; P.A. 89-353 designated existing section as Subsec. (a), exempted emergency correctional facility project from Subsec. (a) and added Subsec. (b) re procedure for award of contract for emergency correctional facility project to a general contractor; P.A. 92-228 amended Subsec. (a) by adding Subdivs. (2) and (3), exempting large public building project and construction management contracts from requirements of Subsec. (a); P.A. 93-30 made a technical change in Subsec. (a), effective July 1, 1993; May Sp. Sess. P.A. 94-2 exempted the University of Connecticut library project from Subsec. (a) and included said project in provisions of Subsec. (b), effective July 1, 1994; P.A. 95-230 amended Subsec. (a) to add exception for The University of Connecticut and made technical changes to the lettering and numbering, effective June 7, 1995; P.A. 96-235 amended Subsec. (a)(1) by repealing exemption from competitive bidding requirements for large public building projects and construction management, as defined in Sec. 4b-98, which was repealed elsewhere in the act, effective June 6, 1996; P.A. 97-293 made a technical change in Subsec. (a), effective July 1, 1997; P.A. 98-21 amended Subsec. (a) to exempt a community court project and amended Subsec. (b) to include a community court project; P.A. 98-59 changed effective date of P.A. 98-21 from October 1, 1998, to April 13, 1998; P.A. 99-26 amended Subsec. (a) to exempt the Connecticut Juvenile Training School project, amended Subsec. (b) to include said project and made technical changes, effective May 7, 1999; P.A. 99-75 substituted $500,000 for $250,000 in Subsec. (a), deleted references to "an emergency correctional facility project" and made technical changes; P.A. 99-241 added the downtown Hartford higher education center and made technical changes, effective June 28, 1999; P.A. 00-192 amended Subsecs. (a) and (b) to include correctional facility project and juvenile detention center project, effective July 1, 2000; P.A. 02-140 amended Subsecs. (a) and (b) by adding provisions re student residential facilities and made technical changes in Subsec. (b), effective July 1, 2002; P.A. 03-215 amended Subsec. (a) to reference prequalified contractors and require that advertisements indicate the prequalification and aggregate work capacity rating, designated part of Subsec. (a) as Subsec. (b), adding prohibition on communications with a bidder prior to the award of a contract and making technical changes therein, inserted new Subsec. (c) re prequalification, inserted new Subsec. (d) re update statement, inserted new Subsec. (e) re certification under penalty of false statement, inserted new Subsec. (f) re receipt of information not available to the general public and relettered former Subsec. (b) as Subsec. (g), referencing prequalification and selection by the award panel and requiring certification to legislative management committee re emergency nature of projects therein, effective October 1, 2004; P.A. 04-141 amended Subsec. (a) to delete reference to Sec. 4b-24(4), i.e. Sec. 9 of P.A. 03-215, eliminate requirement that the Commissioner of Public Works, the joint committee or the constituent unit indicate the aggregate work capacity rating required for the contract in the advertisement and delete definition of aggregate work capacity rating, amended Subsec. (b) to prohibit public official, as defined in Sec. 1-79, from communicating with any bidder prior to the award of the contract if the communication results in the bidder receiving information about the contract not available to other bidders, made technical changes in Subsec. (d), amended Subsec. (f) to include receipt of information from a state employee, made technical changes in Subsec. (g) and added requirement that the Commissioner of Public Works submit contract to the State Properties Review Board for review and approval or disapproval, designated provisions re agency seeking to have project awarded without being subject to competitive bidding procedures on and after October 1, 2004, as Subsec. (h) and amended said Subsec. to require certification for such project to the government administration and elections committee rather than the legislative management committee and made technical changes, and added Subsec. (i) re review of contract for approved project by the State Properties Review Board; P.A. 05-287 amended Subsec. (a)(1) to delete exceptions in former Subparas. (B) and (D) for the Connecticut Juvenile Training School project and The University of Connecticut library project and redesignate existing Subpara. (C) as new Subpara. (B), and existing Subparas. (E) to (G), inclusive, as new Subparas. (C) to (E), inclusive, and amended Subsec. (g) to remove The University of Connecticut library project and the Connecticut Juvenile Training School project from the list of projects for which the commissioner may negotiate a contract with the successful bidder, effective July 13, 2005; P.A. 06-134 amended Subsec. (a) to eliminate exception for certain projects undertaken and controlled by The University of Connecticut and made technical changes in both Subsec. (a) and Subsec. (c), effective January 1, 2007, and added new Subsec. (j) re requirement of certain subcontractors to be prequalified, effective October 1, 2007; P.A. 07-202 amended Subsec. (a) to include any other public work by the state and add exception for public highway or bridge projects or any other construction projects administered by Department of Transportation, amended Subsec. (c) to include work performed pursuant to a contract, amended Subsec. (d) to add provision re acceptance of bid without prequalification certificate and update bid statement, and made technical changes, effective July 10, 2007; P.A. 07-213 amended Subsec. (b) to change "within sixty days" to "not later than ninety days" re making of award, effective July 10, 2007; Sept. Sp. Sess. P.A. 09-7 amended Subsec. (a) to add references to other public work, replace requirement that invitation for bids be inserted in newspapers having circulation in each county with requirement that such invitation be posted on State Contracting Portal, add requirement that contracts be awarded to bidder that is prequalified pursuant to Sec. 4a-100 and define "public agency", amended Subsec. (c) to make a conforming change, amended Subsec. (d) to make requirement of submitting copy of prequalification statement dependent upon discretion of the public agency, amended Subsec. (f) to add reference to any other public work and make technical changes, and amended Subsec. (j) to change October 1, 2007, to October 5, 2009, and add reference to any other public work by the state or municipality, except a public highway or bridge project or any other construction project administered by Department of Transportation, effective October 5, 2009.

Kansas Small and disadvantaged Business Development ACT (SB 511)

Chester A. Daniel, President & CEO, Urban League of Kansas
Testimony before the Joint Economic Development Committee on 2010 SB 511

The Urban League believes that this hearing on Senator Faust-Goudeau's Kansas Small and disadvantaged Business Development ACT (SB 511) is a step in the right direction in bringing about equity and fairness in the access and full participation of minority and women owned businesses in federal, state and city contracts. Indeed, the equal sign that is the identifying symbol or logo of the Urban League stands for equal access and equality. This equal sign has identified the Urban League for 100 years—a sign that challenges all of us to be fair. SB 511 requires and challenge fairness.

All across America, there have been efforts taking place to ensure that opportunities, real opportunities exists for minority groups to participate in contracts paid for by the taxes of citizens of this country. Whether it is in Atlanta with the Metropolitan Atlanta Rapid Transit Authority (MARTA), Florida, Georgia or Tennessee, there have strong efforts to ensure that minority groups are set-aside contracts to ensure their participation. Since its inception in 1971, MARTA has developed a workforce that reflects its commitment to diversity. In 1999, women accounted for 32 percent of all promotions, a 28 percent increase since 1996. This reality of diversity has made MARTA one of the top employers in Atlanta and now one of the many transit authorities recognized for its pledge to diversity. 'MARTA has demonstrated its commitment to utilizing the talents of dedicated, well-trained, professional employees without differentiation of race or gender. I am proud to recognize their outstanding efforts in making MARTA -- and the transit industry -- an avenue of personal and professional growth for deserving individuals,' stated William W. Millar, president of APTA.

In Tampa, Florida they first passed the Women and Minority Business Enterprises ordinance in the 1980s, after a study found a pattern of (alleged) discriminatory hiring against women and minorities. Today Contractors hired by the city are required to have a certain percentage of women and minorities on staff if they employ more than 15 people and are seeking a contract of more than $10,000. If the contract is worth more than $50,000, the ordinance requires all businesses to comply, regardless of size.

"In the case of construction contracts, 10 percent of the employees or subcontractors on a project must be black, 9 percent must be Hispanic and 6 percent must be women. For professional services such as legal work, the numbers drop to 3 percent black, 7 percent Hispanic and 4 percent women." (Associated Press, 01-08-99)

The foregoing are a few examples of effort taking place in cities across the country to ensure inclusion and full participation of minority business owners in tax funded projects. However, the situation is not that simple. For example in Nashville, TN some minority business owners urged the city in 1994 to conduct a $600,000 disparity study to determine the nature and number of minority-owned businesses in Nashville. From that study, they hope policies and programs can be developed to encourage more government contracts to be awarded to minority-owned companies. In 1994, 0.37 percent of all Metro contracts were awarded to African American-owned businesses, according to figures from the Minority Business Development Center.

A disparity study assesses the minority businesses population in a community and determines whether minority-owned businesses are underrepresented in local government contracting. It also determines whether the under representation is because of race or social disadvantages or as a result of government purchasing procedures.

The studies came into use after 1989, after a U.S. Supreme Court ruling in City of Richmond v. J.A. Croson Co. The court held that the city of Richmond, Va., failed to demonstrate "compelling government interest" for requiring construction contractors to subcontract at least 30 percent of the dollar amount of each contract to at least one "minority business enterprise." [The Supreme Court believed the set-asides violate the Fourteenth Amendment].

Again, the Urban League fully supports SB511 and regards it as a step in the right direction. We want to ensure that there is fairness across the board as it relates to full minority participation in federal, state and city contracts.

Honorable legislatures of Kansas

My name is Lazone Grays Jr., and I am the President and Chief Executive Officer for IBSA, Inc., a nonprofit tax-exempt corporation founded and based in Topeka Kansas. I am honored to provide testimony today in support of efforts to strengthen and grow the many small, women, minority and disadvantaged business concerns in Kansas.

Since 1993, our organization has provided employment services and business support; with a primary focus on the low to-moderate income community and its residents. Founded on the philosophy of self-help, social entrepreneurship and public policy advocacy, IBSA has played a role in addressing issues surrounding disproportionate unemployment of African Americans, disparity in public funded procurement and in addressing inequity as a whole.

Today I am speaking in support of passing a policy that will effectively address the real and apparent disparity small women, minority and disadvantaged business concerns have faced for many years in Kansas.

I am aware of Senate Bill 511 that brought us here today and the proposed elements to address low and marginal participation by small MBE, DBE and WBEs in public and private projects and developments. For more than a decade I have sought to bring to awareness to this issue to decision makers and to keep on the forefront the consequences of inequity in public funded procurement activities, inadequate workforce training availability; which all leads to maintaining disparate neighborhoods, avoids addressing the persistent crime in our communities and as economy's' fluctuate; diminishing the state and local tax base.

At every juncture whereas self-employment and small business entrepreneurship was the issue, our agency has injected itself into the discussion because our constituents are either unaware of the discussion, do not have time to participate in the discussion, are not well versed in preparing a logical argument on the issue and/or, basically are not able to analyze the issue and propose or present viable solutions that policy makers can use to make forward thinking decisions and positive action on. The efforts today may be looking at and using the past as our benchmarks, but it is the future that is at stake in the totality of the discussion today. The eventual outcome by you policy makers, that can make lasting change in the many cities, counties neighborhoods and communities across Kansas is being pressed because I personally believe the time to set policy that can effectively foster policies that can address such a longstanding problem is upon us. Doing nothing is not an option and anything that can give hope to future opportunity is in the best interest of Kansans. Self-employment in itself is employment and can raise the standards of living and quality of life for generations

future

Prepared by Lazone Grays, Jr.
President/CEO
IBSA, Inc.

Joint Committee on Economic Development
September 27-28, 2010
Attachment 16

I believe that when problems arise they should be dealt with and not avoided and that longstanding problems eventually must be addressed. Sometimes problems are not addressed because no clear solution is apparent, but given the chance to hear from those working in the trenches of a problem some of the best insight, suggestions and recommendations can be found. As an example, I note how in Topeka/Shawnee County the idea to have a sales-tax dedicated for economic development came to light and in an effort to address the historic disparity in business support and development for small minority and women business concerns our agency proposed allocating a percentage of that sales-tax to be used for the economic development and support of the small women, minority and disadvantaged businesses that in essence pay taxes into the system as business owners and citizens. Data regarding equity in public funded procurement definitely showed that something needed to be done, for years nothing of substance had been proposed or passed to address apparent disparity, but as logic prevailed 10 percent of the sale-tax funds were dedicated to economic development to support economic development for small minority, women and disadvantaged business concerns in the City of Topeka/Shawnee County. What has come about from this policy is training, grants, loans and other supports that would have never came to fruition if nothing had been done differently with the utilization of tax dollars every citizen paid into the system.

Another example of policy driven leadership is how Wyandotte County Kansas City Kansas address the statistically significant disparity found in their commissioned disparity study. An example of disparity of major concern for our business constituents rested in the fact that African American construction firm only received a little over $70,000; compared to over $54 million of public funds that was spent on construction projects. As a representative of our agency and the small construction businesses we serve, I met with Mayor Reardon and his staff, presented the data as relational to the consistent unemployment rate for African American men at 17 percent, and he did not hesitate to dedicate staff to finding a way to address the apparent disparity in a meaningful and significant way. The final result was the passage of a 'supplier diversity ordinance' that holds the promise of addressing both the disparity and I believe the disproportionately high and chronic unemployment for targeted minorities in Wyandotte County. Yes, policy is a first step, but by no means is it the final step. Now we are working with other small women and minority-serving business organizations to initiate the other business development and support services that must go hand-in-hand with forward thinking policy; and I believe that if these actions can be accomplished on a local level by leadership willing to think outside the box, what can be accomplished at the state level can have triple the result.

In closing, there is nothing wrong with states setting in motion policies whereas they can garner the best information available to effect positive change for the taxpaying citizens and communities.

Prepared by Lazone Grays, Jr.
President/CEO
IBSA, Inc.

With agencies and institutions as partners, better opportunities for the people are a probable result. The more people are working; whether for themselves or someone else increases the tax-base while fewer working Kansas limits tax collections and increases the need for public assistance. The more a person stays unemployed.... the more their interest in attempting to running a small business, and if the small business fails, there also becomes a slight door of hopelessness that could lead to criminal activity. We all know what it generally costs society to incarcerate a person, to subsidize their dependents with welfare and the challenged the single custodial parent or guardian has to endure with this loss of income.

As an agency that serves the target business population at issue here today, passage of policies that institute practices and procedures that gives chance to elevating populations from the bottom up, is what we need to do a better job with the limited resources available to us to operate on. I think it good policy for states to set goals that address equity in public spending, set guidelines to monitor equity and to hold those that receive the bounty of public funds on developments and projects accountable to the standards of equity set by the state.

No state government can fiscal sustain itself when so many of its citizens rest at the bottom of the economic scale. According to numerous studies; including those conducted by the Kauffman Foundation, The US Small Business Administration and the US Minority Business Development Agency, minorities have a tendency to venture into small business ownership than any other ethnicity; with African Americans leading the pack.

According to the US Census Bureau 2007 Special Tabulation for Minority Firms 2002, there were approximately 12,646 minority firms in Kansas; with:

4,468 be operated by African Americans (2 % of all Kansas Firms) and total receipts from those firms in 2002 of over $373 million

4,176 be operated by Hispanic or Latino (1.9 % of all Kansas Firms) and total receipts from those firms in 2002 of over $659 million

3,574 be operated by Asians and total receipts from those firms in 2002 of over $896 million

4,468 be operated by African Americans and total receipts from those firms in 2002 of over $373 million

Prepared by Lazone Grays, Jr.
President/CEO
IBSA, Inc.

According to the Kauffman Index of Entrepreneurial Activity 1996 - 2009, *a leading indicator of new-business creation in the United States, the number of new businesses created during the 2007–2009 recession years increased steadily year to year... Entrepreneurship rates by race show that African-Americans experienced the largest increase in entrepreneurial activity between 2008 and 2009. Rising from 0.22 percent in 2008 to 0.27 percent in 2009, the rate was the highest over the 14 years of reported data but remains below other racial groups.*

I want to finish by sharing a few statistics that may be of interest to this sitting body and if taken on there face value, should help shape the concerns we are hoping to address and aid in any final decisions you will make.

Since 2000 our agency IBSA has requested and compiled statistical data to gauge the socioeconomic vitality of targeted minority demographics. Our prime interests were unemployment, incarceration, welfare and procurement disparity. I have shared information and insights on disparity, but consider this:

Unemployment for African American men remained at over 17 percent in Wyandotte, Shawnee, Leavenworth up until recently. No reasoning was provided on why such a huge reductions across the board impacted primarily only the African American population?

Unemployment Rate - 2008	Both Sexes	Male		Female	
	Unemployment Rate	*Unemployment Rate*		*Unemployment Rate*	
Black or African American (Wyandotte)	13.3	12.1%	14.6	14.4%	12.3
Black or African American (Leavenworth)	9.9	6.3%	15.1	3.5%	5.1
Black or African American (Shawnee)	11.6	4.5%	13.5	4.7%	9.8

Unemployment Rate - 2007	Both Sexes 9.2%	Male	Female
	Unemployment Rate	*Unemployment Rate*	*Unemployment Rate*
Black or African American (Wyandotte)	16.1	17.7	14.9
Black or African American (Leavenworth)	11.7	17.8	6.0
Black or African American (Shawnee)	14.7	17.1	12.5

Unemployment Rate - 2006					
Black or African American (Wyandotte)	16.1	13.9%	17.7	14.6%	14.9
Black or African American (Leavenworth)	11.7	5.5%	17.8	4.8%	6.0
Black or African American (Shawnee)	14.7	4.4%	17.1	4.6%	12.5

Unemployment Rate - 2005	Both Sexes	Male		Female	
	Unemployment Rate	*Unemployment Rate*		*Unemployment Rate*	
Black or African American (Wyandotte)	16.1	14.9%	17.7	13.6%	14.9
Black or African American (Shawnee)	14.7	4.4%	17.1	4.6%	12.5

(underlined = percent of total county population)

Prepared by Lazone Grays, Jr.
President/CEO
IBSA, Inc.

African American men made up <u>3.1 % in 2002</u>, <u>2.8 % in 2005</u> and again <u>3.1 %</u> of the total Kansas population in 2008 but their incarceration rate among all ethnicities has held steadily above 30 percent.

2009 Taxpayer Cost - Annual Cost Per Inmate

Kansas	National Avg.
$25,127	$28,689

Data Sources: Federal Bureau of Investigation, U.S. Dept. of Justice, Bureau of Justice Statistics, U.S. Dept. of Justice, American Jail Assoc., American Correctional Assoc., State Government Websites

African American women made up less than 5 percent of the total state population but their rate of receiving Temporary Assistance to Needy Families (TANF), welfare or public assistance; whatever it's called held steady between 34 percent in 2002 to 28 percent to this day.

TANF RECIPIENTS RACE AND ETHNICITY BY STATE FISCAL YEAR AVERAGED BY MONTH

KANSAS

		Unemployment Rate	
RACE	**SFY 05**	**SFY04**	**SFY03**
WHITE	66.7%	66.2%	66.8%
BLACK	**30.1%** *12.2*	**30.9%** *12.5*	**30.5%**
AMERICAN INDIAN/ALASKA NATIVE	2.0%	1.9%	1.7%
ETHNICITY	**SFY 05**	**SFY04**	**SFY03**
HISPANIC	12.8%	11.8%	10.7%
NON-HISPANIC	87.2%	88.2%	89.3%

Source: SRS Admin.

RACE	**SFY 06**
WHITE	65.4%
BLACK	**28.3%** *10.8*
ETHNICITY	**SFY 06**
HISPANIC	13.0%
NON-HISPANIC	87.0%

RACE	**SFY 07**	**SFY 08**
WHITE	65.5%	65.4%
BLACK	**28.6%**	**28.3%**
ETHNICITY	**SFY 07**	**SFY 08**
HISPANIC	13.8%	14.0%
NON-HISPANIC	86.2%	86.0%

Represents the monthly average of TANF recipients in Kansas during State Fiscal Year 2007 which ran from July 2006 through June of 2007

Prepared by Lazone Grays, Jr.
President/CEO
IBSA, Inc.

RACE	SFY2010
WHITE	66.2%
BLACK	**26.3%**
ETHNICITY	**SFY2010**
HISPANIC	15.8%
NON-HISPANIC	84.2%

SOURCE: PRE-SAMPLED FEDERAL TANF REPORT (via ad-hoc job: SFYRACE)
Date Compiled: August 16, 2010

I want to thank you all for your time and consideration regarding an issue that is not about a hand-out, a set-aside or affirmative action, but an appeal and effort to find a more equitable means to bring the minority and disadvantaged entrepreneur into the streams of state commerce. I look forward to watching the progress of subsequent bills that may derive from today's efforts and I will always remain optimistic that the state of Kansas will provide the leadership that filters down throughout the state. If the strength of a chain rests in its weakest link, the prosperity of a state rests with its most vulnerable citizens.

I believe today is the first step to address something long overdue and request this body, as leaders of our state to consider the ramifications for children not yet born. Will they inherit the same stats and living conditions I have brought to light, or will they be afforded to living in a time of their own?

Thank you.

Prepared by Lazone Grays, Jr.
President/CEO
IBSA, Inc.

Joint Committee on Economic Development
September 27-28, 2010
Attachment 17

Kansas Minority, Women, Disadvantaged Business Development Resources

State of Kansas
"Commerce"
Minority / Women / Disadvantaged Business Certification (2008)
Executive Order 08-08

State of Kansas
"Administration"
Supplier Diversity Questionnaire

Kansas African American Affairs Commission
"Monitoring / Research"
Kansas Hispanic / Latino Affairs Commission

Entrepreneurial Training, Development. Support Services
Funded with Federal Workforce Investment Act (WIA) dollars
SDA II – SDA III

State Level Support exists for Entrepreneurship
"Kansas Prosperity Summit
"(2004)

Kansas Prosperity Summit History

The first Prosperity Summit took place in 2003 under the leadership of Gov. Kathleen Sebelius and Lt. Gov. John Moore and involved more than 1,500 community and business leaders from across the state. The results were nothing short of dramatic, as the most fundamental initiatives developed during the Summit were overwhelmingly endorsed by the Legislature in the form of the Kansas Economic Growth Act. Among the components of this legislation was:

- The establishment of the *Kansas Bioscience Authority* to develop a prominent bioscience industry in Kansas
- **The creation of the *Kansas Center for Entrepreneurship* and the *Kansas Community Entrepreneurship Fund* to coordinate resources for entrepreneurial aid**
- An historic *modernization of the state's workforce training programs* to create a seamless, market-driven system designed to help Kansas workers and employers.

Prepared by Lazone Grays, IBSA, Inc.

February 7, 2010

17-2

State of Kansas
Kansas Small and Disadvantaged Business Development Act
Senate Bill No. 511
"Proposed"

Complete a Disparity Study

*Set Goals and Utilization Rate for State Contracting & Procurement

*Tracks the utilization of Minority & Women Business Enterprises on State-funded Contracting & Procurement

*Establishes Regional Centers to carry out core activities identified under this "Act"

*Establishes requirements for the coordination, monitoring and compliance of State M/W/DBE procurement efforts within each agency level

*Requires annual report to the Legislature, Governor, State Agency Heads?

Does not identify any permanent or long-term sources of public funding to finance initiatives and structures to carry out this policy

Lacks requirement for "Supplier Diversity" good-faith utilization efforts by private industry firms that win substantive contracts paid for with State tax dollars, to seek out and do business with M/W/DBEs

Suggested Funding Source?: ______________________________

Potential Amount Generated From This Source?: $______________ Probability [ ] High [ ] Low [ ] None

Kansas Workforce Development
*Workforce Investment Act (WIA)**
Funded by U.S. Dept. of Labor
SRS Vocational Rehabilitation

Green Jobs/Training
Wind Technology
Solar Technology
Building Retrofitting
Energy Auditing
(residential/commercial)
Weatherization

Adult Programs & Services
Funded with Federal Workforce Investment Act (WIA) dollars

**income eligible*	Job Search
**homeless*	Interviews
**hard-to-serve*	Resume Help
**ex-offenders*	Job Training

Pre-apprenticeships
Remedial Math & Reading
Worksite Safety
OSHA Training & Certification
Lead-Safe Work Practice
Reading Technical Manuals
Understanding Apprenticeable Occupations
Constructing Scaffolding
Tools of the trade and their use
Formal Apprenticeship Programs

Entrepreneurial Training, Development. Support Services
Funded with Federal Workforce Investment Act (WIA) dollars
SDA II – SDA III

Youth Programs & Services*
Guidance Counseling
Mentoring/Tutoring
Paid/Unpaid Work Experience
Career Counseling
On-the-Job Training
Job Shadowing
Life Skills Workshops
Job Club Workshops
Entrepreneurship

Relevant Apprenticeships

Carpentry	Painting
HVAC	Electrician
Drywall	Siding
Flooring	Housekeeping
Roofing	Equipment Operators

Need to tie public-funded construction projects to OJT and Apprenticeships.

Kansas Prosperity Summit History

The first Prosperity Summit took place in 2003 under the leadership of Gov. Kathleen Sebelius and Lt. Gov. John Moore and involved more than 1,500 community ity and business leaders from across the state. The results were nothing short of dramatic, as the most fundamental initiatives developed during the Summit were overwhelmingly endorsed by the Legislature in the form of the Kansas Economic Growth Act. Among components of this legislation was:

- The creation of the *Kansas Center for Entrepreneurship* and the *Kansas Community Entrepreneurship Fund* to coordinate resources for entrepreneurial aid
- An historic *modernization of the state's workforce training programs* to create a seamless, market-driven system designed to help Kansas workers and employers.

Testimony on Senate Bill 511 concerning small and disadvantaged businesses

Position of the Topeka Unit NAACP

September 27, 2010

The Topeka Branch NAACP founded in 1913, a civil rights organization with diverse Kansas representation, thanks you for the opportunity to share its position with the members of the Joint Economic Development Committee regarding Senate Bill 511.

The Topeka Branch NAACP stands as a proponent of the proposed bill concerning small and disadvantaged businesses and the proposed provisions set forth in this bill. In addition, specifically, the Topeka Branch NAACP would like to ensure that there are appropriate steps taken to measure and monitor on a regular basis the compliance of this bill should it be passed and that appropriate reporting of such specific results such as the name and identification of recipient qualified minority and disadvantaged businesses, type of contract, length of contract, amount of contract awarded and other detail information be made available in an annual report to Kansas residents via the Department of Commerce website and other avenues with appropriate notification made regarding the availability of the report to the public in public media venues accordingly. Further, it is requested that a disparity study is conducted to provide true statistics as to the awarding of contracts to women and minority businesses. The NAACP, Topeka Unit and the Kansas State NAACP conference supports this initiative.

Ben Scott, President
Topeka Unit NAACP

Glenda Overstreet, Political Chair and
Lobbyist, Topeka Unit and
Political Chair, Kansas State NAACP

Joint Committee on Economic Development
September 27-28, 2010
Attachment 18

OLATHE
CHAMBER OF COMMERCE
ONE VISION. ONE VOICE.

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My name is Tim McKee, executive vice president of Economic Development with the Olathe Chamber of Commerce.

To boost the economy of Kansas and make sure it remains competitive with other states, the Olathe Chamber of Commerce would like to familiarize legislators with the types of incentives other states are offering for data centers and alert you to the reasons data centers are so eagerly sought.

This discussion is especially timely for Olathe because we are within a week of learning if a well known company will build its data center in Olathe. If it comes to fruition, this new project would be the largest data center in Johnson County and possibly in the state. The Olathe City Council has been visionary and aggressive with the incentives it is willing to consider to land this project. Other Kansas communities and the state would do well to attract similar projects because of the enormous advantages data centers bring.

Even while other types of commercial growth stalls, data center projects have thrived—a bright spot in commercial development. Olathe is already home to US Bank's approximately 150,000-sq. ft. data center, built at the cost of $75 million. This data center is currently the largest data center in Johnson County. And Olathe is reaping great benefits from its existence. Here are some of the advantages we have found in our community:

- Data centers are often the size of large warehouses. As such, they represent a financial investment in our communities that is greater than most other types of economic development. In a down economy, they are providing an important impetus to economic recovery.
- Even though data centers employ proportionately fewer people than would be expected from the size of their facilities, employees are generally highly educated and highly paid. In addition, temporary jobs related to construction help boost the economy.
- Data centers are capital intensive and, because there are proportionately fewer employees, there is less strain on the local economy in terms of the demands placed on schools and the necessity of constructing roads and parking.
- At the same time, data centers pay significant sales taxes on power usage that help fund state and community infrastructure and services. It's important to note that power usage for data centers is immense, and the revenue stream is dramatic.
- The existence of data centers will help pave the way for other development in the high tech industry statewide.

Tax incentives have become an essential economic development tool to attract new businesses and retain existing businesses, and we believe that it is important to consider the incentives we have in place and make sure our state remains competitive for this type of development.

To address the regional impact of data centers and the trends we're seeing related to data centers, I'd like to introduce Tim Cowden with the Kansas City Area Development Council.

kansas city
AREA DEVELOPMENT COUNCIL

Testimony – Joint Committee on Economic Development
September 28, 2010

I, Tim Cowden, am Senior Vice President, Business Development, for the Kansas City Area Development Council. Our organization is charged with the attraction of companies to the bi-state Kansas City region—consisting of 18 counties in Kansas and Missouri. Over our organization's 35 year history, we have worked with our state and community partners to attract and retain thousands of jobs and hundreds of millions of dollars of direct capital investment.

Attracting a diverse set of companies is a priority. One sector that has been in a growth mode before, during, and likely after this recessionary period has been data centers. The primary reason for this growth is simply due to an explosion of demand for data storage by corporations of all sizes. In effect, the internet is allowing for data to be stored "virtually" so the benefits of an expansive, instantaneous network can be distributed to many corporate and individual users. While small and mid-sized companies benefit from lower stranded I.T. costs, there is tremendous investment being made by larger I.T. players who want to host this activity through enterprise platforms. Demand is strong among 3rd party data center developers, enterprise users (i.e. corporations running their own data center), and internet users (i.e. Google, Microsoft, Yahoo, and others).

By and large, the impact made by these data center operations (well paying I.T. jobs, desirable corporate citizens, and sizable capital investment) is significant and positive. The average salary of a typical data center employee can be between $60,000 and $100,000 per year. Capital investment budgets for these projects has ranged from $250 million to upwards of $2 billion. The competition for these types of projects is very high as states and communities are willing to place aggressive, cash-based incentives on the table in order to secure these economic benefits and the resulting substantial and net new tax revenue sources.

Kansas has had much success positioning and attracting data centers in recent years. The move by the legislature in 2006 to exempt personal property from taxation was viewed extremely favorably by U.S. Bank as a significant aspect of their rationale to invest $200 million in Kansas. Other factors contributing to their decision were aggressive community incentives, notably the use of real property tax abatement, competitive electricity costs, robust infrastructure, a high quality, technically-savvy workforce and excellent quality of life amenities.

While Kansas incentives have been historically viewed as competitive in the area of data center attraction, other states (neighbors and others) have recently taken steps to improve their economic incentives toolbox to gain a competitive edge over Kansas. Iowa and Oklahoma have exempted 100% of sales taxes on personal property, electricity and back up fuel purchases for qualified data centers (minimum capital investment required). In Iowa, the exemption is available forever and will cover any ongoing replacement of servers and computer equipment. Both states have had major data center recruitment wins over the past two years including separate projects by Google locating approximately $600 million in new facilities. The Carolinas offer 100% exemption of sales taxes on equipment, construction, and electricity for qualified data center projects.

Currently, we are working with a host of data center clients and our ability to secure these major investments is hamstrung due to a lack of flexible sales tax exemptions on personal property and electricity purchases. Adoption of these exemptions, in any form, by the Kansas Legislature will allow us to equalize the marketplace and better position the state for future attraction success.

Thank you for your time and consideration.

Tim Cowden, Senior Vice President, Business Development
Kansas City Area Development Council
14003 Eby Drive
Overland Park, Kansas 66221

Joint Committee on Economic Development
September 27-28, 2010
Attachment 20

CBRE
CB RICHARD ELLIS

M E M O R A N D U M

CBRE
CB RICHARD ELLIS

TO:	**Tim McKee, Olathe Chamber of Commerce** **Tim Cowden, Kansas City Area Development Council**
FROM:	**John Lenio, CBRE Economic Incentives Group**
DATE:	**September 13, 2010**
RE:	**Overview of Data Center Incentives**

During the past several years, CBRE's Economic Incentives Group has been involved in numerous data center engagements ranging from preliminary analysis to formal incentive negotiations for enterprise and internet users. Our recent work has included a 15MW data center up to a 75MW supercenter with capital investment ranging from $500 million up to $2 billion. After our team assists a Client to reach a short list of communities that meets its risk tolerance and geographic preferences, economic and tax incentives tend to be the piece of the puzzle that seals the business case.

Kansas tends to make it to the shortlist before incentives come into the discussion. Other states are adapting economic policy to better attract data centers due to the capital investment, power usage, and ultimate tax revenue impacts compared to other target industries. These other states are implementing State incentive legislation to be more responsive to the financials that tend to drive data center location decisions.

Overall Economics

The following table shows the operating costs of a recent 30MW data center in two communities. Total capital investment for this data center is $458 million – 70% of which is personal property (chillers, generator, racks, servers, computers, etc). Over a 20-year time period, operating costs are about $55.8 million less expense in City 2. **These savings are primarily driven by personal property and sales taxes.**

City 2 is located in a State that statutorily exempts personal property from property taxes. By comparison, City 1 offers a 60% abatement for only 5 years. In addition to personal property taxes, sales/use taxes in City 1 are exempt under an aggressive data center incentive program. For large data centers, sales/use taxes are 100% exempt for personal property and electricity usage. By comparison, City 1 can only offer a 100% exemption of sales taxes for two years.

Operating Cost Comparison
30MW Data Center Prospect

(20yr totals, NPV after tax, in millions)

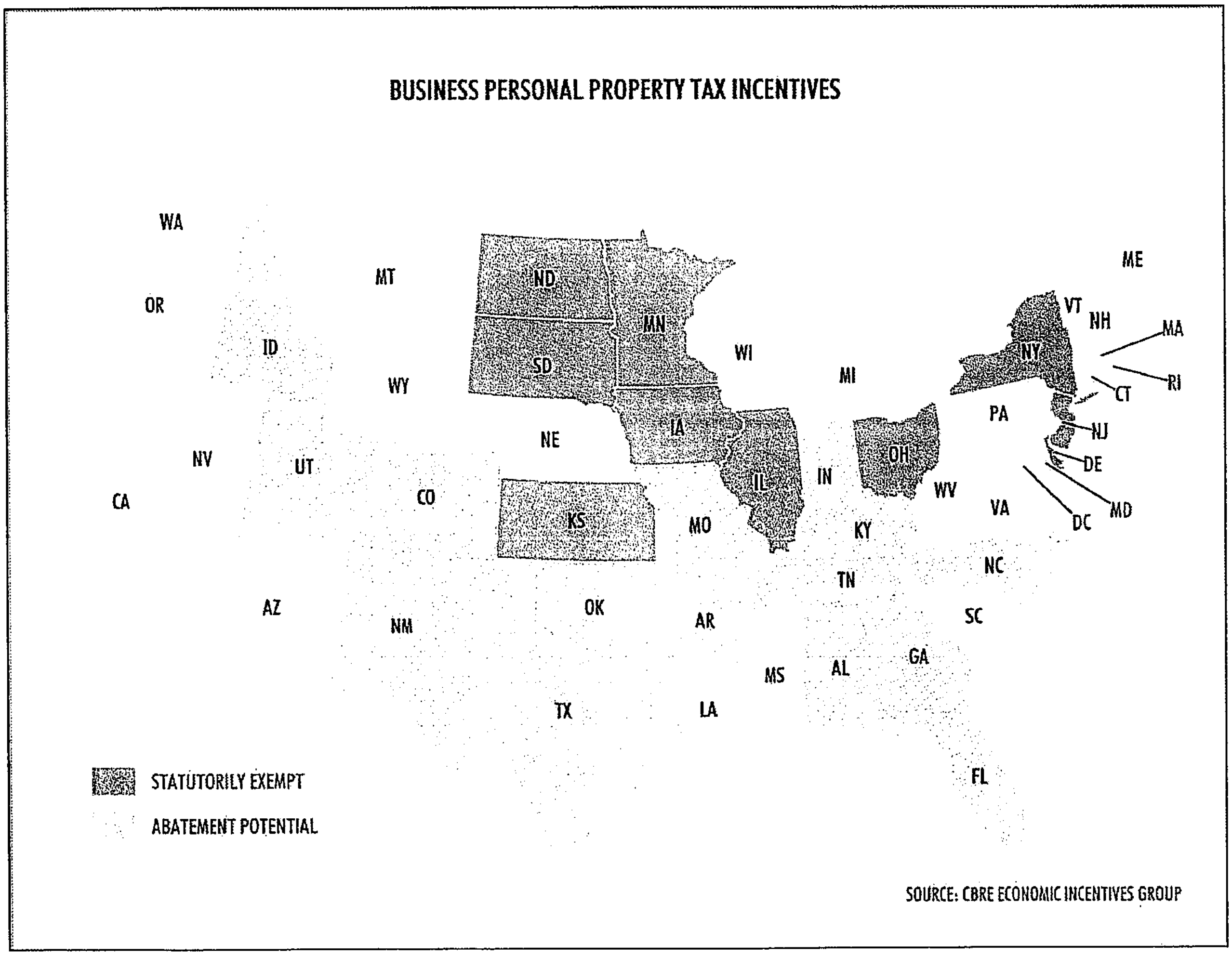
	City 1	City 2	Difference
Land	14.9	20.7	5.8
Power	55.2	42.8	(12.4)
Power Incentive	(1.6)	0.0	1.6
Water	10.4	6.4	(4.0)
Real Estate Tax (net of incentives)	32.8	40.3	7.6
Personal Property Tax (net of incentives)	31.2	0.0	(31.2)
Sales Tax (net of incentives)	32.3	9.1	(23.2)
Total	**175.1**	**119.3**	**(55.8)**

Personal Property Taxes

A number of states have implemented economic development policy to attract capital intensive industries such as data centers. To our knowledge, at least 10 states automatically exempt personal property investment from property taxes (see dark green states in the map below). These states include North Dakota, South Dakota, Kansas, Minnesota, Iowa, Illinois, Ohio, New York, New Jersey, and Delaware. A data center located in these states is automatically guaranteed this exemption which requires no negotiation or discretion of elected leaders.

Beyond these exempt states, at least 16 other states tend to offer discretionary abatements to offset a portion of personal property taxes for a limited number of years (see light green states in the map below). These states include Idaho, Utah, Colorado, New Mexico, Texas, Oklahoma, Arkansas, and Missouri. Other states include Indiana, Tennessee, Kentucky, North Carolina, South Carolina, Georgia, Alabama, and Florida. Abatement incentives can typically range anywhere from 20% to 100% for up to 10 years in these states. Abatements apply to municipal and county property taxes only. School district property taxes are not allowed to be abated with very few exceptions.

At the end of the day, the goal is to find a community and state with the lowest net personal property tax. This is driven by a low overall property tax and availability of an abatement incentive.



Sales Taxes

Sales or use taxes on equipment investment will be a significant expense. When purchasing equipment from national vendors, sales/use tax is imposed based on the location of a data center. For example, purchases of $1 million in Kansas would be subject to $53,000 in use taxes compared to $29,000 in Colorado and $40,000 in New York.

State Sales/Use Tax Rates

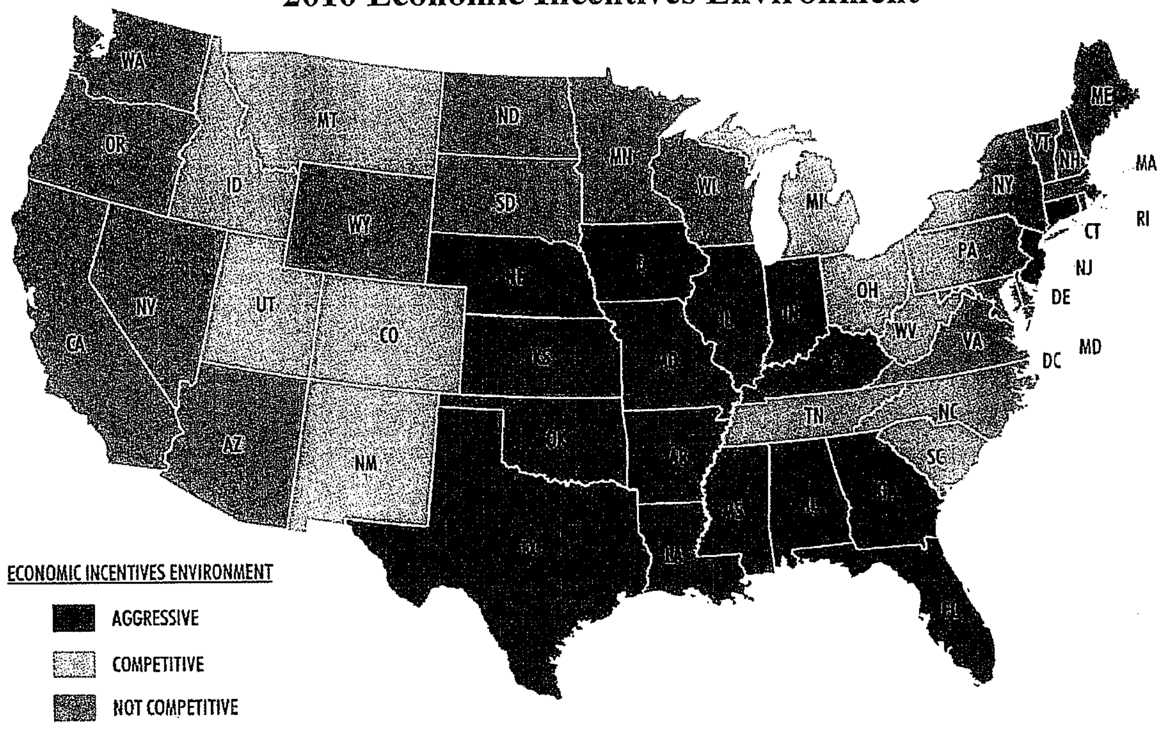
	Rate	Tax per $1m		Rate	Tax per $1m
AL	4.00%	$40,000	MT	0.00%	$0
AK	0.00%	$0	NE	5.50%	$55,000
AZ	5.60%	$56,000	NV	6.85%	$68,500
AR	6.00%	$60,000	NH	0.00%	$0
CA	8.25%	$82,500	NJ	7.00%	$70,000
CO	2.90%	$29,000	NM	5.50%	$55,000
CT	6.00%	$60,000	NY	4.00%	$40,000
DE	0.00%	$0	NC	5.75%	$57,500
FL	6.00%	$60,000	ND	5.00%	$50,000
GA	4.00%	$40,000	OH	5.50%	$55,000
HI	4.00%	$40,000	OK	4.50%	$45,000
I	6.00%	$60,000	OR	0.00%	$0
IL	6.25%	$62,500	PA	6.00%	$60,000
IN	7.00%	$70,000	RI	7.00%	$70,000
IA	6.00%	$60,000	SC	6.00%	$60,000
KS	5.30%	$53,000	SD	4.00%	$40,000
KY	6.00%	$60,000	TN	7.00%	$70,000
LA	4.00%	$40,000	TX	6.25%	$62,500
ME	5.00%	$50,000	UT	5.95%	$59,500
MD	6.00%	$60,000	VT	6.00%	$60,000
MA	6.25%	$62,500	VA	5.00%	$50,000
MI	6.00%	$60,000	WA	6.50%	$65,000
MN	6.88%	$68,750	WV	6.00%	$60,000
MS	7.00%	$70,000	WI	5.00%	$50,000
MO	4.23%	$42,250	WY	4.00%	$40,000

Some states have sales tax exemptions baked into statute and other states offer discretionary abatements. At the end of the day, the goal is to find a community and State with the lowest net sales tax on personal property investment.

Overall Incentives Environment

All things considered (including geography, transportation infrastructure, supply chain, labor cost & availability, and other factors), economic incentives plays a critical role in recruiting and retaining strong economic development prospects across the U.S. The following map illustrates each state's relative competitiveness with economic incentives. This map is based on our extensive experience with economic incentive negotiations across the U.S. during the past five years, each state's main economic incentive programs, and recent precedence for offering discretionary incentives. Each state is ranked as Aggressive, Competitive, or Not Competitive.

2010 Economic Incentives Environment



Source: CBRE Economic Incentives Group

Aggressive states tend to have incentive programs that produce the most financially significant and varied incentive savings. These aggressive states range from Nebraska down to Texas, most of the Midwest (Iowa, Missouri, Illinois, Indiana, and Kentucky, and nearly the entire Southeast (Mississippi, Alabama, Georgia, Louisiana, and Florida). These states have a deep economic incentives toolbox to pull from including tax credit, job training grants, cash, and local incentives programs (free land, property tax abatements, forgivable loans).

Competitive states have some usable incentive programs but not as many as the Aggressive states (in general) and potential savings are most significant for pre-determined industries. Competitive states range from states in the Northeast (Ohio, Michigan, Pennsylvania & New York) to Tennessee & the Carolinas to Idaho, Montana, and Utah. In general, these states have taken the policy position they do not want to be one of the most aggressive states but need to be competitive on a case by case basis to win business recruitment.

States that are Not Competitive do not have many economic incentive programs and are mostly situated in the West and Northeast. These states have taken the position they do not play the incentives game or historically have not needed incentives to lure businesses. When competing for an economic development prospect also looking at Texas, Indiana, or New York (for example), the Not Competitive states do not have the resources to win the business, all things being equal.

States with Aggressive Data Center Incentives

(1) IOWA

Personal Property Tax ➔ Statutorily exempt

Sales Tax ➔ For data centers with more than $200 million in capital investment, 100% of sales taxes are exempt on personal property, electricity, and backup fuel purchases. This exemption is available in perpetuity and will cover any on-going refresh of servers and computer equipment. With investment below $200 million, partial sales tax abatements are available.

Real Estate Tax ➔ Iowa communities tend to offer up to 75% abatement for up to 5 years.

Other Incentives ➔ Infrastructure grants (up to 100% of cost), Tax Increment Financing, cash grants, forgivable loans, job training grants, and some income tax credits for job creation.

MSA Ranking ➔ All MSAs will likely be aggressive.

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(2) KANSAS

Personal Property Tax ➔ Statutorily exempt

Sales Tax ➔ Sales taxes on construction materials and personal property are 100% exempt during the first two years of a project.

Real Estate Tax ➔ Kansas communities tend to offer up to 55% abatement for up to 10 years.

Other Incentives ➔ Infrastructure grants (limited), cash grants, job training, and income tax credits for job creation & investment.

MSAs ➔ All MSAs will likely be aggressive.

---

(3) NORTH CAROLINA

Personal Property Tax ➔ Abatements are available and can range from 5 years at 60% up to 30 years at 80%. The rural communities and counties tend to offer the more aggressive abatements.

Sales Tax ➔ Sales taxes on construction materials are exempt for qualified financial institutions. Sales taxes on data center equipment purchases are exempt if capital investment exceeds $300 million. Both sales tax exemptions are scheduled to sunset in January 2013. Governor Perdue is considering legislation during the current Session to extend the sunset.

Real Estate Tax ➔ Abatements are available and can range from 5 years at 60% up to 30 years at 80%. The rural communities and counties tend to offer the more aggressive abatements.

Other Incentives ➔ Infrastructure grants (up to 100% of cost), some job training, and limited income tax credits.

MSAs ➔ Charlotte, Raleigh = Low; Greensboro, Winston Salem = Medium; All other = High

---

(4) SOUTH CAROLINA

Personal Property Tax ➔ Abatements are available for 25% to 75% abatement for up to 20 years. Tax rates before incentives are low relative to other states.

Sales Tax ➔ Sales taxes on data center equipment is 100% exempt.

Real Estate Tax ➔ Abatements are available for 25% to 75% abatement for up to 20 years. Tax rates before incentives are low relative to other states.

Other Incentives ➔ Infrastructure grants (up to 100% of cost), some job training, and limited income tax credits.

MSAs ➔ All MSAs will likely be aggressive.

---

(5) ARKANSAS

Personal Property Tax ➔ Abatements are available for up to 50% abatement for up to 10 years. More rural communities can be more aggressive. Tax rates before incentives are low relative to other states.

Sales Tax ➔ Sales taxes on construction materials and personal property is 100% exempt during the first four years of a project.

Real Estate Tax ➔ Abatements are available for up to 50% abatement for up to 10 years. More rural communities can be more aggressive. Tax rates before incentives are low relative to other states.

Other Incentives ➔ Cash grants, income tax credits for job creation & investment, job training grant

MSAs ➔ Little Rock, Fayetteville, Fort Smith = Low; Suburbs of Little Rock, Suburbs of Fayetteville (i.e. Rogers) = Medium; All others = High

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(6) OKLAHOMA

Personal Property Tax ➔ Abatements are available for up to 50% abatement for 5 years. More rural communities can be more aggressive. Tax rates before incentives are low relative to other states.

Sales Tax ➔ Sales taxes on computer equipment are 100% exempt for qualified data centers.

Real Estate Tax ➔ Abatements are available for up to 50% abatement for 5 years. More rural communities can be more aggressive. Tax rates before incentives are low relative to other states.

Other Incentives ➔ Payroll rebate, job training grants, income tax credits for investment

MSAs ➔ Oklahoma City, Tulsa = Medium; All others = High

(7) TEXAS

Personal Property Tax ➔ Abatements are available for up to 75% abatement for up to 10 years. More rural communities can be more aggressive.

Sales Tax ➔ Low probability of negotiating sales/use tax exemptions from the State.

Real Estate Tax ➔ Abatements are available for up to 75% abatement for up to 10 years. More rural communities can be more aggressive.

Other Incentives ➔ Infrastructure grants

MSAs ➔ Dallas, Austin, Houston = Low; San Antonio & All others = High

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(8) MISSOURI

Personal Property Tax ➔ Abatements are available for up to 75% abatement for up to 10 years. Abatements require issuance of industrial revenue bonds and transfer of title to a community.

Sales Tax ➔ Low probability of negotiating sales/use tax exemptions from the State.

Real Estate Tax ➔ Abatements are available for up to 75% abatement for up to 10 years. Abatements require issuance of industrial revenue bonds and transfer of title to a community.

Other Incentives ➔ Payroll rebates, income tax credits for investment

MSAs ➔ Kansas City (MO side), St Louis (City) = Medium; All others = High

---

(9) ILLINOIS

Personal Property Tax ➔ Statutorily exempt.

Sales Tax ➔ Low probability of negotiating sales/use tax exemptions from the State.

Real Estate Tax ➔ Abatements are available for up to 75% abatement for up to 10 years. Relatively high property tax rates.

Other Incentives ➔ Income tax credits for job creation & investment

MSAs ➔ Chicago = Low; St Louis (IL side) and All others = High;

Recent Data Center Legislation

Washington ➔ During the 2010 legislative session, Washington passed a 100% sales tax exemption on server equipment and power infrastructure. Sales tax exemption available if construction commences before July 2011.

Mississippi ➔ During 2010, the Mississippi Legislature enabled a 100% sales tax exemption on all computing equipment, software, and construction materials. The minimum requirements for this exemption are investment of at least $50 million and new jobs of at least 50. The sales tax exemption is available during the start-up phase and on-going refresh.

Iowa ➔ During late 2009, the Iowa Legislature enabled a 100% sales tax exemption on all data center infrastructure, computer equipment, electricity, and purchased of backup fuel. The 100% exemption is available if capital investment exceeds $200 million. Partial exemptions are available for investment below $200 million.

New York ➔ The State of New York is offering significant cash grants to data centers investing in energy efficient equipment and infrastructure. About $100 million has been set aside and will be disbursed through the Industrial and Process Efficiency Program.

Other Considerations

The states listed above have implemented aggressive incentives policy to attract data centers by offer abatements of sales and property taxes. In our experience, these significant tax incentives do not necessarily drive the location decision. The reliability & cost of power, extent of free cooling hours, and availability of suitable land sites tend to be higher priority consideration.

The following table shows the financial impact of a 1 cent per kWh difference in power cost versus number of free cooling hours. Based on the ranges of free cooling hours, every 1 cent/kWh difference equates to between $3.5 million and $3.8 million in additional power costs per year.

Let's assume there are two communities (City A and City B) on the short list of alternatives. City B's incentives package is $25 million better than City A over a ten year period of time. However, City B's power costs are 8 cents/kWh compared to 5 cents/kWh in City A. Worst case, this power cost difference translates into $3.8 million additional annual costs or $38 million over 10 years. The additional power costs exceeded the additional incentives that were offered by City B.

Annual Power Cost Scenarios
Cost/kWh vs. Free Cooling Hours

	Annual Cost per kWh				
Free Cooling	**$0.05**	**$0.06**	**$0.07**	**$0.08**	**Marginal Cost per $0.01/kWh**
3,500	$19,422,800	$23,300,360	$27,188,420	$31,079,980	**$3,800,000**
4,000	$19,187,800	$23,017,360	$26,858,920	$30,704,480	**$3,800,000**
4,500	$18,952,800	$22,734,360	$26,529,420	$30,328,980	**$3,700,000**
5,000	$18,717,800	$22,451,360	$26,199,920	$29,953,480	**$3,700,000**
5,500	$18,482,800	$22,168,360	$25,870,420	$29,577,980	**$3,600,000**
6,000	$18,247,800	$21,885,360	$25,540,920	$29,202,480	**$3,600,000**
6,500	$18,012,800	$21,602,360	$25,211,420	$28,826,980	**$3,500,000**
Marginal Cost per 500 hours	**$235,000**	**$283,000**	**$329,500**	**$375,500**	

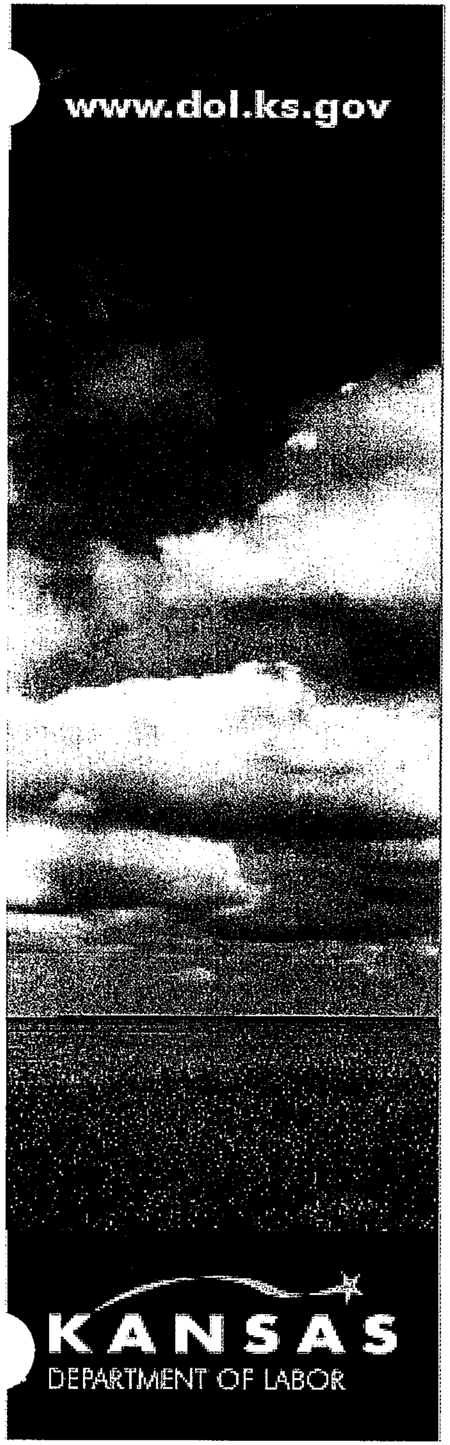
* Assumptions: IT Load = 46.25MW, PUE = 1.3, kW/T = 0.55, Avg load = 80%

Next Steps

We are happy to provide any additional commentary or testimony to help your team with considering new data center-specific legislation. Please let us know how we can best support your team.

For additional info, please contact:

John Lenio
Economist & Managing Director
CBRE Economic Incentives Group
Ph: 602-735-5514
Email: john.lenio@cbre.com



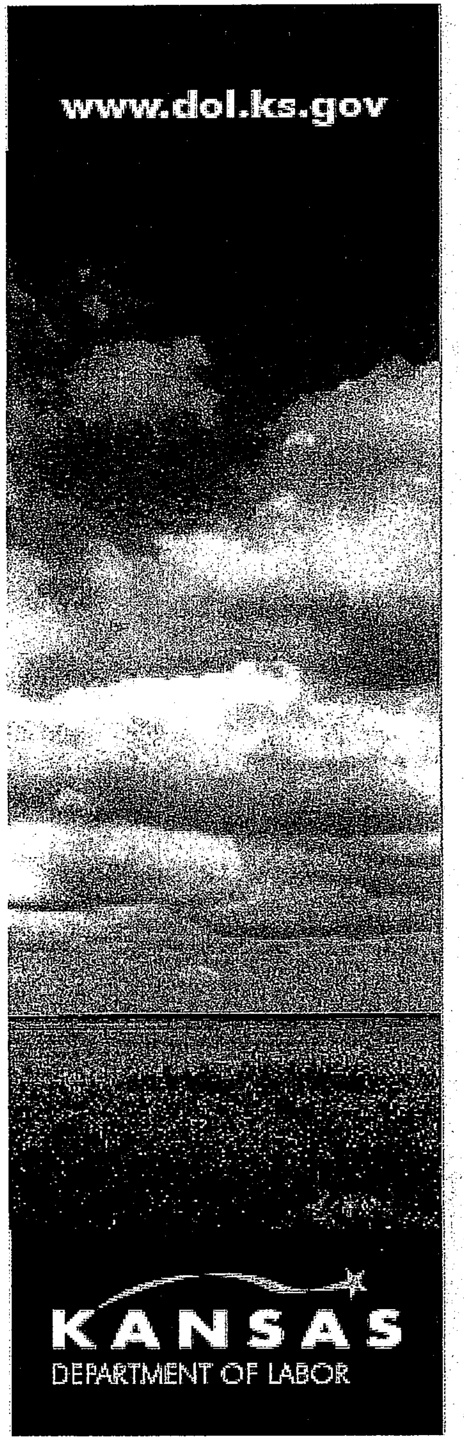
Joint Committee on Economic Development:

Update on UI Trust Fund

Jim Garner, Secretary
Kansas Department of Labor
28 September 2010

401 SW Topeka Blvd, Topeka, Kansas 66603   (785) 296-5000

Joint Committee on Economic Development
September 27-28, 2010
Attachment 22



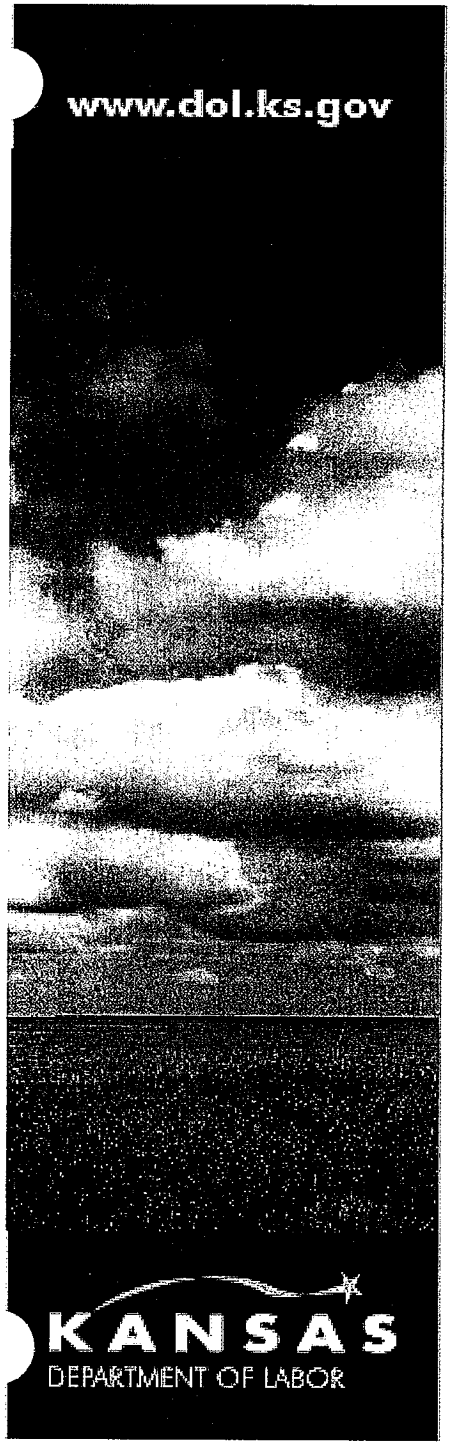
22-2

Overview of UI Trust Fund

- KDOL has the fiduciary responsibility to monitor the UI Trust Fund.

- The Trust Fund is the repository of UI taxes paid by Kansas employers and is the resource for the payment of UI benefits.

- Kansas employers pay UI taxes on a quarterly basis and on the first $8,000 annually of an employee's wages.



Background

22-3

- Kansas UI Trust Fund was 19th most solvent in U.S. in Spring, 2009
- Payouts for UI benefits in 2009: $766.8M
- Payouts for UI benefits in 2010 (As of Aug 31): $395.3M
- UI Trust Fund depleted in February 2010
- 2010 Legislature passed HB 2676 to reduce UI tax rates for some employers in 2010 and 2011
  - Estimated reduction of over $40 million to UI Trust Fund in 2010

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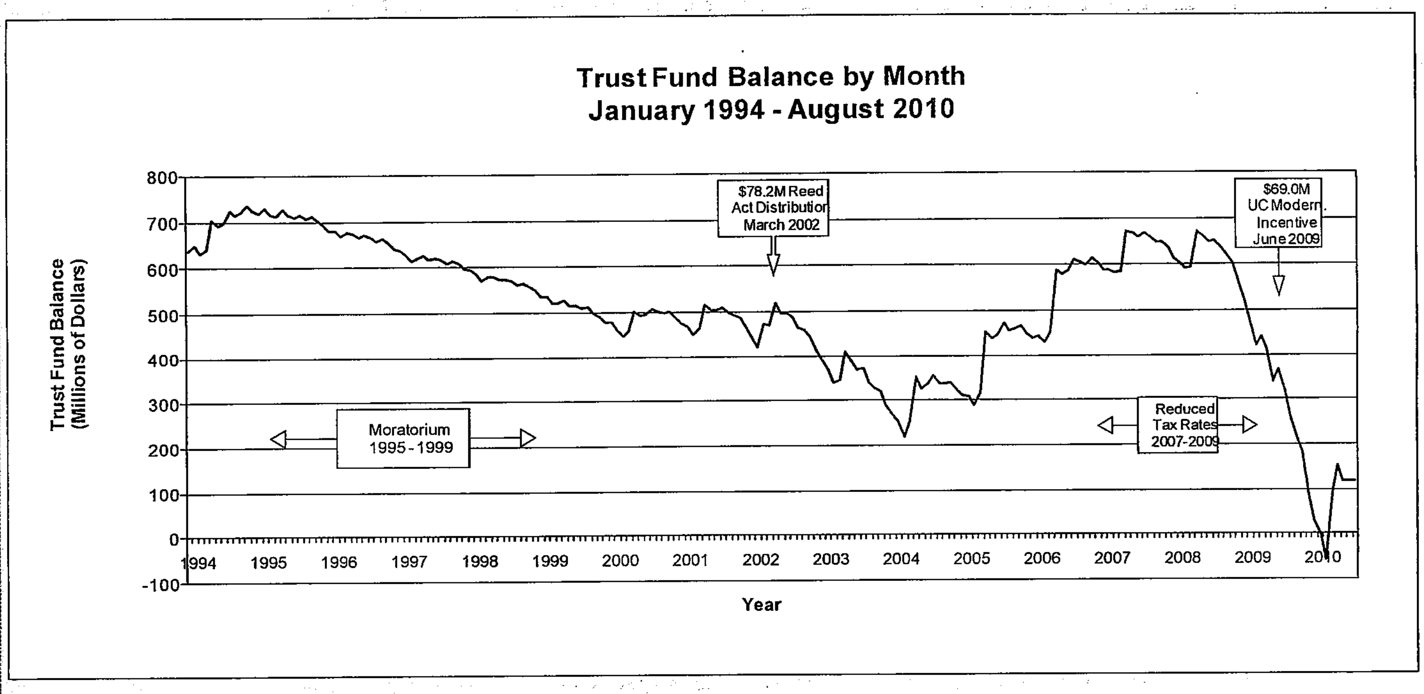
UI Trust Fund Balance

22-11



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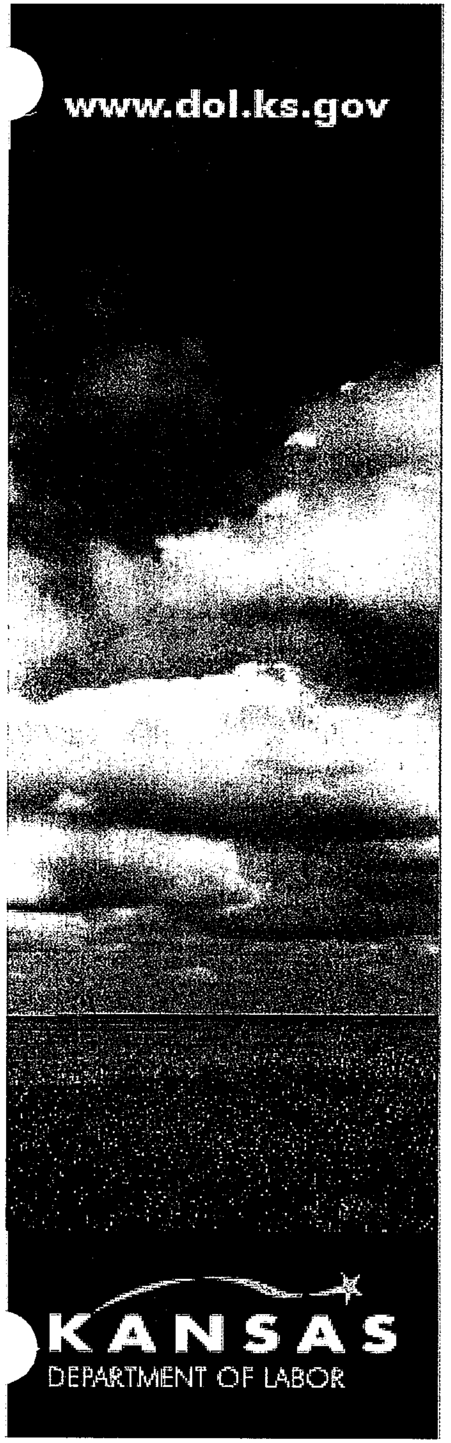
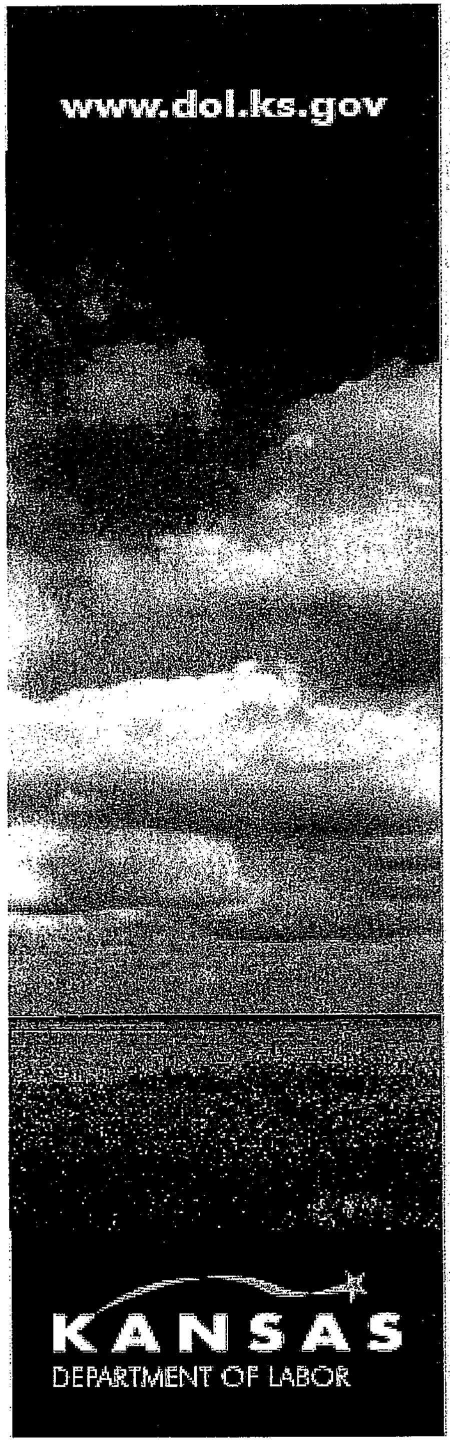


Current Status of UI Trust Fund

- As of September 16, 2010 the UI Trust Fund Balance was $117.9 million

- Kansas has received $88.2 million in Trust Fund advances

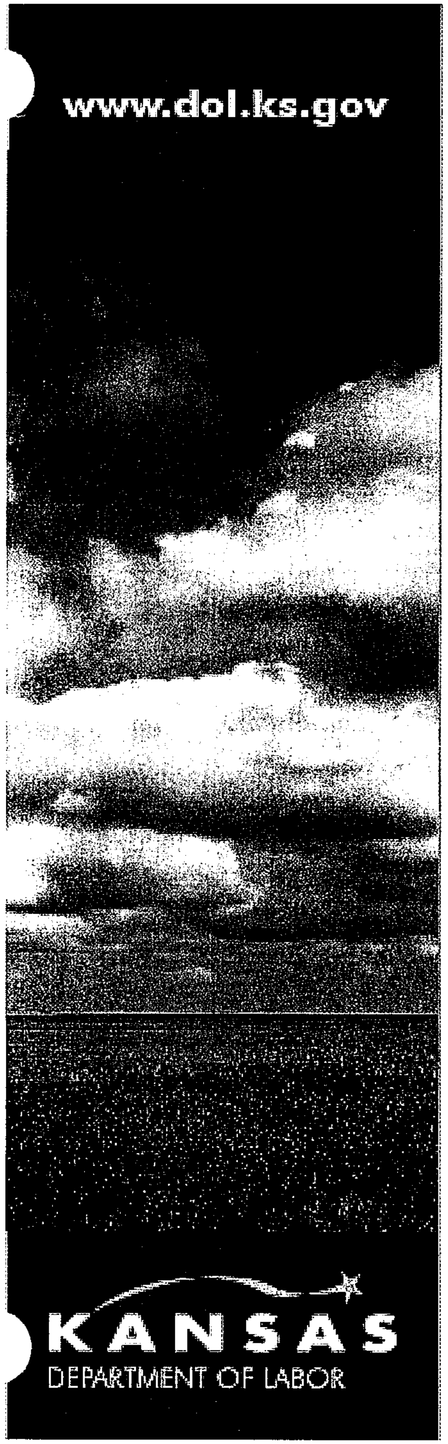


Revenue Projection for UI Trust Fund

22-6

January - July, 2010		Difference	
Expected	Actual	Actual	Percentage
$295,769,420	$282,558,030	$13,211,390	4.47%

- Expected contributions for rest of 2010: $43 Million

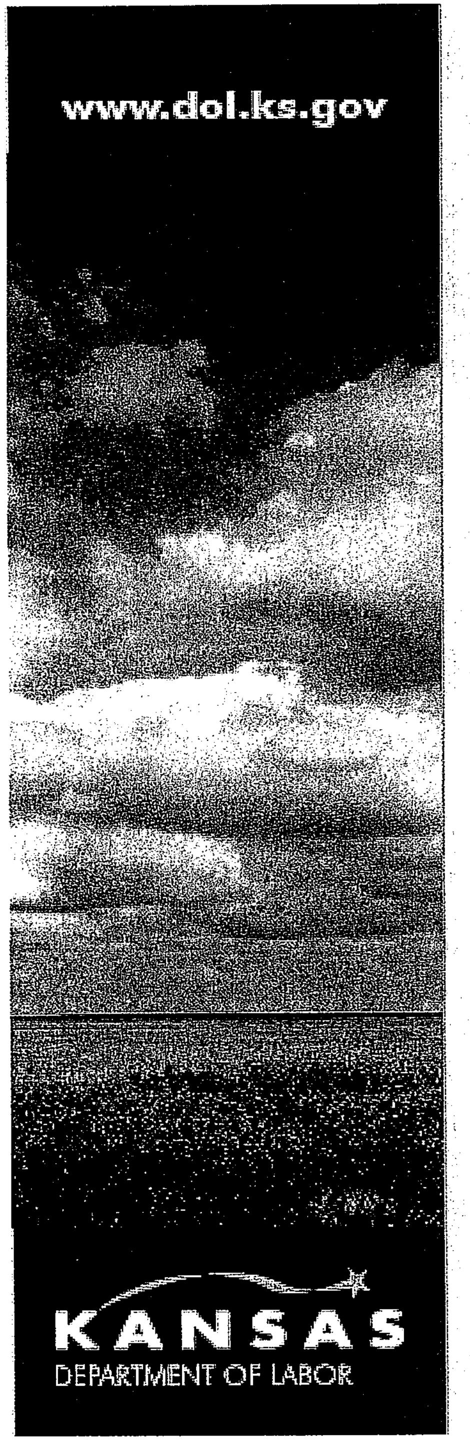


12-7

UI Trust Fund Advances

- 35 States have used federal advances for UI Trust Funds in the current recession

- Approx $40 Billion has been advanced by the U.S. Treasury

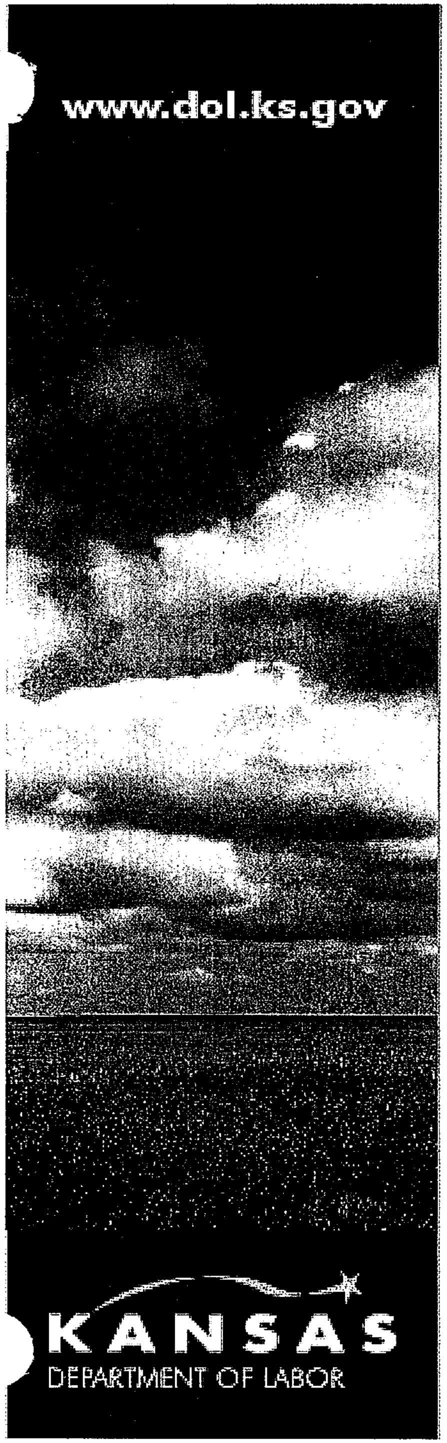


22-8

States that have borrowed

State	Amount	State	Amount	State	Amount
Alabama	$283.0M	Kansas	$88.2M	Ohio	$2,314.2M
Arizona	$105.5M	Kentucky	$795.1M	Pennsylvania	$3,008.6M
Arkansas	$330.9M	Maryland	$133.8M	Rhode Island	$225.5M
California	$8,279.5M	Massachusetts	$387.3M	South Carolina	$886.7M
Colorado	$288.6M	Michigan	$3,814.1M	South Dakota	$0.0M
Connecticut	$498.5M	Minnesota	$514.6M	Tennessee	$0.0M
Delaware	$13.4M	Missouri	$722.1M	Texas	$1,439.3M
Florida	$1,612.5M	Nevada	$514.0M	Vermont	$32.7M
Georgia	$416.0M	New Hampshire	$0.0M	Virginia	$346.9M
Idaho	$202.4M	New Jersey	$1,749.6M	Virgin Islands	$16.1M
Illinois	$2,239.6M	New York	$3,176.9M	Wisconsin	$1,424.8M
Indiana	$1,808.4M	North Carolina	$2,442.8M		

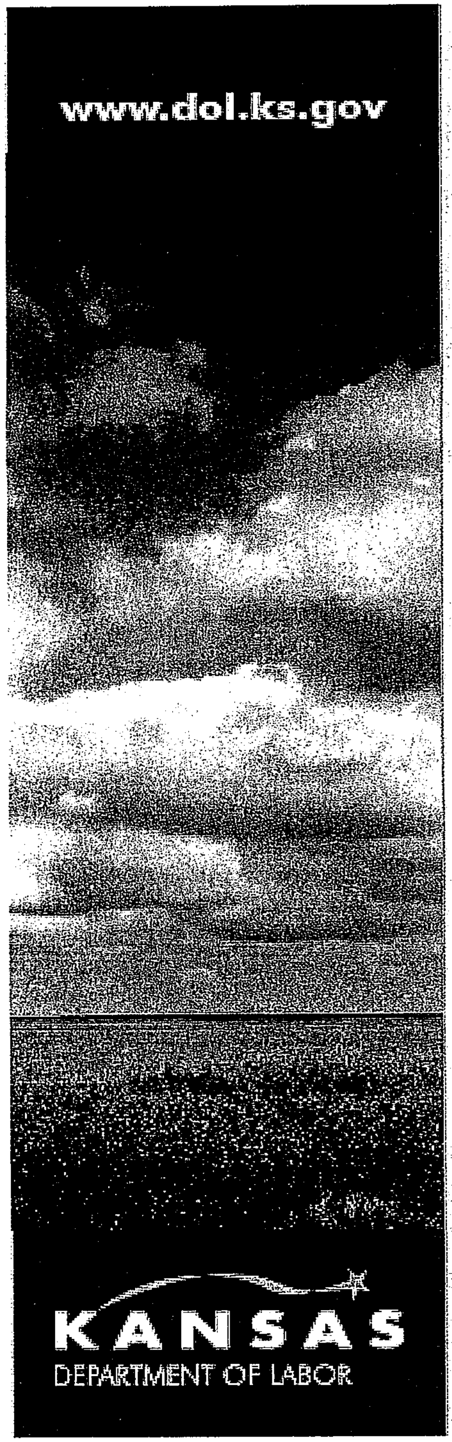
Note: Data current as of September 24, 2010.



Kansas UI Trust Fund Advances

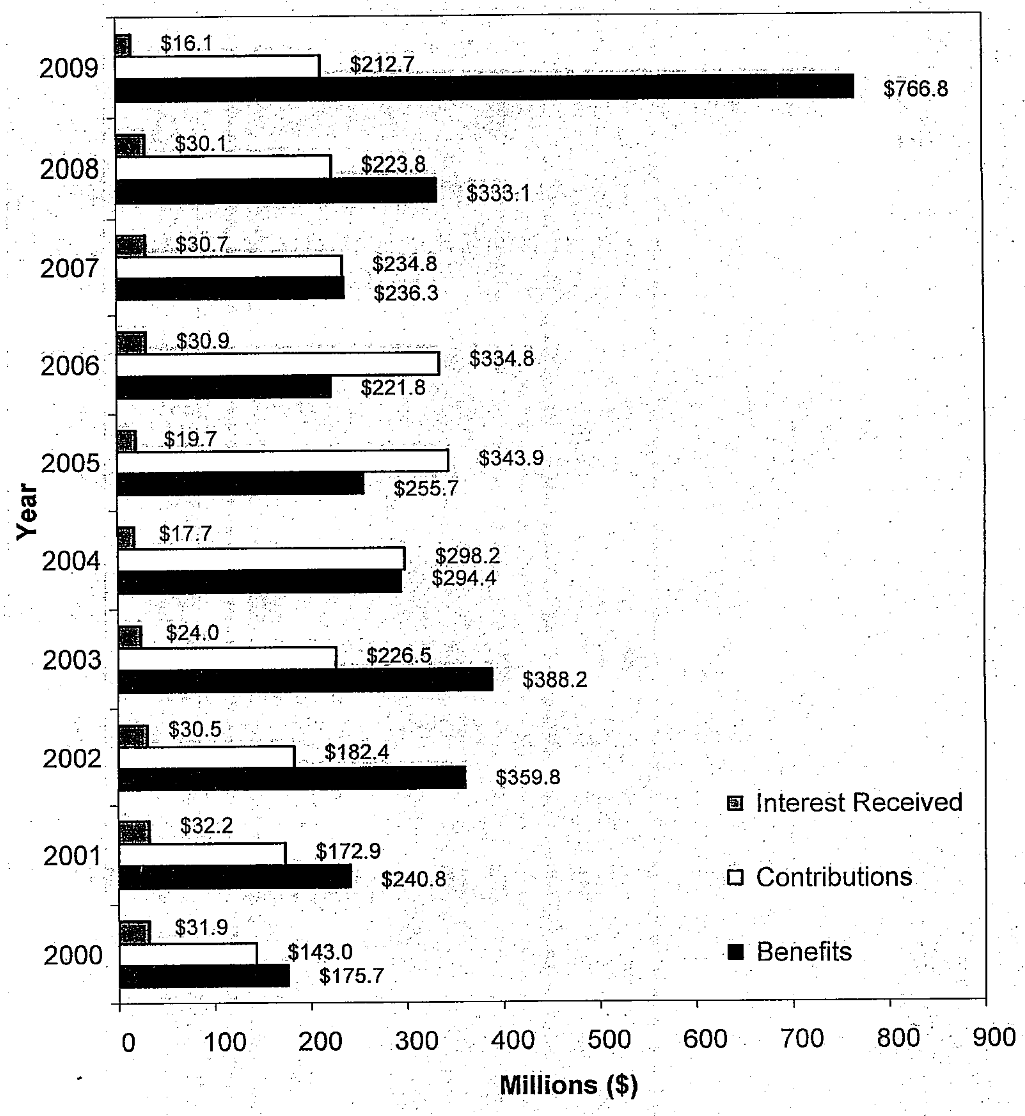
22-9

- State draws money to pay benefits as usual
  - Treasury transfers all available balances of regular UI funds and then transfer loan funds to total state drawdown request
  - Money is issued to the state on a daily basis
  - Only the amount of money needed to satisfy benefit payments for that day is issued
- Currently, Kansas has received $88.2 million in Trust Fund Advances from the Federal Unemployment Account (FUA)
- No interest through CY 2010

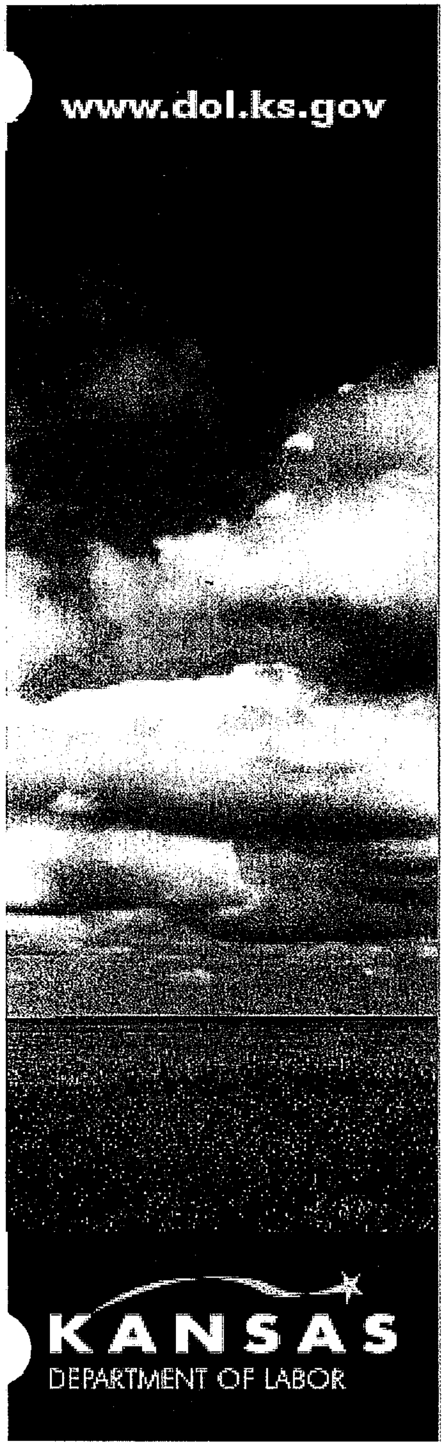


22-10

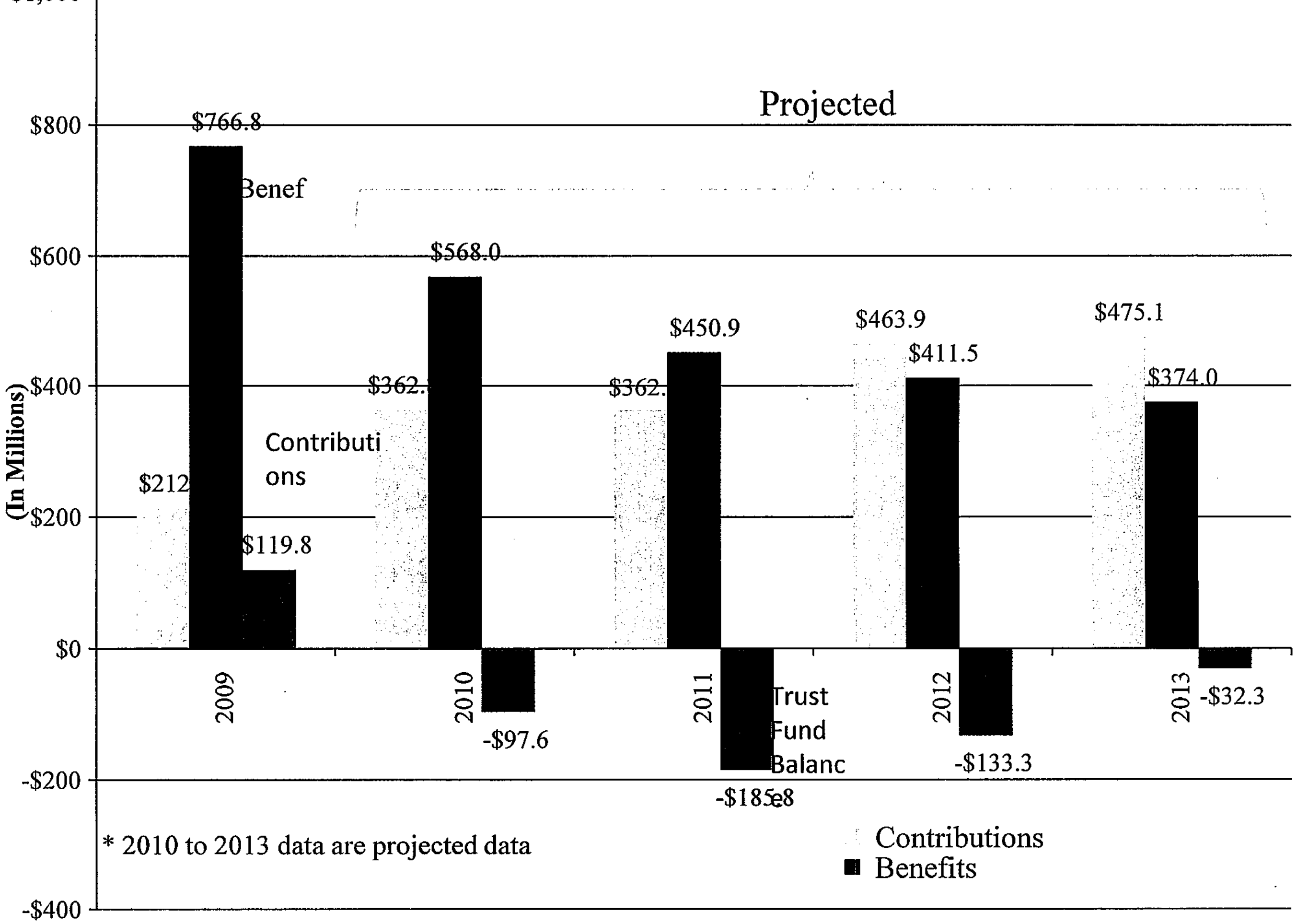
Benefits, Contributions and Interest Received
CY 2000 - 2009



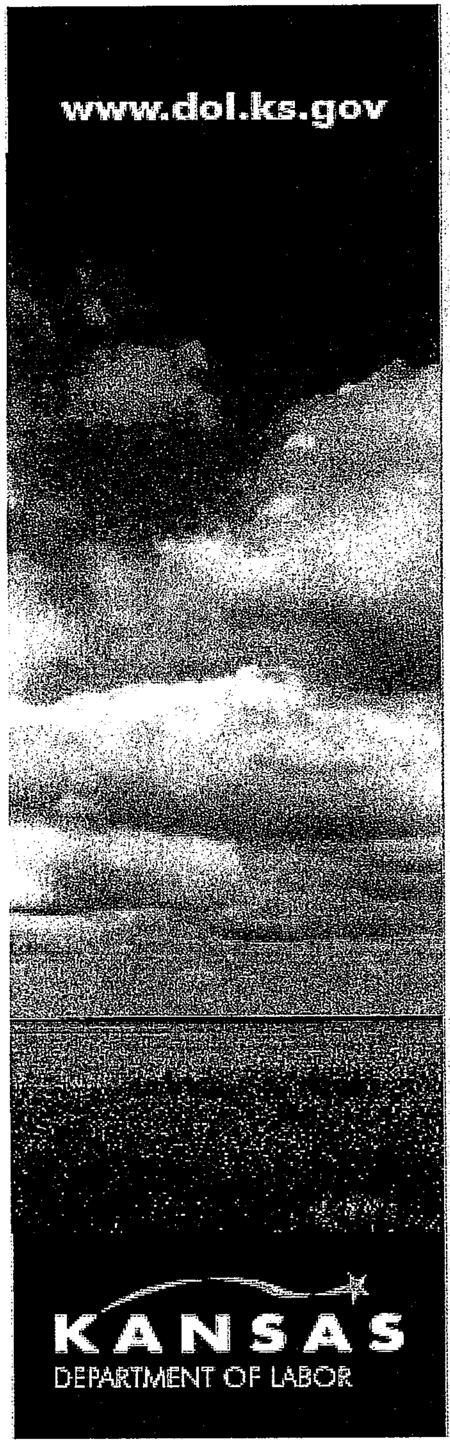
22-11



Benefits, Contributions & Trust Fund Balance (in millions)
Kansas - 2009 to 2013*



The forecast of data above was produced using the State Benefit Financing Model (BFM) developed by the U.S. Department of Labor.

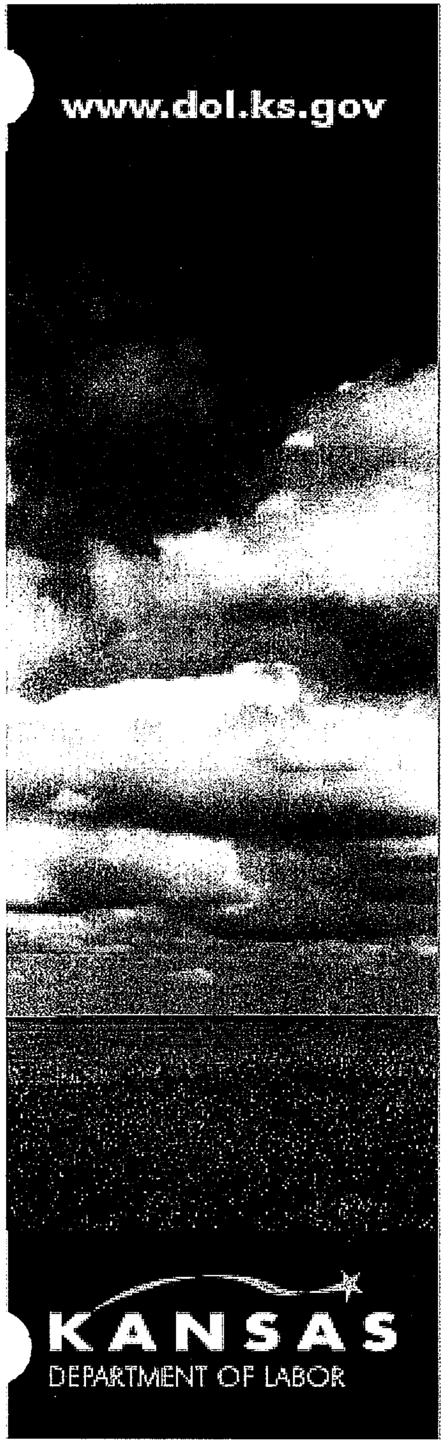


27-12

Factors Influencing Projections

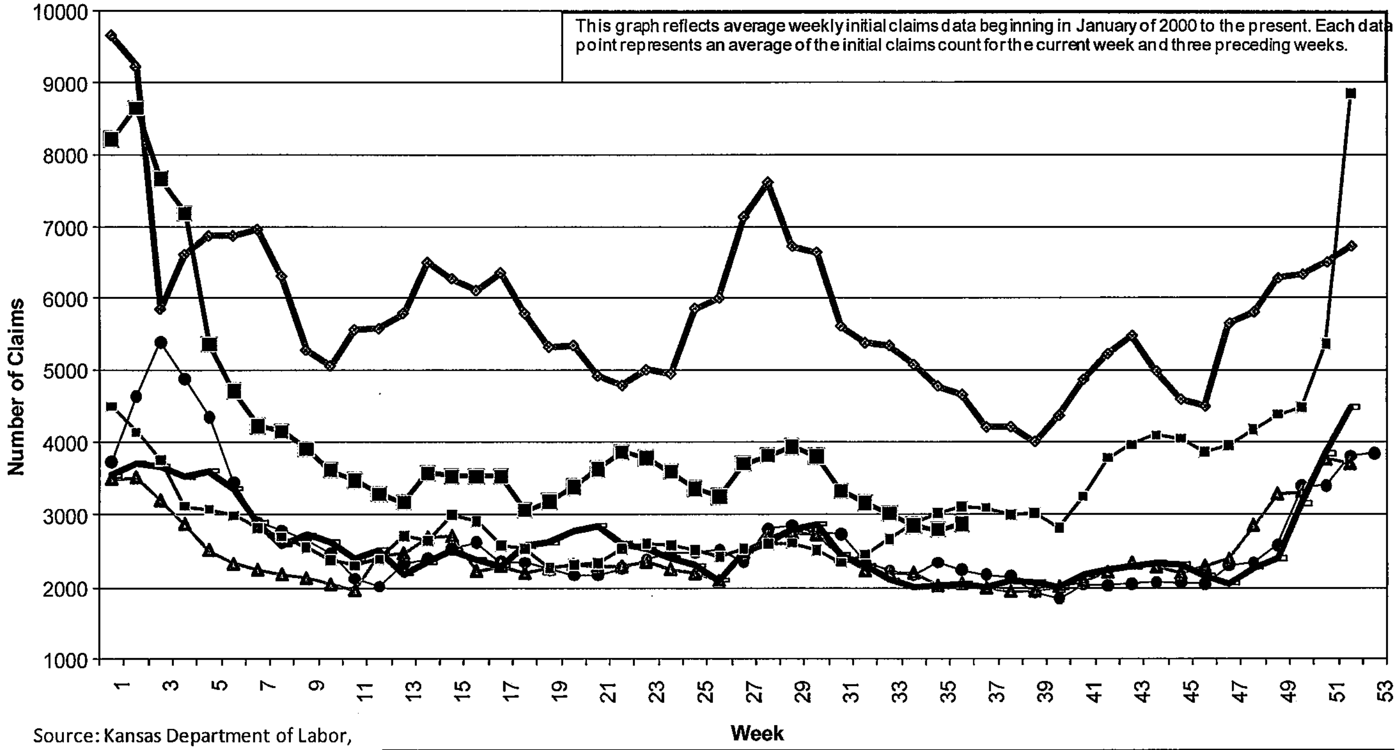
- Sharply declined initial claims
  - Initial claims are dramatically lower relative to the high unemployment rate for 2010
- Revision of unemployment rates by Congressional Budget Office
- Stabilization and slight improvement of job market and overall economy
  - Job losses stabilized in 2010 and some industries reported increase in jobs over past few months

22-13



Unemployment Insurance Initial Claims Activity

Weekly Initial Claims (4 week moving average) 1/
Kansas
January, 2005 - September 11, 2010



2005 2006 2007 2008 2009 2010

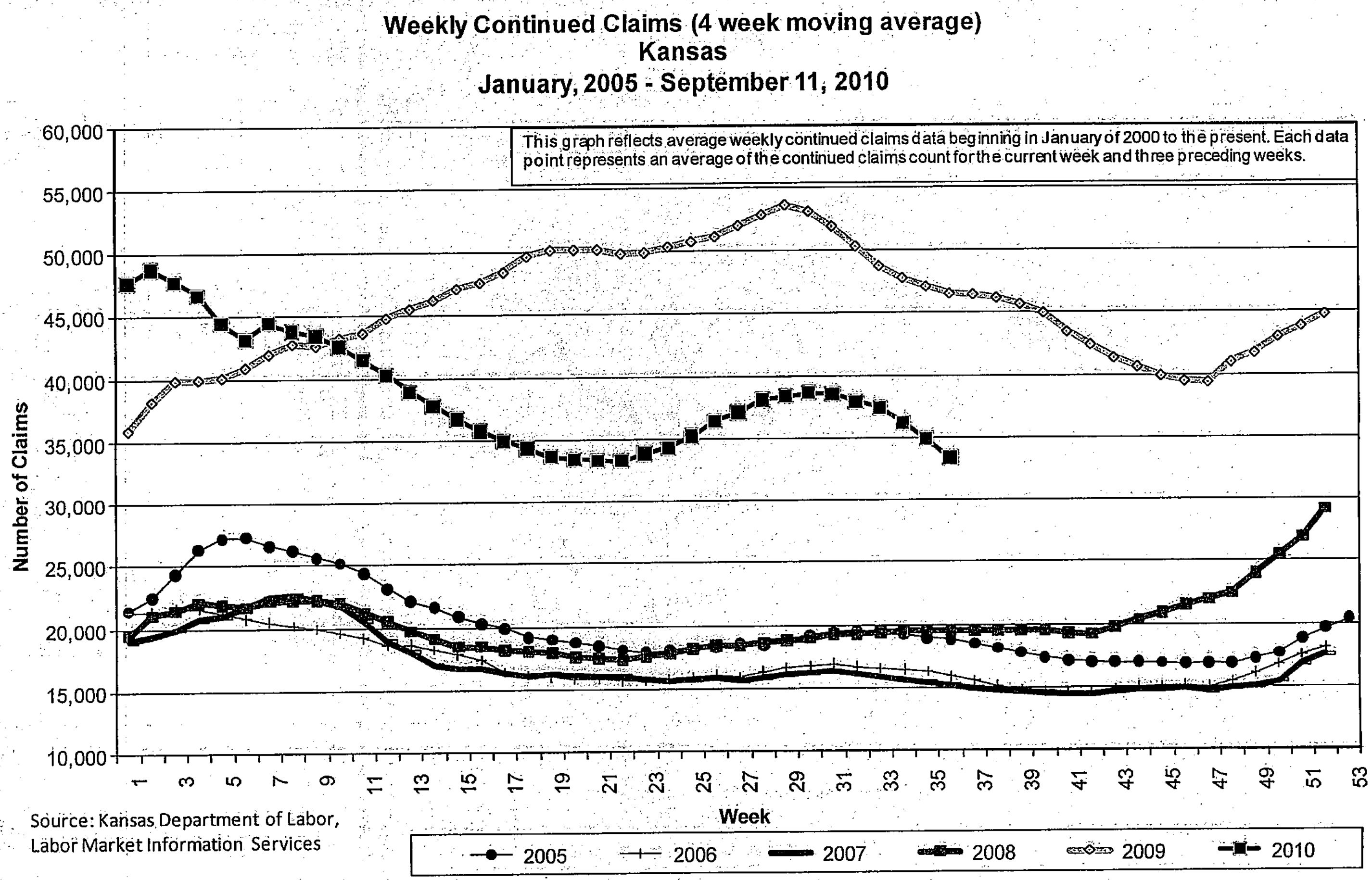
Source: Kansas Department of Labor, Labor Market Information Services

1/ Data includes regular program claims only.

www.dol.ks.gov

Unemployment Insurance Continued Claims Activity

22-14



Source: Kansas Department of Labor, Labor Market Information Services

1/ Data includes regular program claims only.

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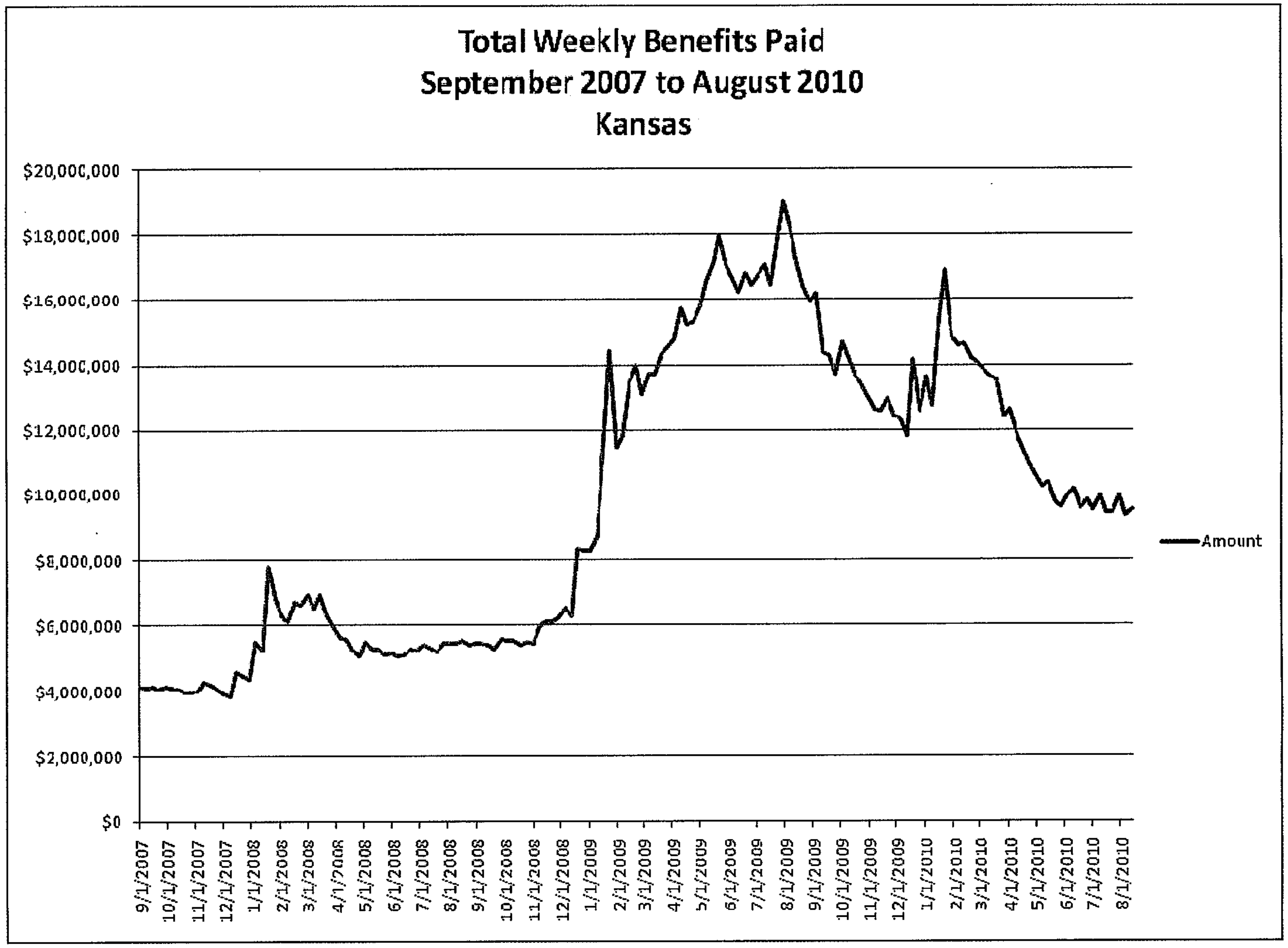
22-15

UI Benefit Payments



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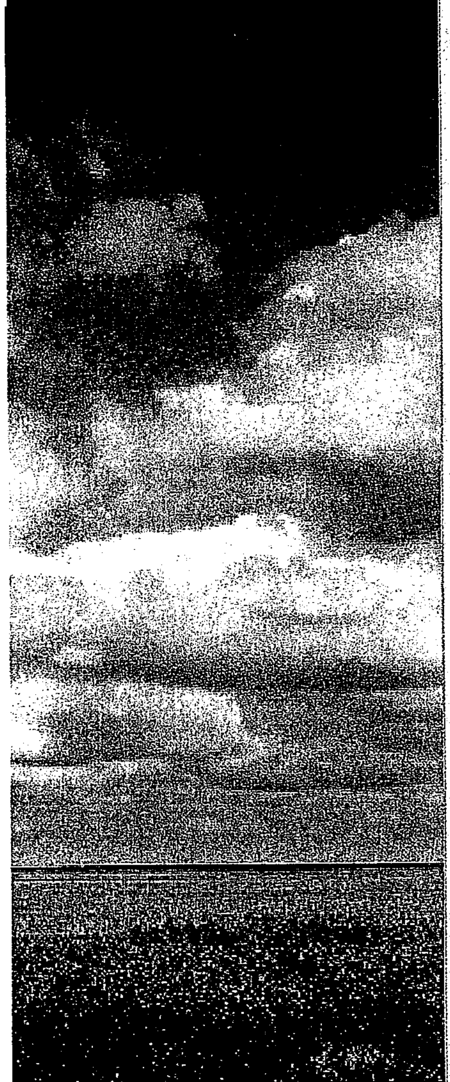

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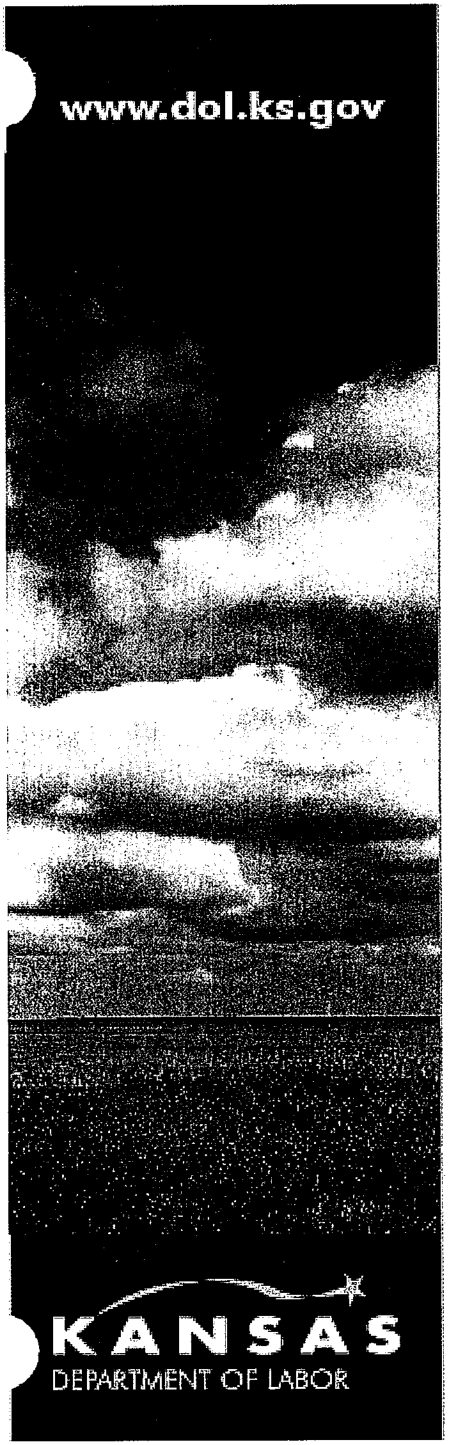
27-16

Repayment of Loan

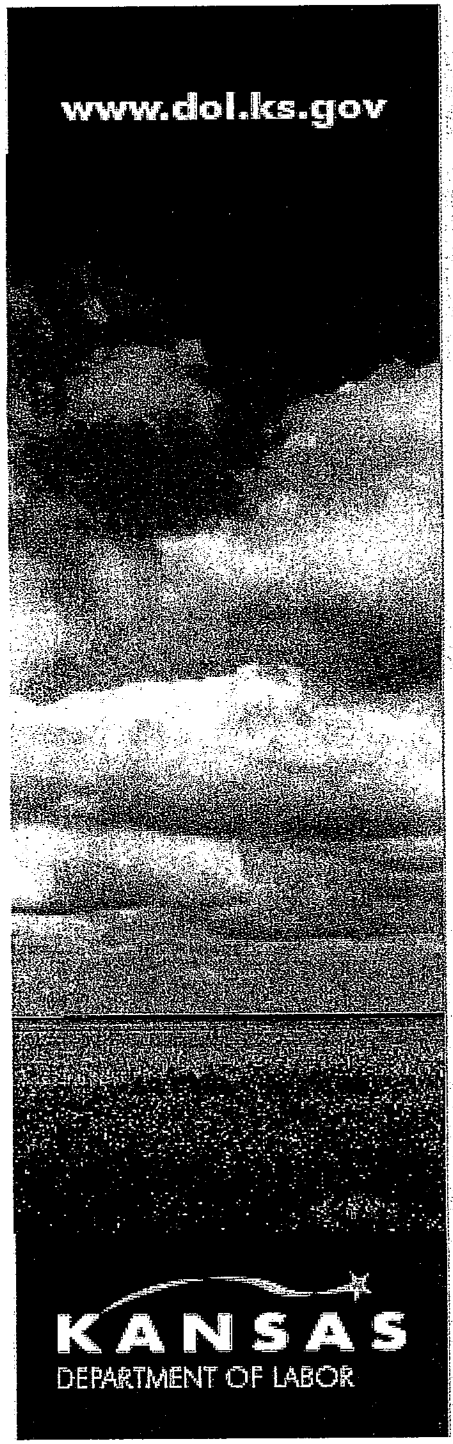
- Loan can be paid from various funding sources such as reduced Federal Unemployment Tax Account (FUTA) credits, Unemployment Trust Fund (UTF) contributions, state general funds, surcharges or additional solvency taxes
- Federal Unemployment Tax Act (FUTA) tax credit reduction begins after second consecutive January of borrowing if the principal of the loan has not been repaid
- Currently Kansas employers get a 5.4% FUTA credit
- Basic reduction of 0.3% each year after the second year
- Additional reductions may incur after 3 years
- Additional funds received as a result of the reduction are credited against the principal loan balance



Interest Payment on Advances

22-17

- Interest is accrued on the amount of outstanding loan balance. The Recovery Act (ARRA) waived interest through the end of CY 2010.
- Efforts in Congress to extend the interest waiver for another year.
- The first interest payment will be due and payable no later than September 30, 2011.
- The state's UI Trust Fund contributions collected cannot be used to pay interest on advances; must be paid from an alternative source.
- Consequences of interest not paid by required deadline:
  - Kansas employers may lose offset credits (5.4%)
  - Kansas may lose future borrowing privileges



Interest Payment on Advances

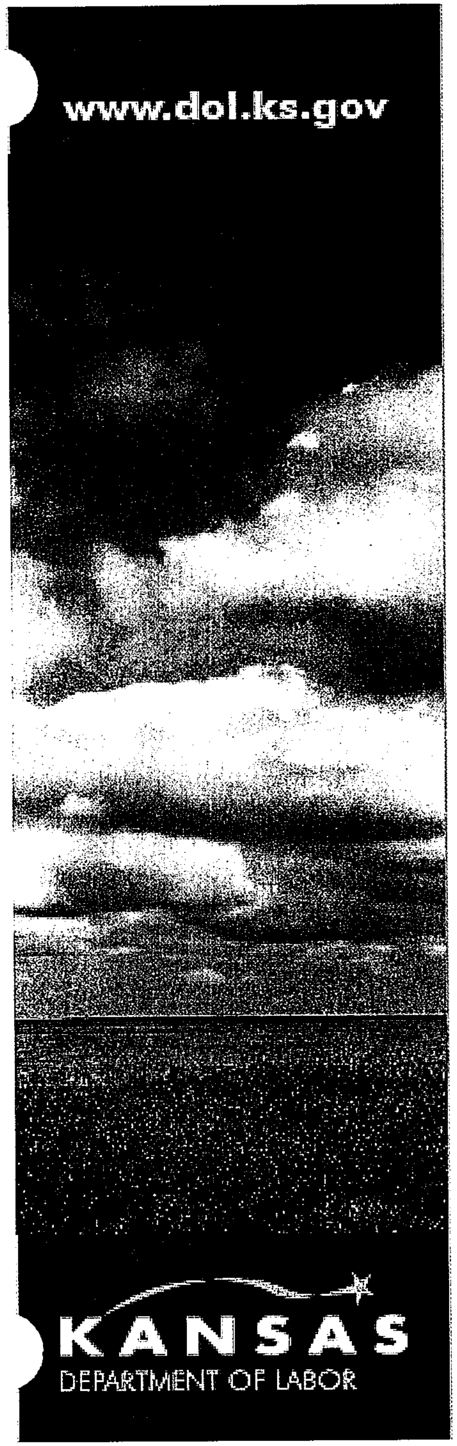
22-18

- History of Interest Rate

Year	Interest Rate (%)
2010	4.33
2009	4.64
2008	4.81
2007	4.66
2006	4.63

- Projected Interest Payments

Year	Projected Interest Rate	Projected Interest Payment
2013	3.91%	$2.6 Million
2012	3.62%	$5.7 Million
2011	3.60%	$6.2 Million



22-19

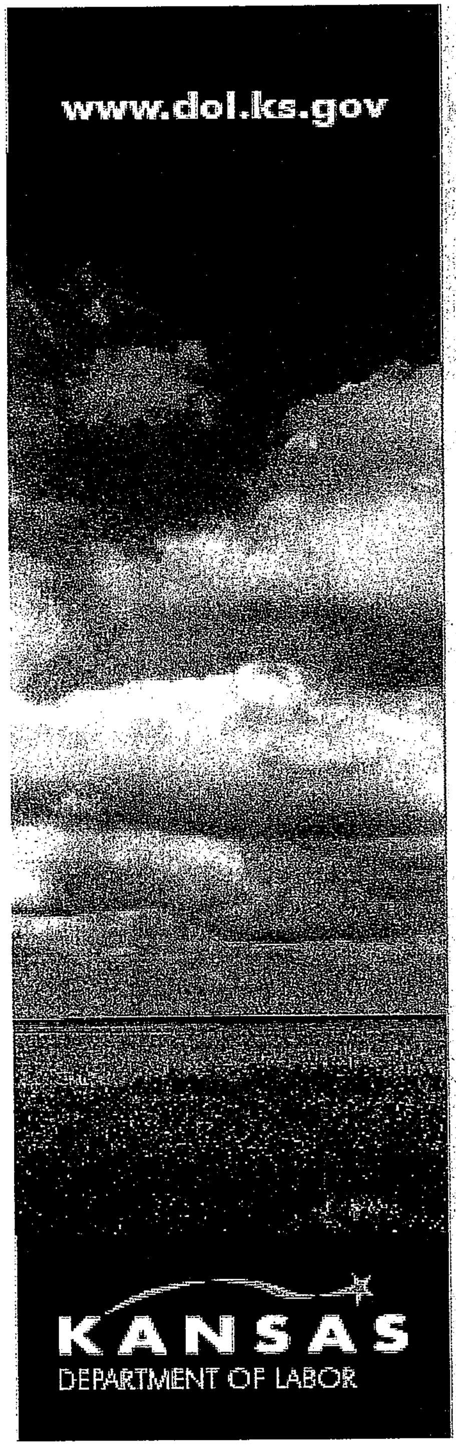
Recommendations from ESAC

UI Trust Fund solvency–2010 SB 552

- Increase the taxable wage base to $9,000 in 2011, $10,000 in 2012 and index it by 3.8 percent in future years
- Add nine additional negative balance rate groups to the existing 10 negative rate groups
- Put a two-year moratorium on the maximum weekly benefit amount

Interest repayment–2010 SB 551

- Establish a special tax for interest repayment
  - A flat percentage of the employers' current tax rate, to be set by the Secretary of Labor upon determination of the amount needed to pay interest due on advances, would be assessed each year.
  - The assessment would be in addition to current contributions and would be used to pay for interest owed the federal Treasury for Trust Fund borrowing.



22-10

Jim Garner, Secretary
Kansas Department of Labor

jim.garner@dol.ks.gov
785-296-7474

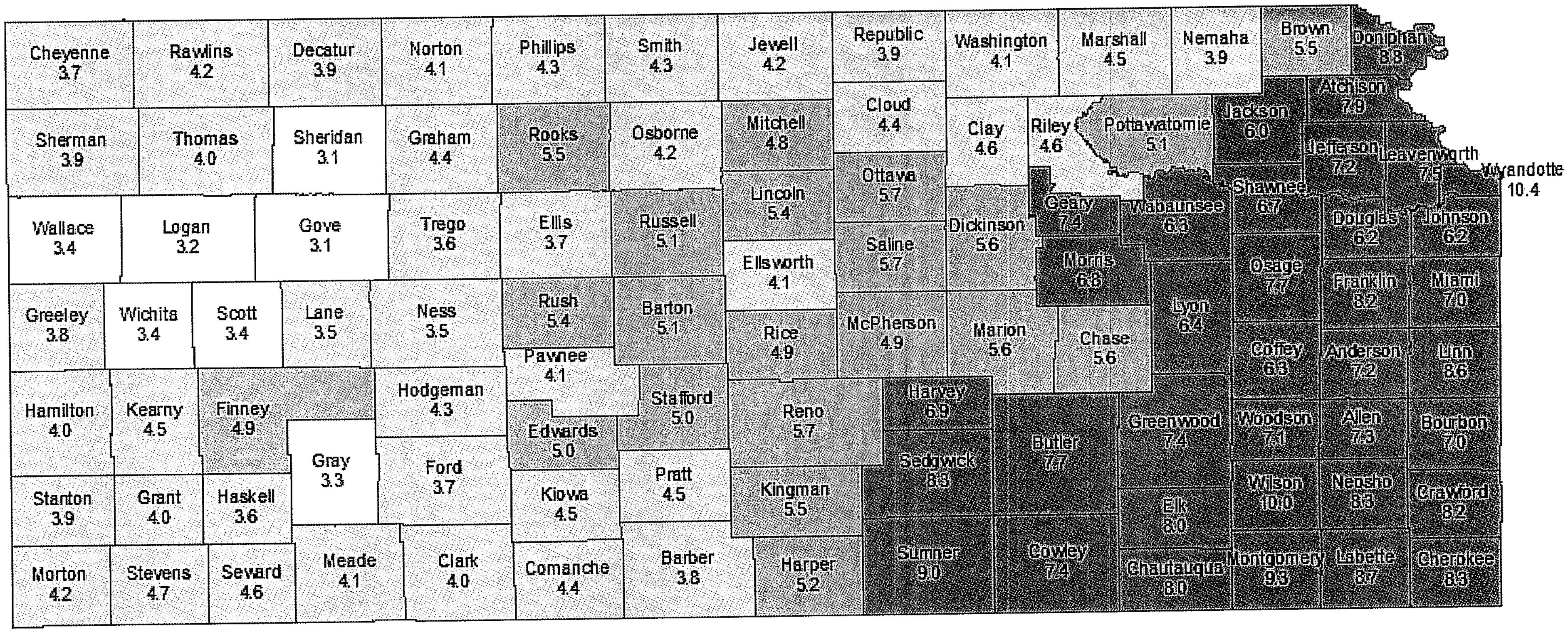
22-21

UNEMPLOYMENT RATES FOR AUGUST 2010

State Rate = 6.7%

Rate

- < 3.5
- 3.5 - 4.7
- 4.8 - 5.9
- >= 6.0



Source: Kansas Department of Labor, Labor Market Information, September 21, 2010

Presentation to Joint Committee on Economic Development

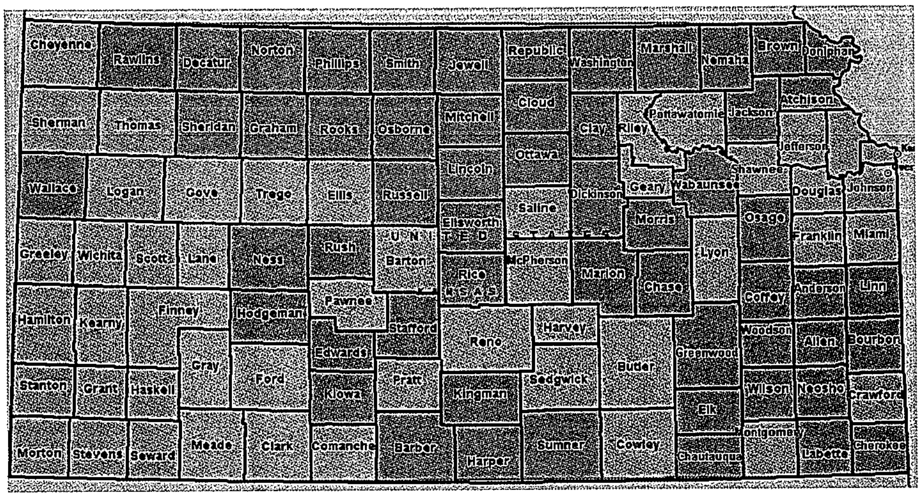
Lavern Squier

Competitiveness Task Force

KEDA

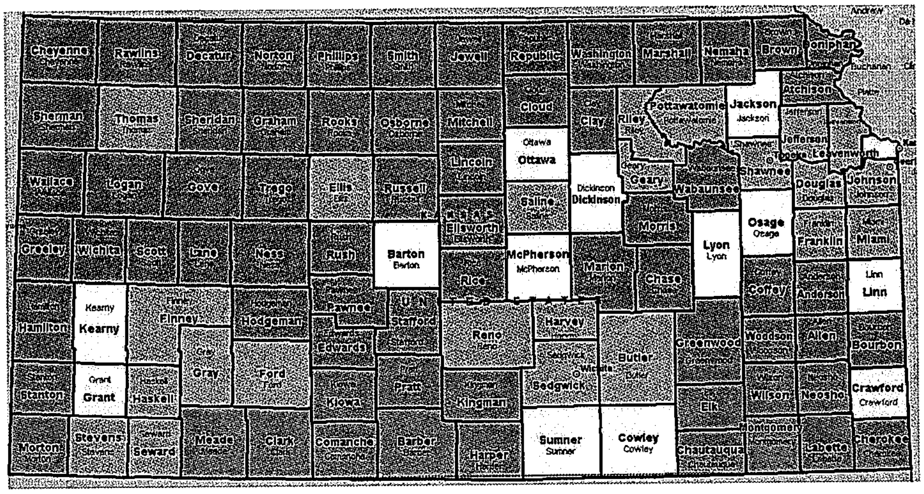
Kansas Economic Development Alliance

Kansas Counties Population Change: 1900-2009



Joint Committee on Economic Development
September 27-28, 2010
Attachment 23

Kansas Counties Population Change: 1930-2009

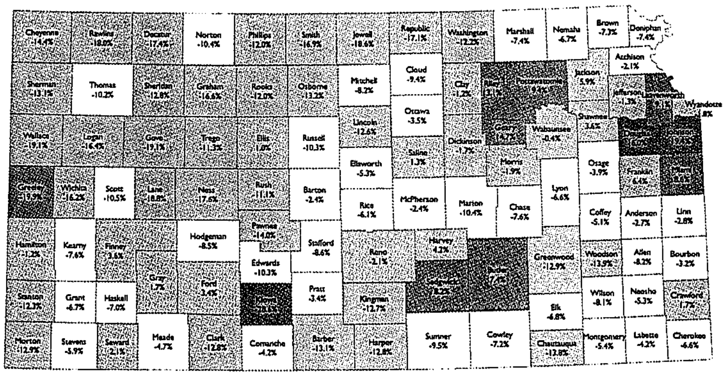


Presentation to KEDA

Joe Aistrup
Department of Political Science
Kansas State University

23-2

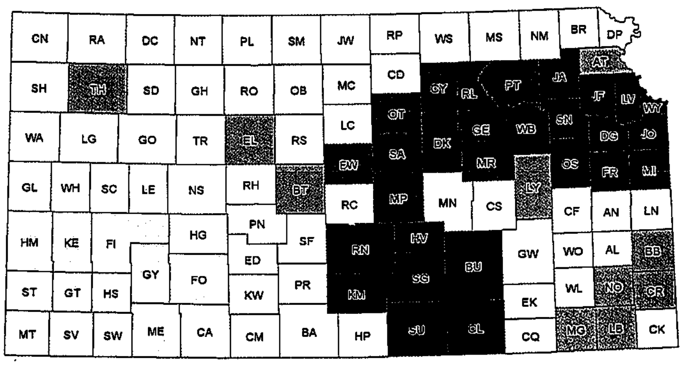
Percent Population Change in Kansas, by County
2000-2009



Source: U.S. Census Bureau, Population Estimates, Vintage 2009.

- loss of 27.7% or more
- loss of 19.1% - 27.7%
- loss of 10.6% - 19.1%
- loss of 2.1% - 10.6%
- gain of 6.5% - loss of 2.1%
- gain of 6.5% - 15.0%
- gain of 15.0% or more

Rural Counties that Aren't Thriving



Legend

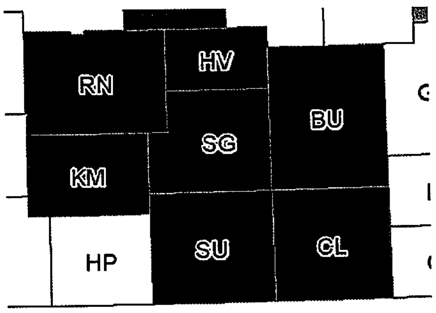
- Value Added Ag
- Rural
- Trade Center
- Micropolitan
- Metropolitan

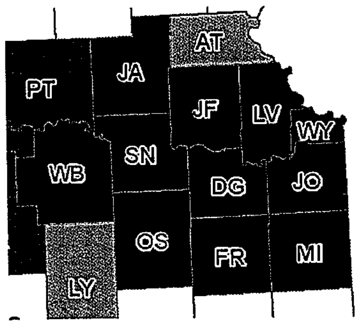
Rural Counties in White (55 of 105)
Population Change 1971-2007 = -19.4%
Per Capita Income in 2006 =$27,812

Rural Regions that are Thriving

- Rural regions adjacent to metros are thriving
  - Infused urbanites seeking a rural lifestyle, but who need to be within driving range of the urban area for their jobs
  - They also enjoy the cultural, medical, travel and retail opportunities that urban areas provide
  - Smaller niche ag operations, catering to regional food market (truck farms) are thriving in these regions

Adjacent Rural Regions in KS





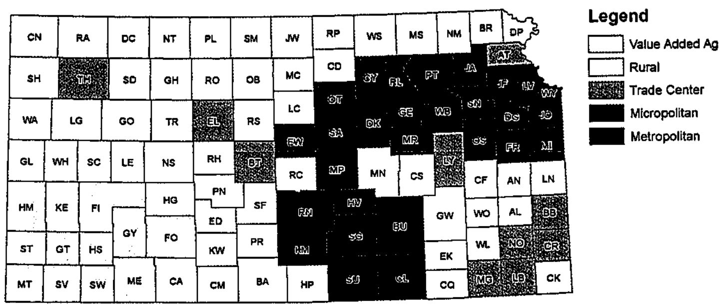
Metro Counties (5)
Population Change = 48.7%
Per Cap Inc 2006 = $40,240

Adjacent Rural (13)
Population Change = 25.4%
Per Cap Inc 2006 = $30,011

Rural Areas that are Surviving

- Rural Trade and Cultural centers
  - RTCs are ringed by smaller rural communities, which infuse the RTCs with external dollars, which in turn, leads to job creation (businesses, retail, and services) in the RTCs
  - RTCs are smaller and (less than 40K) lack the economic power to benefit the population growth of adjacent communities

Rural Trade Centers



Rural Trade Centers (10)
Population Change = -4.2%
Per Capita Income = $28,180

Rural Public Policy

- Taken together, the pressures to achieve economies of scale in agriculture coupled with the lack of economies of scale in many rural communities overwhelm public dollars designed to address rural problems
- More of the same will result in, you guessed it, more of the same!

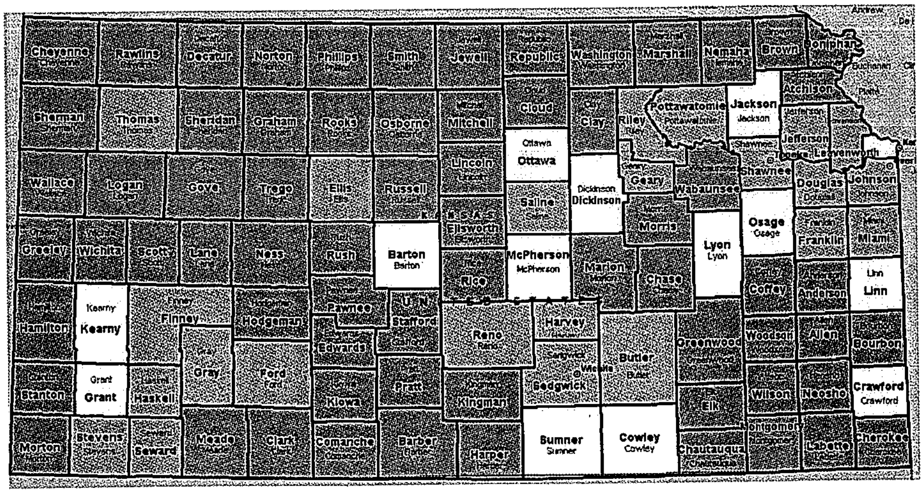
Rural Public Policy

- It may be time to start building communities with large enough economies of scale so that our smaller rural communities, which ring the urban centers, can survive and thrive

Goal 2050: Planned Economic Diversity in NW Kansas

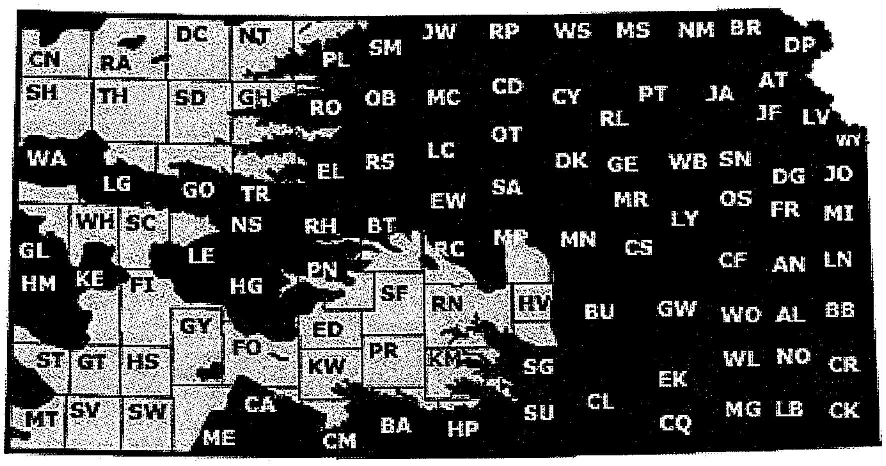
- Planned urban growth centers
  - At least two urban growth centers focused on Hays and Colby
    - Hays - 75,000: Colby - 50,000
  - Urban Centers will provide critical economies of scale - particularly job opportunities and economic infrastructure so that people who want an rural lifestyle can commute into urban center for their jobs or they can leverage urban growth centers to create new jobs in the first or second rings

Kansas Counties Population Change: 1930-2009

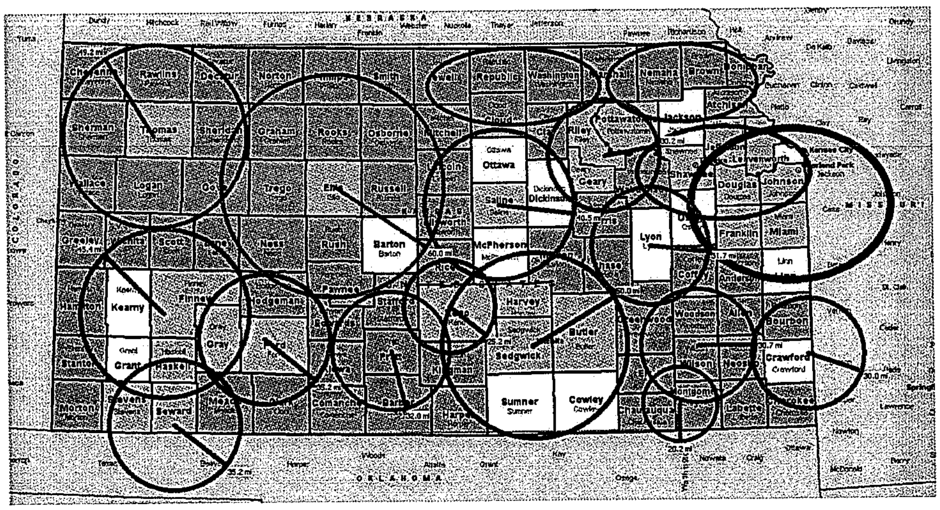


23-7

Ogallala Aquifer



Opportunity Zones



23-8

KANSAS
DEPARTMENT OF COMMERCE

Enterprise Zone 2011 YTD Update

Joint Committee on Economic Development

By Darla Price
September 2010

Enterprise Zone Incentives

The entire state of Kansas is an Enterprise Zone, offering three "basic" incentives to qualified companies:

1. $1,500 job tax credit for employees on a:
   - regular, full-time basis
   - part-time basis at least 20 hrs/week
   - seasonal basis as customary to position, industry
2. $1,000 investment tax credit (not used with HPIP tax credit) per $100,000 investment
3. Sales tax project exemption

"Enhanced" $2,500 job tax credit for designated "Non-Metro Business Regions"

Non-Metro Business Regions

Commerce approves applications from 99 rural counties to be designated as a Non-Metro Business Region

Qualified businesses locating in a Non-Metro Business Region receive an enhanced job tax credit of $2,500

Non-Metro Business Region designation applications include:

- County-wide Strategic Plan including economic development goals & plans for achievement
- County Resolution naming ED organization
- County Resolution requesting designation, adoption of strategic plan and identification of at least one county-wide incentive

3

Non-Metro Business Regions *(continued)*

Non-Metro Business Region designation applications include (continued):

- City Resolution required by cities with a population of 2,000 or more recognizing the county-wide incentive(s) and listing of optional city-wide incentive(s)
- Local contact information & population figures as certified by Secretary of State & posted on DOB Web site
- Non-Metro designation for a single county is 3 yrs
- Multi-county regions designated for 5 yrs

4

Enterprise Zone – Reporting

Commerce compiles quarterly reports for Secretary of Revenue. They include:

1. Cover letter summarizing designations, expirations and extensions granted during the quarter
2. Listing of county status as a non-metro business region

Commerce compiles an annual report for the Governor, legislative leadership, Senate Commerce and House ED & Tourism committees on April 1 detailing the usage of local incentive(s) offered as reported by counties

5

Enterprise Zone – Usage

Per CY 2009 Annual Report, as of Dec. 31, 2009, 76 of 99 counties were designated

Only five counties have never been designated

High of 87 counties designated in 2002

14 counties expired in 2008 when NW region dissolved; eight have since received single-county designations

In CY 2009, a value of $36 mil for counties and $38 mil for cities was reported for local incentives used (NOTE: these values include 10-yr property tax abatements & 5-20 yr IRBs issued)

6

Enterprise Zone – Usage
(continued)

Per KDOR 2007 Tax Credit Summary for Business & Job Development Credit programs (EZ & "100/100"):

1. 650 filers used $13.2 million in tax credits
2. 60% of filers from metro counties; 40% non-metro
3. 34% of credits were from carry-forward credits; 66% from new credits earned

Per KDOR 2009 Sales Tax Project Exemption for EZ & HPIP:

1. 370 certificates of exemption issued
2. Investment by companies – $1.74 billion
3. State sales tax exempted/foregone – $66.5 million

7

Enterprise Zone – Ease of Use

Tax credits are claimed annually on income tax return using K-34 form

STE requires simple form (PR70-b) filed prior to making qualified purchases to receive sales tax exemption certificate; no sales tax paid "up-front"

8

Enterprise Zone – Effectiveness

EZ incentives are important to:

1. State and local retention/expansion efforts by assisting existing Kansas businesses that are expanding and currently can't access the PEAK program.
2. Rural areas, e.g. retail-type businesses providing basic services to community and enhanced job TC vs. basic (metro) job TC to help attract jobs/investment
3. Smaller businesses/projects that can't qualify for incentives that require more jobs and investment.

Enterprise Zone – Effectiveness *(continued)*

Of the 650 filers per the KDOR 2007 Business and Job Development Report:

- 7,773 actual net new jobs created
- $862.6 million actual investment reported
- $584.6 million additional payroll

Recent Changes

The 2010 Legislature passed HB 2554, which repealed the ability of qualified companies in the six metro counties to earn EZ Job & Investment Tax Credits after Dec. 31, 2010.

This was done to expand eligibility of the PEAK program. Now, existing Kansas companies that are expanding (i.e. creating jobs) can be approved for PEAK benefits (capped at $4.8 million total each year) beginning Jan. 1, 2012.

Future Recommendations

Allow STE of "retailers" in counties and cities with populations of 10,000 or less to encourage opportunities for basic services and increase of local tax bases needed by these rural areas.

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KansasCommerce.com

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SUMMARY OF ENTERPRISE ZONE INCENTIVES

Eligibility for the various incentives and the value of the incentive depend on 1) the type of business, 2) the location of the business within the state, and 3) the number of net new jobs created. The *Kansas Enterprise Zone Act* defines six counties of Douglas, Johnson, Leavenworth, Sedgwick, Shawnee, and Wyandotte as metropolitan counties. As such, they are ineligible to apply for the enhanced job credits available to designated non-metropolitan counties.

Jobs Criteria/Definitions	*Basic EZ Incentives for Undesignated Non-Metro Counties & Metro Counties*	*Enhanced EZ Incentives for Designated Non-Metropolitan Counties*
MANUFACTURING - A manufacturing business is defined as any commercial enterprise identified under North American Industry Classification System (NAICS) 311-339 or Standard Industrial Classification (SIC) 20-39 and must create a minimum of two (2) net new jobs.	**MANUFACTURING** **Sales Tax Exemption** **Job Creation Tax Credit** - $1,500 per net new job **Investment Tax Credit** - $1,000 for each qualified business facility investment of $100,000	**MANUFACTURING** **Sales Tax Exemption** **Job Creation Tax Credit** - $2,500 per net new job **Investment Tax Credit** - $1,000 for each qualified business facility investment of $100,000
NONMANUFACTURING - A non-manufacturing business is defined as any commercial enterprise other than a manufacturing or retail business that creates a minimum of five (5) net new jobs. This category also includes business headquarters and ancillary support of an enterprise if the facility creates at least 20 new full-time positions.	**NON-MANUFACTURING** **Sales Tax Exemption** **Job Creation Tax Credit** - $1,500 per net new job **Investment Tax Credit** - $1,000 for each qualified business facility investment of $100,000	**NON-MANUFACTURING** **Sales Tax Exemption** **Job Creation Tax Credit** - $2,500 per net new job **Investment Tax Credit** - $1,000 for each qualified business facility investment of $100,000
RETAIL - A retail business is defined as any business providing goods or services taxable under the Kansas retailers' sales tax act; any professional service provider set forth in K.S.A. 17-2707; any bank, S&L, or lending institution; any commercial enterprise whose primary business activity includes the sale of insurance; any commercial enterprise deriving its revenues directly from noncommercial customers in exchange for personal services Retail businesses must create a minimum of two (2) net new jobs.	**RETAIL** **Sales Tax Exemption** - available for retail businesses located in a city of less than 2,500 population, or in the unincorporated county area of a county less than 10,000 population. **Job Creation Tax Credit** - $100 for each net new job created is available for up to 10 years under K.S.A. 1993 Supp. 79-32,153 as amended **Investment Tax Credit** - $100 for each $100,000 in qualified investment is available for up to 10 years under K.S.A. 1993 Supp. 79-32,153 as amended	**RETAIL** **Sales Tax Exemption** - available for retail businesses located in a city of less than 2,500 population, or in the unincorporated county area of a county less than 10,000 population. **Job Creation Tax Credit** - $100 for each net new job created is available for up to 10 years under K.S.A. 1993 Supp. 79-32,153 as amended **Investment Tax Credit** - $100 for each $100,000 in qualified investment is available for up to 10 years under K.S.A. 1993 Supp. 79-32,153 as amended

5/21/07

State of Kansas Bidders Survey

2. State of Kansas Bidders Survey

Please complete this application with contact data and information for you and your company. NOTE: You only need to submit this application once, but you will need to keep the company information and email addressed current to receive bid solicitations.

Upon completion of this application, you MUST immediately fax a copy of your current Federal W-9 Form (Request for Taxpayer Identification Number and Certification) to the Division of Purchases (DoP) at 785-296-7240. Your application may not be processed without the W-9 form. A copy of the blank W-9 form is available at the DoP website http://www.da.ks.gov/purch/forms.htm

If you need assistance with filling out the Bidder Application Survey, please call 785-296-0002.

1. Please check here if your company is a woman-owned business:

◯ Yes

2. Please check here if your business is classified as a Small/Disadvantaged Business (SDB):

◯ Yes

3. Please check here if your business is classified as a Service-Disabled Veteran Entity (DVBE):

◯ Yes

4. Please check here if your business qualifies as a minority-owned business:

◯ Yes

5. What is the size (in number of employees) of your small business?

◯ A = 50 or less

◯ B = 51 - 100

◯ C = 101 - 250

◯ D = 251 - 500

◯ E = 501 - 750

◯ F = 751 - 1,000

◯ G = More than 1,000 employees

State of Kansas
Department of Administration
Division of Purchases
Supplier Diversity Survey Form

Appendix A
Definition of Terms

Small Business Enterprise / Concern (SBE)
SBEs are businesses that do not exceed the size standard for the product or service it is providing as measured by its employment and/or business receipts in accordance with the U.S. SBA numerical size standards. These standards are defined as FAR 52.219-8, 13 CFR Part 121 and 13 CFR 121.410.

Disadvantaged Business Enterprise (DBE)
DBEs are defined as a business which are (a) owned by socially disadvantaged individuals who have been subjected to racial or ethnic
prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities; or (b) owned by economically disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished opportunities to obtain capital and credit as compared to others in the same line of business who are not socially disadvantaged.

Disabled Business Enterprise (DIS)
DIS businesses are at least 51% owned and controlled by one or more U.S. citizens who has a physical or mental impairment which substantially limits one or more of such person's major life activities.

Small Disadvantage Business Concern (SDB)
SDB businesses are certified by the SBA as meeting the following criteria: (1) they are small business concern and (2) must be at least 51% owned and controlled by one or more U.S. citizens who are socially and economically disadvantaged. African Americans, Asian Pacific Americans, Asian Subcontinent Americans, Hispanic Americans and Native Americans are presumed to qualify as being socially disadvantaged. Other individuals can qualify if they show by a preponderance of the evidence that they are socially disadvantaged. In addition, the personal net worth of each eligible owner applicant must be less than $750,000, excluding the values of the applicant's ownership interest in the business seeking certification and the owner's primary residence. Successful applicants must also meet applicable size standards for small businesses in their industry. SDB regulations can be found in FAR 52.219-8 and 13 CFR parts 121 & 124.

Veterans-Owned Business Concern (VBE)
VBE businesses are at least 51% owned and controlled by one or more U.S. citizens who are Veterans of the U.S. Armed Forces. In the case of any publicly owned business, at least 51% of the stock is owned by one or more veterans and one or more veterans must control the management and daily business operation. The term "Veteran" means a person who served in the active military, naval or air service and who was discharged or released there from under conditions other than dishonorable. VBE regulations can de found in FAR 52.219-9 & 38 USC 101 (2).

Service-Disabled Veterans-Owned Business Concern (DVBE)
DVBE businesses are at least 51% owned and controlled by one or more U.S. citizens who are service-disabled Veterans of the U.S. Armed Forces. In the case of any publicly owned business, at least 51% of the stock is owned by one or more service-disabled veterans and one or more veterans must control the management and daily business operation. The term "Veteran" means a person who served in the active military, naval or air service and who was discharged or released there from under conditions other than dishonorable. The term "Service-Disabled" means a veteran of the U.S. Military Service has a service-connected disability with a disability rating of 0%-100%. In the case of permanent or severe disability, the spouse of caregiver of such a service-disabled veteran may control the management and daily operations. DVBE regulations can be found in FAR 52.219-9 & 38 USC 101 (2) & USC 101 (16).

Women-Owned Business Concern (WBE)
WBE businesses are at least 51% owned and controlled by one or more U.S. citizens who are female gender. In the case of any publicly owned business, at least 51% of the stock is owned by one or more women and one or more women must control the management and daily business operations. For Federal contracting regulations see FAR 52-219-8.

Minority-Owned Business Enterprise (MBE)
MBE businesses are at least 51% owned and controlled by one or more U.S. citizens belonging to certain ethnic minority groups. In the case of any publicly owned business, at least 51 % of the stock is owned by one or more minorities, and one or more minorities must control the management and daily business operations. "Ethnic Minority Groups" are people of Asian Pacific American, Asian Subcontinent American, African American, Hispanic American and Native American descent.

- **African Americans:** People whose origins lay in any of the Black racial groups of Africa.
- **Asian Pacific Americans:** People whose origins lay in Brunei, Burma, China, Guam, Indonesia, Japan, Kampuchea (Cambodia), Korea, Laos, Malaysia, Northern Mariana Islands, Republic of the Marshall Islands, Federated States of Micronesia, Republic of Palau (U.S. Trust Territory of the Pacific Islands), the Philippines, Samoa, Singapore, Taiwan, Thailand and Vietnam.
- **Asian Subcontinent Americans:** People whose origins lay in Bangladesh, Bhutan, India, Pakistan, Sri Lanka or Nepal.
- **Hispanic Americans:** People whose origins are in the South and Central America, Mexico, Puerto Rico, Cuba or the Iberian Peninsula (including Portugal).
- **Native Americans:** American Indians, Inuit (Eskimos), Aleuts, and native Hawaiians of Polynesian ancestry.

Date of Last Update: March, 2007

State of Kansas
Department of Administration
Division of Purchases

Supplier Diversity Survey Form

Why is the Division of Purchases requesting this information?

Current statutes governing the activities of the Kansas Division of Purchases do not include preferences or set-asides for Small Business Enterprises (SBEs). The Division of Purchases is interested in determining to what extent purchase orders and contracts are awarded to SBEs under existing work efforts. ***Please Note:*** *You must submit this form with each bid opportunity.*

Persons or concerns wishing to receive a Purchase Order or Contract Award resulting from this bid opportunity must provide the information contained in this document before the award is made. To help expedite this procurement, it is requested that you submit this form with your bid.

COMPANY DATA

Legal Company Name ______________________________

Doing Business As (if applicable) ______________________________

Federal Tax ID Number / FEIN ______________________________

Diversity Program Contact Name ______________________ Title ______________

Phone Number ______________________ Fax Number ______________

E-Mail Address ______________________ Company Web ______________

Address ______________________________

City ______________________ State __________ Zip Code ______________

Legal Structure: ☐ Corporation ☐ Partnership ☐ Non-Profit ☐ Sole Proprietorship ☐ LLC

Signature ______________________________ Date: ______________

COMPANY DIVERSITY DATA

(A) **Business Classification (See Appendix A for definitions):**
Is your business a **Small Business Enterprise (SBE)** as defined by the SBA?

☐ Yes ☐ No ☐ Don't Know

Check all that Apply: ☐ Disabled (DIS) ☐ SBA-Small Disadvantage Business (SDB)

☐ Veteran-Owned (VBE) ☐ Women-Owned (WBE) ☐ Service-Disabled Veterans-Owned (DVBE)

☐ African American ☐ Native American ☐ Minority-Owned Business Enterprise (MBE)

☐ Hispanic American ☐ Asian Pacific American ☐ Disadvantaged Business Enterprise (DBE)

☐ Asian Subcontinent American ☐ Other: ______________________________

(B) Has your Business Classification Status been certified by a state, municipal, federal or other certifying agency?

☐ No ☐ Yes Certifying Entity: ______________________

Other State of Kansas Resources for Small Business Enterprises (SBE)

Kansas Department of Commerce
Office of Minority/Women Business Development
http://www.kansas.gov/ksbdc/

25-3

	Total Expenditures Base	# of Vendors	Kansas Vendors Summary		# of Vendors	Largest Amount in this Category Largest Amount by Kansas Vendor			
'es with Vendors who .ied themselves as DBEs	$ 78,650,622.90	325	$ 57,345,946.51	72.9%	166				
Veteran Businesses	$ 10,085,352.69	73	$ 7,609,063.59	75.4%	44	Hi-Plains Sand, Inc.	Kanopolis	KS	$ 4,136,542.38
African-American	$ 978,914.95	13	$ 809,788.62	82.7%	7	First Kansas Partnership	Topeka	KS	$ 443,429.64
Hispanic American	$ 8,074,059.78	11	$ 7,999,605.00	99.1%	6	Cornejo & Sons, Inc.	Wichita	KS	$ 6,806,706.08
Asian Subcontinent	$ 431,396.97	4	$ 393,707.00	91.3%	2	TBS Commercial Building Maintenance, Inc.	Kansas City	KS	$ 393,707.00
Disabled	$ 560,679.11	4	$ 498,925.00	89.0%	2	Corporate Communications Group	Kansas City		$ 495,425.00
Women-Owned	$ 16,260,732.53	108	$ 15,322,516.93	94.2%	63	Barge-Turkey Construction Company, Ii	Olathe	KS	$ 4,688,501.25
Native American	$ 1,198,878.62	17	$ 843,520.00	70.4%	8	Fulsom Brother's Inc.	Cedar Vale	KS	$ 716,906.08
AsianPacific	$ 16,248,833.34	9	$ 2,671,438.38	16.4%	5	Software House International, Inc. Microtech Computers, Inc.	Somerset Lawrence	NJ KS	$ 13,371,054.60 $ 1,346,732.41
SBA-Small Disadvantaged	$ 1,537,252.21	19	$ 1,022,978.60	66.5%	13	Clean As a Whistle of KS, Inc.	Leawood	KS	$ 369,428.58
Service Disabled	$ 1,937,502.93	5	$ 1,908,336.93	98.5%	4	Dynatron Elevator, Inc	Shawnee	KS	$ 1,817,010.41

Notes:
* FY2009 Expenditure Data taken from STARS Accounting System; Data does not include Procurement Card Purchases
* Many vendors have listed themselves in multiple categories (ie, a minority woman owned business)
* There were approximately 2165 vendors self-registered as small businesses, but did not receive a contract or purchase order in FY2009
* The balance of expenditures not listed above went to small businesses who did not fit a specified category (ie, a small business owned by a caucasion male)

Joint Committee on Economic Development
September 27-28, 2010
Attachment