

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairperson Susan Wagle at 8:00 a.m. on February 22, 2011, in Room 548-S of the Capitol.

All members were present except:
Senator Emler – excused

Committee staff present:

Ms. Margaret Cianciarulo, Committee Assistant
Mr. Ken Wilke, Office of the Revisor of Statutes
Mr. Reed Holwegner, Kansas Legislative Research Department
Ms. Dorothy Noblitt, Kansas Legislative Research Department

Conferees appearing before the Committee:

Ms. Janice Katterhenry, CFO and COO, Kansas Bioscience Authority
Ms. Kathie Sparks, Deputy Secretary, Department of Labor

Others attending:

See attached list.

Overview on the Kansas Bioscience Authority (KBA)

Upon calling the meeting to order, Chairperson Wagle announced that Mr. Thornton has responded to questions and responses can be found in the booklet before the Committee. Yesterday, his wife's father passed away, so he is with his wife but he has sent Ms. Jan Katterhenry, who is the CFO & COO of the KBA and obviously was not prepared for this. She does know what is in the booklet. The Chair asked the Committee to look at the first page. There were a number of questions we had asked, with the first from Senator Masterson about how we determine Kansas to be fifth in the nation. The KBA only had one magazine that they used for the ranking in their presentation. She thinks the Committee is concerned because there are a number of other magazines that rate Kansas differently than this magazine does, and this magazine is not a subscription based magazine.

The Chair recognized Senator Steineger who stated he did read through some of the booklet last night and it is kind of like the book, "Who's Who in America," where you pay them and then they put your picture their book. He referred to an organization called Group C Media Inc. out of New Jersey, and found in the booklet. He went to their website and they are the ones who published this magazine and KBA spent \$20K with Group C Media Inc. Essentially you buy an ad in the magazine and this company makes their own magazine and then promotes you as what you want to be promoted as. The Chair asked him what section did he find this expensing? (He said he was operating off another copy because the booklet he had was missing the whole Section 5.)

The Chair referred the Committee to Section 8, after the third blue page, sheet 1. While Senator Steineger was looking for his information, the Chair recognized Senator Masterson, who stated he was really looking for the matrix, what the actual standards are. The Chair asked Senator Steineger what was the vendor's name he referred to? (Group C Media Inc.) She repeated what he is saying is Group C Media Inc, spent \$20K in advertising and that is the same magazine that rated us fifth in the nation. (Correct, and if you go to their website, they are based out of somewhere in Jew Jersey.) The Chair said she had other people involved in bioscience who brought her other magazines that rated Kansas around 25th or 27th in the nation and thinks they need to look at more than one source and determine how Kansas is compared to other states in the bioscience world.

She then recognized Senator Masterson who said hearing the verb-age, he guesses they are looking at different ways of ranking us, but he does understand there are different ways to be ranked, and he is just looking for some sort of validation. But in the verb-age it gives us a little bit of a matrix as far as R&D funding, bio-tech facilities, grants, etc. He went on to say he does not have any details on the matrix, but those are all areas where we do have activity, but he just wanted to make sure we understand what the realities are in the condition of our state in this area.

The Chair said another question that was asked was regarding salaries, benefits, and bonuses found in Section 5. She did call KBA last night because the Committee did not have the bonus information in the

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booklet and said that she thought Ms. Katterhenry had brought this information this morning? (Yes.) The Chair said this salary statement is for the current year and the reason KBA did not put the bonus information in with this is because they are not given out until the end of the year, so she asked for last year's bonus information which is what they are handing out. She went on to say, it appears Mr. Thornton received a \$100K bonus last year. She also had asked for figures for car allowances, telephone allowances, things like that, but what we have for this year for Mr. Thornton is \$254K in salary with \$21K in insurance, another \$21K being paid in retirement and another possible bonus of at least \$100K and asked Ms. Katterhenry is this right? (Yes, the salary information we took the current salary in the manual like that and so that is what you are seeing in that report.)

The Chair recognized Senator Lynn who asked what bonuses are based on, exactly what each of the categories are based on? (Do you want one for each individual?) I think that would be prudent. The Chair said it appears Mr. Thornton's salary is four times the Governor's salary. (I will get that information.) The Chair recognized Senator Masterson who asked, regarding all the different lines in the report including salary, insurance, retirement, etc. what does he need to add up, say on any particular employee, to this is the number? (She believes most of the salary base is found on the first page. There is a car allowance that the CEO receives and so that is on that separate line. And then he is reimbursed for gas.)

The Chair recognized Senator Longbine who said he assumes all the compensation levels, and certainly bonus levels, are reviewed and approved by the Board for each year? (For the executive team they are.) So the Board hired a consultant to do a wage study for comparable positions throughout the country in similar work and the Board actually set the parameters of the salary? (Yes.) The Chair asked who would that contract be with, the consultant in back in Section 8? (That would be Buck Consultant. She said she wanted to go back to Senator Longbine's question, stating the Board would have approved the CEO's wages and believes the other team members were reviewed with the Board as well, but she was not in those meetings so she just wanted to clarify that.) Senator Longbine stated he would also assume that the Board would have visionary responsibility of the KBA as a whole and thinks it would certainly be prudent for them to review salary levels or to look at total compensation levels as a percentage of earnings or grants to make sure they are in line with prudent business practices.

The Chair recognized Senator Schodorf who asked how these people were chosen and why the Board thought bonuses should be given to a government entity? (I don't know if I am the best person to answer this question.)

The Chair said she was going through their vendors in Section 8 and Buck Consultant is not in the booklet. Are they in here? (It is probably in 2010 because they would have done the review for 2010 bonuses.) So all of these expenses are just for the first six months of this year? (Yes.) We need 2010 line item expenses. (OK.)

The Chair recognized Senator Lynn who stated it looks like the bonuses were selective, like there are some people who did not get bonuses, and if you are going to give a bonus for productivity or for your team, then it would seem everybody would get a bonus. She asked why some received bonuses and some people did not? (Probably the one factor is we have basically listed all the people that were here at the current time and so there may be employees on that list who were not there in 2010, or they may not have been employed for the entire time. Perhaps it was determined they did not earn a bonus.) I guess that goes back to what were the bonuses based on? (And I will get that information to you.) And this Buck Consultant, do you know if they were a Kansas City company? (They were not a Kansas company.) The Chair said they probably would like the address of Buck Consultant so we can contact them, to determine the basis on which they recommended these increases in salaries.

The Chair recognized Senator Olson who asked what is the Board's compensation and do they travel to conventions, etc? What kind of expenses do they incur? (The Board is not compensated and typically they have a Board meeting in Washington, D.C., so they travel there. Conventions, they may have attended one, the bio conference. There may have been one Board member that attended that, but that is not like the whole Board, It may have been one or two.)

The Chair recognized Senator Masterson who said what he is trying to find is the nexus between the return on investment and the bonus structure. He said if it is there, he does not have a problem with it,

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or where we are headed. So, if she would help him make that connection between a return versus justifying the compensation.

The Chair recognized Senator Holland who stated one of the things Kansas Inc. does in their charge is an assessment of these agencies and one or two years ago, Kansas Inc. did an assessment of KBA. So one thing the Committee might consider, starting at the point KS Inc. did their most recent assessment of the KBA, using it as a baseline while we still have it through June 30th and maybe they could come before the Committee to testify what they found in their findings for KBA and using that as a baseline going forward. Then we can look at what has transpired since that time. The Chair asked Mr. Stan Ahlerich, President of Kansas Inc., if he would have the capability of looking at that since he will be continuing that role on the Governor's Economic Development Team? (He said, two possible things, first of all, they do have the evaluation they did two years ago, so they could give them a review per Senator Holland's request based on what we found at that time. The Chair said she did not think he has the capability to reanalyze if we look at something two to three years ago, but if you look at salaries just two years ago, they were a million dollars less. If you look at their profit and loss statement that are up on the internet in just the last three years, it has really ballooned since that study.

The Chair recognized Senator Masterson who suggested a post audit starting with Senator Holland's suggestion of the evaluation three years ago. It would be a great base point with which to start and maybe conduct a post audit on that entity since that time. The Chair stated she certainly felt a post audit is warranted. She asked for a motion which came from Senator Masterson that the Committee request a post audit. It was seconded by Senator Lynn and the motion carried. The Chair said she thinks the Committee did get to the bottom line on some of these expenses, although she does believe we still want the information on the 2010 expenses, how the bonuses were determined, and who was the contractor that recommended the bonuses. (Ms. Katterhenry said, to clarify that was this overall study. I don't know, I believe they paid this amount, this is the baseline. Anyway, we will get you something.)

The Chair recognized Senator Steineger who offered comments saying, he spent some time going through the expenses:

- 1.) One in particular is a Kansas City person who likes art and a sponsorship of the Nelson-Adkins Museum of Art for \$5K, which has nothing to do with bioscience. The \$5K is to join the business council.
- 2.) \$10K was spent to join public television, similar to the Business Facilitator's magazine ad.
- 3.) On January 11th there was a large KBA reception held at the Capitol Plaza Hotel for the legislatures, total spent was \$6,275.
- 4.) He called Mr. Glenn Deck who runs KPERS (Kansas Public Employees Retirement System) who manages investments of other peoples money. He asked him what are typical management fees that KPERS pays management companies to invest our money for us. Typically, according to Mr. Deck, about 1/3 of 1% is their average fee. In looking through this booklet, it looks like we, the state government are paying about 10% to "manage and invest wisely." He referred the Committee to Section 3, page 10. He suspects there is nothing illegal that has happened here, but it goes far beyond the legislative intent.

Chairperson Wagle stated what she would like to do, referring to the booklet that they all received when they walked into the Committee meeting this morning, we need the information early next week so the Committee can take a look at it. She thinks they will have a Friday meeting next week and have Mr. Thornton come in and answer some of these questions. She told the Committee if they have questions, write them down and we will get them over to the KBA and let's have them here no later than Wednesday, because a lot of people are caught off guard trying to go through these expenditures, and she still has some concerns regarding the building even with these, we have had notification from research that the bill sunsets in 2019 and you have spent almost \$12M on a building and only 1,700 square feet of that is leased out. So we will have a lot of questions about salaries, bonuses, buildings and we want the information by 5 o'clock the night before the meeting.

The Chair recognized Senator Lynn who said she was looking through jobs traced back to KBA funding and feels the Committee should look at the funds that were committed in the projected jobs column and

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what has been realized. She feels if they have a minute to work out some of the percentages on funds that were given and jobs realized, that is going to be a large figure in every case. So you have to question, are the jobs realized, bringing a return on the amount of money that was funded? The Chair let Ms. Katterhenry know that they would have questions regarding Section 3 where they projected 6,890 jobs and have realized 1,233 jobs.

The Chair recognized Senator Longbine who stated if the Committee were to create a private atmosphere, if they felt like they were going to be questioned every step of the way, they were going to be exposed, they have the ability and will take advantage of that ability, to locate somewhere else. He realizes we do have the fiduciary responsibility, but we need to do this very carefully so that we don't damage our reputation for private investment. He went on to say, as far as the CEO salary, it is prudent that we need to look at the Board's parameters, and look at the average compensation of those, but to just look at a number and say it is too much is not deserved. If they take the personalities out of it, he thinks they need to look very carefully at what we want the CEO of KBA to do. In his mind, this is to know who the players are across the entire U.S. for venture capital for bringing investment to Kansas, kick down doors of CEOs of bio companies, get in those circles, and that is not a 50 or \$100K job. It is going to take tremendous investment by the state of Kansas to attract the right individual to do those things we expect a CEO to do.

A copy of the KBA's booklet and their bonus information is filed in Senator Susan Wagle's office.

As there were no further questions or discussion, Chairperson Wagle said they will meet again next Friday and asked Mr. Thornton to be here and we want more information by Wednesday. She then closed the hearing.

Final Action on SB78 – an act concerning certain appointments made by KTEC; transferring such authority to the governor

The Chair announced the Committee would be working two bills, the first is **SB78** – an act concerning certain appointments made by KTEC; transferring such authority to the governor, and called on Mr. Tom Tunnell, President/CEO, Kansas Grain & Feed Association, asking him if had a letter from the Kansas State Fair Board (KSFB) that supported the KTEC appointments. The Chair said he is also the President of the KSFB. A copy of their letter is (Attachment 1) attached and incorporated into the Minutes as referenced.

She went on to say that this bill is coming back to our Committee. It has been sitting in the Senate Ways and Means Committee. A conceptual motion by Senator Wagle was made to place the Secretary of Commerce and the Secretary of Revenue on the KBA Board. It was seconded by Senator Olson and the motion passed.

The Chair recognized Senator Longbine who stated his concern comes in, once the administration changes, what do we do if we have a Secretary of Commerce that does not particularly like bioscience or maybe is not particularly qualified to be on the bioscience board and the same way with the Secretary of Revenue. He would be comfortable with the two current individuals. His concern is passing legislation that binds us to future administrations that he may have less confidence in. As there was no further discussion, the Chair said they would vote on the motion to change **SB78** to add the Secretary of Commerce and the Secretary of Revenue to the Board. The KBA does sunset in 2010. A vote was taken and the motion carried. She then asked the will of the Committee. Senator Lynn made a motion to pass the bill favorably out of Committee as amended. It was seconded by Senator Masterson and the motion carried.

Final action on SB137 – an act concerning the employment security law; relating to unemployment benefits for privately contracted school bus drivers.

The Chair said the second bill, **SB137**, was a bill they put back into Committee regarding unemployment bus drivers and since they were involved in this bill, she took amendments to the Department of Labor to make sure they were in compliance with federal law. She then called on Ms. Kathie Sparks, Deputy Secretary, Department of Labor, for the DOL's findings. Ms Sparks stated amendments were not

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acceptable to the federal government. Amendments were needed to set contract bus drivers out separately and they can receive benefits during the summer and holidays.

As there were no questions or discussion, a motion was made by Senator Lynn to adopt the amendment that strikes sec. (p) and renumbers the following sections. It was seconded by Senator Holland and the motion carried. The Chair asked for the will of the Committee. Senator Holland made a motion to move the amendment out of Committee favorably. It was seconded by Senator Lynn and the motion carried.

Continued comment regarding the overview of KBA

The Chair recognized Senator Steineger who wanted to point out to the group here, we all received KBA's report and he would urge the Committee to be careful because, putting that report together cost \$21K.

Adjournment

As there was no further discussion, the meeting was adjourned at 9:30 a.m.

The next meeting is scheduled for March 3, 2011.