

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairman Susan Wagle at 8:30 a.m. on March 16, 2011, in Room 548-S of the Capitol.

All members were present.

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. Patrice Peterson-Klein
Mr. Pat George, Secretary, Department of Commerce
Mr. Kevin Carr, President & CEO of KTEC
Ms. Jan Stack, President and CEO, Matrix Electronic Measuring, Inc.
Mr. Jeremy Jones, President and CEO, Nitride Solutions, Inc.
Mr. David Nichol, Principal, Nichol & Associates
Mr. Gary Mason, CEO of ISU, Vice Chair, KTEC Board of Directors

Others attending:

Please see attached list.

Approval of Minutes

The Minutes of January 13, 19, 27 and February 8 and 9 of the Senate Commerce Committee stand as approved as of March 15, 2011.

Confirmation hearing

The Chair opened the meeting stating they would be having a confirmation hearing for Ms. Patrice Peterson-Klein, as a member of the Board of Directors for the Kansas Development Finance Authority, and asked her to take the stand. The Chair said typically on a first confirmation we ask the individual to come in for questions and if it is a reappointment they are not required to come back in. She then asked if there were any questions from the Committee which came from Senator Holland who asked what excites you about this opportunity? She said she is excited to wear a second hat with the Kansas Housing Resource Corporation because she is also a board member of the Kansas Corporation Commission and knows that access to financing is a critical thing to a state's economic growth. The Chair said she would like to take action. Senator Holland made a motion to confirm the appointment of Ms. Patrice Peterson-Klein. It was seconded by Senator Longbine and the motion carried.

Hearing on HB2054 – an act abolishing the Kansas Technology Enterprise Corporation (KTEC)

Chairperson Wagle stated the next order of business was a hearing on HB2054 – an act abolishing the Kansas Technology Enterprise Corporation (KTEC) and called on Mr. Ken Wilke, Office of the Revisor of Statutes, to explain the bill which included:

Regarding SB42 which has been discussed earlier, the House committee basically made one primary amendment which spawned some others. The primary amendment is found on page 3, lines 28 through 30. By striking this language it transfers the Centers of Excellence to the Department of Commerce rather than to the Board of Regents. Apparently this was the original intention, but it was not conveyed to the Revisor's Office when the original bill was written.

The Chair asked why it's not in dark type as a House amendment? (They struck that language. The change that you see below on line 34, was a technical correction. There was no paragraph 2 when the bill was printed originally so (3) should have been (2). That was the technical change and nothing has been taken out and the only thing left going to the Board of Regents is basically the EPSCORE situation. He went on to say these changes spawned some other cleanups that are all similar in that they were missed in the original bill and should have been the Department of Commerce, including:

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- 1.) Page 22, line 24 is a clean up that got missed in the original bill that should have been the DOC.
- 2.) Page 28, line 17 and line 29 was a reference to the Board of Regents and changed that to the DOC. Similarly, on page 30 lines 2, 5, 16, 29, 30, 32, and 35 and the same thing on page 31 lines 8, 9, 16, 22, with several changes made to show the DOC.

As there were no questions for Mr. Wilke, the Chair called on the only proponent to testify, Mr. Pat George, Secretary, Department of Commerce, who stated KTEC has impacted the Kansas economy in many positive ways since its creation in the late 1980s. But today, Kansas must explore ways to increase efficiencies and common areas of expertise and this proposed consolidation would do just that. He stated the DOC embraces the opportunity to serve the technology firms and centers for research that KTEC has nurtured diligently for many years.

He went on to say, with this bill abolishing KTEC, all powers, duties and functions will transfer to DOC including:

- 1.) All powers, duties, and functions of KTEC under New Section 2.
- 2.) All balances for all funds and liabilities of KTEC.
- 3.) Within the new division at the DOC, it is anticipated that current KTEC employees will be first considered for open positions.
- 4.) All property, property rights and records pertaining to the powers, duties, and functions of KTEC pursuant to New Section 2.

Secretary George stated it is anticipated that some from existing FTE's can be made available to assist in administering KTEC functions.

Lastly, he offered some additional notes on savings, including: the Governor has indicated that the State will recognize savings of \$1,723,828 comprised of Operations (salaries and overhead), PIPELINE, and the Investment Program. He added that the Senate Ways & Means subcommittee reviewing the Commerce budget, recommended reviewing PIPELINE funding options. A copy of his testimony is (Attachment 1) attached and incorporated into the Minutes as referenced.

As Secretary George had to leave for another meeting, the Chair asked for questions for him which came from Senator Holland who asked why are we trying to fix something that is not broke? (He agrees, it is not that it is broken. It seems that the consolidation makes sense and he could make your case on this just as well. There also seems to be an overlap with KTEC in that everything we do now in Commerce has a technology approach. There is no argument about what KTEC is doing is the right thing, what we hope to create by merging them into Commerce is maybe a common voice, and to do it a more efficient manner.) As there were no further questions, the Chair thanked Secretary George.

Written proponent testimony was also offered from Mr. Mark Turnbull, Director of Economic Development, City of Pittsburg. A copy of his testimony is (Attachment 2) attached and incorporated into the Minutes as referenced.

The Chair wanted to Committee to know that this bill has also been double referred. It went to Ways & Means and they have approved of the bill and it is now sent to our Committee. She then called on the first of five opponents, Mr. Kevin Carr, President & CEO of KTEC who stated he is here speaking on behalf of their Board of Directors, our network service providers around the state, and the technology entrepreneurs of small businesses which we touch, several of them are here today. He wanted to offer a few basic points including:

- 1.) Innovation/Entrepreneurism is critical to economic growth and to the state's economy - the state's role is to level the playing field by creating an environment which innovative people can respond to and thrive. And KTEC is meeting its mandate and performing well.

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2.) Fiscal implications/operational savings - current Ways & Means budget includes \$4.85M of former KTEC programs and operations and current year fiscal impact of shutdown is \$120K for legal and IT work.

3.) KTEC: some good news for Kansas - demonstrated results including creating high-growth companies and KTEC assisting firms to create jobs. For example, in FY-07 – FY10, KTEC companies created 2,043 jobs and saved 1,620 existing jobs; how they level the playing field including access to risk capital; return on investment in KTEC – FY2010 included helping young companies raise \$66.7M in private equity investment.

A copy of his testimony is (Attachment 3) attached and incorporated into the Minutes as referenced.

Next to testify is Ms. Jan Stack, President and CEO, Matrix Electronic Measuring, Inc., Salina, Kansas who offered KTEC's direct and indirect impact on Matrix including:

1.) KTEC provided \$500K in Angel Tax Credits which was critical to our success in raising over \$1.5M in equity capital in a down economy. They also invested \$100K in Matrix to help build the Wand's first production models.

2.) Indirectly, the membership program provides guidance and direct consulting in all areas of small business development. A copy of her testimony is (Attachment 4) attached and incorporated into the Minutes as referenced.

The third opponent is Mr. Jeremy Jones, President and CEO, Nitride Solutions, Inc. who stated their business was started in Wichita in 2009, to develop a revolutionary material for the manufacture of high-value electronic products like LEDs, lasers, and power electronics. He stated KTEC has provided them with four critical elements to success including:

1.) Business guidance and support through their network, in particular, Wichita Technology Corporation which has provided access to capital through their local angel network, business plan refinement, consultation on critical strategic issues, and has been a major plus for out-of-state investors.

2.) Proof of Concept funding – KTEC's investment in our company kept us alive during our initial stages and provided credibility to outside investors. It also allowed us to hire a noted researcher in our technology from a competitor in North Carolina.

3.) Access to angel networks such as MidAmerica Angels who has done extensive diligence on our Company and has made an investment, again providing credibility to out-of-state capital sources.

4.) Kansas Angel Tax Credits – these have been a major draw to individual investors, both in and outside of Kansas.

He offered his reasons for his strong support for the PIPELINE program including, refining his message and business focus and gave him valuable feedback from other Fellows in the program as well as the top-notch instructors and advisors that PIPELINE provided during the year.

Lastly, he stated, while Commerce provides the critical focus and capabilities to attract and retain existing companies in the State, these are very different skills that provide the infrastructure and support to early-stage companies. A copy of his testimony is (Attachment 5) attached and incorporated into the Minutes as referenced.

Fourth to testify is Mr. David Nichol, Principal, Nichol & Associates who stated early-stage companies face an entirely different set of issues, with a very different sense of urgency and need for timeliness. At all levels, fast on your feet is a requirement, whether employees, founders, investors, bankers or members of the Board. That is why even in the private sector, large organizations have a very difficult time replicating the success of independent start-ups. Another significant consideration of such a move to Commerce, is the impact it will have on our State's eco-system for supporting early stage enterprises. A copy of his testimony is (Attachment 6) attached and incorporated into the Minutes as referenced.

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The last opponent called on to testify is Mr. Gary Mason, CEO of iSi Environmental Services who stated he was a member of the PIPELINE class of 2009 and currently serve as the Vice Chair of KTEC, and serves on the KTEC Board of Directors and believes the Board, in its current form, allows for both transparency and Legislative oversight for KTEC's operations. Regarding the importance of KTEC, he stated it has a unique focus on innovation and entrepreneurship, dramatically different from the traditional economic development approach of the DOC with different goals and metrics. It is producing tangible results; establishing tremendous credibility with entrepreneurs, small innovative companies, and most importantly with investors. And KTEC's balanced structure enables the agency to move at the pace of business and provide services which directly impact business' bottom line. Many states around the nation are working hard to create what we have. A copy of his testimony is (Attachment 7) attached and incorporated into the Minutes as referenced.

The Chair thanked the conferees and asked for questions or comments from the Committee which came from Senator Steineger who stated, mergers happen all of the time and what we often find is that the guys in the company that gets taken over or bought out are usually the ones that get the boot. He feels the bill will pass, and hopes that he and all the other folks here can help in a positive way to make it happen in a good way, rather to resist and fight. Senator Lynn concurs with him and hopes in the future we could insure some way, when a bid goes out, that Kansas manufacturing gets a first look.

Adjournment

As there was no further business, the Chair announced the meeting was adjourned. The time was 9:31 a.m.

The next meeting is scheduled for March 17, 2011.