

MINUTES OF THE HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT.

The meeting was called to order by Chairman William G. Mason at 3:35 p.m. on March 16, 2000 in Room 522-S of the Capitol.

All members were present except: Representative Geringer
Representative Henderson
Representative Thimesch
Representative Stone

Committee staff present: April Holman, Legislative Research Department
Rena Jefferies, Revisor of Statutes
Lynne Holt, Legislative Research Department
Rose Marie Glatt, Committee Secretary

Conferees appearing before the committee: Representative Doug Spangler
Bob Gillihan, President, KS Multi-Sport and Rec. Foundation
Jim Sword - HOK Architects
Peter Duffy Mahoney - Director of Operations USTAF
Mike O'Sullivan - The LIEB Group - Arthur Anderson
Coach Al Hobson - KCKCC
Warrick Graves - Prudential Securities
David Bybee, High Performance Incentive Manager, KDOCH
Secretary Clyde D. Graeber, KDHE
Kirk W. Lowry, Attorney, Palmer, Lowry, Leatherman & White
Jim DeHoff, KS AFL-CIO, written testimony only

Others attending: See Attached List

The Chairman opened the hearing on **HB 3019**. He directed the committee's attention to the testimony submitted by Jim DeHoff, KS AFL-CIO, written in support of the bill because of the potential of new jobs being added from construction and completion of a sports complex ([Attachment 1](#)).

Representative Spangler opened the session, and spoke of the importance of **HB 3019** to the state of Kansas. He stated that the peanut of the bill is on page 3, line 20, that reads *(f) The authority is hereby authorized and empowered to issue bonds in one or more series for the purpose of financing a multi-sport athletic project in accordance with sections 2 through 4 and amendments thereto.* This opportunity has been brought forth to the Kansas City, Kansas and metropolitan Kansas City community by the Board of Directors of the Kansas Multi-Sport and Recreation Foundation. He introduced the Board Members present at the hearing: Bob Gillihand, President, Mike Gilstrap, Kansas City, KS Community College, Tom Burke, President of the Community College, Jim Head, Retired Certified Public Accountant, Al Hobson, Track and Field Coach and Ernest Green, the father of Maurice Green, the world's fastest man.

A notebook was distributed to the committee members for review (A copy of the three ring binder is on file in the Legislative Research Department). Representative Spangler introduced Bob Gillihan, who gave an overview of the presentations to follow by members on the KS Multi-Sport and Recreation Foundation Board of Directors. Their vision is to plan, design and build the first 400 meter indoor track facility in the world as well as the *United States Track and Field Hall of Fame*. The project presents the opportunity to put Kansas at the fore-front of securing and hosting a variety of championship sporting activities which will greatly increase tourism and visits from athletic teams from across the United States and the World.

Jim Sword, Hok Architects, presented the following overviews via visual aides: layout of the KS Multi-Sport and Recreation Facilities on the Kansas City, Kansas Community College, an inside view of the 400 meter indoor track and the gyn/natorium facility and an artist's rendering of an field event.

Peter Duffy Mahoney, Director of Operations of the governing body for the sport of track and field(USTAF), reviewed the sporting events that would be impacted by the new facility including: running, long distance running, race walking, swimming, gymnastics, handball, volleyball in addition to the sport of track and field. He described the benefits of a facility of this magnitude to the community and state.

Mike O'Sullivan, The Leib Group - Arthur Anderson, distributed exhibits reflecting the illustrative economic impact and conceptual financial structure of the proposed athletic facility ([Attachment 2](#)). He addressed two issues: Can this project make economic sense and what kind of economic impact will the project have on the local and regional Kansas economy? Their calculations show that the project makes economic sense and the economic impact on the local community and state would be significant. They will need a full calendar of events before a more accurate estimate can be given. He noted that these were preliminary findings and funding would not occur until very careful financial planning took place.

Coach Hobson, KCKCC reviewed the lack of good facilities under one roof in the United States, for the purpose of training and competing for local, regional and world class citizens.

Warrick Graves, Prudential Securities, talked of the many facilities, outlined in the notebook, that have been completed across the country. He spoke of the advantage of having good quality Kansas paper on the market today. Bill Gillihan concluded the presentation and stood for questions. Discussion followed regarding the reasoning behind selecting KDFA for the funding mechanism and the lack of liability for the state of Kansas for the project. Representative Sharp and Dr. Tom Burke, President of Kansas City, Kansas Community College spoke in support of the facility.

Chairman Mason closed the hearing on **HB 3019**.

Ken Frahn, Chairman of KDFA, stated that if the market has an appetite for good quality Kansas paper, they would be glad to issue it. The bill appropriately calls for a feasibility study and assuming that has a positive outcome, KDFA would be glad to be a part of the program.

Representative Sharp moved that **HB 3019** be passed out favorably. Representative Campbell seconded and the motion was carried.

The Chairman opened the hearing on **HB 3020** and Ms. Holman provided a briefing. The bill would establish the Sunflower Army Ammunition Plant Remediation Trust Fund to be administered by the Secretary of Health and Environment, providing for administration and use of such fund. The fiscal note reports that the fiscal effect of the bill cannot be estimated at this time. The bill involves future events that may or may not happen and any fiscal effect resulting from the passage of the bill would not affect revenue sources or expenditures from the state general fund, but would be in addition to any recommendations included in the Governor's budget.

Secretary Clyde D. Graeber provided testimony in support of the bill (Attachment 3). He briefly described the legislation passed last year, which requires that OZ entertainment Company provide a prepaid third party financial guarantee in the form of an obligation bond. Kansas statutes mandate that KDHE have the statutory authority to *accept and access* the bond. This change, technical in nature, would allow KDHE to call the surety bond for any required payments and distribute funds for payment of remediation work. It also outlines procedures in the case that OZ fails. A question was raised about the process of the consent order. KDHE recently forwarded seven changes to the OZ attorneys, and he noted that they understand those changes will be accepted and returned. Discussion followed regarding the ramifications of a remediation bill larger than the \$45 million dollar surety bond. The Secretary stated that OZ has contracted with IT Corporation, a well known environmental contractor, whose contract states that they will remediate the entire tract for \$37 million. There is an agreement with the army saying that in the event that OZ expends \$40 million on the remediation of the tract, the army will then move in and oversee the remediation from that point forward. The army retains the right to call on the additional insurance policies that OZ will provide. In addition the army agreed up-front to clean up what they call explosive ground at a cost of \$26 million. The Secretary explained that KDHE has a voluntary agreement with the EPA, that KDHE will oversee the remediation of this site. The Secretary agreed to provide the exact numbers of KDHE employees (3-5) that will be involved with the project. The time-table for remediation could be as long as fifteen years to actually remediate and the army believes that they now, with the remediation that OZ would be doing, can complete it in that same time frame. The financial stability of the Insurance Company in Pennsylvania issuing the bond was described by the Secretary as top notch.

The Chairman closed the hearing on **HB 3020**. Representative Aday moved that **HB 3020** be passed out favorably. Representative Campbell seconded and the motion carried.

The Chairman opened the hearing on **HB 3021** and Ms. Holman briefed the committee on the intent of the bill. The bill would amend the KS tort claims act to say that a government entity or an employee acting within the scope of their employment will not be liable for the damages resulting from the failure to perform any activity pursuant to the statute governing the development of a project of state and local importance, which indirectly refers to the OZ project.

Secretary Clyde D. Graeber stated that **HB 3021's** purpose is to protect KDHE and the state of Kansas from any possible lawsuits that might arise by KDHE's voluntarily agreeing to oversee the remediation of the Sunflower Army Ammunition site and assume that oversight from the EPA. It brings under the Tort Claims Act the 1999 legislation which created the statutory authority that enables the OZ project to move forward (Attachment 4). The bill does not protect anyone other than the KDHE employees, KDHE and the state of Kansas. The question was raised that in the event of Oz's failure, who would be liable for such things as ground water contamination. Where would people turn for remediation? The Secretary stated that the land would return to the Army and the public would have the same course of action that they have now, or against any assets that Oz retained. They discussed whether this bill would supercede CIRCLA and the part KDHE and KDFA have in the chain of title. The Secretary agreed to provide more detailed information on this issue after more research.

Kirk W. Lowry, Attorney, Palmer, Lowry, Leatherman & White appeared in opposition to the bill (Attachment 5). They sited two points: the proposed immunity is too broad in scope and they oppose the bill because they do not

see it as good government to give the state obligations and responsibilities under one set of statutes, which creates a developmental finance authority and then pass conflicting legislation, that would relieve the state from any responsibility for failure to live up to its statutory obligations.

Discussion followed regarding the question of immunity of the EPA in such projects, liability of other responsible parties backed by performance bonds, limitation of \$500,000 on the Tort Claims Act per occurrence, varying interpretations on the bill (a) states shedding of liability responsibility to the people of Kansas (b) protecting the people of Kansas and KDHE from lawsuits for voluntarily agreeing to assume the responsibility from EPA.

The Chairman closed the hearing on HB 3021. Representative Beggs moved that HB 3021 be passed out favorably. Representative Campbell seconded.

Discussion followed regarding the concern of contamination for people living around the site and the remediation process. The Chairman stated that the contamination issue is not the responsibility of KDHE. Contamination is there from years and years of contaminants being put at the site. KDHE is there as overseers of the clean-up, not as contributors to the problem. This bill does not relieve OZ or any other contractors from their rightful responsibilities for protection of the people in that area. The risk is not from the contamination, but from actions that they are involved in with the contractors, etc.

The Secretary reiterated that what they are asking is that while they are doing their job of overseeing the work that is going to be done by IT Corp, they should not be joined in any lawsuit that might be brought against OZ, IT Corp or the Army. They are there voluntarily as overseers of the process of remediation. KDHE is not receiving any remuneration for this project, other than the salaries for the three employees that will be on site. Discussion followed regarding various scenarios that could occur resulting in legal action.

Representative Campbell called the question. The motion was defeated.

The Chairman opened the hearing on HB 3010 and called on David Bybee, KDOCH to explain the consolidated amendments (Attachment 6).

Representative Beggs moved that the balloon on page 6, line 17 be struck as well as the original amendment in italics, returning to the original language and figure of \$50,000. On page 6, line 14 and 15, the language would read: *portion of the qualified business facility investment which exceeds \$50,000 in lieu of the credit provided in subsection (b)(2) or (c)(2) without* Representative Kuether seconded and the motion carried.

Representative Aday moved that the other technical amendments, discounting the 2nd amendment on page 1 relating to manufacturing be accepted. Representative Osborne seconded and the motion carried.

Representative Aday moved that HB 3010 be passed out favorably. Representative Sharp seconded and the motion carried.

The Chairman directed attention to HB 3011 and opened it for discussion. Representative Gatewood moved that the technical change on page 3, line 33, changing the word *expending to expanding* be accepted. Representative Campbell seconded and the motion carried. Discussion followed regarding the number of jobs and investment criteria necessary for participation in the program, other programs that might be more appropriate for smaller businesses and the importance of the bill to local communities and the state. Representative Aday moved that HB 3011 be passed out favorably as amended. Representative Campbell seconded and the motion carried.

Representative Campbell asked the Chairman for another meeting to continue the discussion on HB 3021.

The next meeting is Tuesday, March 21, 2000.

The Chairman adjourned the meeting at 5:10 p.m.