

MINUTES

JOINT COMMITTEE ON ECONOMIC DEVELOPMENT

October 21-22, 2004
Room 519-S—Statehouse

Members Present

Senator Nick Jordan, Chairperson
Representative Kenny Wilk, Vice-Chairperson
Senator Donald Betts
Senator Karin Brownlee
Senator Pete Brungardt
Representative Tom Burroughs
Representative Don Dahl
Representative Lana Gordon
Representative Vern Osborne
Representative Valdenia Winn

Members Absent

Senator Jim Barone
Representative Judy Loganbill

Staff

Kathie Sparks, Kansas Legislative Research Department
Susan Kannarr, Kansas Legislative Research Department
Helen Pedigo, Revisor of Statutes Office
Renaë Jefferies, Revisor of Statutes Office
Mary Shaw, Committee Secretary

Conferees

Howard Fricke, Secretary, Kansas Department of Commerce
John Yeary, Attorney, Kansas Department of Commerce
Martha Neu Smith, Executive Director, Kansas Manufactured Housing Association
Richard Cram, Office of Policy and Research, Kansas Department of Revenue
Steve Weatherford, President, Kansas Development Finance Authority and Kansas Housing Resources Corporation
Jerry Lonergan, President, Kansas, Inc.
Bill Hall, President, Hall Family Foundations
Bill Taylor, Retired Partner, Ernst & Young, C.P.A.
William R. Keeton, Assistant Vice President and Economist for Economic Research Department, Federal Reserve Bank of Kansas City

Others Attending

See attached list.

October 21 Morning Session

The meeting was called to order by Chairman Nick Jordan at 10:00 a.m., on October 21, 2004, in Room 519-S of the Statehouse.

Chairman Jordan welcomed Howard Fricke, Secretary, Kansas Department of Commerce (KDOC), who presented a draft of the Department's guidelines for STAR Bond financing (Attachment 1). Secretary Fricke stated that the Department suggests that at least 20 percent of the annual visitations to any major entertainment and tourism area be from multi-state visitors and 30 percent come from more than 100 miles from the project site. KDOC is also suggesting that all the retail tenants in a project be required to comply with all Kansas laws including the Kansas Affiliate NEXUS law.

Chairman Jordan welcomed John Yeary, Attorney, Kansas Department of Commerce, who explained the rules and regulations regarding the STAR Bond financing (Attachment 2). Mr. Yeary mentioned that KDOC is getting close to having the rules and regulations approved by the Kansas Department of Administration and then the next step will be the Attorney General's Office.

Committee questions and discussion followed. Senator Brownlee asked when the STAR Bond rules and regulations would come before the Joint Committee on Administrative Rules and Regulations. Mr. Yeary responded that his hope was it would be completed this year and be ready for the 2005 Legislative Session.

Representative Wilk asked what type of criterion is in place for geography consideration of a project. Secretary Fricke explained that any area eligible for STAR Bond financing must include a major commercial entertainment and tourism area. In response to a question by Representative Wilk, if the State is heading down a path where there will be no major development in the State of Kansas without the use of STAR Bonds, Secretary Fricke responded that it was not his understanding that it was the intent of the legislation.

Chairman Jordan explained that in the statute a feasibility study is required, however, the only thing the feasibility study is required to disclose is whether the bonds can be paid off or not. He asked if the feasibility study should be defined more comprehensively. The Chairman recommended that the feasibility study also be required to provide the following information: what is the return on the investment for the State of Kansas; what is the projected payback in tax dollars for the local community; and explain whether or not the project will provide unfair competition to existing businesses in the community. Secretary Fricke responded that it was a good suggestion.

The Chairman recognized Helen Pedigo, Revisor of Statutes Office, who explained the requested draft STAR Bond legislation (Attachment 3). In the draft presented, Ms. Pedigo mentioned that it was her intent that there would not be any changes to the original statute, but merely offer technical amendments and clarifications in an attempt to clarify the STAR Bond provisions. She mentioned that she met with the Kansas Development Finance Authority Revenue and Kansas Department of Commerce staff regarding the draft bill and the departments may have additional recommendations.

Representative Wilk asked Secretary Fricke if the Committee does decide to recommend this draft legislation with the Chairman's clarification on feasibility studies, would the Kansas Department of Commerce be comfortable with the bill. Secretary Fricke responded that the statute and the

changes that have been suggested were just fine and would give him enough clarity and direction to be able to hopefully correctly administer the STAR Bonds.

The Committee discussed the possibility of a local community attempting to issue additional STAR Bonds without resubmitting and getting approval through the process by paying the original bonds off early. Secretary Fricke indicated that the statute was clear that if additional STAR Bond financing was wanted, it would require a new application, a new submission, and a new approval process.

Chairman Jordan expressed concern regarding the definition of personal property. An example was cited in which arena seats were considered personal property. Chairman Jordan explained that he is attempting to understand the intent in the statute.

Chairman Jordan called the Committee's attention to discussion of the minutes of the August 26-27, 2004, meeting. Senator Brownlee offered the following amendments to the minutes:

1. On page 4, second paragraph with regard two articles that have appeared in the *Kansas City Star*, to add the date "2001".
2. On page 4, third paragraph from the bottom, delete the word "*Star*" and replace with "*Business Journal*".
3. On page 7, second paragraph, delete the word "private industry" and replace with "small business".
4. On page 7, last paragraph, second sentence, delete the words "She asked if there were any" and replace with "There are".

The meeting recessed at 11:50 a.m.

Afternoon Session

Chairman Jordan reconvened the meeting at 1:45 p.m. and explained that there will be an update on the Manufactured Housing Act from the 2004 Session, HB 2719.

The Chairman welcomed Martha Neu Smith, Executive Director, Kansas Manufactured Housing Association (KMHA), who presented information on the Manufactured Home Installers Licensing proposal, HB 2719, from the 2004 Session (Attachment 4). Ms. Smith explained that she feels they have made some progress, but could not speak for the other groups. She noted that when they met on September 23, 2004, KMHA agreed to the following:

1. They do not have a problem with either Kansas Housing Resources Corporation or the Kansas Department of Revenue 's Division of Vehicles overseeing all of their licensing.
2. The Association does not have an issue with allowing the state agency to contract with another agency for the licensing services or contracting with private testing or training entities.

3. KMHA has also agreed that they will correct language regarding hookups.
4. KMHA is willing to work on the concerns that Kansas Housing Resources Corporation expressed on the dispute resolution program.

Ms. Smith explained that the area that they have not agreed on is Kansas Housing Resource Corporation's stance on requiring 100 percent inspection of all manufactured home installations. She noted that they feel that not only does this policy discriminate against manufactured housing, but also is a way of making this program cost prohibitive. Ms. Smith indicated that they feel the way HB 2719 is drafted, it provides for an equal level of inspection for manufactured housing installations as site built homes.

Richard Cram, Office of Policy and Research, Kansas Department of Revenue, scheduled to testify, deferred his testimony time to Steve Weatherford, President, Kansas Development Finance Authority and the Kansas Housing Resources Corporation.

Chairman Jordan welcomed Steve Weatherford, President, Kansas Housing Resources Development Corporation, who presented their position on implementing the Federal Manufactured Housing Act of 2000 ([Attachment 5](#)). Mr. Weatherford explained that at the last meeting of the Joint Committee on Economic Development, they were requested to meet with the Kansas Manufactured Housing Association and the Kansas Department of Revenue, to explore possible implementation of a state program. In addition, the Committee also requested the agency obtain a review of HB 2719 from the United States Department of Housing and Urban Development (HUD) to determine if it would qualify under the 2000 Act. He stated that both requests had been completed. The notes of the review by HUD of HB 2719 and notes of a conversation with Ms. Cocke, Deputy Administrator, HUD Office of Manufactured Housing Programs, and additional information, are attached to his written testimony. Mr. Weatherford believed the meeting was productive, and based on the meeting, addressed their position as follows:

- They continue to urge the Kansas Legislature not to take action that may have the result of unnecessarily reducing protection available to Kansas residents.
- If the Governor and Legislature agree to implement a qualifying installation program and/or dispute resolution process, Kansas Housing Resources Corporation is now willing to assume responsibility for administering the law.
- The protection for residents of manufactured homes provided by the federal installation standards and requirements should be the minimum level of protection and not the maximum protection that can be provided to Kansas citizens.
- Kansas Housing Resources Corporation should have the authority to establish by Rule and Regulation inspection requirements and qualifications for inspectors.
- Kansas Housing Resources Corporation should have permissive authority to establish a dispute resolution process and fee structure by Rule and Regulation that qualifies under the 2000 Act.

Recommendation: *Representative Gordon moved, with a second by Senator Betts, to proceed with the same legislation that was introduced in the 2004 Legislative Session as a Senate bill. Discussion followed.*

Senator Brownlee asked if the motion for the draft legislation could be amended to include the following points of agreement have already been met:

- It would be under the Kansas Housing Resources Corporation and they are outsourcing or contracting for some of the responsibilities.
- Rules and regulatory authority would be under KDHA authorization.
- Correct language regarding hookups.

The amendments to the motion were accepted by Representative Gordon and Senator Betts. Senator Brownlee mentioned that the dispute resolution program needs to be resolved. Mr. Weatherford noted that all parties are agreeing to look at this system regarding what it will look like and how it will be paid. Chairman Jordan expressed hope that the parties would continue to meet and talk to try to find areas of agreement prior to the session. *Motion carried.*

Chairman Jordan welcomed Jerry Lonergan, President, Kansas, Inc., who introduced Sean Tombs, Research Analyst, Kansas, Inc., who presented the report on Sales Tax Exemptions and Income Tax Credits for Economic Development: Report for Tax Year 2002 (Attachment 6). Copies of the Sales Tax Exemptions and Income Tax Credits for Economic Development: Report for Tax Year 2002 were distributed (Attachment 7). Mr. Tomb presented the purpose, methodology concerns, some of the key findings, and the next steps the agency will take. Mr. Tomb explained that the Economic Development Incentive Questionnaire, Tax Year 2002, included examination of two sales tax exemption programs and six income tax credit programs. Regarding methodology, Mr. Tombs noted that there were some poorly worded questions and that may have led to incomplete responses.

Mr. Tombs reported that key findings are:

- The responding corporations receiving economic development tax incentives reported that 85.5 percent did not seriously consider undertaking their project in another state.
- The responding corporations reported that 50.0 percent would have proceeded as planned if economic development incentive programs were not available.

Mr. Tombs reported on the next steps the agency will undertake to add value to the next report by:

- Determining the true cost effectiveness of economic development incentive programs possible with the questionnaire;
- Discussions with the Kansas Department of Revenue to improve the methodology questionnaire process;
- Increased access to taxpayer data; and
- Creating a statistically valid survey and/or focus groups of those who participate in tax incentive programs to get more reliable, in-depth information.

Committee questions and discussion followed. Senator Brownlee pointed out that on page 2 of the report, that it has been ten years since Kansas, Inc. was given the responsibility to prepare an annual report evaluating the cost effectiveness of specific income tax credits and sales tax exemptions. Senator Brownlee questioned if the economic development money is being placed appropriately when 50 percent of the responding corporations would have proceeded as planned if economic development incentive programs were not available.

Chairman Jordan recognized Joan Wagon, Secretary, Kansas Department of Revenue, who responded that the problem is that Kansas, Inc. is prohibited from looking at the data the Kansas Department of Revenue already collects due to confidentiality statutes. The Secretary indicated that a system was created that cannot succeed and the responsibility for the report needs to be with the Kansas Department of Revenue and they can do this report with existing resources.

Chairman Jordan recognized Matt Jordan, Kansas Department of Commerce, who mentioned that, in interest of finding a better way of tracking the effectiveness and auditing of these credits, they would like to have the tools and authority to do what is wanted of them. He applauded Kansas, Inc., for their work in the information they provided. He urged being very careful about the assumptions that are drawn from this information.

Representative Burroughs explained that, as a member of the Board of Kansas, Inc., along with Representative Wilk, there will be some proposed changes coming forward dealing with the issue that is being discussed. Secretary Wagon mentioned that the Kansas Department of Revenue and the Chamber of Commerce have been meeting and they are reporting to the interim Assessment and Taxation Committee on points of agreement in that confidentiality bill. Senator Brownlee asked that the report made to the interim Assessment and Taxation Committee be mailed or e-mailed to the members of the Joint Committee on Economic Development.

Recommendation: Chairman Jordan asked that staff address this issue in a letter under his signature to the Interim Tax Committee from this Committee emphasizing the importance of this issue and would like to see the issue resolved so there will be a paper trail. This Committee would like to be kept informed as to what recommendations from the Assessment and Taxation Committee are made with regard to the confidentiality bill.

Richard Cram, Office of Policy and Research, Kansas Department of Revenue, submitted written testimony ([Attachment 8](#)).

Chairman Jordan welcomed Jerry Lonergan, President, Kansas, Inc., back again to present an update on the Kansas, Inc. Report on Film Industry, A Permanent Presence of the Film Industry in Kansas - *The Sequel* ([Attachment 9](#)). Mr. Lonergan presented information regarding:

- current status of the film industry in Kansas;
- economic impact studies;
- other study results;
- state options; and
- next steps.

Mr. Lonergan made the Committee aware of Burnt Orange Productions (detail found in his written testimony) which was a product of the University of Texas Film Institute. Investors have provided \$8 million for the Burnt Orange Productions program. The plan is to make eight \$1 million movies over the next three years with the intent to repay the investors and sustain the program through profits from the movies.

Chairman Jordan welcomed Bill Hall, President, Hall Family Foundations, and Bill Taylor, Retired Partner, Ernst & Young, C.P.A., who presented a report on Higher Education in Kansas: Driving Our State's Economy in the 21st Century, Kansas Citizens for Higher Education (Attachment 10). Mr. Hall mentioned that he and Mr. Taylor will present the report and Bill Musgrave was also present with them. They presented information regarding the following:

- □ Citizens for Higher Education Founders and Goals;
- □ The Tight State Budget—How We Got Here;
- □ Impact of Higher Education on the United States and Kansas Economies;
- □ Higher Education and the Biosciences Initiatives;
- □ Kansas Compared to Others in Big 12 States in Terms of Their Funding of Higher Education; and
- □ Steps to Improve the Situation.

The presenters stated that 21st Century jobs require higher education. Kansas leads Big 12 states in demand for higher education but per student funding is next to last in the Big 12 states. The presenters also indicated that tuition and fees are near the bottom and faculty salaries are well below other Big 12 states.

The Chairman called the Committee's attention back to discussion of the minutes from the previous meeting. *Senator Brownlee moved, with a second by Representative Wilk, to approve the minutes of the August 26-27, 2004, meeting as amended. Motion carried.*

The meeting recessed at 4:35 p.m.

October 22 Morning Session

Chairman Jordan reconvened the meeting at 9:50 a.m. The following copies of the Kansas Department of Revenue reports were distributed regarding the topic of Analysis of Corporate Income Tax, 2000-2002:

- Analysis of Corporate Income Tax 2000 - 2002 (Attachment 11); and
- Analysis of Corporate Income Tax 2000 - 2002, Executive Summary (Attachment 12);

Chairman Jordan welcomed William Keeton, Assistant Vice President, Economic Research Department, Federal Reserve Bank of Kansas City, who provided an update on the Kansas economy (Attachment 13). Mr. Keeton presented the following information:

- The Kansas economy has rebounded solidly this year, however, Kansas still has some ground to make up from the recession;

- □ Job Growth has improved in Wichita more than in Kansas City;
- □ Manufacturing has come out of the recent slump;
- □ Smaller manufacturers report increased activity;
- □ A broad array of service sectors are now expanding;
- □ Housing activity has been solid and housing inflation is more subdued in Kansas than in the nation;
- □ Farm conditions are favorable overall;
- □ Investment fell sharply in the recession, but has come back both in the nation and the region;
- □ Firms plan to keep hiring;
- □ High energy prices represent a risk, but fortunately the economy is less vulnerable than in the 1970's; and
- □ Despite the risks, most economists predict the recovery will continue.

Committee questions and discussion followed. Representative Wilk explained that Kansas, Inc., is in the process of developing the Indicators of the Kansas Economy (IKE). He asked what counsel he could offer Kansas, Inc., regarding common key indicators. Mr. Keeton responded that there were two different kinds of indicators:

- □ Indicator regarding how Kansas is doing in terms of the business cycle, *i.e.*, falling behind or keeping up with the rest of the nation, employment data, measures of consumer confidence, manufacturing survey, retail services; and
- □ Indicator regarding what is happening with research and development (innovation), *i.e.*, patents issued per capita, kinds of patents, education levels, who is leaving the state and coming in.

Representative Wilk asked if Mr. Keeton might be available for discussion regarding IKE and he responded that he could be available. Chairman Jordan acknowledged that IKE is to be mentioned in the Committee's final report and the recommendation is strongly supportive of the development of IKE. In addition, the Chairman believes that getting the appropriate economic indicators in place is extremely important. Representative Wilk encouraged Mr. Lonergan to seek the assistance of Alan Conroy, Director, Kansas Legislative Research Department; Duane Goossen, State Budget Director and Secretary of the Department of Administration; and Mr. Keeton of the Federal Reserve.

Staff distributed a memorandum to the Committee regarding possible Committee comments and recommendations for the final report ([Attachment 14](#)).

Chairman Jordan called the Committee's attention to discussion of recommended legislation regarding STAR Bonds and to review the following three areas of proposed amendments presented by the Revisor:

Proposed Amendment – Revisor – Bond Payoff Provision (Attachment 15):

The Revisor referenced an e-mail received from Rebecca Floyd, Executive Vice President/General Counsel, Kansas Development Finance Authority, where she provided alternative language regarding Bond Payoff Provision (Attachment 16) as follows:

“Once revenues are collected and distributed into the bond debt service or reserve fund sufficient to finally pay all principal and interest cost of the bonds, all sales tax and other revenues collected for debt service on the bonds shall thereafter be collected and distributed in accordance with applicable law.”

Recommendation: *Representative Wilk moved, with a second by Senator Brownlee, to adopt the amendment submitted by KDFA and grant the Revisor latitude in language to achieve legislative intent. Committee discussion followed. Motion carried.*

Proposed Amendment – Revisor – Personal Property Definition (Attachment 17):

The Committee declined to recommend this balloon.

Proposed Amendment – Revisor – Feasibility Study Definition (Attachment 18):

The Committee discussed changing the scope of the feasibility study to require: the bonds will be paid off with the estimated tax dollars generated by the project, the project will bring an estimated percentage return on investment of tax dollars, and the project will not negatively impact another private enterprise in the local community.

Recommendation: *Senator Brownlee moved, with a second by Representative Wilk, to adopt the proposed amendment on page 3 regarding the feasibility study definition. Motion carried.*

Representative Wilk moved, with a second by Senator Brownlee, introduction of the Revisor’s Bill Draft (5rs0019) as amended to be introduced as a House Bill in the 2005 Legislative Session. Motion carried.

Chairman Jordan called the Committee’s attention to discussion of the Guidelines, Rules and Regulations for STAR Bonds presented by Howard Fricke, Kansas Department of Commerce. Committee discussion followed.

Recommendation: There was consensus by the Committee to agree with the Guidelines, as well as the proposed rules and regulations presented by the Secretary of the Kansas Department of Commerce, and the Committee requested that the Secretary advise the Committee, after implementation, of the success of the new process for STAR Bond financing.

Chairman Jordan called the Committee’s attention to discussion of Utilizing the Film Industry as an Economic Development Tool:

Recommendation: There was consensus by the Committee that the final report indicates that the Committee reviewed this item, the study is in process.

Chairman Jordan called the Committee’s attention to discussion of the Update on the Kansas Economic Development Growth Act of 2004.

Recommendation: There was a consensus that the Committee's final report reflect that the Committee reviewed this item and heard the report, and report progress has been made. Representative Wilk mentioned that the report or some information, *i.e.*, information on patents, should be available from Mr. Celine, SELI, by the beginning of the 2005 Legislative Session. The information will be distributed to the Committee once it is made available.

Chairman Jordan called the Committee's attention to discussion of the Report on Sales Tax Exemptions and Income Tax Credits for Economic Development: Report on Tax Year 2002.

Recommendation: There was consensus that the Committee needs to comment regarding its disappointment regarding the barriers that were in place and the inability for the report to be completed totally for this Committee's review. A letter will be drafted to the Interim Assessment and Taxation Committee regarding concerns that they may need to look at the issue regarding the confidentiality requirement in the statute.

Representative Burroughs moved, with a second by Representative Wilk, that the report by the Kansas Department of Revenue and Kansas, Inc., may be on statute but needs to be reviewed to be presented to the Kansas Department of Commerce about economic development. Motion carried.

Chairman Jordan called the Committee's attention to discussion of the Report of the Kansas Economy by the Federal Reserve Bank of Kansas City:

Recommendation: The Committee came to a consensus that some points out of Mr. Keeton's testimony should be included in the report, especially the ones that show an upswing in the Kansas economy, employment, and add information regarding IKE.

Staff will mail the minutes and the draft report to each member at his or her home with directions for any corrections or additional comments to be forwarded to Kathie Sparks or Susan Kannarr in the Legislative Research Department.

Chairman Jordan recognized John Frederick of Boeing regarding an article in the newspapers about the 787's. Mr. Frederick reported that it might possibly add 600 manufacturing jobs in Wichita.

Regarding review of the booklet regarding Higher Education In Kansas: Driving Our State's Economy in the 21st Century presented by Mr. Hall and Mr. Taylor, the Committee decided to state in the final report that the Committee reviewed the report, mention some items from the presentation, and that the Committee recognizes the importance of higher education as an important part of Kansas and its impact on the economy.

Chairman Jordan thanked the Committee and staff for all the work during the 2004 Interim Session.

The meeting adjourned at 12:25 p.m.

Prepared by Mary Shaw

Approved by Committee on:

December 9, 2004
(date)