

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairman Susan Wagle at 9:00a.m. on May 10, 2011, in Room 548-S of the Capitol.

All members were present except.

Senator Schodorf – excused

Senator Faust-Goudeau - 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:

Mr. Jason Glasrud, Special Assistant, Kansas Department of Commerce

Others attending:

Please see attached list.

### Approval of Minutes

The Minutes of February 3, 15, 16, and 22, and March 3, 4, 8, 10, 15, 16, and 30 of the Senate Commerce Committee stand as approved as of May 12, 2011.

The Minutes of March 17 and 22 and April 1, 28, and 29 of the Senate Commerce Committee stand as approved as of May 13.

### **Continued hearing on HB2054 – an act concerning the Kansas technology enterprise corporation pertaining to the abolishing thereof; pertaining to the powers and duties hereof to the department of commerce and the board of regents.**

Upon calling the meeting to order, Chairperson Wagle announced to the Committee they would be continuing a hearing on the KTEC bill, which is **HB2054**, as the Secretary of Commerce called her last week and told her they needed some amendments in this bill. She then called on Mr. Jason Glasrud, Special Assistant, Kansas Department of Commerce. To explain the two minor amendments, including:

- 1.) On page 17, starting on line 34, it strikes Sec. 15, which eliminates the KTEC Advisory Board.
- 2.) On page 27, adds a new (25), because of renumbering, which calls for the ability for the Department of Commerce (DOC) to dispose of any direct or indirect stock or other equity or investment assets transferred to the department.

After offering a few minutes for the Committee to review, she asked for questions which came from:

1.) Senator Lynn who asked, what is the monetary value of direct or indirect stock? (Ms. Michele Weigand, Chief Investment Officer, KTEC said the \$8M is what the investments were made at cost. There isn't actually a value on the portfolio because they are not liquid stocks, so the value is not what is carried on the books.)

2.) Senator Masterson asked, is the sole requirement then for disposition or guideline, to be in the best interest of Kansas? Are there any other areas of statute that guide disposition? (Mr. Kevin Carr, CEO of KTEC, said the second amendment actually gives the department the flexibility if they so choose to do what is in the best interest of the state.) How many separate entities do we have interest in? (About 40.) What is the largest percentage we have of any single entity? (17%.)

Senator Lynn asked, regarding the value carried on the books, will you be liquidating and what that value will be? (Ms. Weigand said she does not have an answer today. Some of the equity carried on the books have negligible value and some have dramatic value. From an accounting perspective, the FASB rules that

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apply here, say we would keep the investment on the books at cost because we own less than 20%. So we can't sell the individual stocks because there are lots of rights and obligations with each of the companies.

The thought was, as Mr. Carr said, to give the department the flexibility. The old KTEC statute did not have this, because we were intending to hold that with the intent to grow jobs. Our executive committee, at KTEC's Board of Directors, made the recommendation to the DOC, that they add this language because it was their understanding that the Secretary of the DOC wanted to liquidate the portfolio and we felt that the current statutes wouldn't have covered him to be able to do that.)

3.) Senator Holland asked Mr. Glasrud, is there a desire by the DOC to liquidate the portfolio as soon as possible? (The purpose of that amendment was to provide that flexibility, should it be deemed, once the department has the ability to go in and see what the stocks consist of.) He feels there is a minimal number of exit points the state has with these investments.

As there were no more questions or comments, the Chair said she has been pleased with the cooperation she has seen in the restructuring, that the Governor has requested. She then said she was open to a motion on the bill. Senator Lynn made the motion to put the Secretary of Commerce's amendments into **HB2054**. It was seconded by Senator Steineger and the motion passed.

### **Continued overview on the Kansas Bioscience Authority**

The Chair then announced there is a KTEC appointment on the KBA board and there has been a lot that has happened since they had their first adjournment and how the Committee has looked at how the KBA has been spending their money. So, she wanted to cover with them a time line, so they could be aware of some resignations that are taking place within the KBA and on their board. Right after they had their first or second hearing, Lindsey Thornton, Director of Special Projects, resigned. Then she was told, on their Board of Directors, that Mr. Dan Glickman, and Ms. Angela Kreps, both resigned off of the nine member board. Next, we read in the paper that Mr. Tom Thornton, President and CEO of Kansas Bioscience Authority, had resigned. Governor John Carlin has the intention to resign as Chairman of the Board at their next meeting, which is going on today in Wichita, but his intention is to stay on the Board. And, lastly, she said, we did ask questions about the connections back to Chicago, where Mr. Thornton had signed a lot of contracts with friends in Chicago. He also brought employees to the KBA from Chicago, with one of them being Mr. Terry Osborn, He also will be resigning soon.

She went on to say, the Committee has continued to have questions of the KBA. In this morning's Wichita Eagle newspaper, there was an article saying the KBA had a board meeting in Wichita yesterday, and continuing today, stating they are going to hire some additional staff to answer questions from the legislature, the Governor, and from BKD, the auditors, and that motion was approved yesterday.

She then offered a handout stating, one of the first things we looked into and asked when we started our hearings, was what is the salary of every one in the KBA? And the first handout from the February 22, 2011 booklet shows that. Then shortly after that we found out there were a number of bonuses that were given out. The Chair specifically asked them, and it is stated in the Minutes, for all of Mr. Thornton's compensations for 2010. In the March 4, 2011 meeting, we were offered sheet two of this handout listing his compensations, showing years 2006 through the first part of 2011.

Since we have opened this hearing, the Chair thinks it is very obvious that she has been talking to people who work at the KBA, people who have been on the KBA board, and who have investment requests before the KBA, and was always told the information the Committee was receiving was not accurate and an audit needed to be done. So that is why she made a point several times when they had their hearings, that the people who were talking to me, have whistle-blowing status. And in analyzing this statute, in order to give a state employee whistle-blowing status, they have to talk to a legislator, not the Governor or the Secretary, if they have a concern about an agency. And in talking to a number of people within the agency and to people who had concerns with the agency, she was concerned the books we were getting didn't actually reflect true expenses. And so, after asking three more times for salary, she received sheet three, yesterday. She referred them to Mr. Thornton's information, and under FY2011 it shows he received a \$100K bonus on July 30, 2010, that was not in the books. So there is a lot of concerns with the

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information that has been delivered to the Committee. A copy of these handouts are (Attachment 1) attached and incorporated into the Minutes as referenced.

She told the story of how she and Senators Masterson, Schodorf, Faust-Gaudeau were at a South Central Delegation meeting in Wichita and WSU testified that KBA had promised them \$20M for a project. The KBA had failed to deliver this and their payments had quit coming. When Mr. Thornton and his staff came to her office, she asked him what did they commit to WSU? He said they never made that commitment. She asked for a contract from both WSU and Mr. Thornton, and neither had one.

Also, BKD came in at break to do an audit. Now the KBA has hired an auditor and everyone is concerned whether or not they would actually look at contracts. The Governor asked John Carlin to allow the Governor's office to send over the Secretary of Agriculture to the KBA. They accepted the offer for Secretary Dale Rodman to work in their agency, to act as a liaison between the Governor's office and the KBA.

Discussion ensued among leadership on how do we get are arms around how money is being spent at the KBA. Three reforms were offered, including:

- 1.) The first thing the Governor wanted to do was to remove the NBAFF bonding from the KBA. There is a separate bill, that has been agreed to that would take care of this.
2. In the budget committee, the Governor has asked, rather than the funds be independent to the KBA, he wants to run the funds through the State Finance Council, which would be a different way of appropriating to the KBA. There has been discussion of this and is not sure if everyone has agreed to that, but feels this is about the most important piece that the administration would need as we move forward and get the results of the audit and the District Attorney's investigation.
- 3.) The third piece that everyone has agreed to, is putting Secretary Pat George on the KBA board in the KTEC slot as they are being folded. And that way there would be more communication with administration.

The Chair asked if anyone had questions so far? As there were none, she said those are the things that are being worked on. Also, the District Attorney clearly told her that he does not want open discussion about what is being investigated. She went on to say, the Committee can take this bill and put Secretary George, DOC, on the KBA Board in the KTEC position.

She recognized Senator Longbine who said his only concern is the question of good public policy. To name someone to a board based on that individual, when this is going to carry on long after that individual may be in office, as past Secretaries of Commerce would have not matched well in that position. The Chair said she understands what he is saying and thinks what is going to happen is there will be a reform package before this committee next year.

The Chair asked for the will of the Committee. Senator Lynn made a motion to insert language that would appoint the Secretary of Commerce a member of the KBA Board to fill the KTEC position and making it effective as soon as that section becomes law. It was seconded by Senator Masterson and the motion carried by a hand vote.

The Chair stated her goal is to meet at the Rail once the amended bill is completed.

### **Adjournment**

As there was no further business or discussion, the meeting was adjourned. The time was 9:45 a.m.

The next meeting is scheduled for May 11, 2011.

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