

**MINUTES**

**JOINT COMMITTEE ON ECONOMIC DEVELOPMENT**

November 12-13, 2003  
Room 241-N—Statehouse

**Members Present**

Representative Kenny Wilk, Chairman  
Senator Nick Jordan, Vice-Chairman  
Representative Tom Burroughs, Ranking Minority Member  
Senator Jim Barone  
Senator Karin Brownlee  
Senator U. L. Rip Gooch  
Representative Donald Dahl  
Representative John Faber  
Representative Lana Gordon  
Representative Judith Loganbill  
Representative Vern Osborne

**Members Absent**

Senator Pete Brungardt  
Representative Valdenia Winn

**Staff Present**

Kathie Sparks, Kansas Legislative Research Department  
Deb Hollon, Kansas Legislative Research Department  
Susan Kannarr, Kansas Legislative Research Department  
Renaë Jefferies, Office of the Revisor of Statutes  
Mitch Rice, Office of the Revisor of Statutes  
Fulva Seufert, Committee Secretary

**Conferees**

Dr. Clay Blair, Chairman of the Board of Directors, Research and Development Enhancement Corporation  
Dr. John Tomblin, Interim Executive Director, National Institute for Aviation Research, Wichita State University  
Dr. James A. Roberts, Interim President, KU Center for Research, Inc., University of Kansas  
Dr. Joan S. Hunt, Director, Kansas Biomedical Research Infrastructure Network, University of Kansas Medical Center  
Dr. Ron Trewyn, Vice President of Research, Kansas State University

Mr. Bob Marcusse, President, Kansas City Area Development Council  
Mr. Jerry Heaster, Business Columnist, *Kansas City Star*  
Ms. Leslie Kaufman, State Director for Government Relations, Farm Bureau  
Senator Derek Schmidt, Chairman of Agriculture Committee  
Ms. Marci Penner, Executive Director, Kansas Sampler Foundation  
Ms. Allie Devine, Vice President and General Counsel, Kansas Livestock Association  
Lt. Governor John Moore, Secretary, Department of Commerce  
Mr. Peter Gustaf, Wichita, Executive Director of Kansas Training Initiative  
Mr. Scott Allegrucci, Director of Travel and Tourism Development Division, Kansas Department of Commerce

### **Wednesday, November 12 Morning Session**

The meeting was called to order by Chairman Wilk at 10:10 a.m., in Room 241-N, of the Statehouse. Chairman Wilk welcomed the members of the committee and gave a brief overview of the day's agenda which included some background information on the Regents bonding initiative that was passed in the 2002 Legislative Session. The initiative was structured by creating a new authority responsible for construction of three new research facilities. These facilities include a medical center in Kansas City, Kansas, a bio-security building at Kansas State University, and an aviation research building at Wichita State University. At the time this legislation was passed, Dr. Clay Blair was the Chairman of the Board of Regents.

The Chairman welcomed Dr. Clay Blair, Chairman of the Board of Directors of the Research and Development Enhancement Corporation which was created by the legislation. Dr. Blair said that several on the committee were instrumental in passing this legislation, and since its passage, several newspapers in the state have suggested that this initiative may be one of the most progressive acts passed in Topeka in the last few years. In research, the Regents found that Kansas universities were obsolete and unable to compete with other institutions in the country who were receiving grant money from places like the National Institute of Health, Science Foundation, etc. The Regents studied the particular strengths of the universities and found the following:

- Kansas State is a natural for animal husbandry and plant science, but inadequate facilities prohibit them from being aggressive in pursuing grants.
- University of Kansas is a natural for Life Sciences with the Stowers Initiative in Kansas City, and
- Wichita State with 10 percent of the Wichita economy involved in aviation, it seemed imperative that maintaining the current manufacturing in aircraft would require more facilities.

He said Senator Pat Roberts confirmed that Kansas was not getting its share of grant money. Dr. Blair mentioned that the Legislature had the foresight to pass the \$120 million bond initiative that fosters the best relationships among the public and private sector and the academic sector. Part of the money that is coming into this initiative is being funded by outside private sources like the Hall Family Foundation (\$27 million to the Life Sciences Initiative), and Kansas State and Wichita State have both received private donations. On the academic side, the theory is that the state will pay for the first five years, and then the remainder of the bond issue will be paid by revenues generated by

the research activities themselves. Dr. Blair said, "This puts responsibility and accountability on the research facilities to 'put their wallet where their mouths are' when they say they can generate research."

The second innovation was also very creative, in that the law created an authority to govern the construction of these three facilities using discretion and state guidelines for construction policy and to make necessary modifications and be accountable for those modifications. The makeup of the Board is a cross-representation of professionals: two construction company leaders, one from Wichita and one from Topeka; a banker from Manhattan; a labor union executive from Topeka; Joe Fritton who represents the State; and Dan Craig, real estate appraiser from Kansas City. To date, there has been ground breaking at Kansas State and Kansas University Medical Center. The State has a 1 percent architect fee, but the authority has negotiated a three tenths of 1 percent fee based on value and cost of service the state incurs. Rather than just automatically paying the state \$1.2 million (1 percent), the cost is less than \$400,000. The final contract is saving 30 percent of what had been paid. In addition, there have been negotiation and adjustment of many other fees. He stressed again that this visionary initiative was "cutting edge," which can make a great impact on the future of the Kansas economy. He said, "It's all about the future."

During the discussion, Dr. Blair mentioned that the bottom line was that at the end of the day when he comes back to report to the Legislature, he wants to be under budget. The Committee liked hearing this and the Chairman requested this comment be included in the minutes. The Chairman also noted the smile on Representative Osborne's face, and Representative Osborne commended the negotiation of the 0.3 percent fee and said he hopes that this sets an example for other agencies. Senator Barone added that he was impressed with the idea of doctoral students evaluating the process at the end, and Chairman Wilk said he would like to send a note to the Joint Committee on State Building Construction stating that the Legislature would like feedback from these students. After questions concerning the present state of construction, Chairman Wilk thanked Dr. Blair for his testimony. For the record, no written testimony was submitted.

The Chairman welcomed Dr. John Tomlin, Interim Executive Director, National Institute for Aviation Research (NIAR), Wichita State University. Dr. Tomlin said the mission of the NIAR is to provide research, certification testing, technology transfer, and training to the aviation industry, aviation-related companies, non-aviation companies, and federal agencies that sponsor aviation research. He said that NIAR's main mission is to create new jobs, save existing jobs, improve aviation safety, and add value to aviation products and processes. He reported that among the top ten universities and colleges for aerospace/astronautics research and development for the fiscal year 2001, Wichita State University ranked seventh with \$10,837,000 in expenditures. He said that it was his goal to move even higher on this prestigious list. NIAR's partnerships include the following: Boeing, Cessna, NASA, Kansas State, University of Kansas, Pittsburg State, KTEC, AACE, and Bombardier Learjet. His testimony included information on the economic impact, migration of laboratory testing, new aircraft development, single-company aircraft development cycle, and multi-company aircraft development cycle. Dr. Tomlin summarized the following recent legislative actions:

- \$13 million (bonded) for research equipment at NIAR to support the state aviation industry (\$7 million current - \$6 million future);
- \$10 million for Engineering Research Laboratory Building (bonded);
- \$1 million for aviation technology research programs to support the state aviation industry.

Dr. Tomlin's testimony also included a status overview of the \$1 million aviation research programs and the ten research programs initiated for fiscal year 2004. In addition, his testimony included a breakdown of the \$13 million in aviation research equipment and laboratory upgrades. A drawing of the 40,000 square foot new engineering research building was included. Dr. Tomlin

identified the following threats to Kansas' economic future: (1) Toyota, (2) Eclipse, (3) Safire, (4) Adam Aircraft, (5) Embraer, and (6) Airbus. In summary, he closed by saying that if Kansas supports the economic development of the existing aircraft industry, it will prevent the industry's economic collapse during the economic downturn. He stressed that the State of Kansas' support is critical to maintaining a leadership role in aviation manufacturing and thanked the legislators for their support ([Attachment 1](#)).

During committee discussion and questions, Representative Dahl expressed concern that possibly the wind tunnel was not big enough, and Dr. Tomlin assured him that they hoped this would be the premier wind tunnel. The Chairman thanked Dr. Tomlin and welcomed Dr. James Roberts, Interim Vice Provost for Research, Kansas University Center for Research, Inc. Dr. Roberts said that since 1996, the Center for Research expansion has led to more than doubling the growth rate on the KU campus. A graph included with his written testimony shows that the KU ranking in federally financed life sciences expenditures has attained the same level as the medical center. He stated that the KU Medical Center and the Life Sciences Research Laboratories are definitely major players in the life science field with growth from 45<sup>th</sup> in 1995 to 29<sup>th</sup> in 2003. His testimony included a photograph of the three-building research complex of the Life Sciences Research Laboratories (LSRL). The complex was formerly owned by Oread, Inc., purchased by the KU Center for Research in July, 2001. The 55,000 square foot building was purchased in a bankruptcy at a cost of \$3.6 million. Today's estimated value is \$18 million. Dr. Roberts' testimony included information on the following components:

- Center for Environmentally Beneficial Catalysis (\$30 million package);
- Combinatorial Methodology and Library Development Center (about a \$9 million award from NIH );
- Center for Cancer Experimental Therapeutics (NIH Center);
- Early Child Care and Youth Development Center (NIH Center);
- Structural Biology Center (SBC).

Dr. Roberts reported that the funding of current LSRL projects totals \$42.2 million with projected annual expenditures of \$8.0 million. He said this is significant because it represents the same amount of money as the entire budget of the University of Missouri, Kansas City. He said that the new space has paid off handsomely, and that the 132,000 square feet of research space that has been acquired since 2001 is already full or committed. Consequently, there is intense pressure for additional research space which they have included in their plans. He mentioned the following ways their project is moving Kansas forward:

- KUCR acquired LSRL space before any of the current "tenant" projects were awarded.
- LSRL space was filled within two years; overhead funds from projects will be re-invested in research.
- Future KU research thrusts include major NIH and NSF centers, life sciences, information technology, environment, and homeland security.
- Additional quality research space and researchers are required to sustain growth.

In closing, Dr. Roberts thanked the Kansas Legislature for its efforts and commitment in support of university research which he said provides critical leverage for external funding ([Attachment 2](#)).

Chairman Wilk thanked Dr. Roberts and welcomed Dr. Joan S. Hunt, Director, Kansas Biomedical Research Infrastructure Network, University of Kansas Medical Center. Dr. Hunt's written testimony included graphs and charts showing the following:

- KUMC Total Extramural Awards FY 1997-2002;
- Research Organization;
- Strategies for Growth;
- Features of the New Biomedical Research Center;
- Drawing of the Biomedical Research Building;
- The Biotechnology Development Center of Greater Kansas City;
- Multidisciplinary NIH Grant Awards received by KUMC (\$37.6 million);
- NIH/NCRR Idea Grants;
- Institutions participating in K-BRIN;
- Goals of K-BRIN;
- The K-BRIN/K-INBRE;
- KU Life Sciences Research Council;
- Source of Funds for Centers; and
- Strategies for Growth.

Dr. Hunt stressed that discoveries lead to cures and that their partnering with KU-Lawrence, UMKC, Stowers Institute, UHS, and Childrens Mercy Hospital enables them to be successful in developing more cures. She said it was very important for recruitment and growth and is the way they can get the important new sciences. She said that her job is essentially to figure out how to place the people in the new facility when it is completed in about two years. She explained how the building was being arranged floor by floor, and she commented that the architects were doing a wonderful job (Attachment 3).

During discussion, a question was asked concerning how much actual education is involved in these research projects, and the consensus was that all research involves education. Dr. Hunt and Dr. Roberts both agreed that KU does not do research without student involvement. The Chairman summarized that research is about jobs and not just research for the benefit of doing research. He said, "This is about doing research for the betterment of life and for humanity. The full intent is to make discoveries, to commercialize those discoveries, and to create new companies. Hopefully, the assets and the infrastructure in Kansas will help us become national leaders in commercializing some of these discoveries. This is not just about education, but is about creating new jobs here in Kansas."

Chairman Wilk thanked Dr. Hunt and welcomed Dr. Ron W. Trewyn, Vice Provost for Research and Dean of the Graduate School, Kansas State University Biosecurity Research. Dr. Trewyn's written testimony included a graph showing competitive research funding from the years 1986 through 2002, which he said definitely indicates the critical need for space. The testimony also showed a graph of Critical Technology Research in the areas of energy, environment, information, living systems, manufacturing, material science, and transportation. U.S. agriculture facts and figures and information about the food safety and security program were also included in the handout. He mentioned that based on the fact that Kansas State is a land grant university, it is involved in the agricultural side of activities. He said that they did not jump into the homeland security arena due to 9-11, but for some time they have recognized they had a lot of experts who deal daily with food crops, food safety, and the everyday agriculture threats. He addressed the flow chart of the National Agricultural Biosecurity Center which shows the areas in which they are involved. Dr. Trewyn called the committee's attention to the picture and short bio of David R. Franz,

DVM, PhD, recently hired expert to be the director and MRI Chief of the Biosecurity Research Center. Dr. Trewyn reported that the institute is expanding research to include the following:

- Food Crop Infectious Disease;
- Food Animal Infectious Disease;
- Food Processing;
- Basic Molecular Biology, and
- Biosecurity Education and Training.

He also referred to the artist's rendering of the Biosecurity Research Institute which will address endemic and emerging threats to food crops, food animals, the domestic food supply, and public health (Attachment 4).

During discussion and questions, Chairman Wilk asked the presenters to respond as to how they felt about where we are actually headed. The response was that they are encouraged with the increased level of working together within the state and even across borders. Common areas of interests are being shared along with new ways to grow the economy. The additional space and hiring of more researchers are allowing them to take everything to the next level. Their consensus was that it is the only way Kansas is going to stay competitive and keep growing the dollars within the state.

Chairman Wilk thanked Dr. Trewyn and introduced Mr. Bob Marcusse, President and CEO, Kansas City Area Development Council (KCADC). The Chairman explained to the committee that Mr. Marcusse would be talking about a new development growth plan with particular reference to a virtual TIF report in which the KCADC provided major funding. Mr. Marcusse said that he did not have a PhD, but he certainly could talk to the committee about jobs. He explained that the KCADC consists of an 18 county, bi-state regional economic development group which is 90 percent funded by the Kansas City business community on both sides of the state line, 10 percent by local chambers, EDC, and cities. In addition, 250 corporations and communities contribute to the 27 year old organization which has attracted almost 500 companies to the Kansas City area since 1976 with about half in Kansas and half in Missouri. He explained that the KCADC is funded by the Kauffman Foundation to review opportunities for the focus on technology in the Kansas City area. He further explained that the KCADC and Civic Council formed a Life Sciences Task Force which reports opportunity for critical mass in the life sciences. He also talked about the competitive environment with reference to South Carolina's pilot therapeutics, Maryland's program with Johns Hopkins and the University of Maryland, Ohio's Third Frontier Program, and Florida's Scripps Research Institute. He believes that even with all this competition, Kansas City has the best opportunity of all to be a significant center of the life sciences in the U.S. He said the rationale was twofold with the Stowers Institute and its commitment of \$ 1.6 billion for a research center and the KU Medical Center. These two entities serve as the economic engine for the Kansas City region and that discovery by itself is of great interest for some, but for many others, it is the pathway that leads to commercialization, formation of companies, and creation of jobs. His testimony included additional information on the Stowers Institute, KSU, and KU funding. He reported, "Scientists at The Stowers Institute have taken important steps toward identifying where blood-forming stem cells are nurtured in bone marrow, a discovery that has eluded researchers for 25 years." He said that this has been done in collaboration with UMKC School of Dentistry, National Institute of Health - Environmental Health Sciences, Harvard University, University of Rochester, and the University of Kansas. He also presented a new funding strategy consisting of the following:

- Identify the amount of taxes generated by current life sciences companies and their employees within a region.
- Continue to disburse those taxes.
- Divert a portion of future growth in taxes to life sciences research.
- Create legislation to accomplish this.

Mr. Marcusse's testimony included a baseline 2003 employment estimate, baseline economic impact estimate, projected sector growth rates, sector growth forecast for 2004-2013, baseline tax revenue estimates, incremental revenue impacts, and a comparison of the Scripps Institute in Florida and Stowers II in Kansas City in the areas of employment, facilities, economic impact, and start up costs. He stressed that Stowers asked nothing for itself, but only to invest in what the state already owns. He closed by saying it is a privilege to work with Chairman Wilk, Lt. Governor John Moore, and the Kansas Legislature (Attachment 5).

Chairman Wilk thanked Mr. Marcusse and said it is important for the committee to understand that the Stowers Institute is not asking for any direct subsidy which is clearly explained on the last page of the testimony. A copy of the full report will be forthcoming. He also said the committee would break for lunch and return at 1:30 p.m.

### **Afternoon Session**

Chairman Wilk opened the afternoon session at 1:30 p.m. and welcomed Mr. Jerry Heaster, Business Columnist, *Kansas City Star*. Chairman Wilk said, "I have not invited a media person before, but Mr. Heaster wrote a column entitled, "Job Losses Aren't What They Seem," and it seemed to fit with what our committee is wrestling with during this interim and will continue to discuss during the upcoming session concerning the structural changes in the economy." Mr. Heaster did not provide a copy of the article or any written testimony, but said he would go over the highlights of the column. He said that he had listened to much of the morning testimony and that he could very well have written this column with that in mind.

Mr. Heaster mentioned that he wrote the column shortly after the September, 2003 employment figures came out to try to explain why the economy seemed to be improving while the labor market was doing so poorly. Since this column was written, new October employment figures have come out which indicate that the numbers are more encouraging, but he felt that the original column was still valid and that despite the improvement of the labor market in September, long term prospects for job growth will be tempered by the economy's changing structure. Mr. Heaster said, "It is not that jobs are not being created, but they are being lost in the manufacturing sector faster than they are being created elsewhere." He stated that some people think this is because of the hollowing of the U.S. economy, but even so, the U.S. economy remains the world's most dynamic. The manufacturing ability to sustain historical output levels with fewer workers is a sound strength and not a weakness. A lot has been written about the dramatic productivity gains from technology with few explanations about how this is happening. He believes an easy explanation is that too many American jobs are being shipped to cheaper foreign labor markets, but he also believes there is much more happening.

Companies are opting to invest in technology instead of hiring new workers. This not only decreases the demand for labor but also encourages more capital investment which, of course, diminishes the demand for future labor. However, he said that this process does not necessarily imply long-term declining fortunes for the "working class." He explained that agriculture offers a good example in that when technology began to replace human labor, agriculture employment plunged. He said that since the late 1940's there has been a 70 percent employment decline which has been accompanied by a more than 250 percent output increase. As farm work decreased, joblessness increased. But industrial growth more than took up the slack which created its own demand for labor. He reported that today a similar transition is taking place during the current shift from a production economy to a service-knowledge economy. The history of economic progress has always been one of constant change which results in certain skills becoming irrelevant. But the end result is increasing prosperity for society at large rather than economic growth. Another often overlooked barrier to job

growth is choosing machines over labor because machines do not demand health insurance, etc. Also, temporary workers do not require health insurance and other benefits. Consequently, the problems in the labor market are not cyclical, but rather structural, and they do not spell doom, but rather change. And this is the change we have been dealing with forever. As a postscript, he said that he thought the political payoff for economic development in the public sector is jobs, but from an economic standpoint, jobs are only a backdrop of economic progress. He challenged the legislators to look forward rather than backward, and said public policy makers need to keep in mind that with economic development comes the creation of jobs.

During the discussion and questions, Chairman Wilk asked Mr. Heaster what he would suggest the legislators do. He answered saying, "Less is better and the private/government relationship policy sector should wield as light a hand as possible in regard to tax and government regulations." Chairman Wilk thanked Mr. Heaster and asked Deb Hollon, Legislative Research Department, to review the agri-tourism legislation the Governor vetoed. He reminded the committee that the interim committee was assigned the charge of reporting back on SB 134 to the 2004 Legislature.

The Chairman welcomed Ms. Leslie Kaufman, State Director, Kansas Farm Bureau Governmental Relations, to present her testimony on agri-tourism and rural economic development opportunities. Ms. Kaufman said the Kansas Farm Bureau represents more than 40,000 farm and ranch families through its 105 County Farm Bureaus throughout Kansas. She stressed the high priority they place on the revitalization of rural communities and that they support the following initiatives:

- Enhancement of economic, social and cultural climate for farms and rural families;
- Improvement of general potential for rural communities to attract and retain people, business, and industry; and
- Inclusion of all types of farming operations in economic development activities.

Ms. Kaufman commented that the Farm Bureau has long supported voluntary, public-private partnerships for addressing crucial issues, so that rural economic development and fostering agri-tourism ventures in the state are areas where government, business interests, landowners, agriculture producers, and associations can work together. She said the state can assist by providing competitive tax structures, a variety of business frameworks for ventures to organize, and reasonable protections from liability. The current statutory limitations on liability encourage efforts to provide consumptive and non-consumptive recreational opportunities for both residents and non-residents. She believes there are adequate liability protections in place, but that more can be done to assist agricultural producers who also desire to be involved in agri-tourism. She said the Farm Bureau also believes incentives for agri-tourism development and technical expertise are needed to help get projects "off the ground." She said the state can be a great asset in developing these tools. Some of the incentives could include income tax credits, a revolving loan fund, and a grant program or a cost-share program. Technical assistance could include tools to help producers with the following:

- Evaluate their agriculture operation for tourism potential;
- Determine if they are in a location where people are willing to travel;
- Assess the potential interest in their particular type of operation;
- Calculate start-up and continued operational costs;
- Identify if additional employees will be needed and if they can be secured within the local area; and
- Assess and access financing options.



Ms. Kaufman suggested that the committee could be a leading force in initiating incentive programs. She said some legislators have indicated an interest in finding ways to promote rural development. Ways she suggested were including a financial incentive, an incentive package, or incentive-technical expertise component in the committee's recommendations. She said that these are the kinds of initiatives that provide real help to Kansans with a nominal amount of dollars. In closing, Ms. Kaufman told the committee that the Farm Bureau is willing to work with the committee and other agencies to improve Kansas economic opportunities (Attachment 6).

During questioning, Senator Barone said that he wanted to zero in on paragraph 2 on page 2 of her testimony that talks about the current state law and the Farm Bureau's belief that it provides appropriate statutory limitations on liability for those opening private land to recreational activities (KSA 58-3201 *et seq.*). He asked for more explanation concerning the last sentence which stated, "We have adequate liability protections currently in place, but more can be done to assist agricultural producers who also desire to be agri-tourism providers." Ms. Kaufman said the reference to "more could be done" was sort of a lead in to what incentives could be initiated. In paraphrasing, Senator Barone said that he understood her to say that "the more could be done" part was not dealing with liability but with additional incentives, etc. She replied that he was correct, and that the statute was pretty good and did not need change. They believe that it is broad enough with it included, but not limited to language that would include a lot of the activities for agri-tourism in the state. She further explained that she felt legislators had become too involved in the liability and that what farmers really need the most is technical assistance in order to grow their businesses. She said this would be the most expedient place to get help quickly to spur the industry.

Chairman Wilk referred to the recent October 29, 2003, Attorney General Opinion No. 2003-27 (Attachment 7). He cited page 4 under "Protected Activities," and then in paragraph 2 which states, "Due to the rule of *eiusdem generis* some risk of excluding certain kinds of agricultural tourism activities is inherent in framing a statutory list of recreational purposes that uses 'including, but not limited to' language." The question was raised that if an entity is not listed, if that is taking a risk for that group. The interpretation by the staff was that usually it is drafted so that items wanted are listed, but then "not limited to" is added so that if some other activity should come up, it could also be covered. However, the more specific the list, the more exclusive it becomes. Chairman Wilk asked about the words, "some risk of excluding certain kinds," and the staff said there was a difference of opinion. The Chairman said that this wording was part of the problem they were trying to address last year, plus now there is also debate about words such as willful, malicious, wanton, etc. Staff said that the Attorney General, in looking at the Texas case, also needed to research how Texas drafts its bills and how the courts look at the legislation. The committee discussed the need for this to be clarified and taken care of in the 2004 Session. Ms. Kaufman said that the Farm Bureau did not oppose the final version that came out last year, but still had a fundamental concern about whether it might jeopardize a good line of case law by amending the bill and changing the legislative intent. This was their primary reason for not actively supporting the bill; however, she said neither did they ask anyone to vote against the bill or for the Governor to veto the bill. Ms. Kaufman stressed that their concerns have been alleviated with the final version of SB 134, and she said they would not object to this version. She urged legislators to vote their conscience.

The Chairman acknowledged that this issue was not going to go away, and he asked for specific clarification of the Farm Bureau's concern about the impact on case law if the Legislature adds "recreational agriculture" to the statute. Ms. Kaufman referred to the initial bill and said they had no idea what "recreational farming" was since no definition was included. Therefore, they did not know if that would make a significant change or not. She said they already have a lot of people in the industry currently doing agri-tourism type things who seem to be comfortable with the statute, and they did not want to sacrifice protection for some to get protection for others.

The Chairman thanked Ms. Kaufman and welcomed Senator Derek Schmidt, who said he would present some information that he hoped would move the legislators “off the under-water stump” in terms of the liability bill. Senator Schmidt stated that the issue required a broader approach which cannot be pursued until the liability issue is resolved. He said he had two ideas. One involved some ancient history on the bill that was vetoed by the Governor, and the second was a complete new approach that he will be pre-filing and hoped that some might want to join. Senator Schmidt said the new draft attempts to do the same thing, but in a different manner which he hopes will be less objectionable for all. From the history side, he said Senator Brownlee, Senator Jordan, and others on the Senate Commerce Committee provided the leadership and SB 134 made it through to the Governor’s desk. But he said the groundwork actually started the year before (two years ago) in the Agriculture Committee when close to the bill introduction deadline, he asked the committee if there was anything else members would like to consider. Senator Morris then said that he would like to do something that would help out on the liability issue if some farmers wanted to do a little tourism on the farm. That was pretty much the extent of the conversation, and a conceptual motion was made to introduce a bill to do just that. Senator Schmidt recalled that shortly before turnaround, a bill was finally drafted without any further instructions to the Revisors other than to do something about liability to help out the farmers. When the bill was drafted, it was basically the same language as SB 134. However, because it was late in the session, there were concerns from the Farm Bureau and others, and he could not even get the bill out of his committee, so it died a quiet death until the next year, when Senator Jordan and Senator Brownlee revitalized the issue. This history is important because it establishes the fact that at least when first drafted, there was no magic in using the “recreational use statute” as the vehicle to accomplish the objective. Senator Schmidt believes that the “recreational use statute” has generated a fair amount of controversy and ultimately a veto. After sharing this history, Senator Schmidt presented a draft of a new bill. He said his intent was to try to do what was originally desired in providing liability protection to farmers and land operators who desire to provide recreational activities on their property, but to do so without amending the “recreational use statute.” Senator Schmidt explained that the model chosen for the draft is not the “recreational use statute,” but is the “domestic animal law.” He reminded the Committee that this was the old buffalo issue that was amended two years ago. He said the “domestic animal law” provides that as long as certain conditions are met and warning signs are posted, there is liability relief. He said he hoped this might get the issue resolved because he would like to see the liability issue enacted for the farmers (Attachment 8).

During discussion, Senator Schmidt explained that in general the scope of activity which results in liability relief for the farmer is narrower under the newly drafted legislation than under SB 134. This is almost a case-by-case situation in which the farmer only has to say what activity he is doing and the place where he is doing it with the sign posted, and he will have liability coverage. He further explained that if the landowner has knowledge that something is not safe and does not disclose it, then he would be liable.

Chairman Wilk inquired about Section 4 which says that a person may apply to the Secretary of Commerce. He wondered how the average citizen would know all the rules, regulations, and to whom to apply. Senator Schmidt said he, too, wondered about this, but chose to put it in because he felt SB 134 was vetoed partially because no government entity was involved. This is a different approach with a narrower scope and could perhaps have a better chance of passing. He said, after reflection, he was comfortable putting it in because in SB 134 there was not enthusiastic support from the private sector organizations which are most connected with the people legislators are trying to help. He hopes the Farm Bureau and the Livestock Association will be able to support this and act as advocates in informing their members.

Chairman Wilk thanked Senator Schmidt and welcomed Marci Penner, Director, Kansas Sampler Foundation. Ms. Penner said the Kansas Sampler Foundation is a non-profit organization with the primary mission of preserving and sustaining rural culture. Ms. Penner said that agri-tourism is a fairly new concept in Kansas, and getting everyone from farmers, ranchers, the insurance

industry, and financial institutions on the same page is difficult. She said that farmers and ranchers have tremendous difficulty finding any Kansas insurance companies that are willing to underwrite agri-tourism liability policies. She also pointed out that the state is losing these insurance premiums to other states. She told the committee that the one question she wanted answered is what they are liable for and what the limit is. Her testimony included nine actual examples of issues of concern. Following is a summary of the highlights of Ms. Penner's testimony:

- Why do Kansas insurance companies not want to underwrite agri-tourism liability policies?
- It is hard to find a Kansas agent to help find an underwriter.
- Guidelines among insurance companies are inconsistent.
- Safety precautions are not rewarded with reduction in premium.
- If there is not a "no liability" law, a limit is needed.
- The issue of liability needs to be included in agri-tourism workshops to help separate facts from misconceptions.
- The cost of premiums makes it unprofitable in engaging in small scale agri-tourism (Attachment 9).

Chairman Wilk thanked Ms. Penner and welcomed Ms. Allie Devine, Vice-President and General Counsel, Kansas Livestock Association. Ms. Devine's testimony included the Attorney General Opinion No. 2003-27 dealing with the Recreational Use statute, KSA 58-3201 *et seq.* This "act provides that an owner of land who makes all or any part of the land available to the public for recreational purposes may not be held liable for failure to keep the premises safe for recreational purposes or for failure to warn of a dangerous condition, use, structure or activity. This protection from liability is not allowed for willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity, or for injuries when the owner of nonagricultural land charges for recreational use of the land" (page 3, Attorney General's Opinion) (Attachment 10).

Ms. Devine stated that the current law was good public policy which promotes public recreation without public cost. The law also allows public recreation without government costs. The Kansas Livestock Association wants to protect the current law for its members and does not want to see amendments that lessen the protections that are currently in effect. KLA is afraid that a change in the protections would be contrary to some of the state's existing policies and would cause landowners to further restrict access to their lands and they were trying to figure out what they would be willing to accept and live with, if any of their members open up their land for recreational use. She said that Kansas is a state that has very few public lands. As far as activities are concerned, she said they are willing to listen to discussions about responsibilities. When Ms. Devine was asked about Senator Schmidt's bill, she said she had looked at it, but the members had not yet had an opportunity to review it. She said she did have some reservations about putting another statute on the books because it might confuse the courts in reading it with the current recreational use statute. She said she needs more time to learn how these would work together.

Chairman Wilk thanked Ms. Devine and welcomed Lt. Governor John Moore who presented a progress report on the Kansas Economic Revitalization Plan and an update on the Work Force Development Coordination. Lt. Governor Moore presented an outline of the process they have put into place. He first spoke about the seven regional economic mini summits that have been held across the state. The first was held in Chanute on August 12, 2003, and the last was in Emporia on

September 5, 2003. The Kansas Economic Revitalization Plan was then developed based on these meetings. This plan was summarized at the statewide prosperity summit held on October 1, 2003, in Wichita and drew over 500 participants. Lt. Governor Moore talked about the Plan's 12 areas of focus as listed:

- Education, Transportation, Government Efficiencies;
- Business Retention and Recruitment;
- Energy Policy;
- Value Added Agriculture;
- Workforce Development;
- Seed Financing and New Business Assistance;
- Life Sciences;
- Rural Business Development;
- Inventory of Support Programs;
- Image and Marketing;
- Tourism; and
- Ad Astra.

He also said there have been regularly scheduled meetings with representatives from Commerce, Revenue, KTEC, and Kansas, Inc., along with individuals from each of the 12 areas who are responsible for studying all facets of the proposals. They are in the process of identifying the fiscal impact and preparing legislation if needed. He commented that the process is very thorough and consequently slow. He reported that Business Retention and Recruitment is co-chaired by Secretary Wagnon and Deputy Secretary Kelly, which is a working team of Commerce and Revenue that have not historically worked together. However, he said he believes it is important for them to be a team. The three initial thrusts are as follows:

- Sale and Transfer of Tax Credits;
- The Kansas Business Incentive Program (MATRIX) - (an exciting and flexible approach to business incentives); and
- Treating Job Retention in the Same Manner As Job Creation.

He further explained the advantages of the MATRIX as follows:

- A graduated scale of tax credits for job creation and investment that varies depending on location;
- Keyed to the average wage in a specific county;
- Allows for tax credits to be based on the value of the job creation and investment to a specific community;
- Not the old "One Size Fits All" approach;
- Could result in higher paying jobs across the state;
- Recognizes the regional differences in the state and possibly allows for capitalizing on those differences;
- Believe it will be cost neutral and be a "Win-Win Proposal;" and

- Intended to replace Enterprise Zone and the High Performance Incentives Program (HPIP).

Lt. Governor Moore said the State Energy Resources Coordinating Council (SERCC) will lead in the following:

- Renewable Energies and Their Delivery Systems;
- Ethanol/Biomass/Biodiesel;
- SERCC has created a Transmission Task Force (TTF);
- Methane/Coal Bed;
- Energy Efficiency;
- Conservation; and
- Oil and Gas.

Lt. Governor Moore then introduced Peter Gustaf from Wichita who is the Executive Director of Kansas Technical Training Initiative (KTTI) so he could inform the committee about Workforce Development. Mr. Gustaf did not provide any written testimony, but said that since 1989, 642,000 aviation workers have gone and that Wichita has laid off over 10,000 aviation workers. This is 10 percent of the national aviation workforce. He said by the year 2008, there will be a shortage of some 8,000 to 10,000 workers. He talked about the two sides of aviation – production and service. Even though the production side is declining, the service side is increasing. Examples include Cessna's investment of \$60 million in a new service center, Boeing's recruitment of modification work from Seattle hoping to get the sale and the lease of the tankers, and Raytheon's increase of their service business in Wichita. An aviation preparatory program has been started with \$200,000 from the city, \$200,000 from the county, and workforce development money from the state to subsidize or provide tuition money for laid-off workers who qualify. Over 50 are already in the program, which is targeted for 100. This is simply to try to meet the short term need as quickly as they can. Once the aviation situation is under control, they will be working with the Kansas Institute for Technical Excellence (KITE), which is made up of the three community colleges, Cowley, Butler, and Hutchinson, and the Wichita Area Technical College. The group has been formed, and these four centers of excellence have been identified – information technology, aviation technology, health care professions, and manufacturing technology. He said they want these programs to be world class, demand-driven technical programs. They are very encouraged with their progress in getting the group focused and in getting them the support and the funding they need along with world class facilities needed to offer the training. Mr. Gustaf said this was a quick, brief outline, and they are optimistic that they are on the right path.

Lt. Governor Moore added that the aviation industry is down dramatically, but the state, counties, cities, and school boards are making investments now in workforce development so that when the demand is there, the programs and people will be in place to make a good recovery.

Lt. Governor Moore continued by saying it is their objective to develop a seed financing plan by January, 2004. He said that Tracy Taylor, President of KTEC, has the lead, which includes the following:

- Angel Networks will be included;
- Consideration of KDFA's ability to issue bonds or various other financial instruments to establish one or more venture capital funds; and

- One-stop clearinghouse for information on agencies offering assistance to new businesses.

He reported that Tracy Taylor also is leading the charge for Life Sciences which include Bioscience Authority, Kansas Bioscience Bond Act and Tax Increment Financing (TIF) legislation, and incentive programs for private enterprise investment.

Lt. Governor Moore said that Matt Jordan is taking the lead responsibility for Rural Business Development which involves Regional Business Development Foundations. He said it can tie back to the MATRIX and can do so many things. He believes Rural Business Development Tax Credits are appropriate running through this foundation. Lt. Governor Moore said that Patty Clark and Lynda Wilkinson, President of SEK, Inc., are taking the lead in Inventory of Support Programs. Southeast Kansas, Economic Development Region I, will serve as the pilot region with February, 2004, as their target date. Scott Allegrucci is in charge of Image and Marketing and Ad Astra, and he will be speaking to the committee tomorrow on tourism initiatives (Attachment 11).

Lt. Governor Moore invited the Chair and Ranking Minority Member of the Senate Commerce Committee and the Chair and the Ranking Minority Member of the House Economic Development Committee to serve as ex-officio members of the Governor's Economic Policy Council which was committed to be the policy mechanism for the state Revitalization Plan and the Regional Development Plan.

During discussion, Senator Brownlee complimented Lt. Governor Moore for spearheading the cooperation of Commerce and Tax working together. She also said that she would like to see the fiscal notes contain solid information and not just be a political tool. He responded that Commerce would be more than glad to work with the Senate Commerce Committee to improve the process.

Chairman Wilk thanked Lt. Governor Moore for his informative presentation, and announced that the business was concluded for the day. The committee will reconvene at 9:00 a.m., November 13, 2003.

### **Thursday, November 13**

Chairman Wilk opened the meeting at 9:00 a.m. in Room 241-N. The Chairman asked for approval of the minutes of the last meeting. *Senator Jordan made a motion to approve the minutes of the October 9, 2003, meeting of the Joint Committee on Economic Development, and Senator Barone seconded. Motion carried.*

The Chairman called the committee's attention to the written handout provided by Mr. Lew Ebert, CEO, Kansas Chamber of Commerce, compiled by Pat McFerron, Director of Survey Research, Cole Hargrave Snodgrass & Associates. He said this was regarding a survey for your personal review of 400 registered voters in Kansas which was conducted October 27-30, 2003, with a margin of error of +/-4.9 percent. He informed the committee that there is a slide presentation that goes along with this survey at the KCCI website ([www.kansaschamber.org](http://www.kansaschamber.org)) (Attachment 12).

Chairman Wilk told the committee that it was time for the presentation that all have been looking forward to by Scott Allegrucci, Director, Department of Commerce Travel and Tourism Division. The Chairman commented that Mr. Allegrucci is out covering the state because he has read more about tourism in the last six months than the previous 10 years. For this tireless work, the Chairman said that Scott deserves a lot of credit, and he welcomed him to the Committee.

Mr. Allegrucci said he was happy to talk about Travel and Tourism in Kansas and specifically about the Department of Commerce's initiatives. He presented each member with a folder which contained the following:

- 2003 Get Away Guide, *KANSAS*, the real experience;
- Fall 2003 *KANSAS* Magazine;
- A List of Ways Kansas is Developing New State Tourism Strategy;
- Graphs showing the following: Purpose of Visit, Number in Travel Party;
- Internet Usage for Travel Planning;
- Image of Kansas - First Mention Consumer/Industry;
- Most Distinctive About Kansas, and Conclusions; and
- A copy of *Midwest Living* which show examples of articles written on agri-tourism.

Mr. Allegrucci mentioned that *Midwest Living* is now the publisher of the *Kansas Get Away Guide*, which their division puts out. He believes that the *Midwest Living* partnership may yield some intangible benefits for the state. In the past decade, Kansas travel and tourism has never ranked higher among the reporting states than 38<sup>th</sup> in operating budget. However, the rank of 38<sup>th</sup> is somewhat misleading because it includes the one-time funds from the sale of the Olathe Travel and Convention Center. In most years Kansas actually ranks between 40<sup>th</sup> and 42<sup>nd</sup> in total operating budget and between 45<sup>th</sup> and 49<sup>th</sup> in media purchasing and marketing. A general perception around the state exists that we are underperforming and underfunded related to our tourism potential.

The Chairman asked Mr. Allegrucci to quickly run through the tourism budget. He reported that the budget is projected at \$4.1 million which is the total operating budget. This ranks about 38<sup>th</sup> in the nation. The Chairman asked about how much was staffing, advertising, etc. Planning, design, marketing, and advertising represent about \$935,000 which includes printing of the *Get Away Guide*, ad placements in newspapers and magazines, and any other media and promotional expenses. This \$935,000 includes the one-time Olathe sale. In past years, the advertising budget has been around \$350,000.

Mr. Allegrucci stressed that there are many areas in tourism which are untapped, and that Kansas could be doing a much better job. He also said he believes there are economic development directors who do not think of tourism as being a viable option for community economic development. He asked the question, "Why?" He also asked what the nature of Kansas' situation is and where are we now? He said that he had encountered the following:

- Self interest and self provinciality in which all states struggle.
- Tourism is comprised of very diverse individuals, types, and models;
- Need to all work together with a common goal;
- Need to develop a recognizable state image to market;
- Tremendous area diversity;
- Kansas changes more from border to border than almost any other state;
- Big cultural diversity – an advantage, but also a big challenge;
- Lack of a strategic, coordinated, sustained, long-term plan;
- Lack of consistent data;
- Lack of critical mass of destination attractions;

- Lack of easy access to entice travelers to our heritage attractions;
- Unusual dual responsibility of both development and marketing (not necessarily bad);
- Resources are weighted toward marketing;
- Economic Development versus Tourism attitude (economic is about work and tourism is about play); and
- Sense that there is inadequate revenue to achieve all our goals.

Mr. Allegrucci said that money is not going to solve all the problems, but he believes that priorities must be established and a plan developed before we know how we want to spend our tourism dollars. He said we need data to tell us how much we are leveraging from the money being spent. Some of the specific needs and key concepts that have surfaced again and again from the industry are as follows:

- Data (unified state image and marketing plan);
- Leadership;
- Communication (from state office);
- Planning; and
- Stability.

Senator Barone said he would like a copy of the priorities. Mr. Allegrucci said growth in the travel industry seems to be in travelers finding authentic destinations and participating fully in the experiences offered by these destinations. People are looking to get more “hands on” experiences which are off the beaten path. This is partially because people are taking more trips and shorter trips. The two-week annual vacation is declining, and families are opting for long weekend trips and increased travel by automobile. People also want greater control and flexibility. People are using the Internet to help in their travel plans, too. Families are striving to increase relationships, to learn about their cultural heritage, to find new restaurants and shopping. Business development and recruitment and its relationship to travel and tourism development and marketing was at the forefront at the Missouri Governor’s Conference. Today’s lifestyles are demanding opportunities for recreational and educational experiences, and general quality of life experiences.

He closed by saying some exciting things were coming out of the STAR bonds legislation, the Attraction and Development Grant, other Commerce programs, and ideas coming out of the Prosperity Summit process, etc. Business development and international trade offer all sorts of tools. The Department of Transportation has been a great partner in funding travel and tourism initiatives with world class highways, and Wildlife and Parks has managed and maintained some of our most scenic and beautiful land. Our neighboring states are also great partners. He said the Department of Commerce is working to create an image with an attitude or a brand identity which is flexible and doable. This may not mean that one logo is created, but an attitude. Texas does this well with “Don’t Mess With Texas” and “Texas is Like a Whole Other Country.” These are both from the same attitude – the love of Texans for Texas (Attachment 13).

During discussion, Representative Osborne shared a story about how recent California visitors thought that Kansas had such great hospitality. They were treated so well that they want to come back because they felt like they were at home and were family. They can trust Kansans. Others shared similar stories about people attending conventions in Kansas and the Kansas hospitality. Mr. Allegrucci said that he believes Kansas can be known as “the best well-kept secret in the country.”

Chairman Wilk thanked Mr. Allegrucci for his excellent report, and asked the committee to turn its attention to the Committee Report that needs to be submitted. He reminded the members



of the three primary subject matters that were assigned. First, Rural Economic Development issues; second, Agri-tourism and Limited Liability; and third, Workforce Development Coordination. He suggested that everything else be considered under "All Other." The Committee has had a variety of testimony under each of these categories. He said that in addition, the committee has heard from the Federal Reserve and others which can fall under the "Other" category. The Chairman mentioned that Kathie Sparks, Legislative Research Department, will be writing the report, and that everyone will get a copy to review. Chairman Wilk said if anyone has any concerns to contact the staff who will work with him and individual members. Ms. Sparks said she would like to have the report in the members' hands during the first week in December. The minutes will also be enclosed with that same mailing, and if there are any corrections, please contact staff. Otherwise they will stand approved as written.

The Chairman announced that the subjects for the report would be dealt with one at a time, and if anyone wanted any specific actions for the committee to take under these subject matters, there would be an opportunity to make these requests. The following are the Committee's Conclusions and Recommendations for the report.

### **Rural Economic Development Initiatives**

- The Committee recognizes that entrepreneurship is the key to rural economic development and will recommend legislation during the 2004 Legislative Session. However, at this time, the Committee does not propose to submit any legislation with regard to entrepreneurship.
- The Committee has been the groundwork with KTEC to facilitate farmaceuticals (the ability of farmers to grow crops with protein being the main element and contracting with pharmaceutical companies for development); however, at this time, no progress has been reported to the Committee.
- The Committee supports and encourages the expansion of the Enterprise Facilitation Initiative.

### **Agri-tourism and Limited Liability**

- The Committee recommends that the Kansas Insurance Commissioner open a dialogue with the Kansas insurance industry about the lack of available insurance for farmers and ranchers that are developing an agri-tourism enterprise and to report back to the standing committees during the 2004 Session. In addition, the Commissioner is asked to encourage Kansas insurance companies to assist in providing coverage.
- The Committee wishes to acknowledge Senator Schmidt's proposal on agri-tourism. At this time, the Committee recommends that all of the interested parties draft legislation that will address all of the differences presented to the Committee and propose a cooperative bill early in the 2004 Session. In addition, any argi-tourism bill sponsor is asked to consider adding to the operator not only an individual but also an entity. However, if there is no new legislation with significant consensus and support, the Committee recommends that SB 134 in its present form be reintroduced as the basis for discussion for agri-tourism during the 2004 Session.

*Senator Jordan made a motion that a letter be drafted to the Insurance Commissioner asking her to facilitate a dialogue with the Kansas Insurance Industry about the committee's concerns and report back to the 2004 Legislature early in the Session. Representative Osborne's request can also*

*be incorporated in this letter. Senator Barone seconded. Motion carried.* In addition, the Committee has requested that the Department of Commerce facilitate the agri-tourism working group.

### **Workforce Development Coordination**

- The Committee wishes to commend and encourage the continued collaboration and success of the Kansas Technical Training Initiative in Wichita which is working with the City of Wichita and Sedgwick County who provided start up funding to retrain laid-off workers in the airframe program.
- The Committee wishes to commend the Departments of Commerce and Revenue for their cooperative efforts on economic development issues as this cooperation is an essential element for a positive business climate.

### **Tourism**

- The Committee noted that the boxing industry could be one vehicle to promote tourism in Kansas and to generate revenues for the state.
- The Committee is very encouraged by Scott Allegrucci and his staff on their approach to improving tourism in Kansas.
- The Committee recognizes the importance of product development and marketing and that in Kansas the funding for these endeavors has fallen short. In the future, the Committee believes, the state must make a significant financial investment in tourism that with the help of the Federal Reserve Bank of Kansas City can be a measured return on investment.

### **University Research and Development**

The Committee wishes to acknowledge that the implementation of 2002 HB 2690 is currently on schedule and under budget for the construction of the research facilities at Kansas State University, University of Kansas Medical Center, and Wichita State University. Furthermore, the Committee, with great interest, will continue to follow the progress of the University Research and Development Act.

### **Virtual Tax Increment Financing District**

The Committee has no conclusions or recommendations concerning the Virtual Tax Increment Financing District.

### **Healthcare and the Business Community**

The Committee acknowledges that health care costs continue to be a major concern for all Kansas business.

### **Kansas Economy and the Future Business Developments in Kansas**

- The Committee is requesting a follow-up report from the Federal Reserve Bank of Kansas City on the economic condition of the state and asks that this report be given to the appropriate committees during the 2004 Legislative Session.
- The Committee is encouraged by the new leadership of Kansas, Inc., and its vision and goals for the agency.
- The Committee strongly recommends that reports from the Life Sciences Initiative and the Stowers Institute need to be presented to the Senate Ways and Means Committee and the House Appropriations Committee.
- The Committee suggests that there needs to be a consistent emphasis in our schools on science and math and this emphasis needs to start during a child's early years. The Committee hopes this emphasis, coupled with new opportunities in employment, will slow or stop the "brain drain" from Kansas.

Chairman Wilk thanked the committee for some productive work, and said he had enjoyed being Chairman. The meeting adjourned at 12:30 p.m.

Prepared by Kathie Sparks

Approved by Committee on:

December 24, 2003

(date)