

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairman Susan Wagle at 8:30 a.m. on February 17, 2011, in Room 548-S of the Capitol.

All members were present except:
Senator Jay Emler

Committee staff present:

Ms. Margaret Cianciarulo, Committee Assistant
Mr. Ken Wilke, Office of the Revisor of Statutes
Mr. Reed Holwegner, Kansas Legislative Research Department
Ms. Dorothy Noblitt, Kansas Legislative Research Department

Conferees appearing before the Committee:

Ms. Kathie Sparks, Deputy Secretary, Department of Labor
Mr. Stan Ahlerick, President, Kansas Inc.
Senator Faust-Gaudeau
Representative Gail Finney
Former Senator Eugene Anderson, Chairman of United Builders & Contractors, Wichita, Ks.
Mr. Chester Daniels, President & CEO, Urban League of Kansas
Mr. Lazone Grays, Jr., President & CEO of Urban League of Kansas
Mr. Bob Totten, Public Affairs Director, Kansas Contractors Association
Mr. Corey Peterson, Executive Vice President, Associated General Contractors of Kansas Inc.
Mrs. Lindsey Douglas, Chief of Governmental Affairs, Kansas Department of Transportation

Others attending:

Please see attached list.

Reconsider action on SB137 – an act concerning the employment security law; relating to unemployment benefits for privately contracted school bus drivers.

Upon calling the meeting to order, the Chair recognized Ms. Kathie Sparks, Deputy Secretary, Department of Labor, who has requested the Committee call **SB137** back to make changes in the language offered by the US Department of Labor. Chairperson Wagle said she would like to pull back the bill, work it next week, and have the Department of Labor come to the Committee meeting to explain what changes, if necessary, are needed. Senator Merrick made a motion to reconsider action taken at the February 16, 2011 meeting and pull it back into the Committee. It was seconded by Senator Longbine and the motion passed.

Hearing on ERO37 – abolishing Kansas, Inc. as established by K.S.A. 74-8000 et. Seq. and appointing the Secretary of Administration to efficiently wrap up and conclude the affairs of Kansas, Inc. and to satisfy any outstanding liabilities or commitments of Kansas, Inc.

The next order of business was a hearing on **ERO37**. The Chair explained that an ERO is sent to both the House and Senate. The Committee can reject it by sending it out of Committee and objecting to it on the Floor. If the Committee agrees with the order, then it should be left in the Committee and no action should be taken. She then asked for questions, as there were none, she called on the only conferee to testify, Mr. Stan Ahlerich, President, Kansas Inc., whose testimony included:

- 1, Its history, stating over the past two decades, Kansas has chosen to build an economic development model that primarily relies on free-standing agencies governed by independent boards of directors. Kansas Inc. was established in 1986 in connection with the so-called Redwood-Krider plan and is the only agency in the state in which the sitting Governor is statutorily appointed to co-chair the Board of Directors.
2. The model offers a sound operational foundation, provides for strong stakeholder input and offers an opportunity in the context of the transient executive leadership in state government. However, over the years it has yielded to the dispersed interests and agencies of the many stand-alone economic development-related agencies.
3. The Department of Commerce holds the position in the State's model as the lead agency by the implementation of economic policy. Yet the department is the only executive agency and it has limited

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The minutes of the Senate Commerce Committee at 10:30 a.m. on February 17, 2011, in Room 548-S of the Capitol.

official means to act as the lead economic development agency with respect to board-directed agencies. He went on to say the plan seeks to dissolve the current structure of Kansas Inc. and replace it with the Governor's Council of Economic Advisors which will offer a response to the lack of coordination and accountability in the current economic development systems and enhance and fill the original concept of Kansas Inc. He went on to explain the Council's:

1. Organization, including: it is chaired by the Governor, meets quarterly, and whose 15-20 members could be leaders from within or outside the state.
2. Functions, including strategic planning and resource coordination, evaluation of policies agency performance, and research.

Lastly he said this plan also moves the functions of the Kansas Technology Enterprise Corporation (KTEC) into the Kansas Department of Commerce. A copy of his testimony is (Attachment 1) attached as incorporated into the Minutes as referenced.

The Chair thanked Mr. Ahlerich and asked for questions or comments from the Committee which came from Senators Lynn, Holland, and Steineger including: this will provide the Governor a more cohesive comprehensive effort about the state. Will you remain with the Council and will we still be getting reports as requested? (Yes.) This is about applying business principles to government.

As there were no more questions or comments, the Chair asked what is the Committee's goal of this ERO? Senator Schodorf made a motion that the Committee support which means we take no action. It was seconded by Senator Lynn and the motion carried.

Hearing on SB140 – an act enacting the Kansas small and disadvantaged business development

The Chair said the next order of business was a hearing on **SB140** and called on Mr. Reed Holwegner, Kansas Legislative Research Department, to explain the bill. Mr. Holwegner stated the bill would enact into Kansas law the disadvantaged business development program, organized within the Department of Commerce, to:

1. Develop programs to provide opportunities for participation by qualified minority and disadvantaged businesses in public works, and in the process by which goods and services are procured by state agencies and post-secondary institutions from the private sector.
2. Develop a comprehensive plan insuring that qualified minority and disadvantaged businesses are provided an opportunity to participate in public contracts for public work and goods and services.
3. Identify any barrier for key participation by qualified minority and disadvantaged businesses to provide an opportunity to participate in public contracts, for public works and goods and services.
4. Establish annual overall goals for participation by qualified minority, and women-owned and controlled businesses for each state agency and post-secondary educational institution, that would be administered on a contract-by-contract basis or, on a class-of-contracts basis.
5. Maintain a central minority certification list for all state agencies and post-secondary educational institutions they could refer to.

In lieu of time, rather than explain each section, the Chair asked if Mr. Reed would explain the fiscal note. He stated that the Department of Commerce developed the fiscal note with the assistance of the Budget Division indicating if this bill did pass as is, it would cost \$210K. The DOC suggests that the money come from the State General Fund for the salaries and wages and operational expenses for three new FTE(full-time employment) positions to manage this program.

Chairperson Wagle stated she has received a call from Secretary George, Department of Commerce, last night who indicated his department does have a committee on women and minority businesses. As there were no questions for Mr. Reed, she thanked him and recognized the first of five proponents, Senator Oletha Foust-Gaudeau who stated the intent of this legislation is to stay with the theme of our new Governor, relating to job creation and growing the economy in Kansas, help sustain and grow our small businesses, and allow existing small businesses the opportunity to participate in the bidding process of local and state projects. A copy of her testimony is (Attachment 2) attached as incorporated into the Minutes as referenced.

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The minutes of the Senate Commerce Committee at 10:30 a.m. on February 17, 2011, in Room 548-S of the Capitol.

The Chair thanked the Senator and announced she would hold all questions until everyone had testified. She then recognized Representative Gail Finney, who stated the bill is asking Kansas to seriously include and set-up some type of quality supplier diversity program that would set goals to develop, utilize and encourage utilization of these businesses within state agencies and to help decrease the apparent disparity and low marginal participation by these businesses in Kansas. A copy of her testimony is (Attachment 3) attached and incorporated into the Minutes as referenced.

The next proponent to testify was former Senator Eugene Anderson, now Chairperson of United Builders & Contractors (UBA) from Wichita, who offered:

1. A short history on UBA including:

A. It is an association of African American owned businesses (ex. Construction, service and professional firms, supply vendors) and related associates joined together to promote growth and development of Wichita African American owned businesses.

B. Their primary objective is to break down and eliminate discriminatory procurement barriers in local and state government and the private sector.

2. Their request is for the legislature to enact a small and disadvantage business development act that will ensure the businesses they represent will have reasonable access to tax-supported government contracts.

3. Two study summaries, one prepared by the Urban League of Wichita for the Kansas Department of Transportation and the other for the City of Wichita by a City Council appointed task force along with the results.

4. Case studies showing the problems some minority businesses have encountered by their local government.

5. KDOT's expenditure of federal aid funds during FY2009 stating state allocated funds are not included. In conclusion he said, the solution to this problem is for the legislature to enact the proposed Kansas Small and Disadvantage Business Development Act, which will say to prime proposers, bidders, and government employees and officials on state projects that government will mandate opportunities for African American, other minority and women owned business participation on tax-supported projects. A copy of his testimony, attachments, and Volume No. 6 of the Kansas Statutes Annotated regarding the Small Business Procurement Act are (Attachment 4) attached and incorporated into the Minutes as referenced.

The fifth proponent recognized was Mr. Chester Daniels, President & CEO, of the Urban League of Kansas, Inc. who offered examples of the effort taking place in cities across the country to ensure inclusion and full participation of minority business owners in tax funded projects. For example:

1. In Atlanta where the Metropolitan Atlanta Rapid Transit Authority (MARTA) has developed a workforce that reflects its commitment to diversity. In 1999, women accounted for 32 percent of all promotions, a 28 percent increase since 1996.

2. In Tampa, Florida where they first passed the Women and Minority Business Enterprises' ordinance in the 1980s. Today Contractors hired by the city are required to have a certain percentage of women and minorities on staff if they employ more than 15 people and are seeking a contract of more than \$10K.

He also offered examples of minority set-asides citing Nashville, TN, Richmond, Virginia and the State of Ohio. A copy of his testimony is (Attachment 5) attached and incorporated into the Minutes as referenced.

The last proponent called to testify was Mr. Lazone Grays Jr., President and CEO for IBSA, Inc., a non profit tax-exempt corporation founded and based in Topeka, who stated IBSA serves many in target business populations identified in **SB140** and believes passage of this bill can institute practices and procedures that can lay a foundation to elevating populations from the bottom up.

He provided statistics from the US Census Bureau 2007 Special Tabulation for Minority Firms and from the Kauffman Index of Entrepreneurial Activity 1996-2009, that should, he said, be of interest to the Committee if taken at face value, to help shape concerns the conferees are hoping to address with the passage of this bill. A copy of his testimony and statistical data are (Attachment 6) attached and incorporated into the Minutes as referenced.

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Written proponent testimony came from:

- 1.) The Kansas State NAACP Conference of Branches, and Entrepreneurial Synergy, LLC by Ms. Glenda Overstreet, Vice President, Political Action Chair & Registered Lobbyist.
- 2.) Mr. James L. Bolden, Owner, JB Carpet & Upholstery Care.

Copies of the above written testimonies are (Attachment 7) attached and incorporated into the Minutes as referenced.

The Chair then called on the first of two opponents of the bill, Mr Bob Totten, Public Affairs Director, Kansas Contractors Association (KCA), who stated:

1. Their organization represents over 300 companies who are involved in the construction of highways and water treatment facilities in Kansas and the Midwest and has been the voice of the construction business since 1923.
2. They are opposed to a segment of this bill made in the bid statutes that are outlined on page 4, Section 6. He stated their membership is comfortable with the awarding of a contract based on the lowest and best responsible bid with this basic premise insuring that no company has a better chance to get a project than another.
3. Another concern is, a large portion of the work their members bid on is with the Kansas Department of Transportation (KDOT) or through KDOT for county work. If KDOT has to conform with this legislation, Kansas might find itself in conflict with the federal government and lose what federal funds Kansas receives for highway construction. (At last report, federal funding amounts to about \$366M a year or about a third of KDOT's budget.)

Lastly he stated, because of these concerns and the fact that the bidding laws have been vetted over a long period of time, KCA opposes this bill or suggests changes be made in Section 6. A copy of his testimony is (Attachment 8) attached and incorporated into the Minutes as referenced.

The second opponent recognized was Mr. Corey Peterson, Executive Vice President of the Associated General Contractors of Kansas, Inc. (AGC) who is a trade association representing the commercial building construction industry, including general contractors, subcontractors, and suppliers in Kansas (with the exception of Johnson and Wyandotte counties.) He stated AGC has a long standing policy opposing bidder preferences and/or quotas and for similar reasons it opposes this bill. Lastly he said, AGC welcomes the opportunity to work with women or minority-owned or other disadvantaged companies to provide the tools and assistance necessary to thrive in the commercial building construction marketplace, but deems quotas and preferences of one company over another to be in conflict with the free market system and the association's current policy. A copy of his testimony is (Attachment 9) attached and incorporated into the Minutes as referenced.

The Chair then called on the only neutral conferee to testify, Mrs. Lindsey Douglas, Chief of Governmental Affairs for the Kansas Department of Transportation (KDOT) who stated they have established a Disadvantaged Business Enterprise (DBE) in accordance with 49 Code of Federal Regulations (CFR) Part 26, and:

1. Is required to operate the DBE program as a condition of receiving federal assistance from the US Department of Transportation (USDOT.)
2. The DBE program is established using 49 CFR Part 26 and current federal guidelines approved by the Federal Highway Administration.
3. The KDOT Office of Civil Rights and Kansas Department of Commerce are members of the Kansas Statewide Certification Program and jointly may certify construction and co-construction DBE's who are interested in doing work in the state of Kansas.

She stated current language in this bill raises concerns about KDOT's DBE program as it operates today. In order to continue receiving federal funds they must maintain a DBE program in accordance with 49 CFR Part 26, and federal guidelines. If they are required to meet goals within a program that does not comply with their governing federal regulations, they run the risk of losing their federal assistance. Lastly, she said that while KDOT agrees with the intent of the legislation, the department requests that the bill be amended to exempt KDOT from the legislation. A copy of her testimony is (Attachment 10) attached hereto and incorporated into the Minutes as referenced.

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The minutes of the Senate Commerce Committee at 10:30 a.m. on February 17, 2011, in Room 548-S of the Capitol.

As there was no further testimony, Chairperson Wagle asked Mrs. Douglas, with the passage of this bill will you be out of federal compliance? (Yes.) And to Mr. Anderson, how many businesses are in your association? (About 65.)

The Chair then asked for questions or comments from the Committee which came from Senator Masterson to Mr. Lewis including who qualifies as a "small business", does it have to be owned by the minority, just trying to figure out who exactly we are trying to reach here? (The "small" that you refer to is any small business no matter who owns it. The federal government has a definition of Small Business Associations (SBA), laying out what constitutes a minority or disadvantage business, and to be considered one, you have to be at least 51% owned and controlled by a racial minority or economically disadvantaged person in our country.) In placing a bid, do you need to show you are capable of doing the job for which you are applying for under this bill? (Not aware of any owner of a project who would hire a person who was not capable of performing the job. But if a minority business was a prime contractor and the project was technical in nature, they would probably hire a subcontractor that was qualified.)

Adjournment

As it was time for the next Committee to come in, the meeting was adjourned. The time was 9:31 a.m. The Chair said they would have further discussion on this.

The next meeting is scheduled for February 22, 2011.

SENATE COMMERCE COMMITTEE GUEST LIST

DATE: Thursday, Feb 17, 2011

NAME	REPRESENTING
CHESTER DANIEL	URBAN LEAGUE OF KANSAS
Prentice Lewis	United Builders + Contractors
Eugene Anderson	United Builders + Contractors
Rep. Stiffling	84th Dist.
Lindsey Douglas	KDOT
Debra Hepp	KDOT
GRACE PAMICHAKOS	KS BDC
Sean Tomb	DIRECTOR OF THE BUDGET
Peter Northcott	Governor's Office
Bob Totten	Ks Contractors Assoc
Cora Peterson	AG of Kansas
Glenda Overstreet	KANSAS STATE NAACP Entrepreneurial Synergy LLC
Pat Higgins	Dept. of Admin.
LAZONIE GRAY, JR.	IBSA, Inc.
Desmond Blake	Urban League of Kansas
James L. Bolden Sr.	J B. Carpet & Upholstery
KEITH WENLY	J Bolden 836 @ AOL KENNEDY ASSOC.

please continue passing so all can sign

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Thank U-

Margaret
Sen. Wagner's Committee
assistant

SENATE COMMERCE COMMITTEE GUEST LIST

DATE: THURSDAY FEB 17 2011

[illegible]

Governor's Council of Economic Advisors - Strategy Integration, Research, Coordination and Accountability

Over the past two decades, Kansas has chosen to build an economic development model that primarily relies on free-standing agencies governed by independent boards of directors. This model offers a sound operational foundation: it provides for strong stakeholder input and offers continuity in the context of the transient executive leadership inherent in state government. However, the Governor's Office may not have a degree of influence over the operation of the overall system that corresponds with its presumed level of accountability.

The Kansas Department of Commerce holds the position in the state's model as the lead agency with regard to the implementation of economic development policy. Yet the department is the only executive agency and it has limited official means to act as the lead economic development agency with respect to the Board-directed agencies.

The Council of Economic Advisors proposed by this plan offers a response to the lack of coordination and accountability in the current economic development systems. The Council will both enhance and fill the original concept of Kansas, Inc. (which the state established in 1986 in connection with the so-called Redwood-Krider state economic development strategic plan). Kansas, Inc. was created to operate as the primary coordinating agency for research-driven economic development policy. Currently, Kansas, Inc. is the only agency in the state in which the sitting Governor is statutorily appointed to co-chair the Board of Directors. This appointment was intended to facilitate coordination across industries and agencies, and to put executive strength behind the Kansas, Inc. evaluations of other economic development agencies. Over the years, the original vision for Kansas, Inc. has yielded to the dispersed interests and agendas of the many stand-alone economic development-related agencies.

This plan seeks to dissolve the current structure of Kansas Inc. and replaced it with the Governor's Council of Economic Advisors. The Governor will chair the group, whose members will be comprised of 15 to 20 leaders and innovators of Kansas and American business. The Council members should mirror the landscape of the Kansas economy. The members could be leaders from within or outside the state. The Council will meet quarterly in conjunction with key events, such as the release of consensus revenue estimates or the Indicators of the Kansas Economy.

The Governor's Council and its staff Executive Director will work closely with the Governor to assure strategy integration, coordination and accountability across all of the state's economic development-related initiatives and agencies, including the Kansas Department of Commerce, the Kansas Department of Agriculture, the Kansas Department of Transportation, The Kansas Department of Revenue, the Kansas Department of Labor, the Kansas Bioscience Authority, and Network Kansas. It will have a comprehensive set of economic development-related responsibilities.

Organization of the Council

- The Council will be chaired by the Governor of Kansas.
- The Council will be comprised of 15-20 business and industry leaders from across the state and nation.

*Senate Commerce Committee
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Attachment 1*

- The Council members will serve at the invitation of the Governor for a term of three years, with possible re-appointment for one additional three-year term.
- The Council's membership will be representative of the diversity of the industries in the state of Kansas: agriculture, aviation, oil and gas, engineering, renewable resources, computer technology, information technology, health care, biological technology; finance, services, general manufacturing, and military. Consideration also will be given to industry innovators, leadership experience in the international arena, businesses with a large base of employees, and businesses with a small base of employees.
- The Council will have an Executive Director to manage the organization and oversee the implementation of the Council's directives or initiatives and shall report directly to the Governor.
- The Council will (a) be permitted to have an operational 501(c)(3) component so as to attract and mobilize private-sector funding for research; and (b) be exempt from state government procurement rules so as to promote quick and flexible operations.
- It will operate as a Board of Directors for economic development in Kansas.

Functions of the Council

1. Strategic Planning and Resource Coordination

- Expand and enhance—on an on-going basis—the Governor's economic growth initiatives, such that it becomes a comprehensive blueprint for all economic development-related planning and resource coordination.
- Implementation of the blueprint through a tightly-focused action plan that unifies the unique capabilities and responsibilities of all agencies tasked with duties related to economic development or economic growth. Coordination across all agencies of the Council's initiatives and directives—the details of the blueprint—is paramount. Appropriate coordination and prioritization is a deficient element of the Kansas economic development system.

2. Evaluation of Policies and Agency Performance

- The Council will act to hold accountable all agencies tasked with advancing economic development in Kansas—and, by extension, the Governor's blueprint for economic growth.
- At least once each year, or at the discretion of the Governor, the Council, as part of its evaluation function and to assure coordination and progress with regard to the Council's blueprint, the Council will convene a Kansas Economic Summit with the heads of all economic development-related agencies and private sector leaders from Kansas and around the world. At such time, the various economic development agencies shall produce specific reports as prescribed by the Council.

- As directed by the Governor and Council members, evaluations will be conducted to assess the effectiveness of specific state policies and specific state agencies (including universities), as they relate to the goals of the Council's blueprint. Evaluations will be conducted, as directed by the Governor and Council members, by (a) Council staff; or (b) outside entities under fair and unbiased evaluation designs and scopes. All findings of the evaluations will be reported to the Governor and Council members for review and potential follow-up action.

3. Research

- The Council, under the direction of the executive director, shall create and provide objective, data-driven research to inform the planning and evaluation functions of the Governor and Council members.
- The Council's research function shall routinely conduct studies on Kansas' basic industries, tax competitiveness, regulatory structure, along with any other topic deemed germane by the Governor and the Council members.
- The research produced under the Council's direction shall be peer reviewed by unbiased, outside entities so that the Governor and Council members can be assured of its independence.
- The findings of all research produced under the Council's direction will be submitted to the Governor and all Council members for their review and directives for follow-up action steps.

Additional Agency Changes

In addition to abolishing Kansas, Inc. and creating the Governor's Council of Economic Advisors, this plan moves the functions of the Kansas Technology Enterprise Corporation (KTEC) into the Kansas Department of Commerce. KTEC came to life in the late 1980s as part of the Redwood-Krider state economic development strategy. Moving the many valuable programs that KTEC has created into the Department of Commerce will allow for better overall coordination and allow the Department, as the lead economic development agency of the state, to adopt a broader strategy for using the state's assets most efficiently. The KTEC partnership programs shifting to the Department of Commerce for better coordination include:

- Mid-America Manufacturing Technology Center
- Biotechnology Innovation & Optimization Center (University of Kansas)
- Advanced Manufacturing Institute (Kansas State University)
- Information and Telecommunication Technology Center (University of Kansas)
- Kansas Polymer Research Center (Pittsburg State University)
- National Institute for Aviation Research (Wichita State University)

STATE OF KANSAS

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TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS

RANKING
MINORITY MEMBER: FEDERAL AND STATE AFFAIRS
ETHICS AND ELECTIONS
MEMBER: BUSINESS AND LABOR
COMMERCE
LOCAL GOVERNMENT
JOINT COMMITTEES: ARTS AND CULTURAL
RESOURCES
CHILDREN'S ISSUES
ECONOMIC DEVELOPMENT

Testimony for SB-140
Senate Commerce Committee
February 16, 2011 @ 8:30 a. m.

Honorable Chair – Senator Susan Wagle
Honorable Vice-Chair- Julia Lynn
Honorable Ranking Democrat – Senator Tom Holland
Honorable Committee Members

Good Morning Madame Chair,

I appreciate the opportunity to speak in support of SB-140. This bill was introduced on behalf of United Builders & Contractors, Inc., regarding small, disadvantaged and women owned businesses. The intent of this legislation is to stay with the theme of our new Governor relating to job creation and growing the economy in the state of Kansas.

Madame Chair, I feel that SB-140 would help sustain and grow our small businesses in the state of Kansas. Also, it would allow existing small businesses the opportunity to participate in the bidding process of local and state projects, pertaining to jobs with the department of transportation, school bond jobs, etc....adding to our tax base generating new revenue for Kansas families.

I would appreciate your consideration of SB140.

Senator Oletha Faust-Goudeau

*Senate Commerce Committee
Date: February 17, 2011
Attachment 2*

Representative Gail Finney
84th District
1754 N Madison Ave
Wichita, KS 67214
(316) 768-0615



February 17, 2011

Testimony Senate Bill 140 – Kansas Small and Disadvantaged Business Development Act

Good morning Chairman Wagle and members of the committee. My name is Gail Finney and I am a State Representative from Wichita, a small business owner, and former founder and executive director of the Kansas Minority Business Development Council.

I stand here today, first to say thank you for allowing small, women, disadvantaged, and minority owned businesses the opportunity to present testimony on this bill. And second, I am here in support of Senate Bill 140.

I must say it definitely shows courageousness on your behalf and it shows great consideration for, in my view, a population of people/business owners that have been continually ignored, frowned upon, and discarded when it comes to doing any substantial business with the State of Kansas.

My goal here today is not to take a lot of your time, but to be brief, simple and straight to the point. For nearly three years now, I have watched many business industries and organizations come to this capital and plead their case and need for one type of business incentive or another. And, I have seen how we as a State has carefully listened to and catered to some of these industries and organizations, all in the name of making our State and economy better.

For a couple of decades now, many states have enacted similar policies as this bill and they have proven to be successful in generating job growth and revenue in their economies.

Senate Bill 140 in a nut shell is not necessarily asking for an extensive program to guarantee set-asides for small, women, disadvantaged, and minority businesses. It is asking the State of Kansas to seriously include and set-up some type of quality supplier diversity program that would set goals to develop, utilize and to encourage utilization of these businesses within State agencies and to help decrease the apparent disparity and low marginal participation by these businesses in the State of Kansas.

For years now the State of Kansas has performed many certifications of small and disadvantaged businesses, but that is merely the extent of it. Excluding the Kansas Department

*Senate Commerce Committee
Date: February 17, 2011
Attachment 3*

Representative Gail Finney
84th District
1754 N Madison Ave
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of Transportation, because it federally funded and mandated to do business with small and disadvantaged business, for years now our State has been performing just window dressings on this issue. As a State we just recently started in the fall of 2009 keeping track of how much business we do with these businesses, because of repeated demands and requests from these businesses. And, as a State we still do not set any kind of goals to create an environment where these businesses can grow, participate and create jobs.

For many years I've heard the cliché that there aren't enough minority and disadvantages to do businesses with, or that there aren't any minority or disadvantaged business that are qualified enough, bonded enough, or they just cannot handle any major business opportunities. I beg to differ on these clichés.

By implementing this policy, the State of Kansas will not only be able to further develop its economy immensely by increasing its tax revenues, opening opportunities for many communities to grow, and produce and create jobs by these companies. The State of Kansas I believe will be able to identify small businesses that want to be viable, strong, grow, and be productive.

In closing, although I do not feel this bill is perfect, I honestly believe it is a good conversation starter and I encourage this committee to please keep moving forward with creating an environment in our state where all of our businesses can grow and participate.

Thank you for the opportunity to address the committee, I'll be pleased to answer any questions.

Sincerely Submitted,

Rep. Gail Finney, MBA

UNITED BUILDERS & CONTRACTORS, INC.
AN ASSOCIATION OF AFRICAN AMERICAN BUSINESSES

PRESENTATION
ON
SMALL AND DISADVANTAGED BUSINESS
DEVELOPMENT
BEFORE
KANSAS SENATE COMMERCE COMMITTEE
February 17, 2011

By

Eugene Anderson

Good Morning Chairperson Wagle and Senators. I am Eugene Anderson, Chairman of United Builders & Contractors of Wichita. Thank you for allowing me time to bring to your attention the interest and concerns of a group of small and disadvantaged business owners, from Sedgwick County and throughout the state. All of whom are taxpayers.

United Builders is an association of African American owned construction, service and professional firms, food concessionaires, supply vendors, and related associates joined together to promote the growth and development of Wichita African American owned businesses. Our primary objective is to break down and eliminate discriminatory procurement barriers in local and state government and the private sector. These barriers restrict participation of African American and other socially and economically disadvantaged businesses and entrepreneurs in the Kansas economy.

We appreciate the opportunity to discuss issues affecting the continuing existence of a viable small, minority and women-owned business sector in this state. Our organization's request is for the legislature to enact a small and disadvantage business development act that will ensure the businesses we represent will have reasonable access to tax-supported government contracts. Such a law will have the effect of saving many of these small businesses from fading out of existence as has the small family farm.

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Attachment 4*

In 1984 the Legislature attempted to eliminate the disparity in state contracting with the passage of the Kansas Small Business Procurement Act. Unfortunately, the Act expired on July 1, 1988, well short of time needed to reverse bad procurement practices. That is why we are again asking for your help. The problems are as pervasive today as they were decades ago.

For generations skilled construction craftsmen have aspired to one day establish and operate their own construction companies as was the case with most members of United Builders & Contractors. For most, they started their construction careers as carpenters, plumbers, electricians, cement workers and other crafts. Today however, they like the small farmer are in danger of becoming extinct.

In 1968 the City of Wichita established a federally funded housing code enforcement program that operated in a low-income neighborhood, helping property owners bring their property into code compliance through grants and low interest loans.

That program, starting in 1968, renovated owner occupied dwellings and other privately owned property. It provided minority and many small majority contractors with their only opportunity to received tax supported contracts from the City of Wichita.

Some 43 years later, most African American contractors in Wichita are still relegated to performing on small rehab contracts through city government.

Passage of the proposed Kansas Small and Disadvantaged Business Development Act will help open up greater opportunities for these contractors to perform on larger tax-supported projects for the state and for local governments.

Since 2005 our organization has been involved in a consistent effort to encourage enactment of diversity in purchasing ordinances by the City of Wichita, Sedgwick County and the Wichita Public Schools (USD 259) without results.

It is clear, without enforceable laws, such as the proposed Kansas Small and Disadvantaged Business Development Act, disadvantaged and women owned businesses cannot compete effectively in the marketplace.

For decades there have been government programs such as the **minority business enterprise provision of the Public Works Employment Act of 1977** and court rulings, pro and con regarding set-a-sides and other special remedies to help underutilized minority businesses gain a foothold in the construction industry **Fullilove v. Klutznick, 448 U.S. 448; Adarand Construction, Inc. v. Pena; Richmond v. J.A. Croson Co., 488 U.S. 469.** However, minorities and disadvantaged contractors have not made significant progress in the industry and are no better off today than they were in the 1960s.

Throughout the United States, African Americans workers and contractors have gained only limited access to the construction industry. Not until President Johnson issued Executive Order 11246 in 1965 and the U.S. Department of Labor imposed equal opportunity employment standards for companies with federal contracts and their unions in Philadelphia in 1969, did conditions improve somewhat for minority construction job applicants. However, conditions did not, and have not, improve significantly for minority and disadvantaged contractors.

U.S. Department of Labor data highlights an annual 250,000 worker shortfall in the construction industry nationally. Based on other data, studies and reports, African Americans are excluded from equitable participation in the construction industry, including tax-supported projects, even though there are anti-discrimination laws and regulations on the books.

The problem is highlighted in the following study summaries, one prepared by the Urban League of Wichita for the Kansas Department of Transportation and the other for the City of Wichita by a City Council appointed taskforce.

KANSAS DEPARTMENT OF TRANSPORTATION STUDY

The purpose of the KDOT study was to, 1) identify minority business enterprises in Kansas, 2) identify existing problems confronting minority contractors and minority business enterprises, 3) make specific recommendations for alleviation of identified problems, and 4) construct a register of Kansas minority contractors. The KDOT Study was completed and published in 1976.

"During calendar year 1975, the Kansas Department of Transportation (KDOT), awarded contracts valued in excess of \$86 million, of which minority contractors received \$2.58 million, or 3% of the total awarded. Furthermore, 93% of the value of the contracts awarded to minorities went to two firms, both owned by members of the same family. Due to increasing concern about the lack, of minority contractor participation in highway construction projects within the State of Kansas, the Kansas Department of Transportation entered into a contract with the Urban League of Wichita, Inc., to conduct a study of existing problems confronting minority contractors and minority business enterprises and to recommend a positive plan or program for improving the effectiveness of the current program.

Urban League conducted interviews with 139 minority entities throughout the state. Such minority business entities include those contractors, minority business enterprises, minority firms, and minority business firms stated herein, and are defined as businesses of which at least 50% are owned by minority group member(s), (minority group members are Blacks, Spanish surnamed Americans, American Orientals, American Indians, American Eskimos and American Aleuts), and which have been established as bona fide business entities for a period of at least two years.

Disadvantaged contractors and small contractors are defined as entities which may or may not be at least 50% owned by minority group member(s), and shall not have earned gross receipts of more than \$500,000 each year for either of the past two years.

The identification of minority firms was accomplished with the aid of: the Kansas Office of Minority Business Enterprise - Wichita and Topeka, the

United Contractors Association of Wichita, MO/KAN of Topeka and Kansas City, and Chambers of Commerce throughout Kansas.

Each interview took the form of the minority contractor responding to questions from a confidential questionnaire (see Appendix A). In addition to the minority business concerns and minority contractor interviews, seven majority contractors were interviewed utilizing the same technique with a slightly different questionnaire and selected officials of the KDOT were also interviewed.

DISCUSSION OF RESULTS

Once the data collection phase of the project had been completed, the minority contractor register was prepared, and is attached to this report as a separate document. This register not only identified minority contractors but also general experience, configuration of company, and areas of interest. Summary statistics for some of these categories are as follows: 63% of the minority firms interviewed was configured as a sole proprietorship, 22% as a corporation, and 14% as a partnership. Two firms did not identify their configuration.

Of the 139 interviewed firms, twelve had previous experience with the KDOT. The average number of years experience for these twelve firms is nineteen years. Of the twelve, seeding was the primary activity of six firms, heavy construction the activity of two firms, signing the activity of one firm, refuse hauling the activity of one firm, trucking the activity of one firm, and general construction the activity of one firm.

A comparison of the length of time contractors have spent in firms in current operation, with the total length of time spent in that field,

revealed that minority contractors showed considerable stability. Of the contractors surveyed, less than 10% had been operating fewer than 2 years, while approximately 20% had been in business at least 20 years.

Bonding was identified as the most significant barrier to minority participation in KDOT contracts. Historically, bonding companies look at a contractor's liquid assets, capability, and character. Minority contractors, not unlike many majority contractors, received their construction training through employment with older majority construction firms. However, due to discriminatory employment practices, such as denial of promotions into foreman, superintendent, estimator and project manager positions, minority contractors, for the most part, were not able to gain the kinds of management and technical skills necessary to maximize the probability of successful growth and development. With such limitations, minority contractors find it almost impossible to measure up to the capability criteria of surety firms.

Likewise, the difficulty in obtaining bonding along with discrimination in obtaining contracts, has kept minority contractors from developing adequate assets. Finally, due to the social structure in this state and country, minorities have not had the opportunity to develop social and business relationships with bankers, surety agents, etc., and thus have a difficult time in demonstrating their "character" to a surety company.

Without the ability to become bonded on significant size jobs, the minority contractor is prevented from establishing a reasonable growth pattern. The problem of bonding is thus a crucial one for the future of minority contractors.

The viability of a strong group of Kansas minority contractors depends, in part, on an effective mechanism to secure easier credit and

financing. There was found to be no strengths in these areas among the contractors surveyed. By contrast, it was typical to find among those majority contractors surveyed, instances where they provided financial and technical aide or assistance to small majority firms who also had normal access to adequate venture capital from financial institutions. These same inducements to entering the construction field were not found to be available to the minority contractor.

The second most often identified problem was prequalification. It is recognized that a need exists for prequalified contractors, but the present process also prevents the small business from engaging in growth oriented projects. The KDOT has taken a step in the right direction by not requiring CPA certification of financial position for contracts below \$300,000. Nevertheless, the same effects of discrimination as discussed in bonding are felt in prequalification. The prequalification process requires the firm to have had considerable experience, a large amount of working capital, and the necessary equipment if the prequalification rating is to be reasonable. However, all of these areas are sensitive to discrimination against minority contractors. Because minorities have been prevented from engaging in significant construction projects in the past, it is unreasonable to expect them to have the type of financial statement that would allow them a high prequalification rating.

The lack of capital needed to obtain the necessary equipment for highway construction was also identified as a problem. Equipment used in highway construction requires a considerable outlay of capital that the minority contractor does not have. Even working capital for day to day operations is a significant problem and having to wait for

payment of any work completed can put extreme strain on the financial position of a minority contractor.

Highway construction requires a variety of specialized skills that are often learned through on-the-job experience. As stated previously, many minority contractors acquired highway construction experience with majority firms before establishing their own but were denied opportunities for gaining specialized skills through promotions to more responsible positions with the company.”

To day, I can not tell you if any of our recommendations to KDOT were adopted. I can say that there seems not to have been any significant increased government contracting with minority and women-owned businesses over their participation levels of the early 1970s. In fact, the reverse is most likely the case.

CITY OF WICHITA STUDY

In response to charges of overt discrimination by city agencies in the awarding of construction contracts, Wichita’s governing body, the Board of City Commissioners, adopted, in 1977, a Minority Set-A-Side program requiring that 10 percent of the value of all Capitol Improvement Project work go to minority business enterprises. This program resulted from a two-year negotiation between a coalition representing minority contractors and representatives of majority construction firms. This program provided several minority contractors with opportunities to perform on city projects as prime and subcontractors. Unfortunately the program was terminated in December of 1979.

In 2003 charges of discrimination were again leveled at the city by minority contractors. In response the Wichita governing body established a Wichita Supplier Diversity Task Team to investigate the allegations of

racial discrimination in the City's purchasing process. Among Task Team finding were the following:

- “1. A 1994 Disparity Committee Study concluded that there is effectively no Small Disadvantaged/Women Owned Business program in existence in the City of Wichita.
2. Recommendations from the 1994 Disparity Study largely either were not implemented or not accomplished.
3. The Small Disadvantage Business Enterprise trends with regard to the absolute amount purchased (down by 47% in 2003 compared to 2000) and the percentage of the total purchase (down from 2.4% in 2000 to 0.7 % in 2003) have declined steeply –and the latter is low by any measure.
4. The 1994 Disparity Study states that “the City has fallen short on its minority goals (The Diversity Task Team could find no evidence that there were ever any goals or metrics established.)
5. Goals and objectives for purchase from SD/WOBE's are not a part of the City's purchasing strategy.
6. There is a general feeling among business owners interviewed that previously established relationships with City personnel greatly influence purchasing decisions.

In its March 3, 2004 report to the City Council, the Wichita Supplier Diversity Task Team advised that "There is dramatic room for improvement in the level of purchases from small minority owned and small women owned businesses. However, this improvement will not occur without increased intent and effort by the City of Wichita. The City has to adopt a 'find a way' attitude."

In an unrelated 2006 fourth quarter Financial Report to the Supplier Diversity Task Team, the City's Purchasing Department's total payments for goods and services for the three months ending December 31, 2006 were \$ 67,254,650 African American firms received \$255,428 or 0.00379 percent of the total.

Of the 15 African American firms listed in the report, two shared 74 percent of payments to the group. Other racial minority vendors achieved slightly better results. For example:

- Asian firms earned \$410,595.90
- Hispanic firms earned \$7,836,454.33
- Native American firms earned \$648,780.95
- Women owned firms, not including African Americans, earned \$2,491,461.90.

During the preceding three quarters of 2006 the City spent a total of \$180,490,984. African Americans earned \$617,637 For the whole of year 2006 the City of Wichita spent \$247,745,635 for goods and services. However, African Americans received less than \$1 million.

The Wichita Eagle newspaper has published several articles highlighting City Hall discussions, meetings and hearings regarding

minority business complaints of limited opportunity to provide goods and services to the City of Wichita.

An illustration of how badly some minority businesses have been treated by their local governments is highlighted in the following case studies.

Case Study #1. Sarah's Ice Cream

Steve Habtemariam, an African American, and his family, dba Multi-Business Services Corp., and owners of Sarah's Ice Cream, received an expensive education in their attempt to continue in business as a concessionaire in the Wichita airport's main concourse while the city and its agent wanted to move a national brand competitor into Sarah's space.

In 2006, after 16 years of providing excellent service to the traveling public, visitors and airport employees, the Habtemariam's ran headlong into corporate America's desire for sameness and the city's desire for brand names in the airport. The Habtemariam's were told by Host Marriott, the city's agent and the airport's primary concessionaire, that his business would have to move from their current location to a less visible and less profitable spot in the airport terminal so that Starbucks Coffee could move into their current spot. In the eyes of Host Marriott and city administrators, Sarah's was just a small black owned business and not deserving of a prime business location in the gateway to Wichita.

Since the Habtemariam's contract for Sarah's Ice Cream was up for renewal Host Marriott assumed they could just order them to give up their space and there would be no problem. Only after the Habtemariam's appealed for and received support from the African American community and an appearance before the Wichita City Council, and an order from the Council did Host Marriott and the City Manager take the Habtemariam's desire to stay in their location seriously.

After months of additional negotiations a contract was agreed to, keeping Sarah's Ice Cream in its previous and desired location.

Case Study #2. McFadden Construction

John McFadden, an African American, dba McFadden Construction, has worked as a contractor on City of Wichita projects since 1980, first as a home builder and housing rehab contractor and then, starting in 1988, he focused on paving streets and sidewalks. Contracts he received ranged between \$100,000 and \$300,000. In 2006 McFadden decided that he had the experience and management capability to perform on much bigger projects. He therefore bid on and won a \$1.3 million street paving project that also included underground utility work that he was to subcontract to a major general contractor in the city. However, a city purchasing department staffer, on his own, decided that McFadden should not have this particular project and went about seeking means to disqualify him. As a result, this city staffer discovered that the bonding company McFadden had used for six or seven years on city projects was not officially registered to do business in the state of Kansas and therefore McFadden in fact had no bonding.

McFadden's subcontractor offered to place the project under his bond but the city would not allow that and gave McFadden hours to come up with new bonding. That not being possible, the project was awarded to McFadden's bidding competitor. The city's action essentially put McFadden out of business.

Case Study #3. Minority Contractors & Consultants, Inc.

Moses Thompson, an African American, dba Minority Contractors and Consultants, Inc (MCCI), negotiated a contract with the City of Wichita for the removal of asbestos prior to demolition of the former LaQuinta Inn. Thompson submitted a \$413,683 quote to the city purchasing department to perform the required work. In a face to face meeting with city staff, the staff responded to Thompson's bid with a \$350,000 offer. Also at this meeting was Bob Helsel, representing Precision Environmental Services, a competitor of MCCI and agent of the City of Wichita. The city had hired Precision as the project manager of the hotel abatement project. Helsel suggested to the city staff that MCCI only be paid \$300,000 for work on the project. The city accepted that suggestion and used it as its negotiating ceiling.

Reluctantly, MCCI agreed to accept a \$300,000 contract to perform asbestos removal at the vacant LaQuinta Inn. However, before a contract was signed, MCCI received a letter from Purchasing Manager Melinda Walker with the following contract conditions:

1. Work with Precision Environmental Services, which is the City's third party contractor that will provide air monitoring and be the project manager.
2. Provide the City of Wichita with a "cost not to exceed" price for this Asbestos Abatement for the former La Quinta Inn.
3. Your company will be able to provide a Performance Bond and Labor & Material Payment Bond in the amount of one hundred percent of the cost price.
4. Complete this job within the 60 working day time frame.

Conditions # 1 and # 4 concerned MCCI. The project was too big to complete in 60 days and Thompson had already explained to Walker and her staff that MCCI and Precision Environmental Services had a previous working relationship and that relationship exposed Precision Environmental Services as having a prejudicial attitude toward MCCI, and Moses Thompson in particular. It was reported to Thompson, a year or so earlier, that Leon Conway, president of Precision, in a public meeting, was over heard to state "...not to worry about Moses, he (Conway) would break him." Based on the prior negative experience working with Precision, Thompson expressed his concern to city staff about Precision's participation on the project with him. The Walker letter implied that MCCI accept the conditions or there would be no contract.

MCCI was not the first choice of the Purchasing Division to perform abatement work even though MCCI was in the second year of a two-year contract with the city for asbestos inspection and abatement. Only after a complaint to the City Manager did Purchasing comply with contract #PB600055 and begin to negotiate with MCCI.

It is apparent that because Moses Thompson had the audacity to challenge the purchasing manager's decision to bid this project instead of negotiating with MCCI, plans were set in motion to drive MCCI out of business. The city's agent, Precision Environmental Services, through its employee Bob Helsel, set about trying to do just that through changes in work orders, re-inspections and delays designed to impede progress and drive up cost to MCCI. The result of this action is that MCCI encounter massive cost overruns on the project resulting in a loss of bonding, essentially putting the company out of business.

The mission statement in the city's Emerging and Disadvantaged Business Enterprise Policy and Procedure Manual states: "The City of Wichita is committed to ensuring equal opportunity, promoting diversity and enhancing economic opportunities for Emerging and Disadvantaged businesses." The program's Policy Statement in that same manual states in part "The City of Wichita is committed to the development and support of Emerging and Disadvantaged Business Enterprises. It is the policy and commitment of the City of Wichita to provide Emerging and Disadvantaged businesses the maximum opportunity to participate in, compete for and be utilized by the City of Wichita in its procurement of goods and services."

The actions of city staff in the above three cases and others involving African Americans are a clear violation of the city's diversity programs and raise questions about the purpose of their Emerging and Disadvantaged Business Enterprise Program. City payment reports from January 2006 through December 2008 highlight even more graphically the disparity in city contracting. The City's total expenditures for goods and services during this time frame were \$702,147,070.58. During that same three-year period African Americans only received \$1,909,193.30 in payments.

Sedgwick County, Kansas

Unlike the City of Wichita, Sedgwick County has no written equal opportunity or diversity procurement policies and programs, and no history of providing information about efforts to recruit minorities businesses, particularly African American, to provide goods and services. An example of the County's reaction to an African American business effort to secure a county contract is highlighted here.

Case Study. TCV Publishing, Carter-Sherman Broadcasting & DigiSigns, Inc.

Sedgwick County, Kansas published a Request for Proposal on May 25, 2006 to acquire "Out Reach Marketing/Media Services for the Sedgwick County Health Department (Northeast Wichita Healthy Start Initiative)." This program was targeting residents of Wichita's African American community. TCV Publishing, an African American owned newspaper publishing company targeting the African American community, Carter-Sherman Broadcasting, an African American owned broadcasting company, operated an urban radio station that broadcast an R&B and Hip Hop format and DigiSigns Inc., an African American owned digital sign and information display

company, formed a joint venture and responded to the County's RFP. The County had sent Request for Proposal notice to 17 media and marketing firms, none of which were African American. Proposals were received and opened on June 6, 2006. Award to the best proposer was to take place on June 21, 2006 after acceptance by the Board of Sedgwick County Commissioners. While TCV Publishing and joint venture partners submitted the best overall proposal the recommendation to the Board of County Commissioners was to approve all responders.

After complaints by TCV to its County Commissioner and the County Managers office the project was withdrawn from the commission agenda. Almost a year later the Outreach Market/Media Services project was revived but changed to a straight purchase of services procurement. This action left TCV Publishing little chance of receiving contracts to provide service to Sedgwick County.

Following five years of meetings with Sedgwick County staff and the Board of Commissioners at which UBC repeatedly requested that the county enact diversity in purchasing resolution, the manager, in a March 31, 2010 email to the county commission chairman, stated "I am proud of our efforts in this area." Later, in a June 3, 2010 Wichita Eagle news article about the issue, the manager is quoted as saying "he thinks the county has done a pretty good job of being diverse in its purchasing." The Manager's statements follow a county report that shows 2008 expenditures of \$222 million on goods and services with African Americans received only \$ 53,000 of the total expenditures.

Wichita Public Schools, USD 259

In November of 2008 voters in Wichita passed a \$370 million bond initiative for school construction. African American voters were credited with providing the margin of victory. The addition of some federal and state funds may bring the total available dollars to be expended on more than 91 projects to over \$500 million.

The Wichita Board of Education, USD 259 adopted its first disadvantaged business enterprise purchasing policy in June of 2009. But even with this policy in place, USD 259's Director of Operations, at a meeting for contractors to discuss implementation procedures for the \$370 million school construction program, stated in response to a question, "is there a diversity requirement on this program," "no, there

is no diversity requirements.” That statement in a room full of white contractors had the effect of hanging a Jim Crow era WHITES ONLY sign on USD 259’s money trough. What makes matters worse is the fact that federal dollars will be used to build safe rooms in new and remodeled schools.

USD 259’s plans for 91 projects does not include provision for utilizing African American businesses and especially the nationally known local architect highlighted here.

Case Study. McAfee3 Architects (Charles F. McAfee, FAIA, NOMA, PA)

Charles F. McAfee, born, raised and a lifelong resident of Wichita, Kansas, is a graduate of the University of Nebraska, School of Architecture. While maintaining the office he opened in Wichita in 1963 as his headquarters, years ago he branched out to offices in Dallas, Texas and Atlanta, Georgia which are managed by two daughters who themselves are well experienced architects. McAfee is the only African American owned and managed architectural firm in the state of Kansas. The 46 year-old award winning firm specializes in Design, Program Development and Management, and, Planning and Construction Administration.

The Wichita Public Schools has already selected architectural firms to design the projects. The McAfee firm was not among those selected to design any of the 91 projects, not even projects in the African American Community.

It’s ironic that in 2009, Charles McAfee, in his hometown, was still unable to overcome the fact that he is African America, while at the same time he is celebrated as an award winning designer and finds great success in other areas of the country. For example, McAfee was the lead architectural firm for the design and building of the \$1 Billion 32 venues 1996 Atlanta Olympics. And yet, with all of his experience and expertise, the Wichita Public Schools was not able to let McAfee design one project, not even one in the African American community.

USD 259 reports 2008 expenditures for goods and services at \$332,718, 537.74 and African American payments at only \$10,887.00. USD 259 reports spending \$951,158,424.99 on goods and services during the three year period of 2006 through 2008. During that same time span African American received only \$352,718.95 in contract payments.

STATE OF KANSAS

There is not good data available on expenditures for the purchase of goods and services by the state of Kansas from African American and other disadvantaged businesses. However, the Kansas Department of Transportation, Office of Civil Rights, provided the following information on KDOT's expenditure of federal aid funds during FY 2009. State allocated funds are not included.

"Total dollars awarded to prime contractors:

\$469,589,858.12

Total Amount committed to DBEs:

\$39,075,409.00

Amount to DBEs breakdown by ethnicity & gender:

Black American	\$ 3,175,964.83
Hispanic American	5,064,612.56
Native American	7,894,221.37
Asian/Pacific American	1,943,493.60
Non-Minority Women	20,997,116.64

This information is based on federal aid projects let by KDOT for the period: 10/1/08 through 9/30/09."

Debra A. Hepp

Program Consultant II

Office of Civil Rights

Kansas Department of Transportation

CONCLUSION

Upon returning home from World War II, thousand of veterans, including African Americans, used their GI Bill to pursue their education and job training goals. Many African American veterans received training in construction trades. A number of these men migrated to Wichita, seeking work in the construction industry. They came from Arkansas, Texas, Mississippi, Georgia, Alabama, Louisiana and Oklahoma. Their timing was bad. Major contractors in Wichita were not hiring African Americans as craftsmen during the late 40s, 50s, and early 60s.

Those veterans who remained in Wichita worked odd jobs to earn enough money to purchase basic tools of their trade and went into business as small job contractors. Some of these men were the contractors I worked with beginning in 1969. Today, I am working with some of their sons. The sons are confronted by many of the same barriers that their fathers first faced more than 60 years ago.

The solution to this problem is for the legislature to enact the proposed Kansas Small and Disadvantaged Business Development Act. Passage of this bill will say to prime proposers, bidders and government employees and officials on state projects that government will mandate opportunities for African American, other minority and women owned business participation on tax-supported projects. That is the only way the businessmen and women our organizations represents will have a fair opportunity to compete for work on projects that their tax dollars help finance.

Thank you for listening. I will be happy to answer questions you may have.

ATTACHMENTS

CITY OF WICHITA 2008 EXPENDITURE FOR GOODS AND SERVICES

PRIORITY GROUPS	1ST QUARTER	2ND QUARTER	3RD QUARTER	4TH QUARTER	TOTAL
IN	\$66,081.29	71,099.43	\$267,780.70	\$489,238.98	\$894,200.40
CAN AMERICAN	68,886.52	102,967.44	115,327.64	106,385.10	\$393,566.70
ANIC	2,743,133.31	4,954,962.23	7,482,316.44	11,612,410.15	\$26,792,821.92
VE AMERICAN	123,567.62	277,335.58	359,042.50	642,107.96	\$1,402,053.66
EN	2,422,206.54	3,982,814.15	4,187,628.72	2,612,667.80	\$13,205,317.21
AL MINORITY RESULTS	\$5,423,875.28	\$9,389,178.83	\$12,412,096.00	\$15,462,809.99	\$42,687,960.10
AL G&S EXPENDITURES	\$38,279,423.82	\$57,257,251.45	\$68,929,209.76	\$73,961,678.94	\$238,427,563.97

1: In the second quarter of the total G&S expenditure line is a \$521.00 payment to a veteran business enterprise that does not show again in the report.

2: African Americans continue to lose ground in their effort to provide goods and service to Wichita city government. and services to Wichita city government. W

Other four minority groups tracked by the city's purchasing department have shown significant growth over the past three years, African American inue a long slide down the economic ladder.

3: Three year comparison:

Wichita's 2006 purchase of G&S amounted to: \$247,745,634.84

African Americans received only \$873,065.93 in contract payments for the entire year

Wichita's 2007 purchase of G&S amounted to: \$215,973,871.77

African Americans received only \$642,560.67 in contract payments for the year.

Wichita's 2008 purchase of G&S amounted to \$ 238,427,563.97.

African Americans received only \$393,566.70 in contract payments.

Source: City of Wichita Emerging Business Enterprise Quarterly Reports, prepared by Janice K. Briggs
Purchasing Div., Department of Finance

Sedgwick County 2008 Expenditure Report

FW: Sedgwick County 2008 Purchase of Goods and Services

"Baker, Iris" <ibaker@sedgwick.gov>

View Monday, June 8, 2009 7:40:40 AM

To: Prentice Lewis <plewis_builders@swbell.net>

Cc: "Buchanan, William P." <wbuchana@sedgwick.gov>; "Chronis, Chris" <cchronis@sedgwick.gov>;

"Holt, Ronald" <rholt@sedgwick.gov>

Prentice, per your request, the following are 2008 statistics. The chart reflects the dollars spent on goods and services and also shows activity with and without the arena included. Feel free to call if you have questions. Thanks.

	Dollar Amount	Percent of Amount	Percent of Amount (less Dondlinger/Hunt expenditure)
Totals	\$222,850,195.76*	3.39	4.92
African American	\$53,130.87	.02	.03
Asian	\$379,551.23	.17	.24
Hispanic	\$3,378,802.47	1.52	2.20
American Indian	\$192,299.04	.09	.13
Other	\$1,463,315.01	.66	.95
Women Owned Business	\$2,078,380.28	.93	1.36

*Of the \$222,850,195.76 spent, \$69,501,500.00 went to Dondlinger/Hunt for the Arena project.

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Wichita Public Schools

MAJORITY GROUPS	1ST QUARTER	2ND QUARTER	3RD QUARTER	4TH QUARTER	TOTAL
ASIAN	\$1,950.00	\$820.50	\$10,916.50	\$221,814.82	\$235,501.82
AFRICAN AMERICAN	\$0.00	\$0.00	\$900.00	\$9,987.00	\$10,887.00
HISPANIC	\$300.00	\$100.00	\$12,763.43	\$0.00	\$13,163.43
NATIVE AMERICAN	\$5,247.00	\$2,089.00	\$30,200.32	\$31,617.00	\$69,153.32
WOMEN	\$57,747.00	\$93,197.38	\$60,802.75	\$101,502.21	\$313,249.34
TOTAL MINORITY RESULTS	\$7,497.00	\$3,009.50	\$54,780.25	\$263,418.82	\$328,705.57
TOTAL G&S EXPENDITURES	\$65,244.00	\$96,206.88	\$115,583.00	\$364,921.03	\$641,954.91

Three year comparison:

16 expenditures for

S:

\$300,373,789.73

ans received:

\$699,290.53 0.232807%

frican Americans

eived:

\$322,078.76 0.107226%

panics received:

\$7,172.78 0.002388%

live Americans

eived:

\$82,227.47 0.027375%

men Owed received:

\$870,291.51 0.289736%

17 expenditures for

S:

\$318,066,097.52

ans received:

\$395,024.06 0.124196%

frican Americans

eived:

\$19,753.19 0.006210%

panics received:

\$6,895.84 0.002168%

live Americans

eived:

\$49,475.50 0.015555%

men Owed received:

\$409,154.03 0.128638%

18 expenditures for

S:

\$332,718,537.74

ans received:

\$235,501.82 0.070781%

frican Americans

eived:

\$10,887.00 0.003272%

panics received:

\$13,163.43 0.003956%

live Americans

\$69,153.32 0.020784%

eive.

men Owed received:

\$313,249.34 0.094148%

Source: USD 259 Purchasing a department in the Division of
erations.

pared by: Vickie Foss, CPPO
chasing Manager

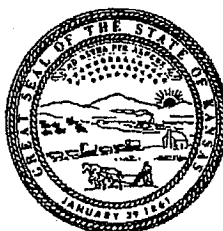
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75-5922 STATE DEPARTMENTS; PUBLIC OFFICERS, EMPLOYEES

services copies of reports received by the long-term care ombudsman relating to the health and safety of residents. A summary report and findings shall be forwarded to the facility, exclusive of information or material that identifies residents or any other individuals.

History: L. 1980, ch. 291, § 6; July 1.

75-5922. Same; ombudsman access to records and documents kept by department of health and environment and the department of social and rehabilitation services. An ombudsman shall have access to all records and documents kept by the department of health and environment and the department of social and rehabilitation services which relate to facilities and concern the following matters: (a) Licensure of facilities; (b) certification of facilities; (c) public funding reimbursement for care of residents of facilities; (d) utilization and medical review records; and (e) complaints regarding care of residents of facilities.

History: L. 1980, ch. 291, § 7; July 1.

75-5923. Toll-free telephone system established, purpose; duties of secretary; display of notice of existence of toll-free telephone system. (a) The secretary of aging shall establish a telephone system to assist older Kansans, friends and relatives of older Kansans and other persons in obtaining information about and access to services available to both institutionalized and non-institutionalized older Kansans. The telephone system shall be designed to permit any person in the state to place a toll-free call into the system.

(b) The secretary of aging shall:

(1) Publicize the existence and purpose of the toll-free telephone system established by this section and the telephone number of such system;

(2) develop policies and procedures to document requests for assistance and monitor follow-up on such requests;

(3) develop policies and procedures to maintain confidentiality of requests for assistance;

(4) develop a program to train and coordinate the use of older Kansans within the toll-free telephone system;

(5) provide as part of the toll-free telephone system a call-forward system to assist in providing access to information; and

(6) develop a handbook of information to answer requests and for further referral.

(c) Upon written notification by the secretary of aging, every adult care home, as defined in subsection (a)(1) of K.S.A. 39-923, title XX adult residential home licensed under K.S.A. 75-3307b, recuperation center, as defined in subsection (g) of K.S.A. 65-425, intermediate care facility, as defined in section 1905(c) of the federal social security act, skilled nursing facility, as defined in section 1861(j) of the federal social security, and any other institution or facility which is licensed or certified by the state, which offers health, social or dietary care to elderly persons on a regular basis, and which is financed in whole or in part by funds from the federal government, the state of Kansas, or any political subdivision thereof, shall prominently display notice of the existence of the toll-free telephone system established under this section and the telephone number of such system.

History: L. 1980, ch. 259, § 1; July 1.

75-5924. Older Kansans employment programs; location; grants and contracts; design of program; "older Kansan" defined.

(a) The secretary of aging shall establish in accordance with the provisions of this section three older Kansans employment programs. One program shall be established in a city which is a major population center of the state, one program shall be established in a city which in population is intermediate in size and one program shall be established in a city which in population is small in size. The secretary of aging may make grants to and enter into contracts with nonprofit agencies or organizations or public bodies for the purpose of providing for the development and operation of the various older Kansans employment programs.

(b) The older Kansans employment programs shall be designed as follows:

(1) The programs shall provide to older Kansans an employment placement service with emphasis on employment in the private sector for shared jobs, flex-time and part-time jobs; and

(2) The programs shall provide training in job seeking skills to potential employees who are older Kansans and assistance to potential employers in utilizing the contributions of older Kansans to their work force.

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The secretary of aging shall prepare annually a report evaluating the effectiveness of the older Kansans employment program and recommending measures to increase the number of older Kansans employed. The report shall be prepared and made available annually to the governor, members of the legislature, the secretary of human resources and the members of the advisory council on aging no later than December 15 in any year.

As used in this section, "older Kansan" means a resident of the state of Kansas who is 55 years of age or older.

History: L. 1982, ch. 333, § 1; July 1.

SMALL BUSINESS PROCUREMENT ACT

References to Related Sections:
 Section of purchases, department of administration,
 259, § 2, et seq.

75-6001. Short title. This act may be cited as the Kansas small business procurement act.

History: L. 1978, ch. 354, § 1; July 1.

75-6002. Policy; fair proportion of state purchases and contracts placed with small businesses. Because the existence of a strong and healthy free enterprise system is directly related to the well-being and competitive strength of small businesses and to the opportunity for these small businesses, including those owned and operated by minority persons, to have free entry into business to grow and to prosper, it is declared to be the policy of this state to ensure that a fair proportion, at least but not limited to ten percent (10%), of the total dollar amount of purchases of and contracts for property and services for the state (including but not limited to supplies, materials, equipment, maintenance, contracted services, repair services and construction) be placed with small businesses. Each state agency shall participate to the extent possible in carrying out this policy.

History: L. 1978, ch. 354, § 2; July 1.

75-6003. Definitions. As used in this act, unless the context clearly requires otherwise, the following words and phrases shall have the meanings respectively ascribed to them in this section:

"Small business" means a business which is independently owned and

operated, not dominant in its field of operation and is not an affiliate or division of a larger business.

(b) "Business" means: (1) An entity organized for profit, including but not limited to, an individual, partnership, corporation, joint venture, association or cooperative; or (2) a bona fide nonprofit organization operating primarily for the habilitation, rehabilitation or employment of handicapped persons which employs at least five handicapped persons for every nonhandicapped person who is directly engaged in the manufacture and processing of products by the nonprofit organization.

(c) "Dominant in its field of operation" means exercising a controlling or major influence in a kind of business activity in which a number of businesses are engaged. In determining if a business is dominant, the following criteria, among others, shall be considered: Number of employees; volume of business; financial resources; competitive status or position; ownership or control of materials, processes, patents, license agreements and facilities; sales territory; and nature of business activity. Furthermore, notwithstanding the above criteria, the following businesses shall be deemed dominant in their field of operation: (1) Manufacturing businesses which employ more than 50 persons and have in the preceding three fiscal years exceeded \$3,000,000 gross income annually; (2) general construction businesses which in the preceding three fiscal years exceeded \$4,000,000 gross income annually; (3) all other nonmanufacturing businesses which employ more than 25 persons and have in the preceding three fiscal years exceeded \$1,500,000 gross income annually.

(d) "Affiliate or division of a larger business" means a business which is a subsidiary of or owned in part by a larger business which is dominant in its field of operation, or which is owned in excess of 20% by the partners, officers, directors, majority shareholders or their equivalent, of a larger business which is dominant in its field of operation.

(e) "Small business set-aside" means a purchase request which will be offered to and response accepted only from small businesses.

(f) "Minority person" means a citizen of the United States who is Negro, Hispanic,

75-6004 STATE DEPARTMENTS; PUBLIC OFFICERS, EMPLOYEES

Oriental, American Indian, Eskimo or Aleut.

(g) "Highway contract" means any contract that is subject to the provisions of K.S.A. 68-410, and amendments thereto.

(h) "Handicapped person" means any person who:

(1) Has a temporary or permanent physical disability that requires the use of a wheelchair, walker, braces or crutches;

(2) has temporarily or permanently lost the use of one or both legs;

(3) is determined and certified by a physician to be severely restricted in mobility, either temporarily or permanently, by a pulmonary or cardiovascular disability, arthritic condition or orthopedic or neurological impairment; or

(4) is afflicted with or subject to any physical or mental impairment, or both, whether congenital or due to an injury, disease or illness of such character the impairment constitutes a handicap in obtaining employment or in retaining employment.

(i) "Minority business" means a business which more than 50% is owned by a minority person or persons.

(j) "Women-owned business" means a business which more than 50% is owned by a woman or women.

History: L. 1978, ch. 354, § 3; L. 1980, ch. 292, § 1; L. 1984, ch. 337, § 2; July 1.

75-6004. State agency purchases and contracts divided for placement in set-aside program; highway contracts; agency emergency purchases. (a) Notwithstanding any provisions of K.S.A. 75-3738 to 75-3741, inclusive, or K.S.A. 68-407 to 68-411, inclusive, and amendments to any of said statutes, to the contrary, the director of purchases shall divide proposed state agency purchases of and contracts for supplies, materials, equipment, maintenance, contractual services, repair services and construction into quantities which facilitate bidding by small businesses, except that highway contracts shall be divided by the secretary of transportation. The director of purchases shall have the authority to place nonconstruction contracts up to fifty thousand dollars (\$50,000) and construction contracts up to one hundred thousand dollars (\$100,000) in the state set-aside program for small businesses. The secretary of transportation shall have the authority to

place highway contracts up to one hundred thousand dollars (\$100,000) in the state set-aside program for small businesses. Contracts may be subdivided for placement into the state set-aside program when deemed necessary by the director of purchases.

(b) The set-aside authorized by subsection (a) shall be made prior to the advertisement for bids as provided by law, and when the advertisement is published it shall indicate the purchases which have been designated small business set-asides.

(c) A purchase request by a state agency for the purchase of or contracts for supplies, materials, equipment, maintenance, contractual services, repair services or construction which is requested on an agency emergency basis and is determined by the director of purchases to constitute an agency emergency requiring expedited processing, shall be placed in the set-aside program for small businesses under this act only if, in the judgment of the director of purchases, the request can be expeditiously processed by a small business.

History: L. 1978, ch. 354, § 4; July 1.

75-6005. Letting of set-aside contracts, highway contracts; bids; surety guarantees; price limits; procedure when contracts not let under set-aside program; eligibility of small businesses; in-state preference; other laws and rules and regulations. Notwithstanding any provisions of K.S.A. 75-3738 to 75-3741, inclusive, or K.S.A. 68-407 to 68-411, inclusive, and amendments to any of said statutes, to the contrary, the director of purchases or, in cases of highway contracts, the secretary of transportation shall let set-aside purchases and contracts according to the following:

(a) All contracts let under the small business set-aside program as described in K.S.A. 75-6004 shall be bid. Surety guarantees shall be required for highway contracts awarded hereunder by the secretary of transportation and on construction contracts awarded hereunder which are not highway contracts if deemed necessary by the director of purchases.

(b) The bid contract price, shall not exceed by more than ten percent (10%) the estimated contract price for the purchase of goods and services and shall not exceed by more than ten percent (10%) the estimated contract price in construction contracts, as

Taxation w/o Regs. is Tierney

These figures are determined by the director of purchases, or in cases of highway contracts, as such figures are determined by the secretary of transportation. Written estimates of contract prices are to be established prior to receipt of bids.

(c) In the event that the above subsections do not operate to provide a match-up between a qualified and eligible small business at an acceptable price, the set-aside contract shall be returned to the usual solicitation and bidding procedures, thereby cancelling the small business set-aside.

(d) The director of purchases or, in cases of highway contracts, the secretary of transportation shall be responsible to determine whether the small business is qualified and capable to perform the set-aside contract, considering, but not limited to, such items as technical competence, production and financial capacity to perform the set-aside contract. To the extent permitted by federal law and rules and regulations adopted thereunder, preference under the small business set-aside program shall be given to qualified small businesses having their principal place of business in Kansas.

(e) All laws and rules and regulations pertaining to competitive bids, the award of contracts and purchases and other purchasing matters shall apply, as consistent with this act, to contracts, including highway contracts, set aside for small businesses, except that in the event of conflicts, the provisions of this act and rules and regulations adopted under this act shall govern.

History: L. 1978, ch. 354, § 5; July 1.

75-6006. Secretaries of administration and economic development to publicize set-aside programs for deficient small businesses. (a) The secretary of administration and the secretary of economic development shall publicize the provisions of this act, attempt to identify qualified small businesses, including those owned and operated by minority persons, and encourage participation within the provisions of this act.

(b) When deficiencies are noted as provided by subsection (d) of K.S.A. 75-6005, every effort shall be made to eliminate the deficiencies by identifying and encouraging the use of management or financial assistance programs as may be available by or through the department of administration or

the department of economic development, and other state or governmental agencies, or private sources.

History: L. 1978, ch. 354, § 6; July 1.

75-6007, 75-6008.

History: L. 1978, ch. 354, §§ 7, 8; Repealed, L. 1984, ch. 337, § 4; July 1.

75-6009. Secretary of administration to administer act; rules and regulations; powers and duties of secretary of transportation. The secretary of administration shall be responsible for the administration of this act and may adopt rules and regulations for its implementation. The secretary of transportation may adopt rules and regulations for the administration and implementation of the powers, duties and functions imposed on the secretary of transportation by this act, except that such rules and regulations shall be subject to and consistent with the provisions of this act and the rules and regulations adopted by the secretary of administration for the administration or implementation of this act.

History: L. 1978, ch. 354, § 9; July 1.

75-6010. Expiration of act. The provisions of the Kansas small business procurement act shall expire on July 1, 1988.

History: L. 1978, ch. 354, § 10; L. 1980, ch. 293, § 1; L. 1984, ch. 337, § 1; July 1.

75-6011. Annual reports to governor, legislature and secretary of economic development; contents. The secretary of administration, with the assistance of the director of purchases, shall submit a report prior to the regular session of the legislature to the governor, the legislature and the secretary of economic development, indicating the estimated total dollar value of contracts let to small businesses and the estimated number of small businesses who received contracts in the preceding state fiscal year, based upon historical data. This report shall include:

(a) The total dollar value estimated to have been expended on contracts with small businesses and the estimated number of transactions this represents; and

(b) the actual total dollar value expended on contracts with minority businesses and women-owned businesses, and the actual number of transactions this represents.

History: L. 1984, ch. 337, § 3; July 1.

figures are determined by the director of purchases, or in cases of highway contracts, as such figures are determined by the secretary of transportation. Written estimates of contract prices are to be established prior to receipt of bids.

In the event that the above subsections do not operate to provide a match-up between a qualified and eligible small business at an acceptable price, the set-aside contract shall be returned to the usual solicitation and bidding procedures, thereby cancelling the small business set-aside.

(d) The director of purchases or, in cases of highway contracts, the secretary of transportation shall be responsible to determine whether the small business is qualified and capable to perform the set-aside contract, considering, but not limited to, such items as technical competence, production and financial capacity to perform the set-aside contract. To the extent permitted by federal law and rules and regulations adopted thereunder, preference under the small business set-aside program shall be given to qualified small businesses having their principal place of business in Kansas.

(e) All laws and rules and regulations pertaining to competitive bids, the award of contracts and purchases and other purchasing matters shall apply, as consistent with this act, to contracts, including highway contracts, set aside for small businesses, except that in the event of conflicts, the provisions of this act and rules and regulations adopted under this act shall govern.

History: L. 1978, ch. 354, § 5; July 1.

75-6006. Secretaries of administration and economic development to publicize assistance programs for deficient small businesses. (a) The secretary of administration and the secretary of economic development shall publicize the provisions of this act, attempt to identify qualified small businesses, including those owned and operated by minority persons, and encourage participation within the provisions of this act.

(b) When deficiencies are noted as provided by subsection (d) of K.S.A. 75-6005, every effort shall be made to eliminate the deficiencies by identifying and encouraging the use of management or financial assistance programs as may be available by or through the department of administration or

the department of economic development, and other state or governmental agencies, or private sources.

History: L. 1978, ch. 354, § 6; July 1.

75-6007, 75-6008.

History: L. 1978, ch. 354, §§ 7, 8; Repealed, L. 1984, ch. 337, § 4; July 1.

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(a) The total dollar value estimated to have been expended on contracts with small businesses and the estimated number of transactions this represents; and

(b) the actual total dollar value expended on contracts with minority businesses and women-owned businesses, and the actual number of transactions this represents.

History: L. 1984, ch. 337, § 3; July 1.

Kansas Small and Disadvantaged Business Development ACT (SB140)

Chester A. Daniel, President & CEO, Urban League of Kansas, Inc.
Testimony before the Senate Commerce Committee Hearing on SB140

The Urban League believes that this hearing on Senator Faust-Goudeau's Kansas Small and disadvantaged Business Development ACT (SB140) is a step in the right direction in bringing about equity and fairness in the access and full participation of minority and women owned businesses in federal, state and city contracts.

The symbol or logo that has identified the Urban League for over 100 years is the EQUAL sign—a sign that challenges all of us to be fair. SB140 both requires and challenge fairness, and this is the reason why we are here today.

On April 28, 2010, "*The Columbus Dispatch*", a local Ohio news paper, published a story with the caption: "Minority set-asides increasing—Administration's goal: 15% of state contracts." The staff writer, Dough Caruso, began the article as follows: "The Ohio Department of Health wants to hire a firm that can evaluate state programs that help people exercise, eat right and stop smoking. The state will receive \$200,000 in federal stimulus money for the job, but there's a catch: Only minority-owned firms need apply."

The article went on to say, "Such set-asides are becoming increasingly common as Gov. Ted Strickland's administration tries to meet the requirements of a state law that says 15 percent of Ohio's spending on goods and services - construction contracts are exempted - should go to minority-owned businesses, said Ron Sylvester, spokesman for the Ohio Department of Administrative Services."

In 2008, 3 percent of \$2.2 billion in state expenditures eligible to be set aside went to minority firms. In 2009, it was 5.5 percent. About 4 percent of the Department of Health's goods and services spending went to minority firms in 2009.

"I don't think enough attention was paid to this for several years," Sylvester said. "The Strickland administration is trying to get the state back to 15 percent and it's not going to happen overnight."

All across America, there have been efforts taking place to ensure that opportunities, real opportunities exist for minority groups to participate in contracts paid for by the taxes of citizens of this country. Whether it is in Ohio with the Department of Health or Atlanta with the Metropolitan Atlanta Rapid Transit Authority (MARTA), Florida, Georgia or Tennessee there are strong efforts to ensure that minority groups are set-aside contracts to guarantee their participation. Since its inception in 1971, MARTA has developed a workforce that reflects its commitment to diversity. In 1999, women accounted for 32 percent of all promotions, a 28 percent increase since 1996. This reality of diversity has made MARTA one of the top employers in Atlanta and now one of the many transit authorities recognized for its pledge to diversity.

*Senate Commerce Committee
Date: February 17, 2011
Attachment 5*

"MARTA has demonstrated its commitment to utilizing the talents of dedicated, well-trained, professional employees without differentiation of race or gender.

In Tampa, Florida they first passed the Women and Minority Business Enterprises ordinance in the 1980s, after a study found a pattern of (alleged) discriminatory hiring against women and minorities. Today Contractors hired by the city are required to have a certain percentage of women and minorities on staff if they employ more than 15 people and are seeking a contract of more than \$10,000. If the contract is worth more than \$50,000, the ordinance requires all businesses to comply, regardless of size.

"In the case of construction contracts, 10 percent of the employees or subcontractors on a project must be black, 9 percent must be Hispanic and 6 percent must be women. For professional services such as legal work, the numbers drop to 3 percent black, 7 percent Hispanic and 4 percent women." (Associated Press, 01-08-99)

The foregoing are a few examples of effort taking place in cities across the country to ensure inclusion and full participation of minority business owners in tax funded projects. However, the situation is not that simple. Minority set-asides have been controversial in Ohio since the state started using them in the 1980s. In 1998, a federal judge ended Ohio's set-aside program for construction contracts, saying that the state had failed to show any discrimination to justify the law. But in a similar case, the Ohio Supreme Court upheld state set-asides for goods and services.

In Nashville, TN some minority business owners urged the city in 1994 to conduct a \$600,000 disparity study to determine the nature and number of minority-owned business in Nashville. From that study, they hope policies and programs can be developed to encourage more government contracts to be awarded to minority-owned companies. In 1994, 0.37 percent of all Metro contracts were awarded to African-American-owned businesses, according to figures from the Minority Business Development Center.

The studies came into use after 1989, after a U.S. Supreme Court ruling in *City of Richmond v. J.A. Croson Co.* The court held that the city of Richmond, Va., failed to demonstrate "compelling government interest" for requiring construction contractors to subcontract at least 30 percent of the dollar amount of each contract to at least one minority business enterprise." [The Supreme Court believed the set-asides violate the Fourteenth Amendment].
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Again, the Urban League fully supports SB140 and regards it as a step in the right direction. We want to ensure that there is fairness across the board as it relates to full minority participation in all tax funded contracts.

Honorable legislatures of Kansas

My name is Lazone Grays Jr., and I am the President and Chief Executive Officer for IBSA, Inc., a Kansas nonprofit tax-exempt corporation founded and based in Topeka Kansas. I provide this testimony in support of efforts to strengthen and grow the many small, women, minority and disadvantaged business concerns in Kansas.

Since 1993, our organization has provided employment services and business support; with a primary focus on the low to-moderate income community and its residents. Founded on the philosophy of self-help, social entrepreneurship and public policy advocacy, IBSA has played a role in addressing issues surrounding disproportionate unemployment of African Americans, disparity in public funded procurement and in addressing inequity as a whole. We work directly with individuals, agencies and for other small businesses to help them navigate through the maze of startup and growth maneuvers.

I am speaking a lifelong Kansan in support of passing policy that will effectively address the longstanding real and apparent disparity that small women, minority and disadvantaged business concerns have faced for many decades in Kansas.

Logic prevails that the more people working; whether for themselves or someone else, increases the tax-base while fewer working Kansans reduce tax collections and higher unemployment in itself has a propensity to increase the need for public assistance to many. The longer a person stays unemployed.... the more running a small business becomes appealing, but if that small business venture fails, it could also become a slight door of hopelessness that could lead to criminal activity. Do we really know what it generally costs society to incarcerate a person, to subsidize the single-parent and their dependents, the true social cost to chronic high unemployment on the taxpayer?

IBSA serves many in target business populations identified in SB 140 and we believe passage of this bill can institute practices and procedures that can lay a foundation to elevating populations from the bottom up. We think it is good policy for states to set goals that address inequity in public spending, set guidelines to encourage equity in decision-making and to hold those that receive the bounty of public funded contracts and developments are held accountable to the standards of equity and performance measures set by the state.

Prepared by Lazone Grays, Jr.
President/CEO
IBSA, Inc.

2/16/2011

*Senate Commerce Committee
Date: February 17, 2011
Attachment 6*

No state government can fiscal sustain itself when so many of its citizens rest at the bottom of the economic scale. According to numerous studies; including those conducted by the Kauffman Foundation, The US Small Business Administration and the US Minority Business Development Agency, minorities have a tendency to venture into small business ownership than any other ethnicity; with African Americans leading the pack.

According to the US Census Bureau 2007 Special Tabulation for Minority Firms 2002, there were approximately 12,646 minority firms in Kansas; with:

4,468 be operated by African Americans (2 % of all Kansas Firms) and total receipts from those firms in 2002 of over \$373 million

4,176 be operated by Hispanic or Latino (1.9 % of all Kansas Firms) and total receipts from those firms in 2002 of over \$659 million

3,574 be operated by Asians and total receipts from those firms in 2002 of over \$896 million

According to the Kauffman Index of Entrepreneurial Activity 1996 - 2009, a leading indicator of new-business creation in the United States, the number of new businesses created during the 2007-2009 recession years increased steadily year to year... Entrepreneurship rates by race show that African-Americans experienced the largest increase in entrepreneurial activity between 2008 and 2009. Rising from 0.22 percent in 2008 to 0.27 percent in 2009, the rate was the highest over the 14 years of reported data but remains below other racial groups.

I provide a few statistics herein that should be of interest to this sitting body and if taken at face value, should help shape the concerns we are hoping to address with the passage of SB 140.

We have compiled statistical data to gauge the socioeconomic vitality of targeted minority demographics in cities, counties and the state of Kansas for over a decade. Our prime interests of research and study have been in the areas of unemployment, incarceration, welfare and procurement disparity. I have shared information and insights on disparity, but consider this:

Unemployment for African American men remained at over 17 percent in Wyandotte, Shawnee, Leavenworth and between 2008 - 2009 jumped to over 19% in all these counties; excluding Shawnee which rose five percentage points to 17.4 (up from 13.5%).

Unemployment Rate - 2008

	Both Sexes	Male	Female
	Unemployment Rate	Unemployment Rate	Unemployment Rate
Black or African American (Wyandotte)	13.3	<u>12.1%</u> 14.6	<u>14.4%</u> 12.3
Black or African American (Leavenworth)	9.9	<u>6.3%</u> 15.1	<u>3.5%</u> 5.1
Black or African American (Shawnee)	11.6	<u>4.5%</u> 13.5	<u>4.7%</u> 9.8

Unemployment Rate - 2007

	Both Sexes	Male	Female
	Unemployment Rate	Unemployment Rate	Unemployment Rate
Black or African American (Wyandotte)	16.1	17.7	14.9
Black or African American (Leavenworth)	11.7	17.8	6.0
Black or African American (Shawnee)	14.7	17.1	12.5

Unemployment Rate - 2006

Black or African American (Wyandotte)	16.1	<u>13.9%</u> 17.7	<u>14.6%</u> 14.9
Black or African American (Leavenworth)	11.7	<u>5.5%</u> 17.8	<u>4.8%</u> 6.0
Black or African American (Shawnee)	14.7	<u>4.4%</u> 17.1	<u>4.6%</u> 12.5

Unemployment Rate - 2005

	Both Sexes	Male	Female
	Unemployment Rate	Unemployment Rate	Unemployment Rate
Black or African American (Wyandotte)	16.1	<u>14.9%</u> 17.7	<u>13.6%</u> 14.9
Black or African American (Shawnee)	14.7	<u>4.4%</u> 17.1	<u>4.6%</u> 12.5

(underlined = percent of total county population)

African American men made up 3.1 % in 2002, 2.8 % in 2005 and again 3.1 % of the total Kansas population in 2008 but their incarceration rate among all ethnicities has held steadily above 30 percent.

2009 Taxpayer Cost - Annual Cost Per Inmate

Kansas	National Avg.
\$25,127	\$28,689

Data Sources: Federal Bureau of Investigation, U.S. Dept. of Justice, Bureau of Justice Statistics, U.S. Dept. of Justice, American Jail Assoc., American Correctional Assoc., State Government Websites

African American women made up less than 5 percent of the total state population but their rate of receiving Temporary Assistance to Needy Families (TANF), welfare or public assistance held steady between 30.5 percent in 2003 to 26.3 percent to this day.

**TANF RECIPIENTS RACE AND ETHNICITY BY STATE FISCAL YEAR
AVERAGED BY MONTH
KANSAS**

RACE	SFY 05	<u>Unemployment Rate</u>	
		SFY04	SFY03
WHITE	66.7%	66.2%	66.8%
BLACK	30.1% <i>12.2</i>	30.9% <i>12.5</i>	30.5%
AMERICAN INDIAN/ALASKA NATIVE	2.0%	1.9%	1.7%
ETHNICITY	SFY 05	SFY04	SFY03
HISPANIC	12.8%	11.8%	10.7%
NON-HISPANIC	87.2%	88.2%	89.3%

Source: SRS Admin.

RACE	SFY 06
WHITE	65.4%
BLACK	28.3% <i>10.8</i>
ETHNICITY	SFY 06
HISPANIC	13.0%
NON-HISPANIC	87.0%

RACE	SFY 07	SFY 08
WHITE	65.5%	65.4%
BLACK	28.6%	28.3%
ETHNICITY	SFY 07	SFY 08
HISPANIC	13.8%	14.0%
NON-HISPANIC	86.2%	86.0%

Represents the monthly average of TANF recipients in Kansas during State Fiscal Year 2007 which ran from July 2006 through June of 2007

RACE	SFY2010
WHITE	66.2%
BLACK	26.3%
ETHNICITY	SFY2010
HISPANIC	15.8%
NON-HISPANIC	84.2%

SOURCE: PRE-SAMPLED FEDERAL TANF REPORT (via ad-hoc job: SFYRACE)
Date Compiled: August 16, 2010

We regard this an issue as not one about hand-outs, a set-aside or affirmative action, but a timely effort to enact sound policy that will produce structure to programming aimed at nurturing disenfranchised business enterprises and communities into the streams of state commerce.

The strength of a chain rests in its weakest link, the prosperity of a state rests with its most vulnerable citizens.

Prepared by Lazone Grays, Jr.
President/CEO
IBSA, Inc.

2/16/2011

Population by Sex and Minority Status

Population	2009					
	Both Sexes		Male		Female	
	Number	Percent	Number	Percent	Number	Percent
All Persons	155,085	100.0	75,936	49.0	79,149	51.0
White	107,198	69.1	53,893	34.8	53,305	34.4
Black or African American	40,605	26.2	18,492	11.9	22,113	14.3
American Indian and Alaska Native	1,278	0.8	627	0.4	651	0.4
Asian	3,056	2.0	1,512	1.0	1,544	1.0
Native Hawaiian and Other Pacific Islander	112	0.1	53	0.0	59	0.0
Two or More Races	2,836	1.8	1,359	0.9	1,477	1.0
Hispanic or Latino (of any race)	36,030	23.2	19,307	12.4	16,723	10.8

Hispanic origin is considered an ethnicity, not a race. Hispanics may be of any race.

Labor Force Estimates by Sex and Minority Status

Civilian Labor Force	2009					
	Both Sexes		Male		Female	
	Number	Percent	Number	Percent	Number	Percent
All Persons	71,946	100.0	37,517	52.1	34,429	47.9
White	44,614	62.0	24,002	33.4	20,611	28.6
Black or African American	18,592	25.8	8,296	11.5	10,297	14.3
American Indian and Alaska Native	534	0.7	264	0.4	270	0.4
Asian	861	1.2	457	0.6	405	0.6
Native Hawaiian and Other Pacific Islander	52	0.1	21	0.0	31	0.0
Other Race	5,522	7.7	3,494	4.9	2,028	2.8
Two or More Races	1,770	2.5	983	1.4	787	1.1
Hispanic or Latino (of any race)	10,430	14.5	6,650	9.2	3,780	5.3

Employment	Both Sexes		Male		Female	
	Number	Percent	Number	Percent	Number	Percent
	Number	Percent	Number	Percent	Number	Percent
All Persons	64,549	100.0	33,549	52.0	31,000	48.0
White	41,370	64.1	22,184	34.4	19,186	29.7
Black or African American	15,331	23.8	6,707	10.4	8,625	13.4
American Indian and Alaska Native	471	0.7	216	0.3	255	0.4
Asian	854	1.3	453	0.7	401	0.6
Native Hawaiian and Other Pacific Islander	35	0.1	8	0.0	27	0.0
Other Race	4,933	7.6	3,125	4.8	1,808	2.8
Two or More Races	1,554	2.4	856	1.3	698	1.1
Hispanic or Latino (of any race)	9,306	14.4	6,025	9.3	3,281	5.1

Unemployment	Both Sexes		Male		Female	
	Number	Percent	Number	Percent	Number	Percent
	Number	Percent	Number	Percent	Number	Percent
All Persons	7,397	100.0	3,968	53.6	3,429	46.4
White	3,244	43.9	1,818	24.6	1,425	19.3
Black or African American	3,261	44.1	1,589	21.5	1,672	22.6
American Indian and Alaska Native	63	0.8	48	0.7	15	0.2
Asian	7	0.1	4	0.0	4	0.0
Native Hawaiian and Other Pacific Islander	17	0.2	13	0.2	4	0.0
Other Race	589	8.0	369	5.0	220	3.0
Two or More Races	216	2.9	127	1.7	89	1.2
Hispanic or Latino (of any race)	1,124	15.2	625	8.5	499	6.8

Unemployment Rate	Both Sexes		Male		Female	
	Unemployment Rate		Unemployment Rate		Unemployment Rate	
	Unemployment Rate		Unemployment Rate		Unemployment Rate	
All Persons	10.3		10.6		10.0	
White	7.3		7.6		6.9	
Black or African American	17.5		19.2		16.2	
American Indian and Alaska Native	11.8		18.2		5.6	
Asian	0.8		0.9		1.0	
Native Hawaiian and Other Pacific Islander	32.7		61.9		12.9	
Other Race	10.7		10.6		10.8	
Two or More Races	12.2		12.9		11.3	
Hispanic or Latino (of any race)	10.8		9.4		13.2	

Population by Sex and Minority Status

Population	2009						Leavenworth
	Both Sexes		Male		Female		
	Number	Percent	Number	Percent	Number	Percent	
All Persons	75,227	100.0	39,668	52.7	35,559	47.3	
White	64,769	86.1	33,393	44.4	31,376	41.7	
Black or African American	7,236	9.6	4,595	6.1	2,641	3.5	
American Indian and Alaska Native	599	0.8	397	0.5	202	0.3	
Asian	1,079	1.4	471	0.6	608	0.8	
Native Hawaiian and Other Pacific Islander	111	0.1	63	0.1	48	0.1	
Two or More Races	1,433	1.9	749	1.0	684	0.9	
Hispanic or Latino (of any race)	2,947	3.9	1,684	2.2	1,263	1.7	

Hispanic origin is considered an ethnicity, not a race. Hispanics may be of any race.

Labor Force Estimates by Sex and Minority Status

Civilian Labor Force	2009						Leavenworth
	Both Sexes		Male		Female		
	Number	Percent	Number	Percent	Number	Percent	
All Persons	33,178	100.0	17,038	51.4	16,140	48.6	
White	29,513	89.0	15,187	45.8	14,326	43.2	
Black or African American	2,150	6.5	1,079	3.3	1,070	3.2	
American Indian and Alaska Native	244	0.7	158	0.5	86	0.3	
Asian	295	0.9	77	0.2	219	0.7	
Native Hawaiian and Other Pacific Islander	20	0.1	20	0.1	0	0.0	
Other Race	275	0.8	154	0.5	122	0.4	
Two or More Races	680	2.0	363	1.1	317	1.0	
Hispanic or Latino (of any race)	977	2.9	540	1.6	437	1.3	

Employment	Both Sexes		Male		Female		
	Number	Percent	Number	Percent	Number	Percent	
	Number	Percent	Number	Percent	Number	Percent	
All Persons	30,609	100.0	15,488	50.6	15,121	49.4	
White	27,427	89.6	14,016	45.8	13,411	43.8	
Black or African American	1,857	6.1	864	2.8	992	3.2	
American Indian and Alaska Native	211	0.7	125	0.4	86	0.3	
Asian	282	0.9	77	0.3	206	0.7	
Native Hawaiian and Other Pacific Islander	10	0.0	10	0.0	0	0.0	
Other Race	240	0.8	119	0.4	122	0.4	
Two or More Races	581	1.9	277	0.9	304	1.0	
Hispanic or Latino (of any race)	924	3.0	487	1.6	437	1.4	

Unemployment	Both Sexes		Male		Female		
	Number	Percent	Number	Percent	Number	Percent	
	Number	Percent	Number	Percent	Number	Percent	
All Persons	2,569	100.0	1,550	60.3	1,019	39.7	
White	2,086	81.2	1,171	45.6	915	35.6	
Black or African American	293	11.4	215	8.4	78	3.1	
American Indian and Alaska Native	33	1.3	33	1.3	0	0.0	
Asian	13	0.5	0	0.0	13	0.5	
Native Hawaiian and Other Pacific Islander	10	0.4	10	0.4	0	0.0	
Other Race	35	1.4	35	1.4	0	0.0	
Two or More Races	99	3.8	86	3.3	13	0.5	
Hispanic or Latino (of any race)	53	2.1	53	2.1	0	0.0	

Unemployment Rate	Both Sexes		Male		Female		
	Unemployment Rate		Unemployment Rate		Unemployment Rate		
	Unemployment Rate		Unemployment Rate		Unemployment Rate		
All Persons		7.7		9.1		6.3	
White		7.1		7.7		6.4	
Black or African American		13.6		19.9		7.3	
American Indian and Alaska Native		13.5		20.9		0.0	
Asian		4.4		0.0		5.9	
Native Hawaiian and Other Pacific Islander		50.0		50.0		0.0	
Other Race		12.7		22.7		0.0	
Two or More Races		14.6		23.7		4.1	
Hispanic or Latino (of any race)		5.4		9.8		0.0	

Population by Sex and Minority Status

Population by Sex and Minority Status	2009					Shawnee
	Both Sexes		Male		Female	
	Population	Number	Percent	Number	Percent	
All Persons	176,255	100.0	85,586	48.6	90,669	51.4
White	150,396	85.3	73,002	41.4	77,394	43.9
Black or African American	16,170	9.2	7,890	4.5	8,280	4.7
American Indian and Alaska Native	2,529	1.4	1,210	0.7	1,319	0.7
Asian	2,550	1.4	1,240	0.7	1,310	0.7
Native Hawaiian and Other Pacific Islander	97	0.1	53	0.0	44	0.0
Two or More Races	4,513	2.6	2,191	1.2	2,322	1.3
Hispanic or Latino (of any race)	16,667	9.5	8,538	4.8	8,129	4.6

Hispanic origin is considered an ethnicity, not a race. Hispanics may be of any race.

Labor Force Estimates by Sex and Minority Status

Labor Force Estimates by Sex and Minority Status

2009

Shawnee

Civilian Labor Force

Both Sexes

Male

Female

Number

Percent

Number

Percent

Number

Percent

All Persons

93,559

100.0

47,977

51.3

45,582

48.7

White

79,546

85.0

40,822

43.6

38,725

41.4

Black or African American

7,367

7.9

3,610

3.9

3,757

4.0

American Indian and Alaska Native

1,050

1.1

479

0.5

572

0.6

Asian

870

0.9

475

0.5

396

0.4

Native Hawaiian and Other Pacific Islander

68

0.1

42

0.0

26

0.0

Other Race

2,559

2.7

1,503

1.6

1,056

1.1

Two or More Races

2,099

2.2

1,048

1.1

1,052

1.1

Hispanic or Latino (of any race)

5,982

6.4

3,385

3.6

2,597

2.8

Employment

Both Sexes

Male

Female

Number

Percent

Number

Percent

Number

Percent

All Persons

87,517

100.0

44,633

51.0

42,884

49.0

White

75,270

86.0

38,434

43.9

36,837

42.1

Black or African American

6,256

7.1

2,983

3.4

3,273

3.7

American Indian and Alaska Native

936

1.1

455

0.5

482

0.6

Asian

821

0.9

461

0.5

360

0.4

Native Hawaiian and Other Pacific Islander

68

0.1

42

0.0

26

0.0

Other Race

2,277

2.6

1,313

1.5

964

1.1

Two or More Races

1,888

2.2

946

1.1

943

1.1

Hispanic or Latino (of any race)

5,372

6.1

3,030

3.5

2,342

2.7

Unemployment

Both Sexes

Male

Female

Number

Percent

Number

Percent

Number

Percent

All Persons

6,042

100.0

3,344

55.3

2,698

44.7

White

4,276

70.8

2,388

39.5

1,888

31.3

Black or African American

1,111

18.4

627

10.4

484

8.0

American Indian and Alaska Native

114

1.9

24

0.4

90

1.5

Asian

49

0.8

14

0.2

36

0.6

Native Hawaiian and Other Pacific Islander

0

0.0

0

0.0

0

0.0

Other Race

282

4.7

190

3.1

92

1.5

Two or More Races

211

3.5

102

1.7

109

1.8

Hispanic or Latino (of any race)

610

10.1

355

5.9

255

4.2

Unemployment Rate

Both Sexes

Male

Female

Unemployment Rate

Unemployment Rate

Unemployment Rate

All Persons

6.5

7.0

5.9

White

5.4

5.8

4.9

Black or African American

15.1

17.4

12.9

American Indian and Alaska Native

10.9

5.0

15.7

Asian

5.6

2.9

9.1

Native Hawaiian and Other Pacific Islander

0.0

0.0

0.0

Other Race

11.0

12.6

8.7

Two or More Races

10.1

9.7

10.4

Hispanic or Latino (of any race)

10.2

10.5

9.8

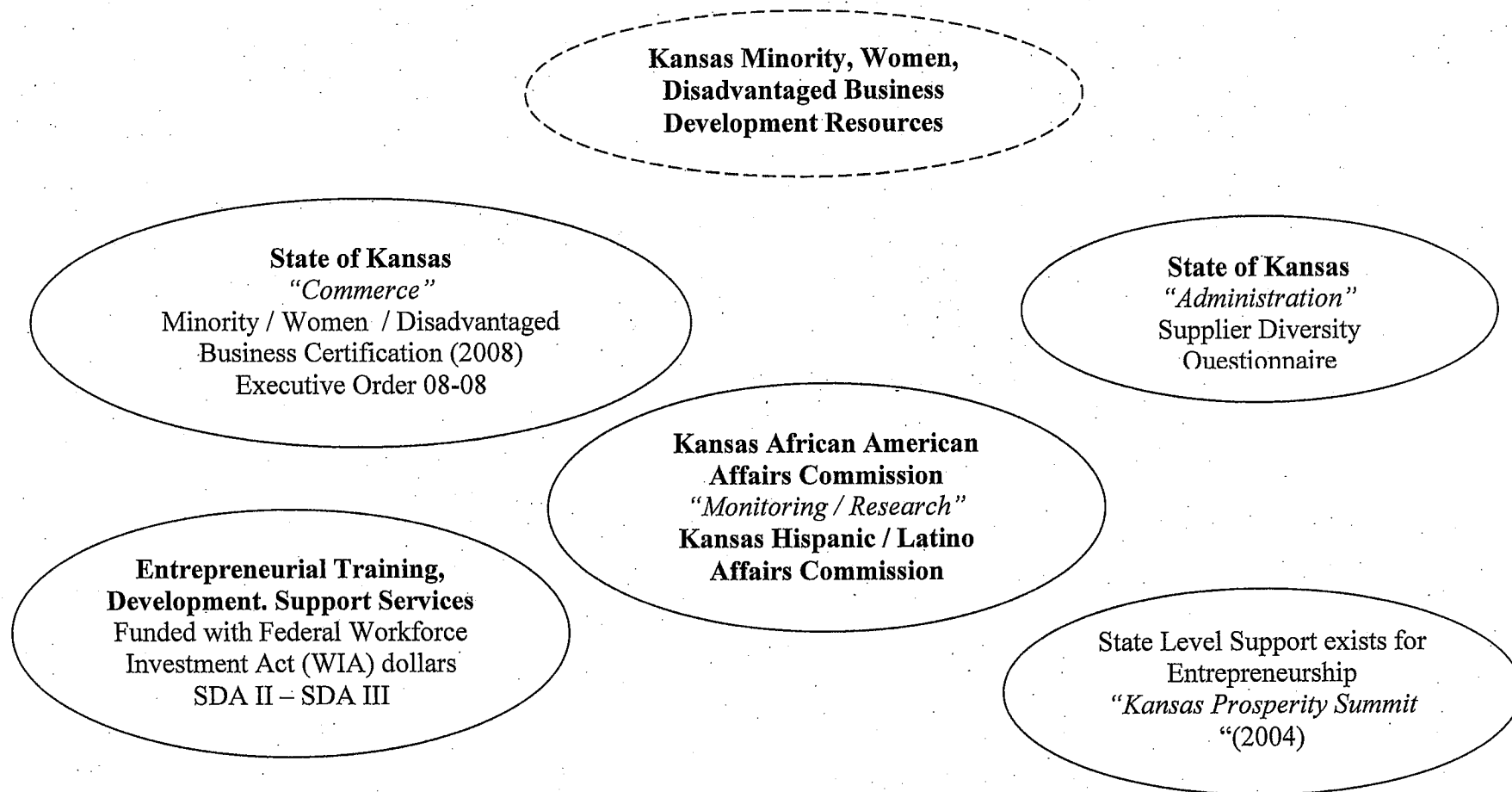
Population by Sex and Minority Status

Population by Sex and Minority Status			2009				Sedgwick
Population	Both Sexes		Male		Female		
	Number	Percent	Number	Percent	Number	Percent	
All Persons	490,864	100.0	243,035	49.5	247,829	50.5	
White	407,051	82.9	201,757	41.1	205,294	41.8	
Black or African American	47,240	9.6	22,836	4.7	24,404	5.0	
American Indian and Alaska Native	5,442	1.1	2,756	0.6	2,686	0.5	
Asian	19,446	4.0	10,047	2.0	9,399	1.9	
Native Hawaiian and Other Pacific Islander	497	0.1	259	0.1	238	0.0	
Two or More Races	11,188	2.3	5,380	1.1	5,808	1.2	
Hispanic or Latino (of any race)	54,268	11.1	28,382	5.8	25,886	5.3	

Hispanic origin is considered an ethnicity, not a race. Hispanics may be of any race.

Labor Force Estimates by Sex and Minority Status

Labor Force Estimates by Sex and Minority Status			2009		Sedgwick	
Civilian Labor Force	Both Sexes		Male		Female	
	Number	Percent	Number	Percent	Number	Percent
All Persons	257,065	100.0	138,961	54.1	118,104	45.9
White	210,569	81.9	114,090	44.4	96,480	37.5
Black or African American	20,603	8.0	10,116	3.9	10,486	4.1
American Indian and Alaska Native	2,665	1.0	1,452	0.6	1,213	0.5
Asian	7,470	2.9	4,266	1.7	3,204	1.2
Native Hawaiian and Other Pacific Islander	233	0.1	153	0.1	80	0.0
Other Race	9,691	3.8	5,796	2.3	3,896	1.5
Two or More Races	5,834	2.3	3,088	1.2	2,746	1.1
Hispanic or Latino (of any race)	17,668	6.9	10,427	4.1	7,241	2.8
Employment	Both Sexes		Male		Female	
	Number	Percent	Number	Percent	Number	Percent
All Persons	235,878	100.0	127,974	54.3	107,904	45.7
White	196,337	83.2	106,812	45.3	89,525	38.0
Black or African American	16,828	7.1	8,115	3.4	8,713	3.7
American Indian and Alaska Native	2,278	1.0	1,293	0.5	985	0.4
Asian	6,739	2.9	3,797	1.6	2,942	1.2
Native Hawaiian and Other Pacific Islander	233	0.1	153	0.1	80	0.0
Other Race	8,197	3.5	5,012	2.1	3,186	1.4
Two or More Races	5,266	2.2	2,792	1.2	2,474	1.0
Hispanic or Latino (of any race)	15,228	6.5	9,058	3.8	6,170	2.6
Unemployment	Both Sexes		Male		Female	
	Number	Percent	Number	Percent	Number	Percent
All Persons	21,187	100.0	10,987	51.9	10,200	48.1
White	14,232	67.2	7,278	34.3	6,955	32.8
Black or African American	3,775	17.8	2,001	9.4	1,773	8.4
American Indian and Alaska Native	387	1.8	159	0.8	228	1.1
Asian	731	3.5	469	2.2	262	1.2
Native Hawaiian and Other Pacific Islander	0	0.0	0	0.0	0	0.0
Other Race	1,494	7.1	784	3.7	710	3.4
Two or More Races	568	2.7	296	1.4	272	1.3
Hispanic or Latino (of any race)	2,440	11.5	1,369	6.5	1,071	5.1
Unemployment Rate	Both Sexes		Male		Female	
	Unemployment Rate		Unemployment Rate		Unemployment Rate	
All Persons	8.2		7.9		8.6	
White	6.8		6.4		7.2	
Black or African American	18.3		19.8		16.9	
American Indian and Alaska Native	14.5		11.0		18.8	
Asian	9.8		11.0		8.2	
Native Hawaiian and Other Pacific Islander	0.0		0.0		0.0	
Other Race	15.4		13.5		18.2	
Two or More Races	9.7		9.6		9.9	
Hispanic or Latino (of any race)	13.8		13.1		14.8	



Kansas Prosperity Summit History

The first Prosperity Summit took place in 2003 under the leadership of Gov. Kathleen Sebelius and Lt. Gov. John Moore and involved more than 1,500 community and business leaders from across the state. The results were nothing short of dramatic, as the most fundamental initiatives developed during the Summit were overwhelmingly endorsed by the Legislature in the form of the Kansas Economic Growth Act. Among the components of this legislation was:

- The establishment of the *Kansas Bioscience Authority* to develop a prominent bioscience industry in Kansas
- The creation of the *Kansas Center for Entrepreneurship* and the *Kansas Community Entrepreneurship Fund* to coordinate resources for entrepreneurial aid
- An historic *modernization of the state's workforce training programs* to create a seamless, market-driven system designed to help Kansas workers and employers.

Need for Disparity Study

State of Kansas
*Kansas Small and Disadvantaged
Business Development Act*
Senate Bill No. 140
"Proposed"

*Set Goals and Utilization Rate
for State Contracting &
Procurement

*Tracks the utilization of
Minority & Women Business
Enterprises on State-funded
Contracting & Procurement

Kansas Dept. of Commerce
Office of Minority & Women
Business Development

*Establishes requirements for
the coordination, monitoring and
compliance of State M/W/DBE
procurement efforts within each
agency level

*Requires annual report to the
Legislature, Governor, State
Agency Heads?

Kansas Workforce Development
*Workforce Investment Act (WIA)**
Funded by U.S. Dept. of Labor
SRS Vocational Rehabilitation

Green Jobs/Training

Wind Technology
Solar Technology
Building Retrofitting
Energy Auditing
(residential/commercial)
Weatherization

Adult Programs & Services

Funded with Federal Workforce
Investment Act (WIA) dollars

*income eligible	Job Search
*homeless	Interviews
*hard-to-serve	Resume Help
*ex-offenders	Job Training

Pre-apprenticeships

Remedial Math & Reading
Worksite Safety
OSHA Training & Certification
Lead-Safe Work Practice
Reading Technical Manuals
Understanding Apprenticeshipable
Occupations
Constructing Scaffolding
Tools of the trade and their use
Formal Apprenticeship Programs

**Entrepreneurial Training,
Development. Support Services**
Funded with Federal Workforce
Investment Act (WIA) dollars
SDA II – SDA III

Youth Programs & Services*

Guidance Counseling
Mentoring/Tutoring
Paid/Unpaid Work Experience
Career Counseling
On-the-Job Training
Job Shadowing
Life Skills Workshops
Job Club Workshops
Entrepreneurship

Relevant Apprenticeships

Carpentry	Painting
HVAC	Electrician
Drywall	Siding
Flooring	Housekeeping
Roofing	Equipment Operators

**Need to tie public-funded
construction projects to OJT
and Apprenticeships.**

Entrepreneurial Synergy, LLC

3625 SW 29th Street, Suite 100

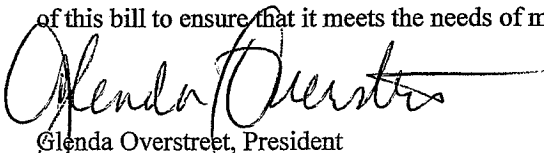
Topeka, Kansas 66614

Website: www.Ensynergyteam.com Email: ensynergy@cox.net Phone: (785) 215-8667

Entrepreneurial Synergy, LLC is a Kansas organization that was formed to provide entrepreneurial training and consultative services to minority, disadvantaged, and women business owners. Entrepreneurial Synergy (EnSynergy), LLC thanks the Commerce Committee for the opportunity to share its position on Senate Bill 140. EnSynergy stands as a proponent of enacting the Kansas small and disadvantaged business development program and supports specifically the following:

- Authorizing appropriate staff to develop, plan, and implement in consultation with a committee made up of minority and disadvantaged small business owners to implement one or more programs that will provide minority and disadvantaged businesses who have been legally formed within the State of Kansas with opportunities to participate in public works, goods, and services procured by state agencies and post-secondary educational institutions.
- Supports the formation of minority and disadvantaged set-aside business procurement programs by each city, county, unified school district, in addition to the State of Kansas within the State of Kansas.
- Supports the development and reporting of a comprehensive plan that insures qualified minority and disadvantaged businesses are given opportunities to participate in public contracts.
- Supports the receipt of complaints, reporting, compliance, correction of violations, and enforcement of the provisions outlined in SB140.

Further, Entrepreneurial Synergy would be happy to assist with the planning, development and implementation of this bill to ensure that it meets the needs of minority and disadvantaged business owners.


Glenda Overstreet, President
Entrepreneurial Synergy, LLC

*Senate Commerce Committee
Date: February 17, 2011
Attachment 7*



Testimony on Senate Bill 140 concerning small and disadvantaged businesses

Kansas State NAACP Conference of Branches

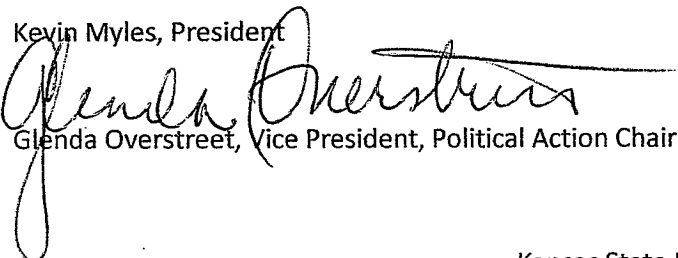
February 17, 2011

The Kansas State NAACP Conference of Branches thanks you for the opportunity to share its position with the members of the Senate Committee of Commerce regarding Senate Bill 140.

The Kansas State NAACP which consists of over 2000 members across the State of Kansas stands as a proponent of the act concerning small and disadvantaged businesses and the proposed provisions set forth in this bill. In addition, the Kansas State NAACP would offer its involvement as a partner to help plan, develop, and implement the goals set forth in the provisions of this bill. Further, we support the authorization to adopt a minority and disadvantaged and business set-aside procurement program at the State, county, and city and unified school district levels.

The Kansas State NAACP Conference would like to ensure that there are appropriate steps taken to measure and monitor on a regular basis the compliance of this bill should it be passed and that appropriate reporting of such specific results such as the name of recipient qualified minority and disadvantaged businesses, type of contract, length of contract, amount of contract awarded and other detail information be made available in an annual report to Kansas residents via the Department of Commerce website with appropriate notification made regarding the availability of the report to the public in public media venues accordingly.

Kevin Myles, President


Glenda Overstreet, Vice President, Political Action Chair & Registered Lobbyist

Kansas State NAACP

Small Disadvantage Business Development

I would like to speak to you about my Small Disadvantage Business; most people believe that you need thousands of dollars to start a small business. I am living proof that you can start a business with an idea, determination, hard work, a good advisor who is someone who is experience in running a small business and sales.

Of course a speaker that spoke on TV years ago said all you need is a vehicle; my vehicle was a used steam cleaner extractor that was sold at an auction. We took this extractor put it in the back of our car and began to make sales, do a good job and you will get repeat customers. And the best advertisement is still word of mouth. Reinvest in your business this will build business. Yes, you must pay your taxes which should be used to implement the various programs to help grow small business.

We got our first break in 2004 as a small business we were awarded a hundred thousand dollar contract to clean the military barracks. Only because the mother of a soldier complains on her sons living conditions which went to the media which created bad press. This created our first and to this day only sole source contract. When we were awarded this contract the army had reservations if we would be able to succeed on this contract. It was told to me that many other small disadvantage businesses had tried but were not able to deliver. At the time we only had a couple of employees however thru strong management we were able to utilize the Topeka workforce to gather a total of 30 employees' to complete the task. We also stood on faith from God and ask him to be with us.

We not only completed all building in a timely manner but also received a 96% rating at the completion of project.

Who are the small businesses who you could support, small business is made up of ordinary citizens who have a dream and need your support in acquiring there dream. My thoughts when I opened my business was too create an environment where the

employee's would be treated as an equal and not subjected too the current way business is done, our goals were to create a paradigm where employee would enjoy working as long as they were willing to work hard. This has been successful. Small business is your local bakery, mom and pop stores, local restaurants, carpet cleaners, computer repair company, local FBO these are some of the examples of who create jobs in our local communities. They pay a fair wage and with your assistance can grow to continue to hire and support local community. Too many times I see where jobs are given to outsiders who have no concern with local communities, this is not good business. We need too make sure our local businesses our succeeding before going outside to find big business who need more dollars to run there business because they are so big. I do not believe in too big too fail. This is a failed tactic, for there is a small business who can become filler for that large business if they happen to fail. In order to become innovative you must allow new technology to intercede. Or it will be business as usual; the question is how much longer can we continue business as usual?

Small business is made up of more than just African American businesses this is a misnomer. There are many women owned small businesses Hispanic business owners and Caucasian owned small businesses small business is the root to our survival and we must support each and every one of these businesses because they hire family member's relatives and a large segment of the community in which they live. The statistics show that the African American's are suffering the most right now thru unemployment. Would this suggest that African American business owners should have more support? I believe that since we are at the bottom economically than this legislature will either encourage thru there vote for a helping hand or not. Let your local constituents realize that change is coming by supporting this legislation and than making strong commitments to support those small business programs.

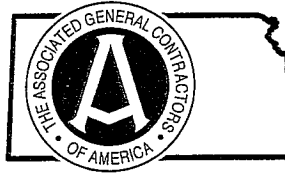
Too many times are laws put in place without the proper enforcement mechanisms? Does the local government set-aside at least 10% of its dollars for minority business owners? This is a mandate that the late President Bush required for the Federal Government. Kansas has yet too state any mandates, in doing so what is the message that

you are giving and we are receiving? As God's children we deserve better all black people are not bad and all white people are not good. We have mixtures of good and bad in all races let us today live up too Martin Luther Kings dream and look at the character of that business owner let us show the country as well as the world that we are no longer going to be subject too those old stigma's. If we have the courage to do so, I will guarantee to you today that we will continue to build a strong America. If not business will continue as usual and we will need to blame no one other than ourselves when God comes back one day too Judge us all!

Small business is the backbone too creating local jobs if we put this formula too work it will lessen crime rates. Most people create crimes because they fill cornered, this is your opportunity to give those small businesses support, some will succeed some will fail however we all just need a chance. The phrase I want to leave with you today is "Each one teaches one" This will lead to a better local environment. Thank You

JB Carpet & Upholstery Care
James L. Bolden Jr.

KANSAS CONTRACTORS ASSOCIATION



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Testimony

By the Kansas Contractors Association

before the Senate Commerce Committee on SB. 140,

the small and disadvantaged business development act.

February 17, 2011

Madame Chairman and members of the Committee, I am Bob Totten, Public Affairs Director for the Kansas Contractors Association. Our organization represents over 300 companies who are involved in the construction of highways and water treatment facilities in Kansas and the Midwest. We have been the voice of the construction industry since 1923.

Today, I appear in opposition to a segment of this bill as it will change the way bids are handled in Kansas. We do not want to be viewed as opposed to the merits of the program outlined but want to raise a concern about the sweeping changes made in the bid statutes that are outlined on page four, Section 6.

The bidding procedures in the state and specifically KDOT have undergone much scrutiny over the past 80 years and quite frankly we like the way the laws are

*Senate Commerce Committee
Date: February 17, 2011
Attachment 8*

now.

Our membership is very comfortable with the awarding of a contract based on the lowest and best responsible bid. That basic premise insures that no company has a better chance to get a project than another. There are too many instances where our members worry about how one bidder gets favored treatment over another. The language mentioned in this section appears to change how the process would work and we are very concerned that if this bill were passed, it would cause additional problems for everyone.....and then in a direct way allow political groups to hold sway over which company should get the needed highway project.

A large portion of the work our members bid on is with KDOT or through KDOT for county work. If KDOT has to conform with this legislation, Kansas might find itself in conflict with the federal government and lose what federal funds Kansas receives for highway construction.

At last report that federal funding amounts to about \$366 million a year or about a third of KDOT's budget.

Because of that concern and the fact that the bidding laws have been vetted over a long period of time, we oppose this bill or suggest changes be made in Section 6.

I appreciate the time you have heard on this important issue to our industry and stand for questions.



Building a Better Kansas Since 1934
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TESTIMONY OF
ASSOCIATED GENERAL CONTRACTORS OF KANSAS
BEFORE SENATE COMMITTEE ON COMMERCE
SB 140

February 17, 2011

By Corey Peterson, Associated General Contractors of Kansas, Inc.

Madame Chair and members of the committee, my name is Corey Peterson. I am Executive Vice President of the Associated General Contractors of Kansas, Inc. The AGC of Kansas is a trade association representing the commercial building construction industry, including general contractors, subcontractors and suppliers in Kansas (with the exception of Johnson and Wyandotte counties).

While AGC of Kansas fully supports small, disadvantaged, minority and women-owned businesses, it opposes Senate Bill 140.

AGC has a long-standing policy opposing bidder preferences and/or quotas. For years AGC has opposed preferences for in-state contractors and for similar reasons it opposes this bill.

AGC welcomes the opportunity to work with women or minority-owned or other disadvantaged companies to provide the tools and assistance necessary to thrive in the commercial building construction marketplace. AGC wants every company to have the opportunity to be successful, but deems quotas and preferences of one company over another to be in conflict with the free market system and the association's current policy.

Thank you for allowing AGC of Kansas to provide input on this bill.

*Senate Commerce Committee
Date: February 17, 2001
Attachment 9*

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Deb Miller, Secretary

Kansas Department of Transportation

Sam Brownback, Governor

**TESTIMONY BEFORE
SENATE COMMERCE COMMITTEE**

**REGARDING SENATE BILL 140
KANSAS SMALL AND DISADVANTAGED BUSINESS
DEVELOPMENT PROGRAM**

February 17, 2011

Madam Chair and Committee Members:

Good morning Madam Chair, members of the committee. I am Lindsey Douglas, Chief of Governmental Affairs for the Kansas Department of Transportation (KDOT), here today to testify as neutral to SB 140, which will enact the Kansas Small and Disadvantaged Business Development Program.

The Kansas Department of Transportation (KDOT) has established a Disadvantaged Business Enterprise (DBE) Program in accordance with 49 Code of Federal Regulations (CFR) Part 26. The department is required to operate the DBE program as a condition of receiving federal assistance from the U.S. Department of Transportation (USDOT). The DBE program is established using 49 CFR Part 26 and current federal guidelines approved by the Federal Highway Administration. It is the policy and commitment of KDOT that disadvantaged businesses as defined in 49 CFR Part 26 shall have a level playing field to participate in the performance of contracts financed in whole or in part with federal funds. KDOT Office of Civil Rights and Kansas Department of Commerce are members of the Kansas Statewide Certification Program and jointly may certify construction and non-construction DBEs who are interested in doing work in the state of Kansas.

Current language in SB 140 raises concerns about the department's DBE program as it operates today. In order to continue to receive federal funds, we must maintain a DBE program in accordance with 49 CFR Part 26, and federal guidelines. While we agree with the intent of the legislation, the department requests that the bill be amended to exempt KDOT from the legislation.

If the department is required to meet goals within a program that does not comply with our governing federal regulations, we run the risk of losing our federal assistance.

Thank you for the opportunity to provide testimony on SB 140. I will gladly stand for questions at the appropriate time.

*Senate Commerce Committee
Date: February 17, 2011
Attachment 10*