

Approved March 28, 1988  
Date

MINUTES OF THE SENATE COMMITTEE ON ECONOMIC DEVELOPMENT

The meeting was called to order by Senator Wint Winter, Jr. at  
Chairperson

12:40 ~~am~~ p.m. on March 1, 1988 in room 254-E of the Capitol.

All members were present except:

Senator Paul Burke - Excused

Committee staff present:

Bill Edds, Revisor of Statutes' Office  
Lynne Holt, Legislative Research Department  
Mary Allen, Secretary to the Committee

Conferees appearing before the committee:

D. Wayne Zimmerman, Kansas Department of Commerce  
Joe Norton, Gilmore and Bell, Wichita  
Phil Wolfe, Nichols and Wolfe, Topeka  
E. A. Mosher, League of Kansas Municipalities  
Allen Bell, President, Kansas Development Finance Authority

The meeting was called to order at 12:40 p.m. by the Chairman, Senator Wint Winter, Jr.

House Bill 2645 - An Act enacting the Kansas private activity bond allocation act.

D. Wayne Zimmerman, Deputy Secretary of Commerce, told the Committee that HB 2645 provides for the allocation of private activity bonds issued in the State of Kansas. He said that the Internal Revenue Code of 1986 placed restrictions on tax-exempt private activity bonds which can be issued as well as a distribution formula for allocating the state ceiling. Under the federal code, states have the authority to allocate the volume cap under a formula other than that prescribed by the code. He observed that the State of Kansas has previously allocated the state ceiling on tax-exempt bond issues by a series of executive orders, the last being Executive Order 87-95, under interim authority granted to the Governor by provisions of the Internal Revenue Code. He said that the Governor's interim authority expired December 31, 1987, and noted that the Legislature now must provide a formula for this allocation of the state ceiling on private activity bonds or Kansas will continue to be governed by the formula prescribed by the Internal Revenue Code. Mr. Zimmerman stated that the IRS formula allocates the state ceiling among local governmental issuing authorities on a pro rata population basis. HB 2645 requires the Secretary of Commerce to allocate the state ceiling. (See Attachment I for a copy of his statement with attachments.)

Joe Norton, Gilmore and Bell, spoke to the Committee on the concepts behind the amendments to HB 2645 which were placed on the bill by the House Committee on Economic Development. He observed that the initial draft of the bill is substantially identical to the Governor's Executive Order. He said that there were basically two concepts behind the amendments. The first was to create a set aside for small issue bonds. The amendment in line 51 was to provide for this set aside in the amount of \$25 million. In keeping with the idea that the overall state pool was reduced from \$250 million to \$150 million, it was thought to be advisable to reduce to \$5 million the prior \$15 million set asides referred to in lines 45 and 49 of the bill. He observed that none of the previous \$15 million allocations were requested in 1987.

Mr. Norton said that the second amendment concept was to back date the year end rush from the allocation expiration date of December 15 to December 1. This would give the Secretary of Commerce a little more discretion and time to deal with the year end rushes to market so that various allocations can be made to benefit the most number of cities and issues as opposed to one issue wiping out the allocation.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ECONOMIC DEVELOPMENT

room 254-E, Statehouse, at 12:40 ~~am~~ p.m. on March 1, 1988

Phil Wolfe, Nichols and Wolfe, discussed and explained each section of HB 2645 with emphasis on the mechanism of the allocation process. He observed that this bill basically represents a codification of the Governor's Executive Order 87-95 with certain select changes. Mr. Wolfe said that the foundation for the amount of \$25 million as a set aside for qualified small issue bonds came from the fact that \$16 million to \$17 million was allocated last year for small issue activity with another \$6 million or so for multi family financing.

E. A. Mosher, League of Kansas Municipalities, spoke to the Committee in support of HB 2645. He observed that this bill provides for a workable allocation procedure and system. Mr. Mosher suggested that the bill provide for an advisory committee to assist the Secretary of Commerce in reviewing and evaluating the use of and demand for allocation of the state ceiling for issuance of private activity bonds. He observed that he would like to see some government officials on such an advisory committee and not just bond dealers and bond counsels. He said that he feels that it would be sufficient to authorize formation of such a committee rather than to mandate it. He suggested that HB 2645 be amended on page 5, line 156 before the period by inserting the words "and may utilize an advisory committee to assist in the determination of such allocations".

Allen Bell, Kansas Development Finance Authority, said that the KDFA supports HB 2645 as amended. He stated that he supports the proposed amendment to create a reservation for small issue IDBs so that small issue projects that come together late in the year will still have a chance of receiving an allocation. (See Attachment II for his statement.)

Senator Hayden moved that the minutes of the February 15, 1988, meeting of the Committee be approved. Senator Langworthy seconded the motion. The motion carried.

The meeting was adjourned at 1:35 p.m. by the Chairman.



TESTIMONY

on

HOUSE BILL 265<sup>4</sup>~~4~~

Presented to

SENATE ECONOMIC DEVELOPMENT COMMITTEE

by

D. Wayne Zimmerman

Deputy Secretary of Commerce

March 1, 1988

*Attachment I*  
*Senate Economic Development*  
*3-1-88*

Mr. Chairman and Members of the Committee,

House Bill 26<sup>45</sup>~~54~~, introduced by the Joint Committee on Economic Development, provides for the allocation of private activity bonds issued in the State of Kansas. The Internal Revenue Code of 1986 placed restrictions on tax-exempt private activity bonds which can be issued as well as a distribution formula for allocating the state ceiling.

Under the federal code, states have the authority to allocate the volume cap under a formula other than that prescribed by the code. The State of Kansas has previously allocated the state ceiling on tax-exempt bond issues by a series of executive orders, the last being Executive Order 87-95, under interim authority granted to the Governor by the provisions of the Internal Revenue Code.

The Governor's interim authority expired on December 31, 1987. The Legislature now must provide a formula for the allocation of the state ceiling on private activity bonds or we will continue to be governed by the formula prescribed by the Internal Revenue Code.

An example of an application of the IRS Formula is attached. It allocates the state ceiling among local governmental issuing authorities on a pro rata population basis. This means that a small community that needs a large exempt bond issue to attract an industrial park may not receive a sufficient allocation because

the population of that community is too small. A large city could lose potential industrial sites if the total amount of the desired bond issue were to exceed the authorized amount, based on population. The problem with the Federal formula is the lack of flexibility in accommodating the potential needs of local units of government since such needs are not necessarily correlated with the population size of those governmental units.

This bill requires the Secretary of Commerce to allocate the state ceiling. Under these provisions the Secretary would approve applications for allocation to governmental issuers on the basis of chronological order of receipt. The procedures for applying and receiving an allocation from the state ceiling are prescribed in the proposed legislation.

Attachments

## PRIVATE ACTIVITY BONDS

### Responsibilities of the Secretary of Commerce

Assure that the total amount of tax-exempt private activity bonds issued in Kansas does not exceed the prescribed federal limit.

This is essentially a bookkeeping function - tracking requests and authorizations for bond allocations within the various bond type categories, i.e., IRB's, Exempt Facility Bonds, Mortgage Revenue Bonds/Mortgage Credit Certificates, Student Loan Bonds, and Redevelopment Bonds.

Approve or disapprove requests for bond allocations.

Requests for allocations are handled on a first come-first served basis. Requests for \$5 million or less are automatically granted. Those exceeding \$5 million are examined relative to ceiling amount remaining, carryovers outstanding, etc. The Secretary may approve an application in whole or in part, disapprove it, or place it on hold pending receipt of additional information or review.

Notify the requestor within 5 days regarding the approval or disapproval and date of allocation expiration.

Grant (or deny) extensions of allocations.

Usually extensions are granted for 30 days or until December 15 (proposed change to December 1), whichever comes first. If allocation expires on December 1, Secretary may extend further to December 31.

Approve or disapprove requests to issue bonds in a subsequent year.

If bonds are not issued by the expiration date, the allocation amount is automatically surrendered.

However, for allocations expiring after December 14 (proposed change to December 16) Secretary may authorize a carryforward so that bonds may be issued in the following year. Only Exempt Facility Bonds, Mortgage Bonds/Credit Certificates, Student Loan Bonds and Redevelopment Bonds may be carried forward.

Periodically review use of and demand for allocations of the state ceiling and recommend to Governor and Legislature an alternate method of allocation.

Although not ordered by the E.O. (or proposed statute), an implied responsibility is to see that the entire state allocation is used, so as to receive the maximum benefit.



ALLOCATIONS OF VOLUME CAP PURSUANT TO 26 U.S.C.A., Section 146(c)

<u>COMMUNITY</u>	<u>POPULATION</u>	<u>% TOTAL STATE POPULATION</u>	<u>ALLOCATION AMOUNT</u>
Hillsboro	2,717	.001	\$86,211
Dodge City	18,001	.008	\$571,175
Wichita	279,272	.118	\$8,861,356
Derby	9,786	.004	\$310,512
Kansas City	161,087	.068	\$5,111,322

Calculations: Kansas Department of Commerce

Source of population figures:

Table 1: Summary of General Population Characteristics, Summary Characteristics for Governmental Units and Standard Metropolitan Statistical Areas, 1980 Census of Population and Housing, U.S. Department of Commerce, Bureau of the Census

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ALLEN BELL, PRESIDENT



MARTY BLOOMQUIST, ASSISTANT

March 1, 1988

M E M O R A N D U M

TO: House Committee on Economic Development  
FROM: Allen Bell, President  
Kansas Development Finance Authority  
SUBJECT: House Bill No. 2645 - The Kansas Private Activity Bond Allocation Act

Mr. Chairman and Members of the Committee:

KDFa supports House Bill 2645. It is essentially a codification of the Executive Order which was in effect until the end of last year, and it is my opinion that for the most part, that allocation system worked extremely well.

I personally believe that the best private activity bond allocation system for the state of Kansas is one based on the principle of first-come first-served and which has the fewest reservations for special categories of bonds. I do support, however, the proposed amendment to create a reservation for small issue IDBs so that small issue projects that come together late in the year will still have a chance of receiving an allocation. Every year since there has been an allocation system, the volume cap has been consumed very rapidly in the late fall by large housing projects. And small issue IDBs are the only category of private activity bonds that are not eligible for the carryforward election allowed by the 1986 Tax Reform Act.

If the Legislature fails to adopt a state private activity bond allocation system, the state will be forced to abide with the allocation system imposed by the 1986 Tax Reform Act. Under this system, as the only state agency with the authority to issue private activity bonds, KDFa would receive an automatic allocation of \$75 million. Although I am hopeful of bringing out a pooled IDB issue before the end of this year, it will certainly not approach \$75 million.

Attachment II  
Senate Economic Development  
3-1-88