

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

12:35 ~~xxx~~/p.m. on March 4, 1988 in room 254-E of the Capitol.

All members were present except:

Senator Paul Feleciano - Excused
Senator Ben Vidricksen - 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:

Kevin Carr, Kansas Technology Enterprise Corporation
Mark Burghart, Department of Revenue
Don Gragg, Department of Commerce

The meeting was called to order at 12:35 p.m. by the Chairman, Senator Wint Winter, Jr.

Senate Bill 470 - An Act concerning Kansas basic enterprises and Kansas basic industries; providing a means of identification thereof for economic development purposes.

The Chairman announced that the Committee would continue its discussion of SB 470.

Kevin Carr, Kansas Technology Enterprise Corporation (KTEC), told the Committee that he has some concerns about Section 17, line 140 of SB 470. He said that this refers to technical referral services and noted that one of the valuable reasons for having the services or the data base which backs up the services goes beyond dealing with corporations that might be interested in locating in Kansas or beyond the in-state company that has need for technology information. The reasons also go into the area where there is contact from outside companies who are interested in KTEC's research capabilities, not in terms of locating in Kansas, but just generating research contracts. He stated that the language in line 140 of SB 470 would not allow this.

Senator Fred Kerr moved to amend SB 470 in Section 17, line 140, by striking the words "Kansas basic enterprises" and inserting in lieu thereof "businesses".
Senator Karr seconded the motion. The motion carried.

Senator Karr moved to amend SB 470 in Section 19 by returning to the original language in lines 261 and 262. Senator Salisbury seconded the motion. The motion carried.

The Committee discussed Section 16 of SB 470 which includes provisions for the KTEC board of directors. Mr. Carr observed that the original language suggests areas which are probably more appropriate for the board's composition.

Senator Daniels moved that SB 470 be amended in Section 16, Subsection (A), lines 31 through 38 by returning to the original language. Senator Salisbury seconded the motion. The motion carried.

Senator David Kerr moved to amend SB 470 in Section 17, in line 113 by striking the word "enterprises" and inserting in lieu thereof the word "businesses". Senator Daniels seconded the motion. The motion carried.

Senator Hayden moved to amend SB 470 in Section 19, line 330, by striking the word "enterprises" and inserting in lieu thereof the word "businesses". Senator Langworthy seconded the motion. The motion carried.

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room 254-E, Statehouse, at 12:35 ~~xxx~~/p.m. on March 4, 1988.

The Committee discussed sections in SB 470 which contain provisions concerning Kansas Venture Capital, Inc. Senator Fred Kerr discussed Section 39 and said that the Sub-Committee, appointed by the Chairman to make a recommendation on this section, suggests that amendments be made for tax exemption purposes to the tax law. He stated that the idea of these amendments would be to allow the sales tax exemption for services other than products sold at retail and services provided by attorneys, architects, engineers, accountants, insurance agents, dentists, real estate brokers or agents, investment brokers or individuals licensed by the Board of Healing Arts. Mark Burghart, Department of Revenue, provided the Committee with copies of a balloon version of Section 39 which contains the amendments proposed by Senator Kerr. (Attachment I) Mr. Burghart said that the list in the proposed amendment stated by Senator Kerr would exclude the individuals named from claiming credit under the Job Expansion Investment Credit Act or the enterprise zone benefits which would include the sales tax exemption.

Senator Fred Kerr moved that SB 470 be amended by replacing Section 39 with the language contained in the balloon version of Section 39 (Attachment I). Senator David Kerr seconded the motion. The motion carried.

Senator David Kerr moved that SB 470 be amended by removing wherever necessary in the bill the twenty-five percent limitation on the amount of credit which could be claimed in a given year consistent with the amendment contained in SB 473. Senator Salisbury seconded the motion. The motion carried.

Senator Salisbury moved that SB 470, as amended, be recommended favorably for passage. Senator Fred Kerr seconded the motion. The motion carried.

Senate Bill 574 - An Act relating to economic development; establishing the Kansas partnership fund; authorizing loans for certain local government infrastructure projects; prescribing powers, duties and functions relating thereto.

Chairman Winter called for discussion on SB 574 and noted that at a previous meeting the Committee amended the bill to eliminate waste water treatment facilities from its provisions.

Senator Fred Kerr offered a conceptual motion that SB 574 be amended wherever necessary to target the Kansas partnership fund to Kansas basic enterprises. Senator Karr seconded the motion. The motion carried.

The Chairman reminded the Committee that at a previous meeting it was noted that SB 574 contains no restriction on the time allowed for repayment of the loans.

Senator Karr offered a conceptual motion that SB 574 be amended to require that the term of the loan would be no longer than the anticipated useful life of the improvement project. Senator Fred Kerr seconded the motion. The motion carried.

Don Gragg, Department of Commerce, reminded the Committee that SB 574 provides for a revolving loan fund. He pointed out that when the bill was drafted it was the intention of the KDOC that there would be payments on the loans, not just a lump sum payment, so that in years to come more money would not have to be placed in the fund in order to maintain a \$5 million fund.

Senator Fred Kerr offered a conceptual motion that SB 574 be amended to provide that the terms of the loan require amortization annually. Senator Karr seconded the motion. The motion carried.

Chairman Winter called the Committee's attention to lines 33 through 35 of SB 574 and noted that this portion of the bill allows the Kansas partnership fund to be financed by the Kansas Development Finance Authority (KDFA). He stated that the KDFA bond counsel would prefer that some language be inserted in the bill to clarify that the KDFA can issue bonds to fund this proposal. The KDFA suggests that the following language be added to the bill: "The provisions of K.S.A. 87 Supp. 74-8905

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shall not prohibit the issuance of bonds for such purposes when so authorized and such issuance of bonds is exempt from the provision of that bill."

Senator David Kerr offered a conceptual motion that SB 574 be amended to make it technically clear that the Kansas Development Finance Authority can use the proceeds from the sale of bonds issued by the Kansas Development Finance Authority to fund the Kansas Partnership Fund. Senator Hayden seconded the motion. The motion carried.

Senator Salisbury moved that SB 574, as amended, be recommended favorably for passage. Senator Langworthy seconded the motion. The motion carried.

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

The Committee discussed HB 2645. The Chairman reminded the Committee that E. A. Mosher, League of Kansas Municipalities, suggested that the bill be amended on page 5 to provide that the Secretary of the Kansas Department of Commerce might use an advisory board in determining allocations of the state ceiling for issuance of private activity bonds.

Senator Hayden moved that HB 2645 be amended on page 5 in line 156 before the period by inserting the words "and may utilize an advisory committee to assist in the determination of such allocations". Senator Karr seconded the motion. The motion carried.

Senator Karr moved that HB 2645 be reported favorably for passage as amended. Senator David Kerr seconded the motion. The motion carried.

The meeting was adjourned at 2:20 p.m. by the Chairman.

GUEST LIST

NAME

REPRESENTING

MARK A. BURGHART
Kevin Carr
D. WAYNE ZIMMERMAN
DON GRAGG
John Conard

REVENUE
KTEC
KDOC
KDOC
Gov.

79-32,154. Same; definitions. As used in this act, the following words and phrases shall have the meanings respectively ascribed to them herein: (a) "Facility" shall mean any factory, mill, plant, refinery, warehouse, feed lot, building or complex of buildings located within the state, including the land on which such facility is located and all machinery, equipment and other real and tangible personal property located at or within such facility used in connection with the operation of such facility. The word "building" shall include only structures within which individuals are customarily employed or which are customarily used to house machinery, equipment or other property.

(b) "Qualified business facility" shall mean a facility which satisfies the requirements of paragraphs (1) and (2) of this subsection.

(1) Such facility is employed by the taxpayer in the operation of a revenue producing enterprise, as defined in subsection (c). Such facility shall not be considered a qualified business facility in the hands of the taxpayer if the taxpayer's only activity with respect to such facility is to lease it to another person or persons. If the taxpayer employs only a portion of such facility in the operation of a revenue producing enterprise, and leases another portion of such facility to another person or persons or does not otherwise use such other portions in the operation of a revenue producing enterprise, the portion employed by the taxpayer in the operation of a revenue producing enterprise shall be considered a qualified business facility, if the requirements of

paragraph (2) of this subsection are satisfied.

(2) If such facility was acquired by the taxpayer from another person or persons, such facility was not employed, immediately prior to the transfer of title to such facility to the taxpayer, or to the commencement of the term of the lease of such facility to the taxpayer, by any other person or persons in the operation of a revenue producing enterprise and the taxpayer continues the operation of the same or substantially identical revenue producing enterprise, as defined in subsection (i), at such facility.

(c) "Revenue producing enterprise" shall mean: (1) The assembly, fabrication, manufacture or processing of any agricultural, mineral or manufactured product;

(2) the storage, warehousing, ~~distrib-~~ ^{or} ~~tion or sale~~ of any products of agriculture, mining or manufacturing;

(3) the feeding of livestock at a feed lot;

(4) the operation of laboratories or other facilities for scientific, agricultural, animal husbandry or industrial research, development or testing;

(5) the performance of services of any type;

(6) the administrative management of any of the foregoing activities; or

(7) any combination of any of the foregoing activities.

(d) "Qualified business facility employee" shall mean a person employed by the taxpayer in the operation of a qualified business facility during the taxable year for which the credit allowed by K.S.A. 79-32,153, and amendments thereto, is claimed. A person shall be deemed to be so engaged if such person performs duties in connection with the operation of the qualified business facility on: (1) A regular, full-time basis; (2) a part-time basis, provided such person is customarily performing such duties at least 20 hours per week throughout the taxable year; or (3) a seasonal basis, provided such person performs such duties for substantially all of the season customary for the position in which such person is employed. The number of qualified business facility employees during any taxable year shall be determined by dividing by 12 the sum of the number of qualified business facility employees on the last business day of each month of such taxable year. If the

, except those services associated with the sale of products at retail and those services provided by attorneys, architects, engineers, accountants, insurance agents, dentists, real estate brokers or agents, investment brokers or individuals licensed by the board of healing arts.

qualified business facility is in operation for less than the entire taxable year, the number of qualified business facility employees shall be determined by dividing the sum of the number of qualified business facility employees on the last business day of each full calendar month during the portion of such taxable year during which the qualified business facility was in operation by the number of full calendar months during such period. Notwithstanding the provisions of this subsection, for the purpose of computing the credit allowed by K.S.A. 79-32,153, and amendments thereto, in the case of an investment in a qualified business facility, which facility existed and was operated by the taxpayer or related taxpayer prior to such investment, the number of qualified business facility employees employed in the operation of such facility shall be reduced by the average number, computed as provided in this subsection, of individuals employed in the operation of the facility during the taxable year preceding the taxable year in which the qualified business facility investment was made at the facility.

(e) "Qualified business facility investment" shall mean the value of the real and tangible personal property, except inventory or property held for sale to customers in the ordinary course of the taxpayer's business, which constitutes the qualified business facility, or which is used by the taxpayer in the operation of the qualified business facility, during the taxable year for which the credit allowed by K.S.A. 79-32,153, and amendments thereto, is claimed. The value of such property during such taxable year shall be: (1) Its original cost if owned by the taxpayer; or (2) eight times the net annual rental rate, if leased by the taxpayer. The net annual rental rate shall be the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals. The qualified business facility investment shall be determined by dividing by 12 the sum of the total value of such property on the last business day of each calendar month of the taxable year. If the qualified business facility is in operation for less than an entire taxable year, the qualified business facility investment shall be determined by dividing the sum of the total value of such property on the last business day of each full calen-

dar month during the portion of such taxable year during which the qualified business facility was in operation by the number of full calendar months during such period. Notwithstanding the provisions of this subsection, for the purpose of computing the credit allowed by K.S.A. 79-32,153, and amendments thereto, in the case of an investment in a qualified business facility, which facility existed and was operated by the taxpayer or related taxpayer prior to such investment the amount of the taxpayer's qualified business facility investment in such facility shall be reduced by the average amount, computed as provided in this subsection, of the investment of the taxpayer or a related taxpayer in the facility for the taxable year preceding the taxable year in which the qualified business facility investment was made at the facility.

(f) "Commencement of commercial operations" shall be deemed to occur during the first taxable year for which the qualified business facility is first available for use by the taxpayer, or first capable of being used by the taxpayer, in the revenue producing enterprise in which the taxpayer intends to use the qualified business facility.

(g) "Qualified business facility income" shall mean the Kansas taxable income, as defined in article 32 of chapter 79 of the Kansas Statutes Annotated and amendments thereto, derived by the taxpayer from the operation of the qualified business facility. If a taxpayer has income derived from the operation of a qualified business facility as well as from other activities conducted within this state, the Kansas taxable income derived by the taxpayer from the operation of the qualified business facility shall be determined by multiplying the taxpayer's Kansas taxable income, computed in accordance with article 32 of chapter 79 of the Kansas Statutes Annotated and amendments thereto, by a fraction, the numerator of which is the property factor, as defined in paragraph (1), plus the payroll factor, as defined in paragraph (2), and the denominator of which is two.

(1) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in connection with the operation of the qualified business facility during the tax period, and

the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period. The average value of all such property shall be determined as provided in K.S.A. 79-3281 and 79-3282, and amendments thereto.

(2) The payroll factor is a fraction, the numerator of which is the total amount paid during the tax period by the taxpayer for compensation to persons qualifying as qualified business facility employees, as determined under subsection (d), at the qualified business facility, and the denominator of which is the total amount paid in this state during the tax period by the taxpayer for compensation. The compensation paid in this state shall be determined as provided in K.S.A. 79-3283, and amendments thereto.

The formula set forth in this subsection (g) shall not be used for any purpose other than determining the qualified business facility income attributable to a qualified business facility.

(h) "Related taxpayer" shall mean (1) a corporation, partnership, trust or association controlled by the taxpayer; (2) an individual, corporation, partnership, trust or association in control of the taxpayer; or (3) a corporation, partnership, trust or association controlled by an individual, corporation, partnership, trust or association in control of the taxpayer. For the purposes of this act, "control of a corporation" shall mean ownership, directly or indirectly, of stock possessing at least 80% of the total combined voting power of all classes of stock entitled to vote and at least 80% of all other classes of stock of the corporation; "control of a partnership or association" shall mean ownership of at least 80% of the capital or profits interest in such partnership or association; and "control of a trust" shall mean ownership, directly or indirectly, of at least 80% of the beneficial interest in the principal or income of such trust.

(i) "Same or substantially identical revenue producing enterprise" shall mean a revenue producing enterprise in which the products produced or sold, services performed or activities conducted are the same in character and use, are produced, sold, performed or conducted in the same manner and to or for the same type of customers as the products, services or activities pro-

duced, sold, performed or conducted in another revenue producing enterprise.