

MINUTES OF THE HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT.

The meeting was called to order by Chairperson Barbara P. Allen at 3:30 p.m. on February 8, 1996 in Room 423-S of the Capitol.

All members were present except: Rep. Henderson - excused  
Rep. Beggs - excused  
Rep. King - excused

Committee staff present: Lynne Holt, Legislative Research Department  
Bob Nugent, Revisor of Statutes  
Nancy Kirkwood, Committee Secretary

Conferees appearing before the committee: Lynne Holt, Legislative Research Department  
Gary Sherrer, Secretary, Kansas Department Commerce and Housing

Others attending: See attached list

**SB459**                      **Creating the IMPACT act**

Lynne Holt, Legislative Research Department, addressed the committee regarding **SB459**, as amended by Senate Committee of the Whole, and gave an overview of the State of Kansas Investments in Lifelong Learning Act (SKILL) program (Attachment 1).

Gary Sherrer, Secretary, KDOCH, spoke as a proponent of **SB459** and provided an explanation of the SKILL workforce program. Under the IMPACT program, KDOCH proposes to utilize the existing funding mechanism used for SKILL projects to assist businesses in meeting other expenses. (Attachment 2).

Chairperson Allen concluded the hearing on **SB459**.

The meeting adjourned 4:45 p.m.

The next meeting is scheduled for February 12, 1996.

# HOUSE ECONOMIC DEVELOPMENT COMMITTEE GUEST LIST

DATE: <sup>Thurs</sup> ~~Wednesday~~ Feb 8, 1996.

NAME	REPRESENTING
Steve Kelly	KIDOCK H
John Rolfe	"
Charles W. Wren	Kansas Inc.
<del>Christy</del>	Kansas, Inc.
JASON PITZENBERGER	BRAD MOOT
M. Hawver	Hawver's Capital Report

*Lynne*

MEMORANDUM

TO: Ms. Gloria M. Timmer, Director  
Division of Budget

DATE: January 30, 1996

FROM: Kansas Department of Revenue

RE: Senate Bill 459  
as amended by Senate Committee  
of the Whole

BRIEF OF BILL:

Senate Bill 459 as Amended by Senate Committee of the Whole amends the current State of Kansas Investments in Lifelong Learning Act (SKILL), to create the Kansas Investments in Major Projects and Comprehensive Training Act (IMPACT). Section 2 defines "major project investment" and "investment" to mean financial assistance to any employer to defray business costs, including, but not limited to relocation, building and equipment, labor recruitment, etc. Senate Committee amendments define "agreement" to make it more specific; and to define "IMPACT project or project," "IMPACT program," and to provide that the current "Program services" includes "major project investments." A Senate Committee of the Whole amendment defines and includes a "nonprofit organization" as a "Kansas basic enterprise" "which provides services to or in lieu of a government entity which is delegating all or part of such government entity's functions."

Sections 3 and 4 update language to IMPACT.

Section 5 provides that the Secretary of Commerce may expend funds on major project investments, will adopt guidelines for eligibility for project investments, and otherwise administer the project portion of IMPACT. To be eligible for project investment, the employer must: 1) make an annual training and education investment exceeding 2% of the firm's total annual payroll cost, or agree that a portion of ant funds available under the agreement be spent directly on employee education and training.

Section 6 deletes the SKILL requirements that the Secretary of Commerce certify to the Secretary of Revenue estimates of number and wages of jobs created, and the Secretary of Human Resources provide payroll and job information to the Secretary of Commerce. Language in this section has been stricken, so that the rate at which moneys are credited to the IMPACT program repayment fund remains at 1% of withholding. Sections 7 through 12 update language from "SKILL" to "IMPACT."

This bill amends K.S.A. 74-50, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, and K.S.A. 1995 Supp. 79-32,105 and 74-8920. It is effective on publication in the statute book.

FISCAL IMPACT:

The bill does not change the maximum amount to be credited for Fiscal Year 1997 from the State General Fund under K.S.A. 74-50,107. This is an amount equal to a rate of 1% of money withheld from the wages of individuals received by the Department of Revenue under the Kansas Withholding and Declaration of Estimated Tax Act. Nevertheless, the SKILL amounts are budgeted. With dollar amounts in millions:

	FY 1995 actual	FY 1996 estimated	FY 1997 estimated
Withholding Amount	\$982.1	\$1,041.0	\$1,103.5
Estimated Growth Rate		1.06	1.06
1% of Withholding	\$9.8	\$10.4	\$11.0
SKILL Budgeted Amount	\$1.9	\$1.7	\$1.9
1% Withhold (less) SKILL Budget	\$7.9	\$8.7	\$9.1

The current SKILL budget amount for Fiscal Year 1997 is \$1.9 million. If the budgeted amount and the project investment costs would reach 1% of the estimated Fiscal Year 1997 withholding tax amount, the fiscal impact to the State General Fund for Fiscal Year 1997 is estimated to be \$9.1 million.

*Economic Development  
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Attachment 1*

ADMINISTRATIVE IMPACT:

New lines will need to be added to the Department's deposit system to include these new funds. But it is estimated that this and any other costs will be minimal and can be absorbed.

The work "SKILL" has not been changed to "IMPACT" on line 5 of section 7.

LEGAL IMPACT:

Senate Bill No. 459 as amended by Senate Committee of the Whole makes one notable, additional amendment. The term "Kansas basic enterprise" would be expanded to include non-profit (IRC § 501(c)(3)) organizations which provide "services to or in lieu of a governmental entity which is delegating all or part of such government entity's functions." It is not very clear what is meant by "provide services to or in lieu of a governmental entity which is delegating all or part of such government entity's functions."

One apparent purpose of this amendment is to enable these non-profit organizations to make investments and then to sell deemed K.S.A. 79-32,160a credits to income taxpayers under S.B. 457, Sec. 3(a) and (e). There are several problems with S.B. 457, which would also exist for these non-profit organizations.

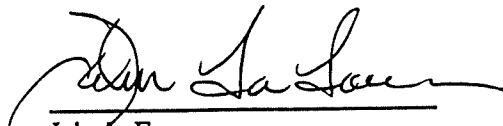
S.B. 457, Sec. 3(a) would unadvisedly allow a non-profit organization to sell deemed tax credits that it would have earned if it had been subject to the corporate income tax. The non-profit organization would "be permitted to transfer ... any credits [the business] would have earned had it been subject to the income tax act." S.B. 457, Sec. 3(a). This would necessarily require the preparation of complicated "pro forma" Kansas income tax returns for non-profit organizations. There will be significant administrative problems and legal issues over the preparation and accuracy of these pro forma returns. The transferable credit would be limited to the amount by which the computed credit exceeds 50% of the hypothetical tax on the non-profits' hypothetical Kansas taxable income. (S.B. 457, Sec. 3(e))

S.B. 457, Sec. 2(e), would authorize the Secretary of Commerce and Housing to determine the eligibility of these non-profit organizations and the transferee-taxpayer to the income tax credits under K.S.A. 79-32,160a. There are important, unresolved questions as to whether and how this determination should be made. Would a hearing be required under the Kansas Administrative Procedures Act? Who would represent the state's interests? It should be considered whether the commerce department, due to its lack of expertise in the tax area and its inherently pro-credit functions, is the appropriate agency to determine these tax issues or to exercise adequate controls over the use of these significant tax credits.

Like its prior versions, S.B. 459 bill would enable the Department of Commerce to make direct payments to private industry to pay their business expenses if the business has expended a minimal amount for employment training and has certain kinds of activities that are export or employment oriented. The payments to be made to private business under this bill are unrelated to and may well be disproportionately high compared to the amount spent on employment training.

There are unresolved legal questions that should be considered as to 1) whether the minimal requirements for qualifying for the government payments meet constitutional standards or 2) whether such requirements a) are unconstitutionally vague and ambiguous, without reasonably objective standards, and incapable of reasonably certain interpretation or b) are an impermissible delegation of legislative authority to the executive branch of government.

APPROVED BY:

  
\_\_\_\_\_  
John LaFaver  
Secretary of Revenue

5/96

KANSAS DEPARTMENT OF COMMERCE & HOUSING  
SKILL Projects to Date

Fiscal Year	Company	Community	Type*	Dates	N Jobs (P)1	N Jobs (A)2	Obligations	Expenditures	Balance	Match
FY1992	Santa Fe	Topeka	E	5/92-3/96	335	335	2,306,559.00	1,827,165.00	479,394.00	5,481,349.00
FY1993	Millard	Edwardsville	N	7/92-12/97	429	134	1,024,899.00	723,806.21	301,092.79	196,997.00
	Hyplain's Beef	Dodge City	E	6/93-6/95	501	501	1,000,297.00	914,122.98	86,174.02	154,368.00
	Santa Fe	Topeka	E	3/93-12/96	285	296	1,360,484.00	885,148.00	475,336.00	1,792,626.00
	NSC	Edwardsville	N	2/93-1/96	130	108	299,942.00	128,880.54	171,061.46	206,711.00
	Hill's	Topeka	E	5/93-6/96	122	127	491,450.00	367,991.00	123,459.00	654,411.00
	Multimedia	Wichita	E	4/93-4/91 <sup>tb</sup>	957	117	1,722,244.00	800,000.00	922,244.00	136,698.00
FY1994	TIE/Communications	Overland Park	N	8/93-7/96	68	59	600,000.00	579,451.25	20,548.75	122,133.00
	Bagcraft	Baxter Springs	N	9/93-8/97	312	312	786,200.00	597,300.00	188,900.00	955,080.00
	A & M Products	Spring Hill	N	1/94-1/97	108	146	390,000.00	306,041.00	83,959.00	680,091.00
FY1995	American Insulated Wire	Coffeyville	N	12/94-4/98	250	26	520,000.00	203,870.00	316,130.00	391,840.00
	Valu Merchandisers	Ft. Scott	N	1/95-12/96	90	124	250,000.00	97,500.00	152,500.00	439,623.00
	Benecor	Parsons	N	9/94-8/98	170	13	500,000.00	176,938.90	323,061.10	785,050.00
	Russell Stover Candies	Abilene	N	11/94-3/99	419	621	400,000.00	356,502.96	43,497.04	623,526.00
FY1996	Alcoa Aerospace**	Hutchinson	N	8/95-3/97	81		325,000.00		325,000.00	1,390,261.00
	Cessna Aircraft Company**	Wichita	E	8/95-7/98	1,350		2,000,000.00		2,000,000.00	6,187,069.00
					5,607	2,919	13,977,075.00	7,964,717.84	6,012,357.16	20,197,833.00

1-N Jobs (P) shows the total number of new jobs that are projected to be created when the project is complete.

2-N Jobs (A) shows the actual number of new jobs created to date.

3-WH Taxes (P) shows the amount of withholding taxes the companies projected they would create as a result of theate (shown by cumulative quarters).

4-WH Taxes (A) shows the actual amount of withholding taxes created to date (shown by cumulative quarters).

\*N-New Facility E-Existing Facility

\*\* Pending contract signatures.

a. Average wages are based on projected new jobs and estimated wages (\$57,453/5,607)

*period of training*

1-3

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KANSAS DEPARTMENT OF COMMERCE & HOUSING  
SKILL Projects to Date

1-4

Fiscal Year	Company	Community	Type*	Dates	N Jobs (P)1	N Jobs (A)2	Obligations	Expenditures	Balance	Match
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\*\* Pending contract signatures.

a. Average wages are based on projected new jobs and estimated wages (\$57,453/5,607)

**HEARING BEFORE THE HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT  
THE KANSAS DEPARTMENT OF COMMERCE AND HOUSING  
GARY SHERRER, SECRETARY  
FEBRUARY 8, 1996**

Madam Chairperson and members of the Committee, I appreciate this opportunity to seek your support for Senate Bill 459. After a brief explanation of this legislation, I would welcome any questions and comments.

**Senate Bill 459 - The Kansas IMPACT Program.**

The Kansas Investments in Major Projects (A)nd Comprehensive Training (IMPACT) program promises to serve an invaluable role in the State's efforts to attract new business and expand those already in existence. Derived from our highly successful State of Kansas Investments in Lifelong Learning (SKILL) workforce training program, IMPACT would provide several important functions for businesses (in addition to the workforce training component).

To better understand this bill, one must first understand the basic concept of the SKILL program. It is designed for new and expanding businesses, or consortiums of businesses, that are creating a large number of new jobs and/or new jobs paying above-average wages. (This program is customized to each company's needs.)

The SKILL process begins when participating companies and a Kansas public educational institution jointly submit a training proposal to Commerce and Housing. The agency then recommends a funding amount based on the level of training required, the overall efficiency of the project, the quality of jobs created, etc. This recommendation is then passed on to the Governor's Council on Workforce Training, which must approve all SKILL projects.

SKILL is funded through tax-exempt, public purpose bonds issued by the Kansas Development Finance Authority. Under current law, this program can never finance more than one percent of the total withholding taxes collected in the state. This will not change under SB 459. Individual project funding is limited to 90 percent of the withholding taxes collected from newly created jobs over ten years.

Under IMPACT, Commerce and Housing proposes to utilize the existing funding mechanism used for SKILL projects to assist businesses in meeting other expenses. Currently, many excellent prospects cannot be assisted with vital costs associated with either a relocation or an expansion. While workforce training is important, additional costs are typically incurred, and may be equally important in the company's decision to expand or relocate. For example, some prospects need assistance in transporting equipment, purchasing state-of-the-art machinery, or meeting infrastructure needs. With IMPACT, such needs would be met.

In administering IMPACT, Commerce and Housing would continue its partnerships with the Kansas Development Finance Authority, private bond placement firms, and the Governor's

*Economic Development  
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Attachment 2*

Council on Workforce Training and Investment. Further, there would be no need for additional staffing. Personnel already familiar with the funding and investment criteria under SKILL would operate the new program, enabling Commerce and Housing to implement IMPACT immediately.

Senate Bill 459 delivers flexibility, as it assumes “the cafeteria approach,” offering more than just one item from which to choose. It takes the pressure off of other programs (namely KEOIF) as the only other significant sources of non-training funds. It provides a powerful competitive advantage over other competing states. With the passage of this bill, we would have, for the first time, the capacity to take on a major expansion of an existing business or attract a major new business. SB 459 maintains stringent restrictions and “claw back” provisions. (“Claw back” means we have the ability to demand repayment to compensate for non-performance for ten years, which is the life of the bond.) Finally, it provides significant new resources without creating any new demands on the State General Fund or the existing financial capacity of the SKILL program.

Both industrial development and site selection experts agree that this would be a major addition to the State’s economic development program, dramatically increasing our ability to expand existing business and attract new industry.