

MINUTES OF THE SENATE COMMERCE COMMITTEE.

The meeting was called to order by Chairperson Karin Brownlee at 8:30 a.m. on April 4, 2003 in Room 123-S of the Capitol.

All members were present except:

Committee staff present: April Holman, Legislative Research
Deb Hollon, Legislative Research
Norman Furse, Revisor of Statutes
Mitch Rice, Revisor of Statutes
Jodie Anspaugh, Secretary

Conferees appearing before the committee: Secretary Wagnon

Others attending: See attached list.

Chairperson Brownlee opened the meeting by complimenting the committee on all their good work this year. This will possibly be the committee's last meeting.

Charles Ranson, President of Kansas, Inc., distributed written testimony in support of SB 281.
(Attachment 1)

The committee discussed that they are still missing the fiscal note for SB 281, which is really a critical piece of information. Joan Wagnon, Secretary of Revenue, spoke to the committee regarding the fiscal note and distributed a table showing withholding rates for employees based on annual wages.
(Attachment 2)

The committee discussed the bill, with input from the audience. Steve Kelly, Department of Commerce, wondered whether this project would actually create new jobs or if it would simply shift employees. Senator Buntten asked Steve Weatherford, Kansas Development Finance Authority, about the bonds. Mr. Weatherford answered that the amount of interest due that is not covered by the withholding will be covered by Boeing. Every time a plane is sold, a portion of the money will go to pay off the principle of the bonds. Senator Barone noted that he would like to see a way to track the funds that would be given to Boeing. He is concerned that the company will move as many of their current employees as possible to this new project, creating less new jobs. Lieutenant Governor John Moore responded to a concern by Senator Wagle, replying that he does have the expertise needed to write contracts to protect the interests of the state, as he was in senior management at Cessna for many years.

Senator Kerr said he does not believe that the state's general fund will be involved with this at all. It is well established that Boeing is responsible for the bonds should anything happen. If this bill is passed, the state will be trusting Boeing to be very honest in how they allocate these jobs. There is no way that the state can fully protect itself from an intentional dishonest move by Boeing. Senator Brownlee suggested that perhaps the Department of Revenue can share their information with Kansas, Inc., and Kansas, Inc. can track it. Secretary Wagnon noted that if individuals are overwithholding on their income tax they will not be able to track it. Senator Steineger said he does not like the idea of writing a big blank check, and does not believe any new jobs will be created; this project will only retain those who are already in the aircraft industry in Wichita.

Bill Jarrell, The Boeing Company, said that the intent of this legislation is to make sure Kansas is involved in the 7E7 project. The real worry about the bill not passing is that the current Kansas talent pool will leave the state and go where the project goes. The future commercial airplane is the 7E7.

The Department of Revenue distributed a handout about the bill. (Attachment 3) The attachment

CONTINUATION SHEET

MINUTES OF THE SENATE COMMERCE COMMITTEE at 8:30 a.m. on April 4, 2003 in Room 123-S of the Capitol.

explains that this bill would set precedent for other large Kansas employers to approach the legislature in future years to request that various projects be funded with employer withholding taxes. The document also raised various questions in regards to drafting the bill.

Senator Brownlee brought up the issue of requiring Boeing to make the 4,000 new jobs all new hires, on page 2, line 1. The consensus of the committee was that they will not require them to be all new hires.

The committee discussed limiting the state's involvement with the bonds to 20 years, instead of 30. Senator Emler made a conceptual motion to limit the state's involvement in the bonds to 20 years. Senator Jordan seconded. The motion carried.

Senator Wagle suggested that the Department of Revenue should be involved in this. Secretary Moore stated that he would deeply involve the Department of Revenue, however it is very important that the Secretary of Commerce be the one to sign any agreements.

Senator Kerr moved to add the provision in KSA 74-8017 which would have the Department of Revenue share information with Kansas, Inc. so that Kansas, Inc. can track this incentive. Senator Jordan seconded. The motion carried.

Senator Kerr distributed a proposed technical amendment to the bill. (Attachment 4) Senator Kerr moved to adopt all changes in his amendment. Senator Steineger seconded. The motion carried.

Senator Kerr moved to pass the bill favorably as amended. Senator Jordan seconded. The motion carried.

The meeting was adjourned at 9:30 a.m.

SENATE COMMERCE COMMITTEE

GUEST LIST

DATE: Friday, April 4, 2003

NAME	REPRESENTING
John Milburn	Associated Press
Mark Hen	KQFA
John Moger	Lt. Gov.
John Moger	Revenue
John Moger	Boony
Bernie Koch	Wichita Area Chamber of Commerce
Ruhant Crum	KQOR
Steve Stotts	KDOR
RaeAnne Davis	KDCC:H
Steve Kelly	KDCC:H
Sally Lyford	KDCC:H
John Robinson	Lt. Governor's Ofc.
John Petusa	Ks Out Consulting

KANSAS, INC.

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April 4, 2003

The Honorable Karin Brownlee, Chair
Senate Commerce Committee
Statehouse, Room 136-N
Topeka, KS 66612

Re: SB 281

Dear Senator Brownlee:

I am pleased to submit this letter expressing Kansas, Inc.'s support for SB 281 and ask that you share it with members of the Committee and make it part of the official record of Committee proceedings.

Kansas enjoys the unique distinction among all of the United States of being able legitimately to claim that it is the "Aviation Capitol of the World." It is the historical and continued presence in our midst of the giants of commercial and general aviation that enables us to substantiate this claim. But, once earned, it is not a distinction that can be enjoyed forever without continuing to support an ever-adapting industry in an ever-more competitive marketplace.

Yesterday's testimony before the Senate Commerce Committee demonstrated the change that is occurring within the commercial side of the aviation/aerospace industry and the impact of this change in our communities. And, it clearly frames for this legislature's consideration the importance of renewal of our commitment to supporting an organization that accounts for five percent of Kansas' economic activity.

As The Boeing Company rises to meet the growing worldwide challenge posed by its sole competitor, Airbus Industries, it has launched development of the new 7E7 family of aircraft. As a well-run twenty first century business, Boeing is seeking to build the highest quality, most competitive team of global participants to deliver on the promise of the 7E7. Because Boeing-Wichita has played an integral part in the Company's success over past decades, that does not mean that Boeing-Wichita is assured a place at the 7E7 table. One of the great lessons of politics is equally applicable in this instance – assume nothing.

Senate Commerce Committee

4-4-03

Attachment 2-1

Board of Directors

Governor Kathleen Sebelius, *Co-Chair*

Lawrence McCants, *Co-Chair*

Stan Ahlerich • Patti Bossert • Tom Burroughs • Charles Comeau • Anthony Hensley • Dave Kerr • Wayne Maichel
John Moore • Tamera Nelson • Reginald L. Robinson • Donald Schnacke • Paul Stephenson • Rollie Vincent • Kenny Wilk

The Honorable Karin Brownlee
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Because Boeing-Wichita's competitors for a piece of this project are almost all likely to enjoy the financial backing of their governments, it is both appropriate and fair that the State of Kansas help in underwriting the Boeing-Wichita proposal for participation. Appropriately crafted terms and conditions of agreement, negotiated between the Company and our Secretary of Commerce, will protect the financial-interests of the State, enable Boeing-Wichita to put forward a fully competitive proposal, create high value jobs in a high value-added industry, and continue our State's ability proudly to claim that we are the Aviation Capitol of the World.

Madam Chair, Members of the Committee, I am pleased (in behalf of the Kansas, Inc. Board of Directors) to urge your favorable consideration and full support of SB 281, and I thank you for allowing me to present these thoughts after the close of public testimony.

Respectfully,



Charles R. Ranson
President

cc: Kansas, Inc. Board of Directors

**Kansas Department of Revenue
Senate Bill 281**

<u>New Employees</u>		<u>Annual Wages</u>	<u>Annual Estimated Withholding</u>	<u>Annual Debt Service</u>	<u>Difference</u>
4,000	\$	200,000,000	\$ 10,000,000		
3,500	\$	175,000,000	\$ 8,750,000		
3,000	\$	150,000,000	\$ 7,500,000		
2,500	\$	125,000,000	\$ 6,250,000		
2,000	\$	100,000,000	\$ 5,000,000		
1,500	\$	75,000,000	\$ 3,750,000		
1,000	\$	50,000,000	\$ 2,500,000		
500	\$	25,000,000	\$ 1,250,000		
-	\$	-	\$ -		

Average Wage is \$50,000

Average Withholding rate is 5.0%

Senate Commerce Committee
4-4-03
 Attachment 2

Kansas Department of Revenue
April 4, 2003
Boeing Bill Issues

Policy Issues:

This would set precedent for other large Kansas employers to approach the legislature in future years to request that various projects be funded with employer withholding taxes. The Goodyear legislation last year and the IMPACT program also involved pledges of employer withholding revenues, but these were on a much smaller scale.

Drafting Issues:

Section 1(c)(C) provides a requirement that the business must have invested at least \$1 billion in real and tangible personal property used in the business operations in Kansas. How is this determined? Would this figure include property financed with the proceeds of industrial revenue bonds?

In Section 1(c)(3), the term "eligible project" is defined broadly. It "may include" but "is not limited to" several types of projects: product development and design, applied research, manufacturing, improvement, replacement or acquisition of property and modernization and retooling of existing property. Under such language, any type of project, whether in this list or not, could qualify. There are also no restrictions in the bill on what the \$500 million investment can be used for, so long as the investment is for "capital or other expenditures in direct connection with the eligible project." No particular amount, if any, must be spent on capital expenditures.

There is a requirement that the eligible business must hire not less than 4,000 full-time employees in Kansas. However, there is no requirement that these be new jobs, as opposed to shifting of jobs from other areas or projects within the business. There is no timetable for when these jobs must be in place. There is no requirement as to how long these jobs must last, nor is there any requirement that the jobs must have any particular salary level. There is no requirement that the hired employees must work on or somehow be connected with any particular project.

Section 1(d) provides that the application submitted by an eligible business should contain a "detailed description of the project." What would suffice for a detailed description, and who would make that determination? Should the description include timetables for the financing, construction, hiring of employees, etc.? This should be more clearly defined. Section 1(d) also provides that evidence must be presented to show the applicant meets the qualification criteria. What would be considered sufficient evidence and who makes that judgment?

At the hearing yesterday, it was represented that the bonds issued by the KDFA would be taxable. It is not clear from the bill that this is the case. That issue should be clarified in the bill.

Section 1(e) provides that the bonds are not to exceed \$500 million in principal, “plus costs of issuance, costs of credit enhancement, reserve funds and capitalized interest.” How much more will be required for these items?

Under Section 1(e), withholding on Kansas wages paid “with respect to the eligible project” are pledged to pay interest on the bonds. This phrase is unclear and does not necessarily tie the pledge of withholding to any well defined group of employee wages.

Section 1(e) provides that if the project is terminated, the business must repay all or portions of the “amounts.” This provision also needs further development and description. When must it be repaid? What amounts specifically must be repaid?

The bill authorizes 30-year bonds. This will likely exceed the length of the project, based on testimony yesterday.

Section 1(h) provides that the business will not be eligible for K.S.A. 79-32,160a credits on the investment. There is also a credit available based on hiring employees, which could approximate \$6 million. Is this also excluded? There are other credits that should be considered: the job expansion and investment credit under K.S.A. 79-32,153, business machinery & equipment credit for property taxes paid, K.S.A. 79-32,206, the research and development credit, K.S.A. 79-32,182b, and sales tax exemptions for enterprise zones (79-3606(cc)) and manufacturing machinery and equipment (79-3606(kk)). Will the eligible business remain eligible for these credits?

SENATE BILL No. 281

Revised

By Committee on Ways and Means

4-2

AN ACT enacting the economic revitalization and reinvestment act; relating to the secretary of commerce and Kansas development finance authority; authorizing the issuance of bonds for certain economic development purposes.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) The provisions of this section shall be known and may be cited as the "economic revitalization and reinvestment act."

(b) The purpose of the economic revitalization and reinvestment act is to foster Kansas employment by encouraging product development and engineering leading to new manufactured products in Kansas.

(c) As used in this act:

(1) "Base eligibility period" means the three taxable years immediately preceding the date of application for benefits under this act.

(2) "Eligible business" means a person, corporation, partnership or other entity doing business in Kansas that:

(A) Paid at least \$600,000,000 in average annual gross Kansas compensation, according to reports filed with the secretary of human resources, during the base eligibility period; and

(B) paid at least \$50,000 of average annual gross compensation per Kansas employee during the base eligibility period; and

(C) has invested at least \$1,000,000,000 in real and tangible personal property located within and currently used in the operation of a business in Kansas; and

(D) is described by north American industrial classification system subsector 336411, aircraft manufacturing.

(3) "Eligible project" means a research, development, engineering or manufacturing project (A) undertaken by an eligible business relating to the development of a new or improved business component or product and may include, but not be limited to, product development and design, applied research, manufacturing, improvement, replacement or acquisition of real or personal property and modernization and retooling of existing property in Kansas, (B) for which the eligible business proposes to incur capital or other expenditures in direct connection with the eligible project of not less than \$500,000,000 in Kansas and (C) for which the

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4-2

1 eligible business proposes to hire not less than 4,000 full-time employees
2 in Kansas, as defined in K.S.A. 74-50,114 and amendments thereto.

3 (4) "Gross compensation" means gross wages and benefits paid to or
4 on behalf of employees receiving wages.

5 (5) "Secretary" means the secretary of commerce and housing.

6 (d) A person, corporation, partnership or other entity proposing to
7 undertake an eligible project may apply to the secretary to enter into an
8 agreement for benefits under this act. The application shall include (1)
9 evidence that the applicant is an "eligible business" as defined in subsec-
10 tion (c)(2) and a detailed description of the eligible project.

(2)

11 (e) Upon receipt of an application described in subsection (d), if the
12 secretary finds that the application is from an eligible business and that
13 the project constitutes an eligible project, the secretary may enter into
14 an agreement with the eligible business for benefits under this act. The
15 agreement shall commit the secretary to request that the Kansas devel-
16 opment finance authority issue obligations to finance the eligible project
17 for the benefit of the eligible business in an aggregate principal amount
18 not to exceed \$500,000,000, plus costs of issuance, costs of credit en-
19 hancement, reserve funds and capitalized interest, and shall commit the
20 eligible business to pay the principal of and interest on such obligations,
21 except that revenue realized from withholding upon Kansas wages paid
22 by the eligible business pursuant to K.S.A. [79-3924] *et seq.* and amend-
23 ments thereto, with respect to the eligible project shall be credited to the
24 special economic revitalization fund pursuant to law, and shall be trans-
25 ferred by the state treasurer to pay interest on such obligations as pro-
26 vided by law. The agreement shall further specifically provide that if the
27 revenue from the withholding upon Kansas wages is insufficient to pay
28 interest on the obligations, the eligible business shall remain obligated to
29 make such payments. The terms and conditions with respect to the ob-
30 ligations shall be set forth in the agreement or in the financing documents
31 relating to the issuance of the obligations. In the event the eligible busi-
32 ness terminates, cancels or reduces the scope of the eligible project ap-
33 proved by the secretary, the agreement shall provide that the eligible
34 business shall repay all or a portion of amounts transferred from the
35 special economic revitalization fund.

79-3294

36 (f) The Kansas development finance authority is hereby authorized
37 to issue obligations, for the purpose of financing the eligible project pro-
38 vided in subsection (e), in a principal amount not to exceed the amount
39 specified in subsection (e). The maximum maturity of obligations issued
40 pursuant to this act shall be 20 years, unless the secretary shall find and
41 determine that a maturity greater than 20 years, but in no event greater
42 than 30 years, is necessary for economic feasibility of the application pro-
43 ject of the eligible business.

1 (g) The state treasurer shall credit all revenue collected or received
 2 from withholding upon Kansas wages paid by a taxpayer which is an eli-
 3 gible business with respect to an eligible project, as certified by the di-
 4 rector, to the special economic revitalization fund, which fund is hereby
 5 created. The provisions of this section shall expire when all interest on
 6 obligations issued for the purpose of financing all or a portion of the costs
 7 of an eligible project has been paid. Moneys credited to the special ec-
 8 onomic revitalization fund in accordance with the foregoing provisions of
 9 the section shall be distributed to or on the order of the Kansas devel-
 10 opment finance authority to pay interest on obligations issued to finance
 11 an eligible project. The state treasurer shall make such distributions on
 12 such dates as mutually agreed to by the Kansas development finance
 13 authority and the state treasurer. The total of all distributions under this
 14 section shall not exceed an amount determined to be sufficient to pay the
 15 interest on such obligations.

[, the paying agent for such obligations

16 (h) The eligible business shall not be allowed credits pursuant to
 17 K.S.A. 79-32,160a and amendments thereto, for any amount of invest-
 18 ment related to or computed on the basis of any investment of the pro-
 19 ceeds of obligations issued pursuant to this act.

20 Sec. 2. This act shall take effect and be in force from and after its
 21 publication in the Kansas register.

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