

Approved: April 29, 2005
Date

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairperson Nick Jordan at 8:37 A.M. on March 21, 2005 in Room 123-S of the Capitol.

All members were present except:
Susan Wagle- excused

Committee staff present:
Kathie Sparks, Kansas Legislative Research Department
Helen Pedigo, Revisor of Statutes
Jackie Lunn, Committee Secretary

Conferees appearing before the committee:

Others attending:
See attached list.

Chairperson Jordan opened the meeting by announcing the Committee would start with HB 2448. Chairperson Jordan stated the Committee needed to address the IMPACT Amendment from the Department of Commerce. (Attachment 1).

The Chair recognized Senator Barone with a question on why the IMPACT Amendment was needed. Chairperson Jordan recognized Matt Jordan, Department of Commerce to explain. Mr. Jordan stated the Department of Commerce wanted this amendment in order to be able to do a better job of retaining jobs in Kansas. It just came to their attention there are some projects that will transpire and decisions will be made before next January which would impact 4000 jobs in Kansas. The Department of Commerce felt it was important to be able to take an option to the table that would make the Department of Commerce more aggressive in order to retain jobs. Senator Barone wondered if there were other areas that could be at least as helpful by changing the business climate, changing the freedom to operate, changing these kinds of things. Mr. Jordan stated that neighboring states had similar incentives. This gives the Secretary more authority with flexibility for one year to offer incentives. Chairperson Jordan entered into the discussion stating that Missouri was wooing business to their state with their incentives. He stated this may not be the best solution for the future but would solve the problem for today and in one year. Mr. Jordan stated the amendment was using existing monies. IMPACT was geared for training and 20% being non-training monies. With this amendment the Secretary of Commerce would have the option to use more than 20% for non-training. The discussion continued regarding the other things to do in order to retain jobs in Kansas. Chairperson Jordan entered the discussion stating may not be the best solution to the problem for the future but would be a solution for today and the next year. Mr. Jordan stated the Department of Commerce feels that this is a better option than tax incentives. Senator Kelly entered the discussion regarding the extension of the budget from 10 years to 20 years and if it is necessary. Senator Brownlee entered the discussion stating it was a pretty good deal and thought it was a very generous offer and would not need the 20 years and could keep it at 10 years. Reference was made to Innovia. The discussion continued with Senator Brownlee asking if the Secretary of Commerce would have the flexibility to say what portion of those employees would be allowed. Mr. Jordan stated the Secretary of Commerce would have that flexibility. Secretary Wagon, Department of Revenue, stated the State was not using all the money at this time, designated for training in terms of the IMPACT fund. We are not using all the dollars and the demand is being met. Our critical need now is for job retention. This gives us money that is not being used which is dedicated for economic development; a resource already available and gives more flexibility. The Department of Revenue supports this amendment.

Senator Reitz moved the Impact Amendment to HB 2448. Senator Kelly seconded. Motion carried. Senator Kelly moved to retain the 10 year period on Page 2 and Page 4.. Seconded by Senator Emler. Motion carried.

Chairperson Jordan recognized Senator Wysong who voiced his concern about the Sunset amendment. He is not opposed but thinks they will be back next year and he would like to take it off. Chairperson Jordan stated that only three parts were Sunset. Helen Pedigo, Revisor of Statutes, entered the discussion by reviewing the Sunset parts of the bill. The discussion continued with Senator Emler entering regarding the Sunset and removing some of the Sunset. Senator Brownlee asked what the Governor's Council on Workforce Training

CONTINUATION SHEET

MINUTES OF THE Senate Commerce Committee at 8:30 A.M. on March 21, 2005 in Room 123-S of the Capitol.

was. Secretary Wagnon joined the discussion and explained the Council, what they do and when they meet.

Senator Wysong moved to remove all Sunsets except Page 7 and 8 of the new amendment. Senator Kelly seconded. Motion carried.

Senator Reitz moved **HB 2448** out favorable as amended. Senator Brownlee seconded. Motion carried.

Chairperson Jordan moved the Committee's attention to **SUB HB 2003**. He introduced Helen Pedigo, Revisor of Statutes, to explain a technical amendment to the Bioscience Authority bill from last year. (Attachment 2) A short discussion followed with the Committee.

Senator Barone moved to include the amendment in **SUB HB 2003**. Senator Wysong seconded. Motion carried.

Chairperson Jordan called the Committee's attention to the discussion last Friday regarding the Bioscience Authority payments. He called on Dan Schmisser, KTEC, who stated KTEC and the Department of Revenue were in agreement an amend is needed to this bill and payments needed to be made more frequently to the Authority. Secretary Wagnon, Department of Revenue entered the discussion and stated they were still trying to establish a base and the first year will be the most difficult year. The Department of Revenue will try to work with the Authority on their methodology on how to calculate.

Dan Schmisser, KTEC entered the discussion again offering the agreed language for the balloon offered by the Department of Revenue. On Page 4, line 19 after the words investment fund "the State Treasurer may make estimated payments to the Authority more frequently based on the estimates provided by the Secretary of Revenue and reconciled annually." Senator Barone entered the discussion inquiring when the first payment would be made to the Authority. Secretary Wagnon stated the first annual payment would be in June of this year. They are already working on 2005 and will start making estimated payments when they figure out how to calculate those. The Bioscience Authority will probably get something in July and a large payment sometime next June.

Senator Barone moved to conceptional amendment to the bill. Senator Wysong seconded. Motion carried.

Senator Schodorf moved SUB HB2003 out as amended. Seconded by Senator Reitz. Motion carried.

Chairperson Jordan moved the Committee's attention to HB 2232. Senator Emler moved to change tourism division to business development division. Senator Wysong seconded. Motion carried.

Senator Brownlee moved the bill out favorable as amended. Senator Wysong seconded. Motion carried.

A discussion followed with the Committee and their interest in developing the Film Industry and how any bills regarding that industry should be in the Commerce Committe and next year they should try to do what they can to promote the film industry in Kansas.

Senator Wysong joined the discussion stating the two Chairs of this Committee had done a great job this year. Chairperson Jordan stated the Commerce Committee is a very good Committee and the Chairs want to compliment the Committee members for all their good work this year.

The meeting was adjourned at 9:25 a.m. with the next scheduled meeting to be tomorrow, March 22, 2005 at 8:30 a.m. in room 123S.

Senate Commerce Committee

Guest List

Date: March 21, 2005

David Schmisser	KTEC
Kon Seiber	Key Law Firm
Stephanie Buchanan	DOB
Kyle Smith	KBI / KPOA
JIM CLARK	KBA
Randall Adams	Kappa League
Jimmy Fox	Kappa League
Tabula Tatis	Kappa League
Quincy Wake	Kappa League
Jarvis Love	Kappa League
Anthony Fox	Kappa League
Donald Jackson	Kappa League
Khiry Woods	Kappa League
Lawson Klump	Kappa League
Charlene Betts	Emerging Senator Betts
Scott Heidner	KADC
Lance Walsh	OJA
Jeff Bottenberg	State Farm
Kevin Baerone	KTLA
Kathy Kirk	KTLA
Kon Applebott	Water One
Don	

Sec. 1. K.S.A. 2004 Supp. 74-50,104 is hereby amended to read as follows: 74-50,104. (a) The secretary shall administer the provisions of this act and the IMPACT program established thereunder. The secretary shall encourage Kansas basic enterprises with similar training needs to cooperate in establishing SKILL projects. The secretary shall coordinate the SKILL program with other job training programs administered by the department of commerce. The secretary shall provide opportunities for coordination and cooperation of SKILL projects with other job training activities in Kansas. Subject to the limitation in K.S.A. 74-50,103, the secretary shall be authorized to make direct investments in educational and related workforce development institutions, for the purpose of promoting improvements in workforce development, human capital, training expertise and, infrastructure and job retention.

(b) The secretary shall adopt rules and regulations as follows: (1) Prescribing review standards and priorities for approval of proposed agreements under this act, including appropriate incentives for cooperation among projects, in order to maximize the number of new jobs created or retained with respect to individual Kansas basic enterprises, which will remain in Kansas, and (2) prescribing limits on program costs and on project and program size in relation to the number of new jobs created ~~or-the-wages-of-new-jobs-created~~ and wages of new or retained jobs. No agreement shall be approved which provides for

Senate Commerce Committee

3-21-05

Attachment 1-1

program costs of a project under the agreement of more than 90% of the amount equal to the estimated rate of withholding tax applied to the estimated amount of gross wages of all the new jobs under the project over a ten-year period. For agreements entered into prior to July 1, 2006, no agreement shall be approved which provides for program costs of a project under the agreement of more than 95% of the amount equal to the estimated rate of withholding tax applied to the estimated amount of gross wages of all the new or retained jobs under the project over a period of 20 years.

(c) Notice of the approval of a project or program and an annual report of the number of jobs created or retained under the IMPACT act shall be provided to the chairpersons of the senate committee on commerce and the committee on economic development of the house of representatives.

(d) The secretary may adopt such other rules and regulations as may be required for the implementation and administration of this act.

Sec. 2. K.S.A. 2004 Supp. 74-50,105 is hereby amended to read as follows: 74-50,105. (a) Subject to the approval of the secretary of commerce, an educational institution may enter into an agreement to establish a project and provide program services to an employer. As soon as possible after initial contact between an educational institution and an employer regarding the possibility of entering into an agreement, the educational institution shall inform the secretary of commerce about the

Senate Commerce Committee

3-21-05

Attachment 1-2

potential project. The secretary is also authorized to enter directly into agreements with employers for benefits under this act. If an agreement is entered into, the secretary, the educational institution and or the employer shall notify the secretary of revenue within 15 calendar days.

(b) Among other provisions, an agreement shall include:

(1) Provisions regarding payment of program costs, including deferred costs, which may be paid from one or a combination of the following sources:

(A) The IMPACT program services fund;

(B) tuition, student fees, or special charges fixed by the educational institution to defray program costs in whole or in part; and

(C) grants or donations available from federal agencies or other public or private sources;

(2) a provision requiring each Kansas basic enterprise under the agreement to submit information to the secretary of commerce regarding the numbers of new or retained jobs and the wages and withholding taxes paid therefor;

(3) a provision which fixes any tuition and fee payments which shall be paid for program costs; and

(4) a provision which fixes an amount that shall be paid by an employer if an agreement is terminated or any provision of the agreement is breached by the employer prior to satisfaction of all of the employer's obligations under the agreement and which prescribes that any such payment shall be deposited in the state

Senate Commerce Committee

3-21-05

Attachment 1-3

treasury to the credit of the IMPACT program services fund.

(c) Any payment required to be made by an employer shall be a lien upon the employer's business property until paid and has equal precedence with ordinary taxes and shall not be divested by a judicial sale. Property subject to the lien may be sold for sums due and delinquent at a tax sale, with the same forfeitures, penalties and consequences as for the nonpayment of ordinary taxes. The purchasers at tax sale obtain the property subject to the remaining payments.

(d) The payment of program costs incurred under any agreement shall not be deferred for a period longer than 10 years from the date of the commencement of the project. For agreements entered into prior to July 1, 2006, the payment of program costs incurred under any agreement shall not be deferred for a period longer than 20 years from the date of the commencement of the project.

Sec. 3. K.S.A. 2004 Supp. 74-50,106 is hereby amended to read as follows: 74-50,106. (a) The secretary of commerce shall review applications for proposed agreements submitted by employers in accordance with the standards and guidelines prescribed by this act and by rules and regulations adopted under K.S.A. 74-50,104, and amendments thereto. Each application for approval of a proposed agreement shall be accompanied by information about the number and wages of the new or retained jobs created by the employer, documentation of existing training activities of the employer and such other information as may be

Senate Commerce Committee

3-21-05

Attachment 1-4

required by the secretary of commerce.

(b) The secretary of commerce may pool the funding requirements of projects which are the subject of proposed agreements to determine the funding requirements of the ~~SKIBB~~ IMPACT projects under consideration to facilitate the issuance of bonds by the Kansas development finance authority.

(c) The secretary of commerce is hereby authorized to expend funds raised pursuant to this act on major project investments. The secretary shall adopt guidelines consistent with this act concerning firm eligibility for major project investments and shall otherwise administer the major project investment portion of the IMPACT act.

(d) In order for an employer to be eligible for a major project investment, the employer must:

(1) Annually make an investment in training and education of the employer's employees that exceeds 2% of the employer's total annual payroll costs; or

(2) agree that a portion of any funds available under the agreement be spent directly on employee education and training.

(e) An employer not creating new jobs shall ~~not~~ be eligible ~~for--participation--in--an~~ to participate in the IMPACT program ~~unless~~ if the employer meets the following criteria: (1) Maintains a minimum of 250 retained jobs; (2) makes a capital investment of at least \$50,000,000; and (3) the secretary of commerce finds that the program or project will be a major factor in the Kansas basic enterprise remaining in Kansas. For

Senate Commerce Committee

3-21-05

Attachment 1-5

agreements entered into prior to July 1, 2006, an employer not creating new jobs shall be eligible to participate in the IMPACT program if the employer meets the following criteria: (1) Maintains a minimum of 250 retained jobs if located in a metropolitan statistical area or a minimum of 100 retained jobs if located in a nonmetropolitan statistical area; and (2) the secretary of commerce finds that the program or project will be a major factor in the Kansas basic enterprise remaining in Kansas.

(f) For agreements entered into on and after July 1, 2006, prior to obtaining financing from the Kansas development finance authority for any project, group of projects or major project investment for one or more employers, the secretary of commerce shall present each such project to the governor's council on work force training and investment for review and approval. No agreement shall be approved by the secretary of commerce unless each project under the agreement has been reviewed and finally approved by the governor's council on work force training and investment.

Sec. 4. K.S.A. 2004 Supp. 74-50,107 is hereby amended to read as follows: 74-50,107. (a) The secretary shall determine and from time to time shall redetermine the rate at which moneys shall be credited to the IMPACT program repayment fund in order to satisfy all bond repayment obligations which have been incurred to finance program costs for IMPACT programs (which shall be referred to as the debt service rate) and the rate at which moneys shall be credited to the IMPACT program services

Senate Commerce Committee

3-21-05

Attachment 1-6

fund in order to finance program costs that are not financed by bonds (which shall be referred to as the direct funding rate). The total of the debt service rate and the direct funding rate shall be the combined rate. Each rate so determined shall be certified to the secretary of revenue. The combined rate determined under this subsection shall not exceed 1.5%. On and after July 1, 2005, the combined rate determined under this subsection shall not exceed 2%.

(b) Upon receipt of the rates determined and certified under subsection (a), the secretary of revenue shall apply daily the combined rate to that portion of the moneys withheld from the wages of individuals and collected under the Kansas withholding and declaration of estimated tax act K.S.A. 79-3294 et seq., and amendments thereto. The amount so determined shall be credited as follows: (1) The portion attributable to the debt service rate shall be credited to the IMPACT program repayment fund, and (2) the remaining portion shall be credited to the IMPACT program services fund.

For agreements entered into on and after July 1, 2006, the aggregate of all amounts credited to the IMPACT program repayment fund under this section during any fiscal year to pay bond repayment obligations on bonds to finance major project investments shall not exceed 20% of the amount which results when the rate of 1.5% is applied to all moneys withheld from the wages of individuals and received under the Kansas withholding and declaration of estimated tax act.

Senate Commerce Committee

3-21-05

Attachment 1-7

On and after July 1, ~~2005~~ 2006, the aggregate of all amounts credited to the IMPACT program repayment fund under this section during any fiscal year to pay bond repayment obligations on bonds to finance major project investments shall not exceed 20% of the amount which results when the rate of 2% is applied to all money withheld from the wages of individuals and received under the Kansas withholding and declaration of estimated tax act.

Senate Commerce Committee

3-21-05Attachment 1-8

Revisor of Statutes
Amendment

Sec. 1. K.S.A. 2004 Supp. 74-99b68 is hereby amended to read as follows: 74-99b68. (a) There is hereby established in the state treasury the bioscience research and development voucher -- federal fund for the purpose of providing matching federal moneys to enable qualified companies to undertake authority approved bioscience research and development projects in partnership with bioscience research institutions.

(b) The bioscience research and development voucher -- federal fund shall receive all federal moneys obtained from federal sources for bioscience research and development.

(c) Federal moneys deposited in the bioscience research and development voucher -- federal fund shall be disbursed by the state treasurer with the consent of the chairperson of the authority.

(d) On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the bioscience research and development voucher -- federal fund interest earnings based on:

(1) The average daily balance of moneys in the bioscience research and development voucher -- federal fund for the preceding month; and

(2) the net earnings rate of the pooled money investment portfolio for the preceding month.

Senate Commerce Committee

3-21-05

Attachment 2-1