

SESSION OF 2004

**CONFERENCE COMMITTEE REPORT BRIEF ON  
SENATE SUBSTITUTE FOR  
SUBSTITUTE FOR HOUSE BILL NO. 2647**

As Agreed to April 1, 2004

**Brief\***

Senate Sub. for Sub. for HB 2647, as amended, would create the Kansas Economic Growth Act. The bill would also create or amend ten additional acts as outlined below.

**Bioscience Authority Act** creates the Kansas Bioscience Authority, governed by an 11-member Board of Directors. Nine members would be voting members representing the general public who demonstrate leadership in finance, business, bioscience research, plant biotechnology, basic research, health care, legal affairs, bioscience manufacturing or product commercialization, education, or government. In addition, one member of the Board is to be an agricultural expert who is recognized for outstanding knowledge and leadership in the field of bioscience. Seven voting members of the Board must be Kansas residents. The Governor, the Speaker of the House, and the President of the Senate will each appoint two Board members, and the House Minority Leader, Senate Minority Leader, and Kansas Technology Enterprise Corporation (KTEC) will each appoint one member. No more than three voting members of the Authority could be appointed from any one congressional district. Two non-voting members of the Board are to be representing state research universities and have research expertise and represent Kansas universities. The voting members are subject to Senate confirmation and will serve four-year terms after conclusion of the initial term, with no more than three consecutive four-year terms. All members of the Board and all officers of the authority would be required to file a written statement of substantial interest.

The Board members would serve with compensation and would be required to meet at least four times per year. The Board members will appoint a president to serve as the Chief Executive Officer of the

---

\*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. The conference committee summary report may be accessed on the Internet at <http://www.kslegislature.org>

Authority. In executive session of the Board, the members are prohibited from taking action on any matter heard in an executive session. In addition, the Chairperson, the Vice-Chairperson, the Secretary, and two additional members of the Board to be chosen by the Chairperson from the remaining members will be the Executive Committee, which may transact business of the Authority. The Executive Committee membership must be voting members.

The Bioscience Authority is to be headquartered in the county with the highest number of bioscience employees associated with bioscience companies. The Authority would continue so long as the Authority has bonds outstanding unless adequate provisions are made for the payment or retirement of the Authority's debts or obligations. In addition, nothing in the Act would be construed to limit the constitutional powers of the Legislature.

The Authority, with state universities, would identify and recruit eminent and rising star scholars; jointly employ personnel to assist or complement eminent and rising star scholars; determine types of facilities and research; facilitate integrated bioscience research; and provide matching funds for federal grants.

The powers of the Authority would include:

- ! Oversee the commercialization of bioscience intellectual property created by eminent and rising star scholars.
- ! Own and possess patents, proprietary technology, and entering into contracts for commercialization of the research.
- ! Incur indebtedness and enter into contracts with Kansas Development Finance Authority for bonding to construct state-of-the-art facilities owned by the Authority.
  - " Neither the State of Kansas nor KDFA would be liable for the bonds of the Authority.
- ! Employ as many employees as it requires; however, the employees are not considered state employees.
  - " Allowed to establish benefits for employees such as a health insurance plan, retirement plans, death and disability benefits, and affiliate with Kansas Public Employees Retirement System.

- ! Purchase, lease, trade, and transfer property. Architecture and construction requirements similar to those affecting the research universities research facilities would also apply.
- ! Solicit and study business plans and proposals.
- ! Establish a contractual relationship with KTEC and National Institute for Strategic Technology Acquisition and Commercialization (NISTAC) for the first five years of operation.
- ! A repayment agreement would be required for any bioscience company that receiving grants, awards, tax credits or any other financial assistance, including financing for any bioscience development project, if the company relocates operations associated with the funding outside Kansas within 10 years after receiving such financial assistance. The Authority would be required to specify the terms of the repayment obligation and the amount to be repaid.

The Authority would be prohibited from creating any political action committee or contributing to any political action committee. Finally, the terms bioscience, biotechnology, and life sciences could not be construed to include: induced abortion in humans, performed after the date of enactment of this Act, or the use of cells or tissues derived therefrom; and any research, the federal funding of which would be contrary to federal laws that are in effect on the date of enactment of this Act.

Eminent domain would not be allowed to be used to secure agricultural land for a bioscience project. Finally, the Authority would be subjected to review by Kansas Inc. To evaluate and report on the effectiveness of Authority activities.

**Emerging Industry Investment Act** creates the Bioscience Development Investment Fund which will not be a part of the state treasury. Funds in the Bioscience Development Investment Fund would belong exclusively to the Authority. The Secretary of Revenue and the Authority would establish the base year of taxation for all bioscience companies and all state universities conducting bioscience research in the state.

The Secretary of Revenue, the Authority, and the Board of

Regents would establish the number of bioscience employees associated with state universities and report annually and determine the incremental increase from the base annually for the following 15 years from the effective date of the Act. All of the incremental state taxes generated by the growth of bioscience companies and research institutions over and above the base taxation year would go into the Fund. The baseline amount of state taxes would go to the State General Fund each year. The Bioscience Development Investment Fund would be used to fund programs and repay bonds.

**Bioscience Development Financing Act** would allow creation of tax increment financing districts for bioscience development. One or more bioscience development projects could occur within an established bioscience development district. The process for establishing the district would follow the tax increment financing statutes. However, no bioscience development district can be established without the approval of the Authority. The bill would allow counties to establish bioscience development districts in unincorporated areas. KDFRA may issue special obligation bonds to finance a bioscience development project. The bonds would be paid with ad valorem tax increments, private sources, contributions, or other financial assistance from the state and federal government. In addition, the bill would create the Bioscience Development Bond Fund which would be managed by the Authority and not be part of the state treasury. A separate account will be created for each bioscience development district (BDD) and distributions will pay for the bioscience development project costs in a BDD.

**Bioscience Tax Investment Incentive Act** would make additional cash resources available to start-up companies. The bill would create the Net Operating Loss (NOL) Transfer Program. The Program would allow Bioscience Authority to pay up to 50 percent of a bioscience company's Kansas NOL during the claimed taxable year. The Program would be managed by the Kansas Department of Revenue and would be capped at \$1.0 million for any one fiscal year.

**Bioscience R & D Voucher Program Act** would establish the Bioscience R & D Fund in the state treasury. The Fund could receive state appropriations, gifts, grants, federal funds, revolving funds, and any other public or private funds. The State Treasurer would disperse funds with the consent of the Bioscience Authority Chairperson. The Program would require that any Kansas companies conducting bioscience research and development apply to the Authority for a research voucher. After receiving a voucher, the company would

then locate a researcher at a Kansas university or college to conduct a directed research project. At least 51 percent of voucher award funds would be expended with the university in the state under contract and could not exceed 50 percent of the research cost. The maximum voucher funds awarded could not exceed \$1.0 million, each year for two years, and not to exceed 50 percent of the research costs. The company would be required to provide a one-to-one dollar match of the project award for each year of the project. A Bioscience Research and Development Voucher– Federal Fund would be established to receive any federal funding.

**Bioscience Research Matching Funds Act** would establish the Bioscience Research Matching Fund to be administered by the Authority. Recipients must be a bioscience research institution and are encouraged to jointly apply for funds. The funds would be used to promote bioscience research and to recruit, employ, fund, and endow bioscience faculty, research positions and scientists at universities in Kansas. Application for the matching funds would be made to the Authority.

**Kansas Center for Entrepreneurship** would be established within the Department of Commerce. The Secretary of Commerce would enter into a contract for the operations of the Center. An 11-member Board of Directors would be appointed by the Secretary of Commerce and specific qualifications for Board membership are outlined in the bill.

The purpose of the Center would be to increase seed capital for entrepreneurs, especially those in distressed and rural communities; work with the Kansas Board of Regents and the Kansas Board of Education to create training and course work in entrepreneurship; and provide a resource center clearinghouse and referral source which would include a website and a toll-free telephone number.

The bill also creates the Kansas Community Entrepreneurship Fund (KCEF), which would receive state funds, donations, and gifts from any source. The Center would administer the fund under guidelines established by the Secretary of Commerce and the funds would be used for awards to regional and community organizations that provide seed capital to qualified entrepreneurs, especially those located in distressed and rural communities in Kansas. The Fund would not be subject to appropriation. A maximum of 10 percent of the fund each year could be used for the operation of the Center.

A new tax credit for entrepreneurship in distressed and rural communities would also be established in SB 393. Taxpayers that donate to the KCEF could claim a 50 percent tax credit of the amount donated. The first year that a tax credit could be claimed is 2006 and would be limited to a total amount of \$2.0 million for any one fiscal year. In addition, the minimum amount of investment would be \$250 to receive the credit. The Center and the Department of Commerce would control the distribution of the credits to investors.

After the third year of operation, the Center is to be reviewed by Kansas Inc. for evaluation of the program in meeting its goals and objectives, and cost effectiveness of the program.

**The Kansas Investments in Major Projects and Comprehensive Training Act** is amended to allow the Secretary of the Department of Commerce to make direct investments in educational and related workforce development institutions. The bill also increases the Secretary's ability to invest in capital requirements of major facility expansions from 10.0 percent to 20.0 percent of IMPACT funds.

**The Rural Business Development Tax Credit** would be established in the bill. State income tax credits would be awarded to seven designated regional organizations to use to encourage individuals, businesses, financial institutions, and insurance companies to donate to regional foundations. The bill defines a "regional foundation" as an organization that demonstrates capacity to provide economic development services to various regions of the state. The Secretary of Commerce with assistance of the Secretary of Revenue would designate an organization as a regional foundation.

Over a three-year period, each region would receive \$1.0 million of tax credits, or a total of \$7.0 million statewide. A tax credit of 50 percent of the donation would be available under this program. The minimum donation would be \$250. Any credits not sold by a date to be specified by the Department of Commerce would be reclaimed by the Department and redistributed to other regions that had used all of their credits.

**The Kansas Angel Investor Tax Credit Act** would be established in the bill. An accredited investor would be allowed a 50 percent tax credit not to exceed \$50,000 of cash investment in a qualified Kansas business and limited to five such cash investments.

The tax credit would be made available beginning January 1, 2005 with a cap of \$2.0 million per year. The last year to receive a tax credit under the provisions of the bill would be 2016. The cumulative aggregate amount of tax credits allowed for the ten-year period would be \$20.0 million.

A qualified Kansas business would be certified by Kansas Technology Enterprise Corporation (KTEC). An accredited investor would be an accredited investor as defined by the U.S. Securities and Exchange Commission Rule 501 Regulation D and is incurring Kansas income tax. The tax credit could be sold if the investor is not subject to Kansas taxation and only the full credit for any one investment may be transferred. KTEC would be allowed to recover administration costs from the accredited investor or qualified Kansas business.

The bill requires repayment of state investments if the business no longer qualifies or moves out of the state within 10 years and would abolish the Kansas Certified Capital Formation Company Act.

**The Kansas Downtown Redevelopment Act** would be created in the bill. The Secretary of Commerce would approve applications from cities or counties for the designation of downtown redevelopment areas that will also receive a rebate of property tax collected on the properties which have undergone approved improvements. The criteria the Secretary would use when reviewing the applications includes:

- ! The proposed redevelopment area is located in a well-defined, core commercial district of the city;
- ! The structures located within the proposed redevelopment area have a vacancy rate that exceeds 15 percent; or
- ! The average appraised valuation of the properties located within the proposed area has not increased by more than 15 percent in the past 10 years.

The property owner would be required to submit a written application to the governing body of the city to request the rebates. The real property approved for the tax rebates would be assessed and taxed as if it had not been approved. A rebate for five years

would be made available to the property owner of the incremental tax increase between the base year, prior to the improvements, and the new assessed evaluation. During the sixth year, 80 percent of the tax increment would be subject to rebate. For the seventh, eighth, and ninth years, the percentage of the tax increment that would not be subject to rebate would be a 20 percent increase per year. Finally, in the tenth year, no rebate would be awarded.

### **Conference Committee Action Committee**

In the Conference Committee, the first House agreed to the second House amendments to the bill, with the following exceptions:

- ! Language was struck indicating that exempted the authority from several state requirements, as is the case with the hospital authority were reinstated. (Senate amendment)
- ! Changes the definition of program costs in the Kansas Investments in Major Projects and Comprehensive Training Act by increasing the limit for direct investments related to workforce training and development from 10 percent to 15 percent (House Amendment)
- ! Language was struck that the first year an Angel Investor Tax Credit would be available would be 2006. (House Amendment)

The Conference Committee agreed to amend the bill to:

- ! Require that the agreement between the Bioscience Research Institution and the Bioscience Authority with regard to the intellectual property must be entered into prior to the Authority providing any financial support or funding to the bioscience research institutions. In the original version of the bill the agreement was to be reached at the point of discovery.
- ! Affirmative vote of six members of the Board of Directors of the Bioscience Authority would be required to remove a Director from the Board. In the original version of the bill a vote of seven members would have been required.
- ! Exempt the Kansas Community Entrepreneurship Fund from appropriation.



- ! Add an annual cap of \$2.0 million for Angel Investor Tax Credits was added to the bill. In addition, the first date the tax credit will be made available is January 1, 2005.
- ! Add counties under the Kansas Downtown Redevelopment Act to make application for the designation of downtown redevelopment areas that will also receive a rebate of property tax collected on the properties which have undergone approved improvements. Under the original bill only cities could apply.
- ! Add the Department of Homeland Security to the list of federal agencies that the Bioscience Research Matching Fund moneys can be used for to provide the match.
- ! Technical clean up amendments were also made by the Committee.

## **Background**

The Conference Committee placed amended versions of SB 393, The Kansas Center for Entrepreneurship; SB 394, amendments to the Kansas Investments in Major Projects and Comprehensive Training Act (requested by Department of Commerce); SB 417, Rural Business Development Tax Credits; SB 480, Kansas Angel Investor Tax Credit Act; and SB 520, Kansas Downtown Redevelopment Act into Senate Substitute for Substitute for HB 2647; the Bioscience Authority Act.