

MINUTES OF THE HOUSE ECONOMIC DEVELOPMENT COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 3:30 p.m. on February 17, 2004, in Room 526-S of the Capitol.

All members were present except:
Representative Don Hill- excused

Committee staff present:
Kathie Sparks, Legislative Research Department
Susan Kannarr, Legislative Research Department
Norman J. Furse, Revisor of Statutes
Helen Pedigo, Office of Revisor of Statutes
Fulva Seufert, Secretary

Conferees appearing before the committee: Joan Wagon, Secretary of Revenue
Julie Edge, Ph.D., Inside Edge Solutions LLC
Reggie Robinson, President and CEO, Kansas Board of Regents
Rebecca Floyd, Counsel, Kansas Development Finance Authority (K DFA)

Others attending:
See Attached List.

Chairman Wilk opened the meeting of the House Economic Development Committee on February 17, 2004, at 3:30 p.m. The Chair announced that there are balloon amendments for the following:

HB 2647 - Bioscience authority and development acts

The Chair said that staff would be briefing the committee, and it was the intent to adopt as many non controversial amendments today to expedite working the bill. He said there would be no action taken today so members would have an opportunity to look at all the balloons carefully.

Chairman Wilk welcomed Mr. Norman J. Furse, Revisor of Statutes, who passed out a handy index to help members follow through the amendments using this quick reference to the bill and the parts as they will be worked today. (Attachment 1)

The Chair announced that **HB 2647** was up for consideration and with the committee's indulgence, he planned to begin working the bill.

The Chair directed the committee's attention to page 45 of the bill, New Section 54 to read as follows: (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 bioscience companies to undertake authority approved bioscience research and development projects in partnership with Kansas universities. (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 the average daily balance of moneys in the bioscience research and development voucher – federal fund for the preceding month. (Attachment 2)

Representative Gordon made a motion to adopt this New Section 54 and Representative Carlin seconded. Motion passed.

The Chairman directed the committee's attention to the following technical amendments:
On page 22, New Section 22, line 17, substitute "bioscience development and" for "emerging industry investment act." This same change in lines 18, 20, 22, 34, 39, age 24, line 21 and on page 29, line 5, change "redevelopment project area" to "bioscience development district."

Representative O'Malley made a motion to make the above technical changes, and Representative Huntington

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seconded. Motion passed.

The Chair informed the committee that he had taken the liberty of having a balloon prepared to address the Kansas Agribusiness Retailers Association concern about having an agriculture entrepreneur knowledgeable in bioscience on the board. These items were addressed in the balloon on page 4, line 29, adding "One member of the board shall be an agricultural entrepreneur knowledgeable in bioscience." Line 30, substituting "eight" for the number "nine." Line 41, adding "one of which shall be the agricultural entrepreneur knowledgeable in bioscience." The Speaker will appoint the agricultural entrepreneur as well as one of the other appointments. The Board members are staggered the first term. The second phase of the Farm Bureau request deals on page 3 of the balloon, page 31 on the bill, line 25 (d) In creating a bioscience development district, eminent domain shall not be used to acquire agricultural land. In addition, the following subsections will need to be re-lettered accordingly. (Attachment 3)

Representative Winn made a motion to amend the balloon to make it consistent in language, and Representative Burroughs seconded. Motion passed.

The Chair said the committee was back on the amended balloon. Discussion followed concerning the word entrepreneur rather than agriculture expert and the Farm Bureau's intent. Representative Loganbill called attention to an editorial change in the balloon for line 41, page 4 on the balloon from entrepreneur to expert. The revisor will make this editorial change.

Representative Carlin moved to amend the balloon to remove entrepreneur and add the word "expert," and Representative Kuether seconded. Motion passed.

The Chair said the committee was back on the balloon. Representative Boyer made a motion to adopt the balloon, and Representative Novascone seconded. Motion passed.

Representative Winn made a motion that the Governor have 4 appointments to the board instead of two which would make the committee 14 instead of 12. Representative Kuether seconded. Motion failed 4-7.

The Kansas Agribusiness Retailers Association requested that "plant biotechnology" be added after bioscience research on page 4, line 32.

Representative Boyer made a motion to make this change, and Representative Huntington seconded. Motion passed.

Chairman Wilk recognized Secretary of Revenue, Joan Wagon, by thanking her and her staff for working with the KTEC staff in developing some excellent, but simple noncontroversial amendments. The Chair told the committee that Secretary Wagon would brief the committee on what appear to be simple, non controversial technical changes. When Secretary Wagon gets to the bioscience project district, he reminded the Committee that no action would be taken today on those balloons so that the members could review and digest them. Secretary Wagon said the Department of Revenue appreciates the opportunity to work on **HB 2647**, and the following non controversial suggestions were explained:

- Page 14, line 5, insert after the word authority "with assistance from the department of revenue."
- Page 18, line 30 in New Sec. 12, remove the words, "general ad valorem" and insert the words, "real and personal property."
- Page 20, line 18 to 2004 to 2003 for their accounting purposes
- Page 20, lines 39-43, do not delete the NAICS (North American Industry Classification System) codes as shown in the balloon. On page 21, do not delete lines 1 and 2. Since there were no objections, the Chair requested that the balloon show the NAICS codes and strike the "SIC Codes."
- Page 22, delete lines 1-4 and re-letter the remaining subsections accordingly.
- Page 22, line 8, delete "of state" and in line 9, delete "excise". In line 10, add after the word "law" except for property taxes levied for schools.
- Page 22, line 34, insert after the word "pay" the words, "as certified by the secretary of revenue." (Representative Krehbiel suggested this would read better if "as certified by the secretary of revenue" was inserted at the end of the paragraph instead of after the word "pay.")

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- Secretary Wagon said this would be more correct.
- Page 22, line 36, after the word “companies” insert the words, “as certified by the secretary of revenue.”
- Page 22, line 37, remove “all revenue collected or received from state income taxes,” and insert “annually, 95% of withholding above the base, as certified by the secretary of revenue.”
- Page 23(f), remove lines 4-7. In line 8, re-letter to (f).
- Page 23, line 12, remove 2004, and substitute 2006 (needs to be consistent with when they have data and provides accuracy and confidentiality which is an issue for them.)
- Page 23, line 13, remove “of Kansas, Inc.” and insert “of the department of revenue”
- Page 23, line 18, beginning with the last three words, “The secretary of,” delete plus lines 19-43, which goes to the bottom of page 23.
- Page 24, delete lines 1-25.
- Page 25, line 6, New Sec. 27. Omit rest of page to bottom, line 43.
- Page 29, delete lines 1-43. (Whole page)
- Page 28, New Sec. 27, line 6 (substantial changes in the TIF law, so will be taken up separately.) (Attachment 4)

Representative Gordon made a motion to approve the above amendments, and Representative Carlin seconded. Motion passed.

The Chairman asked Secretary Wagon to walk through the balance of the bill, but said action would not be taken on this today because some of these are substantive changes. Secretary Wagon said that she needed to speak to the conceptions and that the League of Municipalities has also reviewed the amendments. Secretary Wagon said the typed sections would be substituted for the deleted sections and that they had tried to stay true to the big concept while still staying true to the existing TIF Law. The following balloons were discussed:

- Page 30, delete lines 1-43. (Whole page)
- Page 31, delete lines 1-43. (Whole page)
- Page 32, delete lines 1-43. (Whole page)
- Page 33, delete lines 1-17. Insert Sec. 27, Sec. 28 and Sec. 29 of the balloon.
- Page 34, line 21, after word “taxes” insert “, except for property taxes levied for schools”
- Page 34, line 35, delete word “inheritance” and substitute word “estate”
- Page 35, line 3, after the word “district” insert “as certified by the secretary of revenue”
- Page 35, line 14, remove “county or school district of the state” and insert “or county”
- Page 35, line 22, New Sec. 33. Delete lines 22-43.
- Page 36, lines 1-43, delete
- Page 37, lines 1-43, delete
- Page 38, lines 1-42, delete. Balloon has New Sec. 36 which reads:

New Sec. 36.

(a) For taxable years commencing after December 31, 2004, any bioscience company as defined in subsection (d) of section 21, and amendments thereto, shall be allowed a payment from the bioscience authority not to exceed 50% of such bioscience company’s Kansas net operating loss incurred during the claimed taxable year. No bioscience company as defined in subsection (d) of section 21 shall claim more than one payment on a bioscience research and development project per taxable year.

(b) In no event shall the total amount of payments authorized and made by the bioscience authority pursuant to subsection (a) exceed \$1,000,000 for any one fiscal year.

(c) The department of revenue shall annually certify to the bioscience authority any bioscience company claiming the payment, the amount of Kansas net operating loss claimed and the payment due to the bioscience company. The bioscience authority shall thereafter make the payment to the bioscience company.

(d) The secretary of revenue shall adopt rules and regulations to implement the provisions of this section.

Chairman Wilk thanked Secretary Wagon and said that the committee would now be discussing one of the most difficult sections of the legislation since there is no language today in the bill regarding stem cell research. The Chairman said the introduction of the language being handed out has been shoveled around among various entities, but a consensus has not been reached on a set language. These are two different proposals which have gone anywhere from a provision that could add 150 pages to the bill to precise wording

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that can address the needs. The Chair said he had asked a couple of folks to speak to this today, and then there is a big balloon from KDFFA that he would like to get to before adjournment. The Chair recognized Dr. Julie Edge, Inside Edge Solutions LLC, who read through the following two drafts:

Draft 1

Notwithstanding any other provision of this Act, the terms “bioscience,” “biotechnology” and “life sciences” shall not be construed to include:

- (a) induced abortion in humans or the use of cells or tissues derived therefrom,
- (b) use of cells or tissues that were derived by destroying live human embryos,
- (c) 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.

Draft 2

Notwithstanding any other provision of this Act, the terms “bioscience,” “biotechnology” and “life sciences” shall not be construed to include:

- (a) induced abortion in humans in state supported hospitals or their clinics or the use of cells or tissues derived therefrom,
- (b) use of cells or tissues that were derived by destroying live human embryos in a state sponsored research institution.
- (c) 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. (Attachment 5)

Dr. Edge said that the difference between the two drafts was in (a) and (b) of Draft 2 that has the underlined words inserted. In (a) the insertion of the words, “in state supported hospitals or their clinics” and in (b) insertion of “in a state sponsored research institution.” Dr. Edge said that essentially this added language would go beyond existing law, K.S.A. 65 -6707 (a) which currently limits the use of fetal organs and tissues based on personal consent to do the abortion and personal consent to use the tissue in research.

Chairman Wilk introduced Mr. Reggie Robinson, President and CEO, Kansas Board of Regents, who said he thanked the committee on behalf of the Board of Regents for the opportunity to work through these tough issues. Mr. Robinson said that part (c) is the language that is the current August, 2001 law. Under current law, only federally funded research is affected, but under subsection (c), all research would be affected even if not funded by the federal government. He noted that under subsection (c), the authority would be limited even more than is the case under current federal law. He said there are researchers out there presently who are able to engage in research outside the contours of federal provisions if funded other than from the federal government. He stated that his general preference would be for paragraph (c) as he described it and to use it alone and to end the description after the word law. It would then read, “Any research the federal funding of which would be contrary to federal laws.” His rationale was that if at some point in the future federal law would become more permissive regarding the use of embryonic tissue, they would want their researchers to benefit from that shift in policy. He said the other paragraphs under (b) and (a) are acceptable in the versions that include the references to state supported hospitals or their clinics and state sponsored research institutions. Then if the law was loosened, we could take advantage of it and would not be locked into the stricter version. Representative Burroughs asked about what Missouri is using for guidelines and law for stem cell research. Chairman Wilk said this would be researched and hopefully could help the committee make a decision. Representative Brunk also said he wants language from Missouri. The Chair said the committee would come back to this issue later. He thanked both Mr. Robinson and Dr. Edge.

Chairman Wilk recognized Ms. Rebecca Floyd, Counsel for Kansas Development Finance Authority (KDFFA), who explained the amendments they would like. Ms. Floyd first addressed the committee using a different document which was confusing. Finally, Ms. Floyd used the same copy of the draft the committee received as their handout. The following changes were addressed:

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- Page 2, line 33, delete from the word purposes through the rest of the paragraph through line 38.
- Page 3, line 7, delete and “Bonds” through line 11. Add “has the same meaning as in K.S.A. 74-890w, and amendments thereto.
- Page 4, add (w) “Bioscience research institutions” means all state universities and colleges located in the state of Kansas conducting bioscience research after line 15 (v).
- Page 7, line 3 and 4, Delete “The president, as a member of the board, may not vote on the president’s salary as president.”
- Page 7, line 9, substitute the words, “debts or obligations” for the word “bonds.”
- Page 14, line 8 through page 18, line 13, New Sec. 10. Delete all of New Sec. 10 and see attached New Sec. 10.
- Page 22, line 17, 18, 19, 20, 34, 39, 43, and Page 23, line 1, substitute the words, “bioscience development and” for “emerging industry investment act.
- Page 24, line 21, substitute the words, “bioscience development and” for “emerging industry investment act.
- Page 24, line 26. Beginning with Sec. 24, delete all of Sec. 24 on pages 25, 26, and 27 to line 38. Renumber the remaining sections accordingly.
- Page 28, lines 29-34, beginning with and. This refers to the NAICS codes.
- Page 31, line 6, after the word “district,” add the words, “and the Kansas development finance authority.”
- Page 32, line 36, after the word “district,” add the words, “and the Kansas development finance authority.
- Page 33, line 18-21, delete “shall have the power to issue special obligation bonds in one or more series to finance the undertaking of any bioscience development project in accordance with the provisions of this act.” Insert the following: “is hereby authorized to issue special obligation bonds pursuant to K.S.A. 74-8901 et seq., and amendments thereto, to in one or more series to finance the undertaking of any bioscience development project in accordance with the provisions of this act. No special obligation bonds may be issued pursuant to this section unless the Kansas development finance authority has received a resolution of the board of the authority requesting the issuance of such bonds.”
- Page 33, line 22. At the end of the sentence, add the following: “from one or more of the following, as directed by the authority.”
- Page 34, line 29, remove the word “such” and insert “the bioscience development bond fund or other available.
- Page 34, line 34, after resolution, insert “of the Kansas development finance authority.”
- Page 34, line 41, after the last word, “acts,” insert “and sub-accounts may be created for each bioscience development project or portion thereof.”
- Page 35, line 1, after the word, “district,” insert “including principal and interest on special obligation bonds or other obligations issued by the Kansas development finance authority to finance in whole or in part, a bioscience development.” (Attachment 6)

The Chairman thanked Ms. Floyd, and he thanked the Committee for their indulgence. He also thanked Mr. Norm Furse for attending the meeting and advising the Committee.

Representative Gordon made a motion to approve the minutes of the February 12, 2004, meeting. Representative Burroughs seconded. Motion passed.

The meeting adjourned at 5:45 pm.