

MINUTES OF THE SENATE COMMERCE COMMITTEE.

The meeting was called to order by Chairperson Alicia Salisbury at 8:00 a.m. on February 1, 2000 in Room 123-S of the Capitol.

All members were present except:

Committee staff present: Lynne Holt, Legislative Research Department
Jerry Ann Donaldson, Legislative Research Department
Bob Nugent, Revisor of Statutes
Betty Bomar, Secretary

Conferees appearing before the committee:
Lynne Holt, Legislative Research Department
Mikel Miller, Kansas, Inc.
Shirley K. Sicilian, Kansas Department of Revenue

Others attending: See attached list

SB 308 - Tax credits for contributions to public works

Lynne Holt, Legislative Research Department, reviewed a portion of the report by the 1999 Joint Committee on Economic Development on **SB 308**. She explained the the introduced version of **SB 308** authorizes up to \$50 million in state tax credits over a five-year period (not to exceed \$10 million per year) for investments in “qualified infrastructure projects.” The bill establishes the Kansas Infrastructure Development Board to evaluate and approve grant applications to fund infrastructure projects based on criteria specified in the bill. The Committee held hearings during the 1999 Legislative Session and the bill was referred to a subcommittee. The subcommittee deliberations dealt primarily with the treatment of the tax credit, where the Kansas Infrastructure Development Board would be housed, the transferability of the proposed tax credits, the possible assignment of the program’s administrative responsibilities to the Kansas Development Finance Authority and the potential conflict with its statutory mission. The Chairman requested the Legislative Coordinating Council refer the bill to the Joint Committee on Economic Development for further consideration. (Attachment 1)

The Joint Committee on Economic Development heard presentations in support of the bill over the interim and recommended that a substitute bill for **SB 308** be drafted to reflect the conceptual recommendations of the Kansas, Inc. staff as part of an analysis of the bill. The Joint Committee further recommended that the bill be referred to the Senate Commerce Committee for further consideration.

Mikel Miller, Kansas, Inc., stated Kansas, Inc.’s analysis of **SB 308** should not be construed as support by Kansas, Inc. of the legislation. Ms. Miller explained that the Joint Economic Development Committee asked Kansas, Inc. at its August 31st meeting, to perform an analysis of **SB 308**. The analysis was presented on November 3, 1999, and the Joint Committee accepted the recommendations and directed a substitute bill be drafted reflecting those recommendations. (Attachment 2)

The Proposed Substitute for **SB 308** creates a tax credit program closely fashioned after the Community Services Program administered by KDOC&H. The proposed program also would be administered by KDOC&H and would provide a 50% tax credit for individuals, businesses, and not-for-profit organizations making a charitable contribution to qualifying infrastructure development projects. The proposed bill provides a total allocation of up to \$10 million in tax credits each year for a period of 5 years, not to exceed \$50 million over the proposed 5-year life of the program.

Ms. Miller stated when considering the establishment of new economic development programs, the following questions must be addressed: 1) What is the overall goal of the program? 2) Would the program fill an identified gap or need? 3) Would the program duplicate existing programs? and 4) Would the program fit into the state’s established economic development plan?

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Ms. Miller stated that according to advocates of the bill, the goal of the program is to encourage the private sector's financial participation in a broad range of infrastructure development projects; increase the availability of funding for infrastructure development projects; and provide another tool for economic development practitioners when competing for and developing projects requiring infrastructure development.

Ms. Miller stated that the creation of a new tax program solely for the purpose of putting Kansas' economic development practitioners on an even playing field with Missouri when competing for projects does not constitute a real need, however; such a program would provide another tool for economic development in both metropolitan and more rural areas of the state.

Would the program duplicate existing programs? Ms. Miller stated there are presently two programs administered by KDOC&H which offer funding for infrastructure improvement. The Kansas Partnership Fund, designed to provide loans to local governing bodies to finance infrastructure projects related to basic enterprise development was last funded in 1993 and presently has approximately \$1.4 million available for infrastructure loans. The second program is the Small Communities Development Block Grants (CDBG) which distributes federal HUD funds to local governmental agencies. Kansas, Inc. found very little, if any, of the CDBG funds are used for infrastructure improvement funds. The Department of Transportation provides a number of infrastructure improvement programs that are primarily for transportation-related infrastructure. A question was raised by the Joint Committee on Economic Development with regard to whether **SB 308** would duplicate of the Community Service Program (CSP). Ms. Miller replied that as written, Proposed Substitute **SB 308** would not duplicate the efforts of that program.

Does the program fit into the state's established economic development plan? Ms. Miller explained that the state's economic development strategy emphasizes the importance of public-private partnerships in building the state's economy and improving quality of life. The Redwood/Krider Report of 1986 identifies development and maintenance of public infrastructure systems as one of the seven foundations for economic development

Ms. Miller stated a determination must be made by policymakers as to whether the proposed program is of a high enough priority to merit funding. Although tax credits are not a direct appropriation, they must be allocated with care because they impact revenues the state ultimately has to spend for other programs.

One policy issued of concern to Kansas, Inc. is the broad-based nature of the definition of eligible projects contained in both the original and substitute **SB 308**. To facilitate better program administration and to clarify the objectives of the program, Ms. Miller recommended that the definition of eligible projects be rewritten to specifically define two categories of projects: "infrastructure development related to economic development projects" and "development and rehabilitation of public facilities." She noted the Joint Committee expressed an interest in allowing tax credits for other types of projects, such as prisons, municipal utilities, telecommunications facilities, and other projects not directly related to either an economic development project or the development of public facilities. Ms. Miller stated if the Committee determines that other types of projects should be eligible for tax credits that do not fit into the previously suggested categories, a third definition would need to be included.

Shirley K. Sicilian, Office of Policy & Research, Department of Revenue, submitted a table comparing treatment of tax credit in the Proposed Substitute for **SB 308** with the Community Services Program. (Attachment 3) Ms. Sicilian also noted that contributions under the substitute for **SB 308** would likely qualify as a charitable contribution for federal tax purposes. Moreover, the credit could be transferred between taxpayers. The Department of Revenue recommends restricting transfers in the substitute for **SB 308** in a manner similar to the restrictions set forth for the old Kansas Business and Job credit, the tax credit for investment in certified Kansas venture capital companies, and tax credits authorized in the Community Service Program.

Ms. Sicilian stated the Proposed Substitute for **SB 308** has addressed several of the tax related points the Department felt needed clarification; however, she noted some points have not been addressed and outlined several provisions in the substitute bill that warranted further clarification.

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The Committee, after clarification from Mikel Miller, determined almost any project appeared to be eligible for program investments based on the definition of “qualified infrastructure project” under the Proposed Substitute for **SB 308**.

Upon motion by Senator Steffes, seconded by Senator Ranson, the Minutes of the January 31, 2000, meeting were corrected by correctly spelling the name of Hal Hudson, and unanimously approved.

The meeting was adjourned at 9:00 a.m.

The next meeting is scheduled for February 2, 2000.