

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairman Susan Wagle at 8:30 a.m. on February, 16, 2011, in Room 548-S of the Capitol.

All members were present.

Senator Holland – excused

Committee staff present:

Ms. Margaret Cianciarulo, Committee Assistant

Mr. Ken Wilke, Kansas Office of the Revisor of Statutes

Mr. Reed Holwegner, Kansas Legislative Research Department

Ms. Dorothy Noblit, Kansas Legislative Research Department

Conferees appearing before the Committee:

Mr. Joe Sutton, Vice President, Teamsters #838

Ms. Loriann Fisher Koneczny, Constituent

Ms. Pamela Ann Ward, Constituent

Others attending:

See attached list.

Handouts regarding Kansas Bioscience Authority

Chairperson Wagle began the meeting calling on Mr. Reed Holwegner, Kansas Research Department to explain handouts that answers the question from yesterday's Committee meeting, regarding the Kansas Bioscience Authority, when it would sunset? Mr. Holwegner referred the Committee to his memorandum with an attachment of the statute of what they would be discussing, including:

1.) In yesterday's meeting. Mr. Thornton mentioned the funding mechanism for the KBA being analogous to that of a TIF. Unlike a traditional TIF district, that would be based on increased revenues of property tax, the funding from KBA comes from increased withholding taxes that are allocated above the base.

2.) Sec. 74-99b34, which is attached, he said outlines the funding mechanism. After the base was established in 2004, the State is required annually to transfer 95% of that portion of withholding that is above the base to the Bioscience Development and Investment Fund. Unlike other funds, it is segregated from the state Treasury and the Bioscience Authority has exclusive control over the Fund's administration and distributions from it. This transfer continues to happen until one of two events occur:

A.) until fifteen years have passed since the effective date of that legislation, which in this case is July 1, 2019 or when

B.) \$581.8M has been transferred to the Fund.

3.) Since 2009, the legislature has placed caps of \$35M each year on those transfers. These caps remain not only for the current fiscal year, but also for 2012 as well.

A copy of his Memorandum and attachment is (Attachment 1) attached and incorporated into the Minutes as referenced.

The Chair asked how much have we given them to date in total funding? (Around \$190M.) And if we do nothing, it sunsets in 2019? (Yes.) Senator Steineger stated he had asked and has received a list of NIAC codes that are assigned to KBA and associated dollar amounts. So each industry that has generated money is listed and the total revenue they contributed.

Hearing on SB78 – an act concerning certain appointments made by KTEC transferring such authority to the governor

As there were no further questions or discussion regarding the funding of KBA, The Chair announced the next order of business is a hearing on **SB78** – an act concerning certain appointments made by KTEC transferring such authority to the governor and again, called on Mr. Holwegner to explain the bill which included:

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- 1.) The appointment to the State Fair Board – there are various entities that make appointments to various interests that are represented on the State Fair Board, one of which is also a member of KTEC.
- 2.) The restructuring of the operation which has been under the jurisdiction of KTEC and most recently having the authority to appoint one of its Board members to the State Fair Board, this bill would repeal that provision and authorize the governor to appoint seven people instead of 6 and that additional person would also be at large. Currently, the law outlines that only one person be at large and appointed by the governor.

The Chair asked, referring to Sec. 2 on page 2, beginning on line 23, is it actually dealing with appointments from KTEC, and KTEC also had an appointment on the Bioscience Board? (Yes.) On page 3, beginning on line 16, it strikes the person who is supposed to represent KTEC on the Bioscience Authority and gives the appointment to the governor? (Yes.)

The Chair stated she had no one to testify on this bill. She had visited with Mr. Denny Stecklein, General Manager, Kansas State Fair, who referred her to Mr. Tom Tunnell, President, Kansas State Fair, who along with Mr. Stecklein, were “comfortable with the at-large selection of the Board position that has been filed by KTEC. However, Mr. Tunnell was not available, but the attached email is offered. A copy of the email is (Attachment 2) attached and incorporated into the Minutes as referenced.

She recognized Mrs. Lindsey Thornton asking if anyone would want to testify on behalf of the KBA? Mrs. Thornton stated on behalf of the KBA, they would be happy to support the bill. She offered to make a copy of their appointing authority matrix, listing each authority, who they appointed, the year of their term. The Chair asked who is the name of their KTEC appointment? (Ray Smilor and his appointment expires on March 15, 2011.) The Chair closed the hearing.

Hearing on SB137 – an act concerning the employment security law; relating to unemployment benefits for privately contracted school bus drivers.

The next order of business was a hearing on **SB137** – an act concerning the employment security law; relating to unemployment benefits for privately contracted school bus drivers. Chairperson Wagle again called on Mr. Holwegner to explain the bill which:

- 1.) Primarily deals with one section which outlines persons who are disqualified from benefits. It outlines who those persons are and provides exceptions for them.
- 2.) Referring to page 11, subsection (p), these are the proposed amendments which would be dealing with bus drivers, with the proposed being to strike language referring to a private contractor so that only those persons who are directly employed by a school district would be ineligible for unemployment insurance benefits.
- 3.) Showed other references of striking of the phrase “be a private contractor.” In line 32, this phrase is also shown and he and the Revisor have been in discussion that there may be some question as to whether or not some additional language needs to be put in the bill to appear that there are no ambiguities in there.

The Chair asked if there are any other situations where we have done something like this? (Mr. Wilke, Office of the Revisor of Statutes, answered that this particular section does have paragraphs that are specifically tailored, for instance (o) refers to “educational service agency.”)

As there were no questions or discussion for Mr. Holwegner or Mr. Wilke, the Chair called on the first of three proponent conferees, Mr. Joe Sutton, Vice President, Teamsters #838, who stated the bill provides for a revision that rectifies the disqualification for school bus drivers and monitors who are either laid off from work or have a serious reduction of work hours after each academic year is over. He went on to say school bus drivers and monitors who work in Kansas but live in Missouri can collect unemployment compensation during times that there is no work or reduce hours offered by their employer. Lastly he said, he is not asking that the Committee change the law as it pertains to school district employees, but how it pertains to drivers and monitors that are employed by private contractors. A copy of his testimony is (Attachment 3) attached and incorporated into the Minutes as referenced.

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Next to testify was Mrs. Lorianne Fisher Koneczny, a school bus driver for a private contractor from Stanley, Kansas, stated her employer, First Student, “tells the unemployment compensation offices that they have given us “reasonable assurance” of giving us work when school resumes, but they do not tell us that or provide us that in writing.” She offered an instance at the Blue Valley District where they have 20 drivers from Minnesota driving for us since August. They were laid off in Minnesota, promised 40-hours pay for 20-hours work per week, with hotel and transportation paid for by the company and a per diem each for food expenses. A copy of her testimony is (Attachment 4) attached and incorporated into the Minutes as referenced.

The last proponent conferee recognized was Ms. Pamela Ann Ward, who testified she drove a school bus for the Blue Valley School District from 1981-1989 and therefore, was employed as a school bus driver when the current law went into effect in 1985. She returned to driving a bus in 2000, is employed by First Student, and still drives Blue Valley school children to and from school. Before First Student purchased Laidlaw, school bus drivers who could not find work were allowed by Laidlaw to apply and receive unemployment compensation and even though the law was in place, Laidlaw did not challenge it. Lastly, she said as long as the law remains in effect as currently written, First Student, as well as any privately-owned for-profit company, can and many will deny all their bus drivers and monitors any chance of receiving unemployment benefits despite the fact that they do not promise reasonable assurance in writing or verbally to their employees. A copy of her testimony is (Attachment 5) attached and incorporated into the Minutes as referenced.

The Chair thanked the conferees and asked for questions or comments which came from Senators Merrick, Holland and Wagle, including Senator Merrick stated he lives in Blue Valley and his children rode the bus when it was Laidlaw, but after First Student took over, the school district bought an old truck dealership and turned it into a bus barn but still continues to contract their bus service and he questions why. Also, regarding the Minnesota drivers, who is paying for their expenses, it that First Student or who? (First Student). Lastly, he thinks the hand up is “reasonable assurance” and feels it is a defense by First Student and is pretty broad statement to use that as a reason not to pay unemployment.

Senator Holland asked, regarding the private companies that employ you, are you treated as employers or 1099 contractors? (Employees, we have withholding.) Is your employer currently paying unemployment? (Yes.) Are there other provisions where employees of these third parties who provide services for school districts, are in the same situation as the conferees as for not being able to apply for UI benefits? (Only applies to bus service and monitor personnel.)

As there were no further comments or questions, the Chair recognized Senator Merrick who made a conceptual motion the bill only applies to private contractors who contract with the school districts.

Discussion included the Chair stating the bill may need some technical clean up according to Mr. Wilke, plus Senator Merrick's motion and asked Mr. Wilke if that could be done? (Yes, and he added, current law applies only to the situation where the school district contracts through the bus company and does not hire drivers directly. What he perceives from the testimony, if these people are hired directly by the school district and not through a bus company, then they do not have the same benefits as if they had been hired through a bus company.) The Chair replied this is what she heard and does not want to affect school districts, only the private companies who contract with the school districts. Back on the bill, it was seconded by Senator Olsen. The motion carried. The Chair asked for action on the bill and Senator Steinger made the motion to move the bill out favorably as amended. It was seconded by Senator Lynn and the motion carried.

Adjournment

As there was no further business, the meeting was adjourned. The time was 9:30 a.m.

The next is scheduled for February 22, 2011.