

MINUTES OF THE HOUSE APPROPRIATIONS COMMITTEE

The meeting was called to order by Chairman Rhoades called the meeting to order at 9:06 a.m. on May 4, 2011, in Room 346-S of the Capitol.

All members were present except
Representative Donohoe - excused

Committee staff present:

Jim Wilson, Office of the Revisor of Statutes
Nobuko Folmsbee, Office of the Revisor of Statutes
Alan Conroy, Kansas Legislative Research Department
J.G. Scott, Kansas Legislative Research Department
Jarod Waltner, Kansas Legislative Research Department
Shirley Morrow, Kansas Legislative Research Department
Cindy O'Neal, Administrative Assistant, Appropriations Committee
Kathy Holscher, Committee Assistant, Appropriations Committee

Others attending:
See attached list

- Attachment 1 **HB 2409** – Amendments, Office of the Revisor of Statutes
- Attachment 2 Substitute Bill Draft, Office of the Revisor of Statutes

Chairman Rhoades welcomed committee members and reviewed the meeting agenda.

Representative Pottorff made a motion to approve the committee minutes for March 14, 15, 16, 18, 21, 23, 28 and 29. The motion was seconded by Representative Mast. Motion carried.

HB 2409: An act concerning the issuance of bond; relating to the national bio and agro defense facility

Chairman Rhoades stated that this is an informational hearing on **HB 2409**, as this bill will be referred to the Appropriations Committee.

Jim Wilson, Office of the Revisor of Statutes, provided an overview of **HB 2409** (Attachment 1), and he responded to questions from committee members. He stated that this would amend a statute enacted in FY 2008 and bonds issued shall be approved by the Department of Administration.

Landon Fulmer, Policy Director, Office of the Governor, presented testimony as a proponent of **HB 2409**, (no written testimony was provided). He provided an overview of the commitment Kansas made with the federal government in the amount of \$105 million regarding the joint investment for construction of the National Bio and Agro Defense Facility (NBADF).

Landon Fulmer responded to questions from committee members. He responded that the bill reaffirms and clarifies the state's commitment, and separates the possibility of public perception that there is a connection to a criminal investigation involving NBADF, when that is not the case and separates NBADF from the Kansas Bio Science Authority.

Dave Vranicar, Interim Chief Executive Officer, Kansas Bio Science Authority, provided testimony as an proponent of **HB 2409**, (no written testimony was provided). He provided an overview of the development for the proposal to construct the facility. The agency will fully cooperate with the implementation of this bill, he added.

Dave Vranicar responded to questions from committee members. He stated that the projected benefit to Kansas over a twenty year period was approximately between \$2 to \$3 billion. Following the completion of the facility continued funding for the facility would come from the federal government, he noted.

Chairman Rhoades closed the hearing on **HB 2409**.

CONTINUATION SHEET

Minutes of the House Appropriations Committee at 9:06 a.m. on May 4, 2011, in Room 346-S of the Capitol.

Meeting recessed at 9:50 a.m.

The meeting reconvened at: 4:09 p.m.

Chairman Rhoades called the meeting to order and reviewed the procedure for working **HB 2409** which includes working a Substitute Bill for HB 2409 and a motion to fold the Substitute Bill for HB 2409 into **SB 154**.

Jim Wilson, Office of the Revisor of Statutes, provided an overview of the Substitute Bill for HB 2409 (Attachment 2). He noted that the amendment adds an additional step prior to the issuance of bonds that would also include a review by the Kansas Development Finance Authority and subject to approval by the State Finance Council and appropriation by the Legislature. He reviewed the composition of the financial council.

Representative Pottorff made a motion to combine the contents of Substitute Bill for HB 2409 into SB 154. The motion was seconded by Representative Mast.

Discussion followed by committee members regarding the need for legislative involvement prior to issuance of bonds, which was agreed upon by the House and Senate Leadership.

Representative Pottorff withdrew the motion, with the approval of the second to the motion.

Representative Schwartz made a motion to amend HB 2409 with the substitute language that prior to issuance of bonds by the Kansas Development Finance Authority and subject to approval of the State Finance Council and appropriation by the Legislature is required. The motion was seconded by Representative DeGraaf. Motion carried.

Representative Kelley made a motion to move the contents of HB 2409 as amended into SB 154. The motion was seconded by Representative Gordon.

Discussion continued by committee members. This motion involves the Department of Administration and the State Financial Council in regards to issuance of bonds. Concerns were expressed regarding refinancing of bonds and establishing policy in other areas.

Jim Wilson, Office of the Revisor of Statutes, provided clarification for refinancing existing bonds.

Representative Henry made a substitute motion for an amendment that would include language that refinancing of bonds would be approved by the State Financial Council. The motion was seconded by Representative Crum.

Discussion continued by committee members regarding the impact of refinancing bonds.


Representative Henry withdrew the substitute motion with the approval of the second to the motion.

The motion to fold the contents of HB 2409 as amended into SB 154. Motion carried.

Representative DeGraaf made a motion for an amendment to remove the contents of SB 154 from HB 2409. The motion was seconded by Representative Pottorff. Motion carried.

Representative DeGraaf made a motion to move SB 154 favorable for passage as amended. The motion was seconded by Representative Pottorff. Motion carried.

Meeting adjourned at: 4:50 p.m.


Marc Rhoades, Chairman

APPROPRIATIONS COMMITTEE GUEST LIST

DATE: May 4, 2011

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[illegible]

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MEMORANDUM

To: Chairperson Rhoades and members of the Committee on Appropriations
From: Jim Wilson, First Assistant Revisor
Date: May 3, 2011
Subject: HB 2409, National Bio and Agro Defense Facility—Bond Authority for a Capital Improvement Project

HB 2149 would amend K.S.A. 2010 Supp. 74-8963 which was enacted as part of 2008 Senate Substitute for HB 2001. A copy of the 2008 Summary of Legislation prepared by the Legislative Research Department describing this legislation is attached.

The statute amended by this bill provides authority for the Kansas Development Authority [KDFA] to issue bonds pursuant to K.S.A. 74-8901 et seq., and amendments thereto, for a capital improvement project related to the National Bio and Agro Defense Facility.

The amendments would provide for certain powers, duties and functions currently specified for the Kansas Bioscience Authority to be exercised by the Department of Administration. The limitations on proceeds for the bonds and the scope of the project remain the same as set forth in subsection (a). A new special revenue fund would be established in the state treasury. The proceeds from any bonds, after costs of issuance would be deposited in the new fund, the Bioscience Development Fund, to be administered by the Department of Administration.

On and after the effective date of the act, the issuance of bonds would be approved for the Department of Administration for the project under subsection (b).

The act would take effect upon publication in the Kansas Register

Appropriations Committee

Date May 4, 2011

Attachment 1

National Bio and Agro Defense Facility—Bond Authority for a Capital Improvement Project

Senate Sub. for HB 2001 authorizes the issuance of up to a net of \$105.0 million in revenue bonds for the purpose of supporting a capital improvement project relating to a National Bio and Agro Defense Facility (NBAF). The bill requires the Kansas Bioscience Authority to approve any such capital improvement project, including infrastructure related improvements, such as electrical, water and sewer and a central utility plant, prior to the issuance of any bonds by the Kansas Development Finance Authority. The Kansas Bioscience Authority will receive the net proceeds from bond sales for making expenditures in support of the capital improvement project.

The bill requires that debt service will be financed by the State General Fund or any other appropriate special revenue fund or funds, subject to appropriation by the Legislature. The term for debt service is not to exceed 20 years from the date of issuance. No debt service payments are required prior to July 1, 2009.

In addition, the bill requires the Department of Administration to be responsible for budgeting the payment of principal and interest on the bonds, subject to legislative appropriation of moneys for debt payments. The bill provides that neither the state nor the Department of Administration has the power to pledge the full faith and credit or taxing power of the state for debt service. Likewise, an obligation of debt service on the bonds is not considered a debt or obligation of the state for the purpose of Section 6 of Article 11 of the *Kansas Constitution*.

For Consideration By Committee on Appropriations

May 4, 2011

AN ACT concerning the issuance of bonds; relating to the national bio and agro defense facility; amending K.S.A. 2010 Supp. 74-8963 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2010 Supp. 74-8963 is hereby amended to read as follows: 74-8963.

(a) For the purpose of financing a capital improvement project of the Kansas bioscience authority, the Kansas development finance authority is hereby authorized to issue one or more series of revenue bonds pursuant to the Kansas development finance authority act, K.S.A. 74-8901 et seq., and amendments thereto, in an amount necessary to provide a deposit or deposits to the bioscience development and investment fund, established by K.S.A. 74-99b34, and amendments thereto, in a total amount not to exceed \$105,000,000, plus all amounts required for costs of bond issuance, costs of interest on the bonds issued for such capital improvement project during the construction of such project, cost of bond insurance or other credit enhancement for the bonds and any required reserves for the payment of principal and interest on the bonds, for a capital improvement project relating to a national bio and agro defense facility, including, but not limited to, land acquisition, site preparation, fencing, central utility plant facility construction and improvements, including electric, water and sewer utility infrastructure construction and equipment, lift stations, street grading, paving, graveling, macadamizing, curbing, guttering and surfacing, street light fixture connections and facilities, underground gas, water, heating and electrical services and connections, sidewalks and parking facilities, drives and driveway approaches, landscaping and plantings and related facilities and amenities to develop and finance the project.

(b) On and after the effective date of this act, prior to the issuance of any bonds
Appropriations Committee

Date May 4, 2011

Attachment 2

pursuant to this section, the capital improvement project described in subsection (a) shall be approved for the Kansas bioscience authority for the purposes of subsection (c) of K.S.A. 74-8905, and amendments thereto, and for the purposes of K.S.A. 74-99b10, and amendments thereto, and the authorization of the issuance of bonds by the Kansas development finance authority shall be approved by the Kansas development finance authority in accordance with K.S.A. 74-8901 et seq., and amendments thereto, and, for all bonds issued on or after the effective date of this act, shall be approved by the state finance council acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c, and amendments thereto, except that such approval also may be given when the legislature is in session.

(c) The Kansas bioscience authority may only make expenditures from the moneys received from the issuance of any bonds pursuant to this section for those purposes set forth in subsection (a) for the capital improvement project.

(d) The debt service for any such bonds issued pursuant to this section shall be financed by appropriations from the state general fund or any appropriate special revenue fund or funds.

(e) The date of maturity on bonds issued pursuant to this section shall not be fixed for a period of time which exceeds 20 years from the date of issuance.

(f) The proceeds from the sale of any bonds, other than refunding bonds, issued pursuant to this section, after payment of any costs related to the issuance of such bonds, shall be paid by the Kansas development finance authority to the Kansas bioscience authority to be applied to the payment of the costs of the capital improvement project authorized by resolution of the Kansas bioscience authority and by resolution of the Kansas development finance

Appropriations Committee

Date May 4, 2011

Attachment 2-2

authority.

Sec. 2. K.S.A. 2010 Supp. 74-8963 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

Appropriations Committee

Date May 4, 2011

Attachment 2-3