

Approved February 8, 1989
Date

MINUTES OF THE HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT

The meeting was called to order by Elizabeth Baker at
Chairperson

3:38 ~~xxx~~/p.m. on Thursday, February 2, 1989 in room 423-5 of the Capitol.

All members were present except:

Committee staff present:
Jim Wilson, Revisor
Lynne Holt, Research
Elaine Johnson, Secretary

Conferees appearing before the committee:
None

The meeting was called to order at 3:38 p.m. by Chairman Baker.

The minutes of the January 24, 25 and 26 meetings were approved.

Jim Wilson of the Revisor's Office was recognized and went over the balloon of H.B. 2021 with the committee. (Attachment 1).

Discussion of the balloon followed.

Representative Chronister made a motion that the amendments to H.B. 2021 be accepted. Representative Aylward seconded. The motion carried.

The committee then discussed the bill as whole.

Representative Chronister made a motion that H.B. 2021 be passed as amended and reported as a substitute bill. Motion carried.

Letter from the City of Wichita pertaining to H.B. 2021 is (Attachment 2).

The meeting adjourned at 4:19 p.m.

Elizabeth Baker

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GUEST REGISTER

HOUSE

Committee on Economic Development

<u>NAME</u>	<u>ORGANIZATION</u>	<u>ADDRESS</u>
BOB GRAND	KCCI	TOPEKA
TERRY DENKER	KDOC	TOPEKA
Jon Bray	Life at its Best	Topeka
MARK A. BURGHART	Revenue	TOPEKA
Stephanie A. Elliott	Revenue	Topeka
Jeff Rockett	KS Assoc. of Small Bus.	Topeka
Linton Bantlett	City of Kansas City	Kansas City
Ron Farow		Olathe
SCOTT HESSELL	KANSAS, INC.	TOPEKA
Charles Wynn	Kansas Inc.	Topeka
Gene Miller	Concordia City	Concordia K.S.
Mel Waite	City of Concordia	Concordia, KS.
Ann Patterson	KDOC	Topeka
Judy Frost	City of Topeka	→
Catherine Hurdeman	City of Wichita	Wichita
Mike Germano	Boeing Military Airplanes	Wichita
Tony Redwood	KW	Lawrence
Harland Priddle	KDOC	

te: 2/2/89

GUEST REGISTE

H O U S E

Committee on Economic Development

NAME

ORGANIZATION

ADDRESS

Willie Martin Sedgwick County _____

Wayne Zimmerman KDOC _____

Bernie Koch Wichita Chamber _____

HOUSE BILL No. 2021

By Joint Committee on Economic Development

1-9

DRAFT OF PROPOSED AMENDMENTS
For Consideration by House Economic Development

2-2-89

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AN ACT relating to economic development; concerning certain in-
come tax credits and sales tax exemptions provided for ~~facilities~~
~~employed in Kansas basic enterprises and Kansas basic industries;~~
requiring certain ~~cities and counties designating~~ enterprise zones
to ~~file annual reports with~~ the department of commerce; amending
K.S.A. 1988 Supp. ~~79-32,154~~ and repealing the existing ~~section~~

qualified business
reports concerning
79-32,153 and
sections

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

~~Section 1.~~ K.S.A. 1988 Supp. 79-32,154 is hereby amended to
read as follows: 79-32,154. As used in this act, the following words
and phrases shall have the meanings respectively ascribed to them
herein: (a) "Facility" shall mean any factory, mill, plant, refinery,
warehouse, feedlot, building or complex of buildings located within
the state, including the land on which such facility is located and
all machinery, equipment and other real and tangible personal prop-
erty located at or within such facility used in connection with the
operation of such facility. The word "building" shall include only
structures within which individuals are customarily employed or
which are customarily used to house machinery, equipment or other
property.

Section 1 insert attached

(b) "Qualified business facility" shall mean a facility which satisfies
the requirements of paragraphs (1) and (2) of this subsection.

(1) Such facility is employed by the taxpayer in the operation of
a revenue producing enterprise, as defined in subsection (c). Such
facility shall not be considered a qualified business facility in the
hands of the taxpayer if the taxpayer's only activity with respect to
such facility is to lease it to another person or persons. If the taxpayer
employs only a portion of such facility in the operation of a revenue
producing enterprise, and leases another portion of such facility to
another person or persons or does not otherwise use such other

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46 portions in the operation of a revenue producing enterprise, the
47 portion employed by the taxpayer in the operation of a revenue
48 producing enterprise shall be considered a qualified business facility,
49 if the requirements of paragraph (2) of this subsection are satisfied.

50 (2) If such facility was acquired by the taxpayer from another
51 person or persons, such facility was not employed, immediately prior
52 to the transfer of title to such facility to the taxpayer, or to the
53 commencement of the term of the lease of such facility to the tax-
54 payer, by any other person or persons in the operation of a revenue
55 producing enterprise and the taxpayer continues the operation of the
56 same or substantially identical revenue producing enterprise, as de-
57 fined in subsection (i), at such facility.

58 (c) "Revenue producing enterprise" shall mean: ~~(1) The assembly,
59 fabrication, manufacture or processing of any agricultural, mineral
60 or manufactured product;~~

61 ~~(2) the storage, warehousing, distribution or sale of any products
62 of agriculture, mining or manufacturing;~~

63 ~~(3) the feeding of livestock at a feedlot;~~

64 ~~(4) the operation of laboratories or other facilities for scientific,
65 agricultural, animal husbandry or industrial research, development
66 or testing;~~

67 ~~(5) the performance of services of any type;~~

68 ~~(6) the administrative management of any of the foregoing activ-
69 ities; or~~

70 ~~(7) any combination of any of the foregoing activities [a Kansas
71 basic enterprise.]~~

72 "Revenue producing enterprise" shall not mean a swine confine-
73 ment facility as defined in K.S.A. 17-5903, and amendments thereto.

74 (d) "Qualified business facility employee" shall mean a person
75 employed by the taxpayer in the operation of a qualified business
76 facility during the taxable year for which the credit allowed by K.S.A.
77 79-32,153, and amendments thereto, is claimed. A person shall be
78 deemed to be so engaged if such person performs duties in con-
79 nection with the operation of the qualified business facility on: (1)
80 A regular, full-time basis; (2) a part-time basis, provided such person
81 is customarily performing such duties at least 20 hours per week
82 throughout the taxable year; or (3) a seasonal basis, provided such

: (1) The assembly, fabrication, manufacture or processing of any agricultural, mineral or manufactured product;
(2) the storage, warehousing, distribution or sale of any products of agriculture, mining or manufacturing;
(3) the feeding of livestock at a feedlot;
(4) the operation of laboratories or other facilities for scientific, agricultural, animal husbandry or industrial research, development or testing;
(5) the performance of services of any type;
(6) the administrative management of any of the foregoing activities; or
(7) any combination of any of the foregoing activities.

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83 person performs such duties for substantially all of the season cus-
 84 tomary for the position in which such person is employed. ~~The~~
 85 number of qualified business facility employees during any taxable
 86 year shall be determined by dividing by 12 the sum of the number
 87 of qualified business facility employees on the last business day of
 88 each month of such taxable year. If the qualified business facility is
 89 in operation for less than the entire taxable year, the number of
 90 qualified business facility employees shall be determined by dividing
 91 the sum of the number of qualified business facility employees on
 92 the last business day of each full calendar month during the portion
 93 of such taxable year during which the qualified business facility was
 94 in operation by the number of full calendar months during such
 95 period. Notwithstanding the provisions of this subsection, for the
 96 purpose of computing the credit allowed by K.S.A. 79-32,153, and
 97 amendments thereto, in the case of an investment in a qualified
 98 business facility, which facility existed and was operated by the
 99 taxpayer or related taxpayer prior to such investment, the number
 100 of qualified business facility employees employed in the operation
 101 of such facility shall be reduced by the average number, computed
 102 as provided in this subsection, of individuals employed in the op-
 103 eration of the facility during the taxable year preceding the taxable
 104 year in which the qualified business facility investment was made at
 105 the facility.]

106 (e) "Qualified business facility investment" shall mean the value
 107 of the real and tangible personal property, except inventory or prop-
 108 erty held for sale to customers in the ordinary course of the taxpayer's
 109 business, which constitutes the qualified business facility, or which
 110 is used by the taxpayer in the operation of the qualified business
 111 facility, during the taxable year for which the credit allowed by
 112 K.S.A. 79-32,153, and amendments thereto, is claimed. The value
 113 of such property during such taxable year shall be: (1) Its original
 114 cost if owned by the taxpayer; or (2) eight times the net annual
 115 rental rate, if leased by the taxpayer. The net annual rental rate
 116 shall be the annual rental rate paid by the taxpayer less any annual
 117 rental rate received by the taxpayer from subrentals. ~~The qualified~~
 118 ~~business facility investment shall be determined by dividing by 12~~
 119 ~~the sum of the total value of such property on the last business day~~

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120 of each calendar month of the taxable year. If the qualified business
 121 facility is in operation for less than an entire taxable year, the qual-
 122 ified business facility investment shall be determined by dividing
 123 the sum of the total value of such property on the last business day
 124 of each full calendar month during the portion of such taxable year
 125 during which the qualified business facility was in operation by the
 126 number of full calendar months during such period. Notwithstanding
 127 the provisions of this subsection, for the purpose of computing the
 128 credit allowed by K.S.A. 79-32,153, and amendments thereto, in the
 129 case of an investment in a qualified business facility, which facility
 130 existed and was operated by the taxpayer or related taxpayer prior
 131 to such investment the amount of the taxpayer's qualified business
 132 facility investment in such facility shall be reduced by the average
 133 amount, computed as provided in this subsection, of the investment
 134 of the taxpayer or a related taxpayer in the facility for the taxable
 135 year preceding the taxable year in which the qualified business fa-
 136 cility investment was made at the facility.]

137 (f) "Commencement of commercial operations" shall be deemed
 138 to occur during the first taxable year for which the qualified business
 139 facility is first available for use by the taxpayer, or first capable of
 140 being used by the taxpayer, in the revenue producing enterprise in
 141 which the taxpayer intends to use the qualified business facility.

142 (g) "Qualified business facility income" shall mean the Kansas
 143 taxable income, as defined in article 32 of chapter 79 of the Kansas
 144 Statutes Annotated and amendments thereto, derived by the taxpayer
 145 from the operation of the qualified business facility. If a taxpayer
 146 has income derived from the operation of a qualified business facility
 147 as well as from other activities conducted within this state, the Kansas
 148 taxable income derived by the taxpayer from the operation of the
 149 qualified business facility shall be determined by multiplying the
 150 taxpayer's Kansas taxable income, computed in accordance with ar-
 151 ticle 32 of chapter 79 of the Kansas Statutes Annotated and amend-
 152 ments thereto, by a fraction, the numerator of which is the property
 153 factor, as defined in paragraph (1), plus the payroll factor, as defined
 154 in paragraph (2), and the denominator of which is two.

155 (1) The property factor is a fraction, the numerator of which is
 156 the average value of the taxpayer's real and tangible personal prop-

157 erty owned or rented and used in connection with the operation of
158 the qualified business facility during the tax period, and the denom-
159 inator of which is the average value of all the taxpayer's real and
160 tangible personal property owned or rented and used in this state
161 during the tax period. The average value of all such property shall
162 be determined as provided in K.S.A. 79-3281 and 79-3282, and
163 amendments thereto.

164 (2) The payroll factor is a fraction, the numerator of which is the
165 total amount paid during the tax period by the taxpayer for com-
166 pensation to persons qualifying as qualified business facility em-
167 ployees, as determined under subsection (d), at the qualified business
168 facility, and the denominator of which is the total amount paid in
169 this state during the tax period by the taxpayer for compensation.
170 The compensation paid in this state shall be determined as provided
171 in K.S.A. 79-3283, and amendments thereto.

172 The formula set forth in this subsection (g) shall not be used for
173 any purpose other than determining the qualified business facility
174 income attributable to a qualified business facility.

175 (h) "Related taxpayer" shall mean (1) a corporation, partnership,
176 trust or association controlled by the taxpayer; (2) an individual,
177 corporation, partnership, trust or association in control of the tax-
178 payer; or (3) a corporation, partnership, trust or association controlled
179 by an individual, corporation, partnership, trust or association in
180 control of the taxpayer. For the purposes of this act, "control of a
181 corporation" shall mean ownership, directly or indirectly, of stock
182 possessing at least 80% of the total combined voting power of all
183 classes of stock entitled to vote and at least 80% of all other classes
184 of stock of the corporation; "control of a partnership or association"
185 shall mean ownership of at least 80% of the capital or profits interest
186 in such partnership or association; and "control of a trust" shall mean
187 ownership, directly or indirectly, of at least 80% of the beneficial
188 interest in the principal or income of such trust.

189 (i) "Same or substantially identical revenue producing enterprise"
190 shall mean a revenue producing enterprise in which the products
191 produced or sold, services performed or activities conducted are the
192 same in character and use, are produced, sold, performed or con-
193 ducted in the same manner and to or for the same type of customers

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194 as the products, services or activities produced, sold, performed or
195 conducted in another revenue producing enterprise.

196 (j) "Kansas basic enterprise" shall mean an enterprise which:

197 (1) Is or proposes to be located or principally based in Kansas;
198 and

199 (2) can provide demonstrable evidence that:

200 (A) It is or will be primarily engaged in any one or more of the
201 Kansas basic industries; or

202 (B) it is or will be primarily engaged in the development or
203 production of goods or the provision of services for out-of-state sale;
204 or

205 (C) it is or will be primarily engaged in the production of goods
206 or the provision of services which will attract out-of-state buyers or
207 consumers into the state; or

208 (D) it is or will be primarily engaged in the production of raw
209 materials, ingredients or components for other enterprises which
210 export the majority of their products from the state; or

211 (E) it is a national or regional enterprise which is primarily
212 engaged in interstate commerce; or

213 (F) it is or will be primarily engaged in the production of goods
214 or the provision of services which will supplant goods or services
215 which would be imported into the state; or

216 (G) it is the corporate or regional headquarters of a multistate
217 enterprise which is primarily engaged in out-of-state industrial
218 activities.

219 (k) "Kansas basic industry" shall mean:

220 (1) Agriculture;

221 (2) mining;

222 (3) manufacturing;

223 (4) interstate transportation;

224 (5) wholesale trade which is primarily engaged in multistate ac-
225 tivity or which has a major import supplanting effect within the
226 state;

227 (6) financial services which are primarily engaged in providing
228 such services for interstate or international transactions;

229 (7) business services which are primarily engaged in providing
230 such services in out-of-state markets;

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231 ~~(8) research and development of new products, processes or tech-~~
232 ~~nologies; or~~

233 ~~(9) tourism activities which are primarily engaged in for the~~
234 ~~purpose of attracting out-of-state tourists.~~

235 ~~As used in subsections (j) and (k), "primarily engaged" means~~
236 ~~engagement in an activity by an enterprise to the extent that not~~
237 ~~less than 51% of the gross income of the enterprise is derived from~~
238 ~~such engagement.~~

239 New Sec. 2.³ (a) Each city or county that designated an enterprise
240 zone pursuant to K.S.A. 12-17,109, and amendments thereto, which
241 was approved by the secretary of commerce, shall submit an annual
242 report to the ~~department~~ of commerce, in such form as the ~~de-~~
243 ~~partment~~ may require, on or before February 15 of each year, which
244 report shall include:

secretary

245 (1) A list of local incentives for economic development available
246 in such area during the prior year;

247 (2) the usage and revenue impact of the local incentives which
248 the governing body committed to provide in such area in the plan
249 required in K.S.A. 12-17,109, and amendments thereto;

and

250 ~~(3) [the number of business establishments located in the area~~
251 ~~and number of employee positions created during the prior year and~~
252 ~~the number of business establishments located in such area the year~~
253 ~~prior to the approval of the area as an enterprise zone; and~~

254 ~~(4) such other information as required by the secretary of~~
255 ~~commerce.~~

secretary of commerce

256 (b) The ~~department~~ shall submit an annual report to the governor
257 and the legislature by March 1 of each year detailing the information
258 provided pursuant to subsection (a)

and pursuant to subsection (e) of K.S.A. 1988 Supp. 79-32,153,
and amendments thereto

259 ~~New Sec. 3. Any taxpayer who has qualified for the income tax~~
260 ~~credits under the act of which this act is amendatory or both such~~
261 ~~income tax credits and the sales tax exemption pursuant to subsection~~
262 ~~(ee)* of K.S.A. 1988 Supp. 79-3606, and amendments thereto, prior~~
263 ~~to the effective date of this act shall be entitled to claim such credits~~
264 ~~and exemption for the remainder of the ten-year period as deter-~~
265 ~~mined by subsection (a) of K.S.A. 1988 Supp. 79-32, 153 or 79-32, 155,~~
266 ~~and amendments thereto, notwithstanding any other provision of this~~
267 ~~act. Such taxpayer may also claim for the remainder of such ten-~~

268 ~~year period, the income tax credits or both such credits and the~~
269 ~~sales tax exemption for any further construction, reconstruction, en-~~
270 ~~larging, remodeling or installation of machinery and equipment with~~
271 ~~respect to the same facility for which the taxpayer originally qualified~~
272 ~~for the same.~~

273 New Sec. 4. The provisions of this act shall be applicable to all
274 taxable years commencing after December 31, 1989.

275 Sec. 5. K.S.A. 1988 Supp. 79-32,154 is hereby repealed.

276 Sec. 6. This act shall take effect and be in force from and after
277 January 1, 1990, and its publication in the statute book.

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Section 1. K.S.A. 1988 Supp. 79-32,153 is hereby amended to read as follows: 79-32,153. (a) Any taxpayer under the Kansas income tax act who ~~shall invest~~ invests in a qualified business facility, as defined in subsection (b) of K.S.A. 79-32,154, and amendments thereto, shall be allowed a credit for such investment, in an amount determined under subsection (b) or (c), as the case requires, against the tax imposed by the Kansas income tax act for the taxable year during which commencement of commercial operations, as defined in subsection (f) of K.S.A. 79-32,154, and amendments thereto, occurs at such qualified business facility, and for each of the nine succeeding taxable years. No credit shall be allowed under this section unless the number of qualified business facility employees, as determined under subsection (d) of K.S.A. 79-32,154, and amendments thereto, engaged or maintained in employment at the qualified business facility as a direct result of the investment by the taxpayer for the taxable year for which the credit is claimed equals or exceeds two.

(b) The credit allowed by subsection (a) for any taxpayer who invests in a qualified business facility located outside an enterprise zone on or after the effective date of this act shall be a portion of the income tax, but not in excess of 50% of such tax, otherwise imposed by the Kansas income tax act on the taxpayer's qualified business facility income, as defined in subsection (g) of K.S.A. 79-32,154, and amendments thereto, for the taxable year for which such credit is allowed. Such portion shall be an amount equal to the sum of the following:

(1) One hundred dollars for each qualified business facility employee determined under K.S.A. 79-32,154, and amendments thereto; plus

(2) one hundred dollars for each \$100,000, or major fraction thereof (which shall be deemed to be 51% or more), in qualified business facility investment as determined under K.S.A. 79-32,154, and amendments thereto.

(c) The credit allowed by subsection (a) for any taxpayer who invests in a qualified business facility within an enterprise zone on or after the effective date of this act, other than a taxpayer to which the provisions of subsection (d) apply, shall be a portion of the income tax, but not in excess of 50% of such tax, otherwise imposed by the Kansas income tax act on the taxpayer's qualified business facility income, as defined in subsection (g) of K.S.A. 79-32,154, and amendments thereto, for the taxable year for which such credit is allowed. Such portion shall be an amount equal to the sum of the following:

(1) Three hundred and fifty dollars for each qualified business facility employee as determined under K.S.A. 79-32,154, and amendments thereto, who resides in this state, other than a qualified business facility employee referred to in paragraph (2) of this subsection (c);

(2) five hundred dollars for each qualified business facility employee as determined under K.S.A. 79-32,154, and amendments thereto, who resides in this state and whose employment entitles the employer to a targeted jobs tax credit under sections 51 and 52 of the federal internal revenue code of 1986 in the same taxable year; plus

(3) three hundred fifty dollars for each \$100,000, or major fraction thereof (which shall be deemed to be 51% or more), in qualified business facility investment as determined under K.S.A. 79-32,154, and amendments thereto.

(d) The credit allowed by subsection (a) for any taxpayer who invests in a qualified business facility which is employed by the taxpayer directly and primarily in the manufacturing, assembling, processing or finishing of tangible personal property intended for resale and which is located within an enterprise zone on or after the effective date of this act shall be a portion of the income tax, but not in excess of 50% of such tax, otherwise imposed by the Kansas income tax act on the taxpayer's qualified business facility income, as defined in subsection (g) of K.S.A. 79-32,154, and amendments thereto, for the taxable year

for which such credit is allowed. Such portion shall be an amount equal to the sum of the following:

(1) Five hundred dollars for each qualified business facility employee as determined under K.S.A. 79-32,154, and amendments thereto, who resides in this state, other than a qualified business facility employee referred to in paragraph (2) of this subsection (d);

(2) seven hundred dollars for each qualified business facility employee as determined under K.S.A. 79-32,154, and amendments thereto, who resides in this state and whose employment entitles the employer to a targeted jobs tax credit under sections 51 and 52 of the federal internal revenue code of 1986 in the same taxable year; plus

(3) five hundred dollars for each \$100,000, or major fraction thereof (which shall be deemed to be 51% or more), in qualified business facility investment as determined under K.S.A. 79-32,154, and amendments thereto.

(e) Each taxpayer claiming the credit allowed by subsection (a) who invests in a qualified business facility within an enterprise zone shall complete and return a separate information report to the secretary of revenue with the tax return form prescribed for such credit. The information form shall be as prescribed by the secretary of revenue and shall include information identifying the qualified business facility, the enterprise zone in which it is located ^{> if any,} and the number of employee positions created during the prior year. The secretary of revenue shall transmit all information forms received under this subsection to the secretary of commerce. The information contained in the information forms may be used by the secretary of commerce for purposes of economic development activities and as provided in section 3.

(f) No credit shall be allowed under this section for investment in a public utility, as such term is defined in K.S.A. 66-104 and amendments thereto.

THE CITY OF WICHITA



OFFICE OF THE CITY MANAGER
CITY HALL — THIRTEENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202
(316) 268-4351

January 31, 1989

House Economic Development Committee
Elizabeth Baker, Chairperson
State Capitol Building
Topeka, KS 66612

Re: House Bill No. 2021: Economic Development; Tax Credits
and Enterprise Zones

Ladies and Gentleman: :

The City of Wichita supports the intent of the initial Enterprise Zone Act which encourages the revitalization of economically distressed areas. The Act encourages revitalization by providing financial incentives for new and expanding businesses. These incentives provide an environment conducive for the creation of new jobs, and new sources of income particularly for disadvantaged workers.

Although supportive of the general concept of Enterprise Zone legislation, the City is opposed to certain aspects of HB 2021. Our concerns are as follows:

- (1) The City is actively encouraging redevelopment in several key areas of our community currently located in our enterprise zone. These areas include corridors along 21st, 17th, and 13th Streets from Interstate-35 to Hillside Street and the core area of our downtown. These areas are considered to be economically distressed and would benefit from the economic incentives available under current enterprise zone legislation. Without incentives, including enterprise zone credit, it may be difficult, if not impossible to attract competitive businesses into these areas. With HB 2021, as now drafted, new businesses locating in these areas will no longer be able to qualify for these incentives. We view this as having a very negative impact for encouraging growth and development within distressed areas, including the downtown area.
- (2) HB 2021 requires an annual reporting requirement. According to this bill, any city or county with an enterprise zone must provide a report which includes information on the usage and revenue impact of the local incentives, the number of businesses within the zone, and the new jobs created. Although this information may be important for documenting the effectiveness of enterprise zone legislation, it is

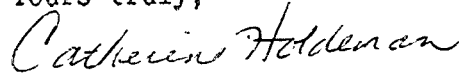
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problematic because it will require an extensive amount of administration and record keeping. In our particular situation, we have between 2,000 and 4,000 businesses located within a zone. Even though we are a larger city than many others opposing this bill, we do not have the resources available to track this information. One possible suggestion is to develop a form to be submitted to the Department of Revenue by participating businesses which would provide the needed data.

As stated above, the City requests that your Committee carefully review the effect and serious negative impacts of this legislation on economically distressed areas. We support the intent of the initial legislation, but also recognize that many of our depressed areas must contain retail and service businesses. We would also encourage you to develop some other reporting mechanism in order to gather information felt necessary (by the State) on the use of enterprise zones.

Yours truly,



Catherine Holdeman
Intergovernmental Relations Officer

CH:mp

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