

MINUTES OF THE HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT.

The meeting was called to order by Chairperson Barbara P. Allen at 3:30 p.m. on February 13, 1996 in Room 423-S of the Capitol.

All members were present except: Rep. Kirk
Rep. Packer
Rep. King

Committee staff present: Lynne Holt, Legislative Research Department
Bob Nugent, Revisor of Statutes
Nancy Kirkwood, Committee Secretary

Conferees appearing before the committee: Mary LaFaver, Director, Community Development Division, KDOCH
Gary Sherrer, Secretary, Kansas Department Commerce and Housing
Bud Grant, Vice President and General Manager, Kansas Chamber of Commerce and Industry

Others attending: See attached list

Chairperson Allen recognized Mary LaFaver to appear before the Committee with a request for legislation regarding a proposal for nonmetropolitan counties and metropolitan counties, which would provide that action grants under the Community Strategic Planning Assistance. Program sunset in the same year. On a motion by Rep. Wempe and seconded by Rep. Empson, the motion carried to introduce the legislation.

Rep. Wempe was recognized by Chairperson Allen for bill requests. The first bill request was to expand the Community Provider Program at KDFA to include Long Term Care for the elderly, as is done for the handicapped.

The second requested bill would authorize the Kansas Development Finance Authority to have statewide authority to issue Mortgage Revenue Bonds where local communities choose not to issue them themselves or work in cooperation with a state-wide offering.

Rep. Lane made a motion to introduce legislation for both bill requests. It was seconded by Rep. Boston. The motion carried.

The public hearing on **HB2719** repealing a portion of the enterprise zone was opened by Chairperson Allen.

Chairperson Allen recognized Gary Sherrer to the committee. He explained the purpose of **HB2719** had been drafted up for one unfunded liability with a singular purpose and at this point it needs to be repealed as the purpose of this bill has been resolved.

Rep. Toplikar made the motion to amend the bill so it is effective upon publication in the register and pass it out favorably as amended. It was seconded by Rep. Benlon. The motion carried.

Chairperson Allen opened the hearing on **HB2687** regarding the enterprise zone act.

Chairperson Allen recognized Gary Sherrer who spoke to the bill. He asked the committee for support of **SUB2687** explaining some of the changes to be made to **HB2687**, one of which would add standard industrial classification codes (Attachment 1).

Bud Grant was recognized by Chairperson Allen as a proponent. He ask for the support of the committee as the passage of this legislation would enhance the economic development climate of the state (Attachment 2).

Rep. Wempe requested from research a copy of the SIC codes.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT, Room 423-S
Statehouse, at 3:30 p.m. on February 13, 1996. CONTINUATION SHEET

Chairperson Allen made announcements to the committee and adjourned the meeting at 4:15 p.m.

The next meeting is scheduled for February 14, 1996.

Secy. Sherr

Session of 1996 SENATE BILL No. 457 By Committee on Commerce 1-16

Session of 1996 HOUSE BILL No. 2687 By Committee on Economic Development 1-19

AN ACT concerning the enterprise zone law; expanding the eligibility therefor; amending K.S.A. 1995 Supp. 74-50,114, 74-50,115, 79-32,153, and 79-32,160a and repealing the existing sections.

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

Section 1. K.S.A. 1995 Supp. 74-50,114 is hereby amended to read as follows: 74-50,114. As used in K.S.A. 74-50,113 through 74-50,117 and amendments thereto:

(a) "Business" means any manufacturing business or nonmanufacturing business.

(b) "Corporate headquarters" means a facility where principal officers of the corporation are housed and from which direction, management or administrative support for transactions is provided for a corporation or division of a corporation.

(c) "Full-time employee" means a person who is employed by a business or retail business, and who is required to file a Kansas income tax return, to perform duties in connection with the operation of the business or retail business on: (1) A regular, full-time basis; (2) a part-time basis, provided such person is customarily performing such duties at least 20 hours per week throughout the taxable year; or (3) a seasonal basis, provided such person performs such duties for substantially all of the season customary for the position in which such person is employed. The number of full-time employees during any taxable year shall be determined by dividing by 12 the sum of the number of full-time employees on the last business day of each month of such taxable year. If the business or retail business is in operation for less than the entire taxable year, the number of full-time employees shall be determined by dividing the sum of the number of full-time employees on the last business day of each full calendar month during the portion of such taxable year during which the business was in operation by the number of full calendar months during such period.

(d) "Manufacturing business" means all commercial enterprises identified under the manufacturing standard industrial classification codes, major groups 20 through 39.

(e) "Metropolitan county" means the county of Douglas, Johnson, Leavenworth, Sedgwick, Shawnee or Wyandotte.

(f) "Nonmanufacturing business" means any commercial enterprise other than a manufacturing business or a retail business. Nonmanufacturing business shall also include the corporate headquarters of an enterprise, and an enterprise designated under the standard industrial classification codes as 5961, 6153, 6411, or 7372 regardless of the firm's classification as a retail business if that facility for which the sales tax exemption certificate is issued facilitates the creation of at least 20 new full-time positions.

(g) "Nonmetropolitan region" means a region established under K.S.A. 74-50,116 and amendments thereto and is comprised of any county or counties which are not metropolitan counties.

(h) "Retail business" means: (1) Any commercial enterprise primarily engaged in the sale at retail of goods or services taxable under the Kansas retailers' sales tax act; (2) any service provider set forth in K.S.A. 17-2707, and amendments thereto; (3) any bank, savings and loan or other lending institution; (4) any commercial enterprise whose primary business activity includes the sale of insurance; and (5) any commercial enterprise deriving its revenues directly from noncommercial customers in exchange for personal services such as, but not limited to, barber shops, beauty shops, photographic studios and funeral services.

(i) "Secretary" means the secretary of the Kansas department of commerce and housing.

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Attachment 1

(j) "Standard industrial classification code" means a standard industrial classification code published in the Standard Industrial Classification manual, 1987, as prepared by the statistical policy division of the office of management and budget of the office of the president of the United States of America.

Sec. 2. K.S.A. 1995 Supp. 74-50,115 is hereby amended to read as follows: 74-50,115.

(a) A manufacturing business may be eligible for a sales tax exemption under the provisions of subsection (cc) of K.S.A. 79-3606, and amendments thereto, if the manufacturing business complies with the following requirements:

(1) A manufacturing business shall provide documented evidence of job expansion involving the employment of at least two additional full-time employees; and

(2) a manufacturing business located within the state of Kansas that has documented evidence of job expansion as provided in paragraph (1), which relocates in to another city or county within the state of Kansas must receive approval from the secretary prior to qualifying for the sales tax exemption in subsection (cc) of K.S.A. 79-3606, and amendments thereto, except that approval by the secretary shall not be required if the manufacturing business relocates within the same city.

(b) A nonmanufacturing business may be eligible for a sales tax exemption under the provisions of subsection (cc) of K.S.A. 79-3606, and amendments thereto, if the nonmanufacturing business complies with the following requirements:

(1) A nonmanufacturing business shall provide documented evidence of job expansion involving the employment of at least five additional full-time employees; and

(2) a nonmanufacturing business located within the state of Kansas that has documented evidence of job expansion as provided in paragraph (1), which relocates in another city or county within the state of Kansas must receive approval from the secretary prior to qualifying for the sales tax exemption in subsection (cc) of K.S.A. 79-3606, and amendments thereto, except that approval by the secretary shall not be required if the nonmanufacturing business relocates within the same city.

(c) A retail business may qualify for the sales tax exemption under subsection (cc) of K.S.A. 79-3606, and amendments thereto, if the retail business complies with the following requirements:

(1) A retail business shall provide documented evidence of job expansion involving the employment of at least two additional full-time employees; and

(2) such retail business locates or expands to a city having a population of 2,500 or less, as determined by the latest United States federal census.

(d) Any person constructing, reconstructing, remodeling or enlarging a facility which will be leased for a period of five years or more to a business that would be eligible for a sales tax exemption hereunder if such business had constructed, reconstructed, enlarged or remodeled such facility itself shall be entitled to the sales tax exemption under the provisions of subsection (cc) of K.S.A. 79-3606, and amendments thereto.

(e) A business may qualify for a sales tax exemption under subsection (cc) of K.S.A. 79-3606, and amendments thereto, without regard to any of the foregoing requirements of this section if it is certified as a qualified firm by the secretary of commerce and housing pursuant to K.S.A. 1995 Supp. 74-50,131, *and amendments thereto*, and is entitled to the corporate tax credit established in K.S.A. 1995 Supp. 74-50,132, *and amendments thereto*, or has received written approval for participation and has participated, during the tax year in which the exemption is claimed, in training assistance by the department of commerce and housing under the Kansas industrial training, Kansas industrial retraining or state of Kansas investments in lifelong learning program.

(f) The secretary may adopt rules and regulations to implement and administer the provisions of this section.

Sec. 3. K.S.A. 1995 Supp. 79-32,160a is hereby amended to read as follows: 79-32,160a.

(a) Any taxpayer who shall invest in a qualified business facility, as defined in subsection (b) of K.S.A. 79-32,154, and amendments thereto, and also meets the definition of a business in subsection (a) of K.S.A. 74-50,114 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. In the case of a taxpayer who meets the definition of a manufacturing business in subsection (c) of K.S.A. 74-50,114 and amendments thereto, 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. In the case of a taxpayer who meets the definition of a nonmanufacturing business in subsection (e) of K.S.A. 74-50,114 and amendments thereto, 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 five. *Where an employee performs services for the taxpayer both within and without the qualified business facility, the employee shall be considered engaged or maintained in employment at the qualified business facility if (1) the employee's service performed without the qualified business facility is incidental to the employee's service within the qualified business facility, or (2) the base of operations or, the place from which the service is directed or controlled, is at the qualified business facility.*

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(b) The credit allowed by subsection (a) for any taxpayer who invests in a qualified business facility which is located in a designated nonmetropolitan region established under K.S.A. 74-50,116 and amendments thereto, on or after the effective date of this act, shall be a portion of the income tax imposed by the Kansas income tax act on the taxpayer's Kansas taxable income for the taxable year for which such credit is allowed, but in the case where the qualified business facility investment was made prior to January 1, 1996, not in excess of 50% of such tax imposed by the Kansas income tax act on the taxpayer's Kansas taxable income, for the taxable year for which such credit is allowed. Such portion shall be an amount equal to the sum of the following:

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

(2) one thousand 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, which is not located in a nonmetropolitan region established under K.S.A. 74-50,116 and amendments thereto and, which also meets the definition of business in subsection (a) of K.S.A. 74-50,114 and amendments thereto, on or after the effective date of this act shall be a portion of the income tax imposed by the Kansas income tax act on the taxpayer's Kansas taxable income, for the taxable year for which such credit is allowed, but in the case where the qualified business facility investment was made prior to January 1, 1996, not in excess of 50% of such tax imposed by the Kansas income tax act on the taxpayer's Kansas taxable income, for the taxable year for which such credit is allowed. Such portion shall be an amount equal to the sum of the following:

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

(2) one thousand 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.

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(d) The credit allowed by subsection (a) for each qualified business facility employee and for qualified business facility investment shall be a one-time credit. If the amount of the credit allowed under subsection (a) exceeds ~~50%~~ of the tax imposed by the Kansas income tax act on the taxpayer's Kansas taxable income for the taxable year, *or in the case where the qualified business facility investment was made prior to January 1, 1996, 50% of such tax imposed*, the amount thereof which exceeds such tax liability *or such portion thereof*, may be carried over for credit *in the same manner* in the succeeding taxable years until the total amount of such credit is used. Except that, before the credit is allowed, a taxpayer, who meets the definition of a manufacturing business in subsection (c) of K.S.A. 74-50,114 and amendments thereto, shall recertify annually that the net increase of a minimum of two qualified business facility employees has continued to be maintained and a taxpayer, who meets the definition of a nonmanufacturing business in subsection (e) of K.S.A. 74-50,114 and amendments thereto, shall recertify annually that the net increase of a minimum of five qualified business employees has continued to be maintained.

(e) Notwithstanding the foregoing provisions of this section, any taxpayer qualified and certified under the provisions of K.S.A. 1995 Supp. 74-50,131, and amendments thereto, and that has received written approval from the secretary of commerce and housing for participation and has participated, during the tax year for which the exemption is claimed, in the Kansas industrial training, Kansas industrial retraining or the state of Kansas investments in lifelong learning program or is eligible for the tax credit established in K.S.A. 1995 Supp. 74-50,132, *and amendments thereto*, shall be entitled to a credit in an amount equal to 10% of that portion of the qualified business facility investment which exceeds \$50,000 in lieu of the credit provided in subsection (b)(2) or (c)(2) without regard to the number of qualified business facility employees engaged or maintained in employment at the qualified business facility. The credit allowed by this subsection shall be a one-time credit. If the amount thereof exceeds the tax imposed by the Kansas income tax act on the taxpayer's Kansas taxable income for the taxable year, the amount thereof which exceeds such tax liability may be carried forward for credit in the succeeding taxable year or years until the total amount of the tax credit is used, except that no such tax credit shall be carried forward for deduction after the 10th taxable year succeeding the taxable year in which such credit initially was claimed and no carry forward shall be allowed for deduction in any succeeding taxable year unless the taxpayer continued to be qualified and was recertified for such succeeding taxable year pursuant to K.S.A. 1995 Supp. 74-50,131, *and amendments thereto*.

(f) This section and K.S.A. 1995 Supp. 79-32,160b and amendments thereto shall be part of and supplemental to the job expansion and investment credit act of 1976 and acts amendatory thereof and supplemental thereto.

Sec. 4. K.S.A. 1995 Supp. 79-32,153 is hereby amended to read as follows: 79-32,153.

(a) Any taxpayer who shall invest 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) against the tax imposed by the Kansas income tax act, *the privilege tax on net income of insurance companies imposed under K.S.A. Chapter 40 Article 28, or the privilege tax as measured by net income of financial institutions imposed under K.S.A. Chapter 79 Article 11*, 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. *Where an employee performs services for the taxpayer both within and without the qualified business facility, the employee shall be considered engaged or maintained in employment at the qualified*

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business facility if (1) the employee's service performed without the qualified business facility is incidental to the employee's service within the qualified business facility, or (2) the base of operations or, the place from which the service is directed or controlled, is at the qualified business facility.

(b) The credit allowed by subsection (a) for any taxpayer who invests in a qualified business facility 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 or measured by~~ 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) 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.

Sec. 5. K.S.A. 1995 Supp. 79-32,154(g) is hereby amended to read as follows: 79-32,154(g). "Qualified business facility income" shall mean the Kansas taxable income, ~~as defined in article 32 of chapter 79 of the Kansas Statutes Annotated and amendments thereto,~~ derived by the taxpayer from the operation of the qualified business facility. If a taxpayer has income derived from the operation of a qualified business facility as well as from other activities conducted within this state, the Kansas taxable income derived by the taxpayer from the operation of the qualified business facility shall be determined by multiplying the taxpayer's Kansas taxable income, ~~computed in accordance with article 32 or chapter 79 of the Kansas Statutes Annotated and amendments thereto,~~ by a fraction, the numerator of which is the property factor, as defined in paragraph (1), plus the payroll factor, as defined in paragraph (2), and the denominator of which is two. *In the case of financial institutions, the property and payroll factors shall be computed utilizing the specific provisions of the apportionment method applicable to financial institutions, if enacted, and the qualified business facility income shall be based upon net income.*

(1) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in connection with the operation of the qualified business facility during the tax period, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period. The average value of all such property shall be determined as provided in K.S.A. 79-3281 and 79-3282, and amendments thereto.

(2) The property factor is a fraction, the numerator of which is the total amount paid during the tax period by the taxpayer for compensation to persons qualifying as qualified business facility employees, as determined under subsection (d), at the qualified business facility, and the denominator of which is the total amount paid in this state during the tax period by the taxpayer for compensation. The compensation paid in this state shall be determined as provided in K.S.A. 79-3283, and amendments thereto.

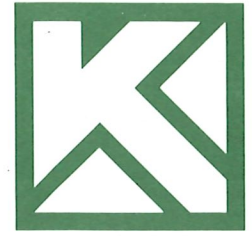
The formula set forth in this subsection (g) shall not be used for any purpose other than determining the qualified business facility income attributable to a qualified business facility.

New Sec. 6. The provisions of sections 1,3,4 and 5 of this act shall be applicable to all taxable years commencing after December 31, 1995. Sec. 7. K.S.A. 1995 Supp. 74-50,114, 74-50,115, 79-32,153, 79-32,154 and 79-32,160a are hereby repealed. Sec. 8. This act shall take effect and be in force from and after its publication in the statute book.

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LEGISLATIVE TESTIMONY

Kansas Chamber of Commerce and Industry



835 SW Topeka Blvd. Topeka, Kansas 66612-1671 (913) 357-6321 FAX (913) 357-4732
HB 2687

February 8, 1996

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the

House Committee on Economic Development

by

Bud Grant

Vice President & General Manager

Madam Chair and members of the Committee:

My name is Bud Grant and I appreciate the opportunity to appear before you today in support of HB 2687.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 3,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 55% of KCCI's members having less than 25 employees, and 86% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

My comments will be brief. You have the experts here to answer the technical questions about this proposal. My role today is to add the support of KCCI to the passage of legislation which is designed to enhance the economic development climate of the state.

Kansas began to seriously consider the importance of economic development incentives in the mid-seventies with the passage of the Job Expansion and Investment Credit Act and the Tax

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Increment Financing Act. There. In the mid-eighties it renewed its efforts resulting for one thing in the creation of this committee.

Several innovative and successful programs, thanks to Commerce, Kansas, Inc., and the Legislature, are in place, and I think helping the economic development climate of the state. But like anything, experience and time can call for change. I am advised by the Department of Commerce and Housing that this bill speaks to some of the needs that have developed following experience and changing times. I urge you to support HB 2687 to meet those needs.

Thank you Madam Chair. I would be pleased to stand for questions.