

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND TOURISM

The meeting was called to order by Chairman Ben Vidricksen at 9:05 a.m. on March 24, 1998 in Room 254-E of the Capitol.

All members were present except:

Committee staff present: Hank Avila, Legislative Research Department  
Bruce Kinzie, Revisor of Statutes  
Marian Holeman, Committee Secretary

Conferees appearing before the committee: Steve Kelly, KS Commerce & Housing

Others attending: See attached list

**HB 2899: Implementation - State Lake Resorts.**

Steve Kelly, Director, Business Development Division, Kansas Commerce and Housing, appeared before the committee at the request of the Committee Chair to provide members with information regarding currently available state incentives which might impact the decision of developers and/or investors relating to developing lake resorts. Incentives vary widely, in terms of makeup, delivery mechanism, and realization period. Mr. Kelly provided an overview of material contained in Attachment 1. Question raised as to who becomes responsible if the resort fails when the state has authorized issuance of bonds to pay for any part of the development. Mr. Kelly advised that the State Revenue Department would have to approve the developer and the developer would be subject to recapture of previous benefits gained. In the KIT program where violations have been found, they have gone through settlement processes and funds have been recaptured. The State would have no liability for any bonds issued. Discussed the High Performance Incentive Program (HPIP), the time lag, and the carry forward credit possibilities.

Representative Barbara Allen, Chair House Tourism Committee and Steve Williams, Director, Wild Life and Parks, were present and joined in the discussion. Although the entire state is potentially an Enterprise Zone and conceptually there is nothing to prohibit TIFF financing, lake resorts do not appear to qualify under current statute. Representative Allen specifically requested information regarding qualifying Enterprise Zones. Piecemeal authorization as required in the original bill was specifically written that way to allow the legislature to maintain control of the process. Enabling legislation should not be difficult to enact.

Mr. Williams advised that the Federal Corps of Engineers has indicated some interest in this project. It would not have to be on state property. The Corps can lease directly to a developer. In response to questions he further advised his Department really doesn't have much to offer in the way of incentives other than the land which is certainly a major incentive. They could also offer environmental services in terms of site permits, etc. and serve as a go-between with the Corps of Engineers. They have a working relationship with the Corps because of their position as a lessee.

A proposed amendment on line 22 would delete "each of the following" and insert "including, but not limited to the". This would allow developments at lakes other than the six selected in the feasibility study. Representative Allen explained her position regarding including other lakes in the bill. Senator Jordan moved to adopt the amendment. Senator Gilstrap seconded the motion. Members discussed the motion. Senator Gilstrap withdrew his second to the motion. Senator Huelskamp seconded the motion. Division requested. Three members voted no. Six members voted yes. Senator Harrington wished to be recorded as voting no. Motion carried. Senator Harrington moved to report the bill as amended favorable for adoption. Senator Salmans seconded the motion. Motion carried. Senator Jordan will carry the bill.

**Approval of minutes.**

Senator Harrington moved to approve the minutes of February 23, 24, and 25, 1998. Senator Huelskamp seconded the motion. Motion carried.

Meeting adjourned at 10:05 a.m.

The next meeting is scheduled for March 25, 1998.

SENATE TRANSPORTATION AND TOURISM  
COMMITTEE GUEST LIST

DATE: MARCH 24, 1998

NAME	REPRESENTING
Steve Kelly	KDOC + H
Norman Kruse	KDOC + H
Alex Kobyan tz	Junction City (CUB)
Dick Koerth	KDWP
STEVE WILLIAMS	KDWP
Dick Carter, Jr	TIAK
Luke Seaby	Sabetha High School
Jeff Stone	"
Ryan Spurr	Sabetha High School
Lesly Strahm	Sabetha, Kansas
Ed Hefel	Sabetha High School
Troy Kaeb	"
Ben Glace	" "
Heath Proeger	" "
And Hill	" "
Jan Kletterberger	Sabetha High School, IA
Akmail Havibulin	KFSW
Ramon Polhmann	Sabetha High School
Riley Chadwell	SABETHA HIGH SCHOOL



**TESTIMONY TO:**

**SENATE COMMITTEE ON TRANSPORTATION AND TOURISM**

**BY: STEVE KELLY**

**BUSINESS DEVELOPMENT DIVISION**

**KANSAS DEPARTMENT OF COMMERCE & HOUSING**

**TUESDAY, MARCH 24, 1998  
9:00 A.M.**

*Senate Transportation + Tourism  
3-24-98  
Attachment #1*

Chairman Vidrickson, Members of the Committee:

I am here today to speak with you about state incentives currently available, which might positively impact the decision by a developer and/or investors to develop a Kansas lake resort. Incentives for economic development activities vary, both in terms of their make-up, but also in their delivery mechanism and realization period. Incentives, such as direct grants and loans, or tax exemptions on project inputs provide more immediate impacts for the developer. Likewise, the financial impact on the state is more immediate when state funds are expended directly on a project, or when sales tax exemptions for construction inputs reduce sales tax revenue that would otherwise be collected. Tax credits, on the other hand, may provide a greater stream of benefits over a longer period of time, but utilization of the credits is tied to Kansas profits, which may delay the realization of benefits several years into the future. Incentive programs currently available, primarily reward two key activities: 1) the creation of jobs and 2) capital investment. For a project to qualify and be considered for state incentives, some level of job creation/retention and capital investment typically must occur.

At this time, I would like to provide a brief review of existing state incentives and their applicability to a project of this type.

#### **Direct Funding Sources**

The **Kansas Economic Opportunity Initiatives Fund (KEOIF)** can provide direct financial assistance via performance-based loans, which can be loans requiring repayment, forgivable loans, or a combination. The use of KEOIF is typically tied to job creation or retention and payroll impacts of the project, for both existing facilities and new projects in the state. The FY 1998 funding allocation for KEOIF totaled \$4 million. A lake resort

project would qualify, but funding levels would likely not be large in comparison with the overall project cost.

Another source of direct funding might, potentially, be the **Kansas Industrial Training Program (KIT)**, which provides matching funds for companies adding new jobs. This type of project could qualify, if it could be evidenced that the majority of revenues are from out-of-state sources. The level and type of training required by resort employees would be the major determinant of funding level. Again, these monies, while of assistance, would not be a major component of the overall project.

### Tax-Based Incentives

Incentives of this type provide tax exemptions, or credits as incentives for positive economic activity, with job creation and capital investment the most common triggering mechanism. **Enterprise Zones** provide a variety of benefits to qualifying companies, including sales tax exemptions on expenditures for facility construction and equipment, job creation tax credits, and an investment tax credit of 1% of capital investment. A lake resort project does not appear to qualify for Enterprise Zone benefits, as the statute currently stands.

The **High Performance Incentive Program (HPIP)** is another tax incentive based program that focuses on companies which pay higher than average wages and invest in workforce skill enhancement. The primary incentive of HPIP is an enhanced investment tax credit of 10% of capital investment. A lake resort project, of the type envisioned, is theoretically eligible for HPIP, but the resort would have to evidence that the majority of their revenues are derived from out-of-state commercial and governmental customers. Further, the wages paid by the facility would need to exceed the average wage for its two digit SIC, and training requirements of the program would have to be met.

House Bill No. 2899 provides additional assistance to potential resort developers in the form of a financing vehicle using K DFA issued bonds in an amount up to \$30 million per project. It is likely that incentives from state and local government will be a determinant of future progress towards a lake resort in Kansas. At this time, additional information needs to be collected and reviewed to determine the level and mix of incentives that might be necessary to make such development attractive. The current bill identifies the secretaries of Commerce & Housing, Wildlife and Parks, and Transportation as responsible for development of an incentive plan, that, when coupled with other local incentives, would stimulate lake resort development in Kansas. Discussions with developers and a review of incentives used by other states for projects of this type will need to take place. Partnerships with communities near where potential resort development might occur will, also, be critical in the development of incentive packages, which will be attractive to developers.

## ENTERPRISE ZONE INCENTIVES

Enterprise Zone incentives are available to qualifying businesses throughout the state, based on the type of facility (manufacturing, non-manufacturing, or retail), the capital investment, and the number of net new jobs created. In 1996 the Legislature amended the Enterprise Zone Program to allow insurance companies and financial institutions to benefit from the incentives. Basic incentives are available to businesses throughout the state. All counties, with the exception of Douglas, Johnson, Leavenworth, Sedgwick, Shawnee and Wyandotte are eligible for approval as designated non-metropolitan regions. Businesses in designated non-metropolitan regions may be eligible for enhanced incentives. The specific incentives are outlined in the chart on page 18.

A sales tax exemption is available on the materials, equipment, and services purchased when building, expanding, or renovating a business facility. State income tax credits are available for job creation and capital investment. Earned credits may be used to offset up to 100% of the business' annual state income tax liability. Unused credits may be carried forward indefinitely and applied in subsequent tax years until the credits are exhausted.

Manufacturing and non-manufacturing businesses are eligible for all Enterprise Zone incentives. The sole Enterprise Zone incentive for retail businesses is the sales tax exemption, only available in communities with a population of less than 2,500.

### JOB CREATION & INVESTMENT TAX CREDITS

These 10-year credits are determined by the amount of qualified business investment made in the company, and the number of net new jobs created. Earned credits may be used to offset up to 50% of the business' annual state income tax liability. Businesses may defer credits for up to three years. Unused annual credits may not be carried forward. The specific incentives are outlined at the right.

### QUALIFYING FOR JOB EXPANSION & INVESTMENT TAX CREDITS

The business must be a revenue producing, taxpaying, qualified Kansas business facility. Revenue producing includes the management of, and any combination of, enterprises which:

- 1) assemble, fabricate, manufacture or process

- 2) store, warehouse, distribute or sell agriculture, aquaculture, mining, or manufactured products;
- 3) feed livestock at a feedlot;
- 4) operate laboratory or other facilities for scientific, agricultural, aquacultural, animal husbandry or industrial research, development or testing;
- 5) perform services of any type; or
- 6) feed aquatic plants and animals at an aquaculture operation. K.S.A. 79-32,154 et seq.

### ENTERPRISE ZONE INCENTIVES AND JOB EXPANSION & INVESTMENT TAX CREDITS FOR EXPANDING/RENOVATING AN EXISTING BUSINESS

Certain facility expansions and renovations which meet the requirements of a "qualified business investment" are also eligible for tax credits under these programs. The facility must be owned and operated by the taxpayer before improvements are made. A qualified business investment is defined as the difference between the final value of the facility after the expansion and the average value of the facility in the year prior to the investment. If the property is newly acquired, its value (for the purpose of calculating the credit) is the original cost; or eight times the net annual rate if leased by the taxpayer. The business may opt to transfer or retain the credits if the facility is acquired by or leased to another entity.

JOB EXPANSION AND INVESTMENT TAX CREDITS	
All year credits to offset against 50% income tax liability; businesses may defer credits for up to 3 years. Limited credits may not be carried forward.	
Conditions:	Income tax liability dependent on amount.
All businesses are eligible for Enterprise Zone credits.	Job creation tax credit: 30% of net new jobs created.
Eligible business - investment in K.S.A. 79-32,154 et seq. must be made.	Investment tax credit: 100% of net new investment or 10% of total investment.
Unused credits may be carried forward for 10 years.	



## ENTERPRISE ZONE INCENTIVES

Details and conditions apply. For more information, contact the Department of Commerce & Housing.

CONDITIONS	BASIC INCENTIVES (All Counties)	ENHANCED INCENTIVES (Designated Non-Metro Regions)
<p><b>Manufacturing</b> Must create at least 2 net new jobs</p> <p>A manufacturing business is defined as "All commercial enterprises identified under the manufacturing standard industrial classification codes, major groups 20 through 39".</p>	<p>Sales Tax Exemption</p> <p>Job Creation Tax Credit: \$1,500 per net new job</p> <p>Investment Tax Credit: \$1,000/100,000 of Qualified Business Investment or major portion thereof</p>	<p>Sales Tax Exemption</p> <p>Job Creation Tax Credit: \$2,500 per net new job</p> <p>Investment Tax Credit: \$1,000/100,000 of Qualified Business Investment or major portion thereof</p>
<p><b>Non-Manufacturing &amp; Non-Retail</b> Must create at least 5 net new jobs</p> <p>A non-manufacturing business means any commercial enterprise other than a manufacturing or retail business. Includes business headquarters, insurance investment companies, financial institutions, and ancillary support operations of a retail enterprise.</p> <p>Also includes catalog and mail-order houses (SIC 5961) as well as prepackaged software companies (SIC 7372).</p>	<p>Sales Tax Exemption</p> <p>Job Creation Tax Credit: \$1,500 per net new job</p> <p>Investment Tax Credit: \$1,000/100,000 of Qualified Business Investment or major portion thereof</p>	<p>Sales Tax Exemption</p> <p>Job Creation Tax Credit: 2,500 per net new job</p> <p>Investment Tax Credit: \$1,000/100,000 of Qualified Business Investment or major portion thereof</p>
<p><b>Retail (Available Only in Communities with less than 2,500 Population)</b> Must create at least 2 net new jobs</p> <p>A retail business means:</p> <ol style="list-style-type: none"> <li>1) any commercial enterprise primarily engaged in the sale at retail of goods or services taxable under the Kansas Retailers Sales Act;</li> <li>2) any service provider set forth in K.S.A. 17-2707;</li> <li>3) any bank, S&amp;L, or other lending institution;</li> <li>4) any commercial enterprise whose primary business activity includes the sale of insurance; and</li> <li>5) any commercial enterprise deriving its revenue directly from non-commercial customers in exchange for personal services such as barber shops, photographic studios, etc.</li> </ol>	<p>Sales Tax Exemption</p>	<p>Sales Tax Exemption</p>

**ENHANCED INCENTIVES:** Available only to designated non-metropolitan counties or regions as approved by the Secretary of the Kansas Department of Commerce & Housing.

**NET NEW JOB:** For new industry, any job that is new to Kansas is a "net new job." For an expanding industry or one building a replacement facility, a "net new job" refers to any job created over and above the employee base, which is determined by averaging the preceding year's annual employment.

**QUALIFIED BUSINESS INVESTMENT:** Includes the value of all real and tangible personal business property except inventory or property intended for sale to customers. The value of such property is (1) its original cost if owned by the company, or (2) eight times the net annual rental rate if leased by the company.

**SALES TAX EXEMPTION:** Eligible purchases include the purchase and installation of machinery and equipment; materials used in the construction, reconstruction, enlarging, or remodeling of a qualified business facility. The exemption includes any quality control or pollution control equipment installed as a part of the aforementioned activities. Any person engaged in the building, remodeling or enlargement of a facility which will be leased to a business for at least five years may receive the exemption as well.

The following calculation illustrates how the Enterprise Zone incentives would benefit a company located in a metropolitan county. The company is making a qualified capital investment of \$1,000,000, creating 100 net new jobs, and has a net income tax liability of \$400,000.

**ENTERPRISE ZONE EXAMPLE**

1. Kansas taxable net income	\$400,000.00
2. Kansas corporate income tax	
a. 4% x \$50,000 =	2,000.00
b. 7.35% x \$350,000 =	25,725.00
c. total tax liability	27,725.00
3. Credit	
a. \$1,500/employee	150,000.00
b. \$1,000/\$100,000 capital investment	10,000.00
c. total credit	160,000.00
4. Less 100% of income tax liability	27,725.00
5. Remaining carry-forward credit for future use	\$132,275.00

**HIGH PERFORMANCE INCENTIVE PROGRAM**

This incentive program was designed to retain Kansas' existing high performance businesses, encourage company investment in worker training and education, and spur the attraction of new, high quality firms to the state. The incentives offered under the program are limited to manufacturers; certain business service firms; corporate headquarters; and "back-office" operations of national or multi-national corporations. These firms pay above average wages, and either invest 2% of their payroll on training or participate in one of Kansas' workforce training programs. Participating businesses must be in major standard industrial classification (SIC) categories of 20-49 or 60-89. If business is in major SIC categories 40-49 or 60-89, at least 51% of sales must be to Kansas manufacturers and/or out-of-state commercial or government customers.

Specific incentives extended to firms meeting the qualifications include:

- a sales tax exemption;
- a 10% investment tax credit against corporate income tax on capital investment exceeding \$50,000;

- a workforce training tax credit of up to \$50,000 per annum on training expenditures above 2% of total company payroll;
- potential matching funds for approved private consulting fees (subject to annual appropriation);
- priority consideration for other state business assistance programs.

Eligible purchases covered by the sales tax exemption and capital outlays that qualify for the Investment Tax Credit, are identical to that set forth under the Enterprise Zone program, without being tied to a job creation requirement. The Investment Tax Credit is a one-time credit with a 10 year carry-over provision, subject to requalification, for any unused credits. An investment credit may cover up to 100 percent of a firm's annual tax liability.

The new credits are available to firms, regardless of their location throughout the state, and participation is voluntary. They do not detract from the state's existing set of incentives or other assistance available to companies under current law; except that a company may not simultaneously claim the investment credit that is tied to new job creation and the 10 percent investment credit available to high performance establishments.

**HIGH PERFORMANCE INCENTIVE PROGRAM EXAMPLE**

Credit may be used against 100% income tax liability and carried forward for 10 years.

**REQUIREMENTS:**

- Company pays above average wage.
- Company invests at least 2% of payroll in training, or is participating in one of the state's workforce training programs.
- Business is in major SIC categories of 20-49 or 60-89.
- If business is in major SIC category of 40-49 or 60-89, at least 51% of sales are to Kansas manufacturers and/or out-of-state commercial or governmental customers.

**PROGRAM KANSAS INDUSTRIAL TRAINING (KIT)**

**KANSAS INDUSTRIAL RETRAINING (KIR)**

<b>DESIGNED FOR</b>	New and expanding businesses. Customized to your company's needs.	Restructuring companies whose employees are likely to be displaced due to obsolete or inadequate job skills. Customized to your company's needs.
<b>TYPE OF TRAINING</b>	Pre-Employment Training: Prospective employees usually attend classes on their own time, without pay, while gaining detailed knowledge of specific skills necessary for job entry. Allows company and potential employee to evaluate one another before making commitment. On-the-Job Training: Employees on the payroll receive instruction on the company's equipment in a classroom or on the work floor. Each program is customized to match your company's specific need. Pre-Employment and On-the-Job Training may be combined.	On-the-Job Training: Employees on the payroll receive instruction on the company's equipment in a classroom or on the work floor. Each program is customized to match your company's specific need.
<b>WHO IS ELIGIBLE</b>	Basic Enterprises* creating at least five new jobs (excluding recalled workers, replacement workers, or formerly existing jobs).	Basic Enterprises* that are restructuring due to the incorporation of existing technology, new technology, product diversification, or new production activities. Minimum training requirement of five existing employees.
<b>COVERED EXPENSES</b>	We pay negotiated costs for instructors' salaries, travel, meals and lodging; video tape development; training manuals, textbooks; supplies and materials; minor equipment; certain utility costs; temporary training facilities; and curriculum planning and development.	Same as KIT program, however, requires matching funds from your company.
<b>INSTRUCTOR SELECTION</b>	Instructors may come from your supervisory staff, community colleges, technical schools, consultants, vendors, etc. If desired, we can assist in locating qualified instructors.	Same as KIT program.
<b>TRAINING FACILITIES</b>	State universities, technical schools, community colleges, temporary rental facilities, or at your facility.	Same as KIT program.
<b>TRAINEE SELECTION</b>	You retain complete control over your hiring specifications and final trainee selection. If desired, the Kansas Dept. of Human Resources can assist in screening potential trainees.	Existing employees likely to be displaced due to obsolete or inadequate job skills and knowledge.
<b>HOW TO APPLY</b>	You prepare and submit to KDOC&H a training proposal based on a brief outline. State training consultants can provide free assistance to help you develop this proposal.	Same as KIT program. Projects are funded on a competitive basis and are awarded every two months.
<b>COMMENTS</b>	None	None
<b>PAYBACK PROVISIONS</b>	None	None

\*BASIC ENTERPRISES INCLUDE MANUFACTURING, DISTRIBUTION, REGIONAL OR NATIONAL SERVICE FACILITIES, AND OTHER BUSINESSES PRIMARILY ENGAGED IN THE DEVELOPMENT OR PRODUCTION OF GOODS OR THE PROVISION OF SERVICES FOR OUT-OF-STATE SALE.