Approved 3-21-00

MINUTES OF THE HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT.

The meeting was called to order by Chairman William G. Mason at 3:37 p.m. on March 14, 2000 in Room 522-S of the Capitol.

All members were present except: Representative Thimesch - E

Committee staff present: April Holman, Legislative Research Department
Renae Jefferies, Revisor of Statutes
Lynne Holt, Legislative Research Department
Rose Marie Glatt, Committee Secretary

Conferees appearing before the committee: Steve Kelly, Director Business Development, KDOCH

Others attending: See Attached List

Representative Beggs moved and seconded by Representative Sharp that the minutes from the March 2 and 7th meetings be approved. The motion carried.

The Chairman asked April Holman to brief the committee on **HB 3010**. This bill would amend the Kansas investment credit act of 1976. The bill would de-couple this act from the use of SIC codes, (Standard Industrial Codes)or other labor market information service coding. It would allow the Secretary of KDOCH to evaluate a business using the NAICS (North American Industry Classification System). The bill also amends current law to require businesses to notify KDOCH of their intent to invest in qualified business in order to be eligible for state training programs. At the request of the Chairman, Steve Kelly explained the SIC code, which has been the standard for over fifty years, by which businesses were placed according to activity in the industry. The NAICS system is a newer system that will replace the SIC code. He explained that the government starting a lengthy transition period and this bill is asking for permission to work with the NAICS code during that transition.

The Chairman opened the hearing on **HB 3010**.

Steve Kelly introduced David Bybee, Department of Commerce and Housing, noting that he would provide definitive information on the bill. Mr. Kelly explained the changes proposed in the bill (Attachment 1). **A**. The first technical change provides language that has been incorporated into the HPIP statute to help transition from the use of the current SIC system to the new NAICS system. **B**. The second technical change involves language which clarifies that the business is to use a 40 hour work week, when converting part-time employees to full-time equivalents. **C**. The third change clarifies disclosure requirements for the sensitive wage and other confidential information provided to KDOCH, in order to qualify for the program. **D**. The fourth change is additional language to explicitly require the business to acknowledge an awareness of the program benefits, and to submit an estimate of project capital investment before it commits to the investment. **E**. The fifth change is additional language that would enable credits to be earned for *exceeding* the average investment made over the most recent several years.

A question was raised regarding the current disclosure requirement for confidential information. Mr.Bybee explained that due to the open records act, there is nothing in place to prevent someone from asking for sensitive information submitted by businesses in order to qualify for the program. KDOCH proposes that they be allowed to retain that information internally without the obligation to release that information to the general public. Although this has not been a problem in the past, they would like to make this pro-active effort to prevent them any future problems. That language pertaining to this issue is on page 3, lines 4,5,6,7, 8, 27, 28 and 29 of the proposed bill

Shirley Sicillian, Department of Revenue, explained the updated fiscal note. She explained there were two scenarios. The first would result in a negative $1.5 million if you exclude the $50,000 on page 6, line 15, because firms with investments of less than $50,000 would be eligible for credits. If the intent of the bill is to the higher of $50,000 or the increment above the annual average, then the fiscal note is a positive figure of $373,000. She said the intent of the bill was unclear and discussion followed. She said they had suggested language that would allow for a clearer definition.

Discussion followed regarding the language on page 3, line 7 *may be made available to the legislative post audit.*

Mr. Kelly stated that KDHR had made a couple of minor clarifying language adjustments regarding the transfer from the SIC to the NAICS. KDOCH does not have a problem with their suggested language changes. The revisor has those suggested changes. In response to the Chairman question, Mr. Kelly stated the real peanut of the bill is twofold: first the technical change to allow for the transition from SIC to NAICS and secondly this bill addresses the department's concern regarding inquiries from those that they feel want to access the program on a retroactive basis, when we have had no knowledge of their interest or investment until after the fact. This program is meant to be an incentive and awarding credits after the fact defeats the purpose. The actual language, page 6, line 4, *which, prior to making a commitment to invest in a qualified Kansas business, has filed a certificate of intent to invest in a qualified business facility in a form satisfactory to the secretary of commerce and housing,* addresses that issue.

Discussion questioning the language on page 6, lines 15, 16 and 17 regarding the $50,000 *the annual average investment made over the lessor of: (1) All of the taxpayer's prior tax years; or (2) the taxpayer's five most recent tax years* followed.. Mr. Kelly stated that they did not have any problem maintaining the $50,000 minimum.

The Chairman asked what the need or situation was for the language changes on page 2, line 38 regarding the 40 hour work week. Mr. Bybee stated that it clarifies the language defining a forty hour work week over the entire measurement period as opposed to focusing on a single work week. They use the forty-hour-work week as the standard when converting part-time to full time equivalent employees. The Attorney General's office suggested that the regulations need further clarification, although this is the current practice.

Further discussion on the intent of the bill followed. Mr. Kelly stated that he had a copy of the suggestions for clarification by KDHR. These have been given to the Revisor for inclusion and changes in the bill.

The Chairman closed the hearing on **HB 3010** and opened the hearing on **HB 3011** asking Ms. Holman to brief the committee. The bill would add an additional criteria by which businesses could qualify for the Kansas investments in major projects and comprehensive training act for IMPACT. The new criteria would be the retention of existing jobs, wherein the past, there was a job expansion criteria but not the retention of the existing jobs. The bill would require that the assistance aimed at job retention maintain at least 1,000 jobs involve an investment of at least $250 million dollars in capital investment, and be a major factor of keeping the business in Kansas, as determined by the Secretary of Commerce and Housing. The bill would also require that a report regarding the approval of projects, under the IMPACT program be provided to the Chairperson for the Senate Committee on Commerce and the House Economic Development Committee. There is no fiscal impact on this bill.

Mr. Kelly testified in favor of **HB 3011**(Attachment 2). He explained the IMPACT program and the program's significant results in its dual role of spurring job creation and enhancing training capacity. The bill would modify the existing IMPACT statute to, also, give the state the ability to respond to large job retention and retraining projects. He summarized by saying that **HB 3011** gives the state the flexibility to not only facilitate job growth and the resultant increase in state income tax revenue, but also to retain jobs and the tax revenue currently being generated by those jobs.

In response to a question about the significance of the bill to GM, Mr. Kelly responded that this bill could potentially be used for retraining for GM employees, looking at the potential loss of jobs as justification for using this approach. Discussion followed regarding other existing programs and their limitations and data on the usage of previous IMPACT projects.

The Chairman reviewed the fiscal note, stating that according to the KDOCH and KDHR this bill would have no fiscal impact. Mr. Kelly stated that there would be an impact based on the training amount spread out over a ten year period per project. He noted that he had recently talked to Steve Jack, who had talked to the Budget office and they confirmed the fiscal impact for any one project would be spread out over a period of 10 years.

Representative Kuether shared information on the problems at Goodyear. She noted that they are losing workers due to technological changes and re-training needs. She added that there will be many big businesses that will need this bill in order to meet the challenges in the future; noting it will make a difference of whether they stay in Kansas or re-locate. She raised the question of the percentage of "matching" funds from the businesses, noting that this was not a free ride for the companies.

The Chairman closed the hearing on **HB 3011**.

The next meeting is Thursday, March 16, 2000.

The Chairman adjourned the meeting at 4:25 p.m.

HOUSE ECONOMIC DEVELOPMENT COMMITTEE
COMMITTEE GUEST LIST

DATE: March 14, 2000

NAME	REPRESENTING
Bill Layes	Ks. Dept. Human Resources
Richard Murray	Ks Dept. Human Resources
Ron Sicka	" " " "
Bernie Koch	Wichita Area Chamber
MIKE GREENLEE	BOEING
LARRY ARNOLD	ARTHUR ANDERSEN
JASON SMARTT	ARTHUR ANDERSEN
DAVID BYBEE	KDOCH
FRED SCHWIEN	KDOC&H
Roger Franzke	KGC
Ashley Sherard	O.P. Chamber of Commerce
Kevin Barone	Hein/Weir Chtd
Bud Burke	Issues Mgmt. Group
Maria Espinoza	Federico Consulting

TESTIMONY TO:

HOUSE ECONOMIC DEVELOPMENT COMMITTEE

HB 3010

BY: STEVE KELLY

BUSINESS DEVELOPMENT DIVISION

KANSAS DEPARTMENT OF COMMERCE & HOUSING

Tuesday, March 14, 2000

Room 522-S

Testimony to House Economic Development Committee on HB 3010

March 14, 2000

Good afternoon. I am Steve Kelly, Director of Business Development for the Kansas Department of Commerce & Housing. Thank you for this opportunity to discuss some proposed changes to the High Performance Incentive Program (HPIP), changes that we feel will be beneficial to the state's economic development efforts.

HPIP extends tax benefits to most kinds of for-profit businesses, which meet certain requirements, mainly connected with paying a higher than average wage, and investing in employee training. Service companies, which are otherwise eligible, must also demonstrate a focus on supporting Kansas basic industries, by selling their products to Kansas manufacturers, or on capturing new dollars for the Kansas economy by selling their products outside the state. Companies which meet these qualifications, are able to earn an income tax credit for major capital investment, and claim a related sales tax exemption.

The first proposed changes are technical in nature. In determining that a company pays a higher than average wage, the company is compared to a standard, derived from the wage levels paid by other companies that have been assigned to the same Standard Industrial Classification (SIC) code. A new system, called the North American Industry Classification System (NAICS), has been developed by the federal Office of Management and Budget, to replace the current SIC system. Language has been incorporated into the HPIP statute to help transition to the new system.

Another technical change involves language which clarifies that the business is to use a 40 hour work week, when converting part-time employees to full-time equivalents, whatever the time interval may be over which the measurement is occurring.

A more substantive change clarifies disclosure requirements for the sensitive wage and other confidential information provided us by the business, in order to qualify for the program.

The release of such information to the public could result in substantial damage to a business' competitive situation. That information would be available to the legislative post audit division.

It has been our view that the program was intended to be an exchange of value between the State of Kansas and the qualifying company. HPIP tax credits for investment and training are extended in the expectation that those tax advantages will incent the business to expand the scope of its investment and training efforts, beyond that which would occur without the potential tax advantages. To help us insure that HPIP benefits are being considered by the business, when making investment decisions, and to clarify that benefits are not intended for investment which occurred prior to knowledge of the program, we have proposed language that will explicitly require the business to acknowledge an awareness of the program benefits, and to submit an estimate of project capital investment before it commits to the investment.

Lastly, in weighing estimated investment associated with the project, we would, also, like to help insure that businesses are being rewarded with tax credits for that investment which exceeds routine investment, and that credits are not being extended for that normal investment, which is necessary to simply maintain the existing level of ongoing, ordinary operations. Our proposed language would enable credits to be earned for exceeding the average investment made over the most recent several years.

Thank you for your consideration of these important changes. I will be happy to address any questions.

Testimony to House Economic Development Committee on HB 3011

March 14, 2000

I appear before you today to speak in favor of HB 3011, which would amend the existing IMPACT (Investments in Major Projects and Comprehensive Training) program statute to allow for the retraining of existing employees.

As it is now operated, the IMPACT program responds to the training and capital requirements of major business expansions and locations in the state. IMPACT employs an innovative funding mechanism involving tax-exempt bonds issued through he Kansas Development Finance Authority, which are indirectly retired by the withholding taxes created by the new jobs. Bond financing of training and capital costs has enabled Kansas to compete more successfully for new businesses and has encouraged job creation within existing firms. IMPACT has not only enhanced the state's competitiveness, but it has, also, helped new and existing companies train employees at a higher level.

Since FY 1992, the program has produced significant results in its dual role of spurring job creation and enhancing training capacity. Forty-six projects have been developed and funded with 37 companies, assisting in the generation of an estimated 31,198 new jobs by the end of 2004. To date, more than 17,000 of those projected jobs have already been established in 27 Kansas communities. In addition to industry-specific training, projects have included instruction in transferable skills that transcend the specific industry occupation by the client firm and have included training in computer software, ISO-9000 requirements, team building, problem-solving, safety quality assurance, and customer service, skills that are vital in almost every career setting.

While IMPACT has given our state a dramatic tool to facilitate the creation of new jobs, our tool for job retention and retraining, the Kansas Industrial Retraining (KIR) program is funded at a level which enables us to respond to only small or medium-sized projects. HB 3011 would modify the existing IMPACT statute to, also, give the state the ability to respond to large job retention and retraining projects. Only job retention and retraining projects, with more than 1,000 employees and more than $250 million in capital investment, would be eligible. Projects would be funded through a diversion of a portion of the withholding taxes of the existing jobs.

HB 3011 gives the state the flexibility to not only facilitate job growth and the resultant increase in state income tax revenue, but also to retain jobs and the tax revenue currently being generated by those jobs. I urge your favorable consideration of this bill.