

MINUTES OF THE HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT.

The meeting was called to order by Chairman William G. Mason at 3:35 p.m. on March 16, 2000 in Room 522-S of the Capitol.

All members were present except: Representative Geringer - E
Representative Henderson - E
Representative Thimesch - E
Representative Stone - 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: Representative Doug Spangler
Bob Gillihan, President, KS Multi-Sport and Rec. Foundation
Jim Sword - HOK Architects
Peter Duffy Mahoney - Director of Operations USTAF
Mike O'Sullivan - The LIEB Group - Arthur Anderson
Coach Al Hobson - KCKCC
Warrick Graves - Prudential Securities
David Bybee, High Performance Incentive Manager, KDOCH
Secretary Clyde D. Graeber, KDHE
Kirk W. Lowry, Attorney, Palmer, Lowry, Leatherman & White
Jim DeHoff, KS AFL-CIO, written testimony only

Others attending: See Attached List

The Chairman opened the hearing on **HB 3019**. He directed the committee's attention to the testimony submitted by Jim DeHoff, KS AFL-CIO, written in support of the bill because of the potential of new jobs being added from construction and completion of a sports complex (Attachment 1).

Representative Spangler opened the session, and spoke of the importance of **HB 3019** to the state of Kansas. He stated that the peanut of the bill is on page 3, line 20, that reads *(f) The authority is hereby authorized and empowered to issue bonds in one or more series for the purpose of financing a multi-sport athletic project in accordance with sections 2 through 4 and amendments thereto.* This opportunity has been brought forth to the Kansas City, Kansas and metropolitan Kansas City community by the Board of Directors of the Kansas Multi-Sport and Recreation Foundation. He introduced the Board Members present at the hearing: Bob Gillihand, President, Mike Gilstrap, Kansas City, KS Community College, Tom Burke, President of the Community College, Jim Head, Retired Certified Public Accountant, Al Hobson, Track and Field Coach and Ernest Green, the father of Maurice Green, the world's fastest man.

A notebook was distributed to the committee members for review (A copy of the three ring binder is on file in the Legislative Research Department). Representative Spangler introduced Bob Gillihan, who gave an overview of the presentations to follow by members on the KS Multi-Sport and Recreation Foundation Board of Directors. Their vision is to plan, design and build the first 400 meter indoor track facility in the world as well as the *United States Track and Field Hall of Fame*. The project presents the opportunity to put Kansas at the fore-front of securing and hosting a variety of championship sporting activities which will greatly increase tourism and visits from athletic teams from across the United States and the World.

Jim Sword, Hok Architects, presented the following overviews via visual aides: layout of the KS Multi-Sport and Recreation Facilities on the Kansas City, Kansas Community College, an inside view of the 400 meter indoor track and the gyn/natatorium facility and an artist's rendering of an field event.

Peter Duffy Mahoney, Director of Operations of the governing body for the sport of track and field(USTAF), reviewed the sporting events that would be impacted by the new facility including: running, long distance running, race walking, swimming, gymnastics, handball, volleyball in addition to the sport of track and field. He described the benefits of a facility of this magnitude to the community and state.

Mike O'Sullivan, The Leib Group - Arthur Anderson, distributed exhibits reflecting the illustrative economic impact and conceptual financial structure of the proposed athletic facility (Attachment 2). He addressed two issues: Can this project make economic sense and what kind of economic impact will the project have on the local and regional Kansas economy? Their calculations show that the project makes economic sense and the economic impact on the local community and state would be significant. They will need a full calendar of events before a

more accurate estimate can be given. He noted that these were preliminary findings and funding would not occur until very careful financial planning took place.

Coach Hobson, KCKCC reviewed the lack of good facilities under one roof in the United States, for the purpose of training and competing for local, regional and world class citizens.

Warrick Graves, Prudential Securities, talked of the many facilities, outlined in the notebook, that have been completed across the country. He spoke of the advantage of having good quality Kansas paper on the market today. Bill Gillihan concluded the presentation and stood for questions. Discussion followed regarding the reasoning behind selecting KDFA for the funding mechanism and the lack of liability for the state of Kansas for the project. Representative Sharp and Dr. Tom Burke, President of Kansas City, Kansas Community College spoke in support of the facility.

Chairman Mason closed the hearing on **HB 3019**.

Ken Frahn, Chairman of KDFA, stated that if the market has an appetite for good quality Kansas paper, they would be glad to issue it. The bill appropriately calls for a feasibility study and assuming that has a positive outcome, KDFA would be glad to be a part of the program.

Representative Sharp moved that **HB 3019** be passed out favorably. Representative Campbell seconded and the motion was carried.

The Chairman opened the hearing on **HB 3020** and Ms. Holman provided a briefing. The bill would establish the Sunflower Army Ammunition Plant Remediation Trust Fund to be administered by the Secretary of Health and Environment, providing for administration and use of such fund. The fiscal note reports that the fiscal effect of the bill cannot be estimated at this time. The bill involves future events that may or may not happen and any fiscal effect resulting from the passage of the bill would not affect revenue sources or expenditures from the state general fund, but would be in addition to any recommendations included in the Governor's budget.

Secretary Clyde D. Graeber provided testimony in support of the bill (Attachment 3). He briefly described the legislation passed last year, which requires that OZ entertainment Company provide a prepaid third party financial guarantee in the form of an obligation bond. Kansas statutes mandate that KDHE have the statutory authority to *accept and access* the bond. This change, technical in nature, would allow KDHE to call the surety bond for any required payments and distribute funds for payment of remediation work. It also outlines procedures in the case that OZ fails. A question was raised about the process of the consent order. KDHE recently forwarded seven changes to the OZ attorneys, and he noted that they understand those changes will be accepted and returned. Discussion followed regarding the ramifications of a remediation bill larger than the \$45 million dollar surety bond. The Secretary stated that OZ has contracted with IT Corporation, a well known environmental contractor, whose contract states that they will remediate the entire tract for \$37 million. There is an agreement with the army saying that in the event that OZ expends \$40 million on the remediation of the tract, the army will then move in and oversee the remediation from that point forward. The army retains the right to call on the additional insurance policies that OZ will provide. In addition the army agreed up-front to clean up what they call explosive ground at a cost of \$26 million. The Secretary explained that KDHE has a voluntary agreement with the EPA, that KDHE will oversee the remediation of this site. The Secretary agreed to provide the exact numbers of KDHE employees (3-5) that will be involved with the project. The time-table for remediation could be as long as fifteen years to actually remediate and the army believes that they now, with the remediation that OZ would be doing, can complete it in that same time frame. The financial stability of the Insurance Company in Pennsylvania issuing the bond was described by the Secretary as top notch.

The Chairman closed the hearing on **HB 3020**. Representative Aday moved that **HB 3020** be passed out favorably. Representative Campbell seconded and the motion carried.

The Chairman opened the hearing on **HB 3021** and Ms. Holman briefed the committee on the intent of the bill. The bill would amend the KS tort claims act to say that a government entity or an employee acting within the scope of their employment will not be liable for the damages resulting from the failure to perform any activity pursuant to the statute governing the development of a project of state and local importance, which indirectly refers to the OZ project.

Secretary Clyde D. Graeber stated that **HB 3021**'s purpose is to protect KDHE and the state of Kansas from any possible lawsuits that might arise by KDHE's voluntarily agreeing to oversee the remediation of the Sunflower Army Ammunition site and assume that oversight from the EPA. It brings under the Tort Claims Act the 1999 legislation which created the statutory authority that enables the OZ project to move forward (Attachment 4). The bill does not protect anyone other than the KDHE employees, KDHE and the state of Kansas. The question was raised that in the event of Oz's failure, who would be liable for such things as ground water contamination. Where would people turn for remediation? The Secretary stated that the land would return to the Army and the public would have the same course of action that they have now, or against any assets that Oz retained. They discussed whether this bill would supercede CIRCLA and the part KDHE and KDFA have in the chain of title. The Secretary

agreed to provide more detailed information on this issue after more research.

Kirk W. Lowry, Attorney, Palmer, Lowry, Leatherman & White appeared in opposition to the bill (Attachment 5). They cited two points: the proposed immunity is too broad in scope and they oppose the bill because they do not see it as good government to give the state obligations and responsibilities under one set of statutes, which creates a developmental finance authority and then pass conflicting legislation, that would relieve the state from any responsibility for failure to live up to its statutory obligations.

Discussion followed regarding the question of immunity of the EPA in such projects, liability of other responsible parties backed by performance bonds, limitation of \$500,000 on the Tort Claims Act per occurrence, varying interpretations on the bill (a) states shedding of liability responsibility to the people of Kansas (b) protecting the people of Kansas and KDHE from lawsuits for voluntarily agreeing to assume the responsibility from EPA.

The Chairman closed the hearing on HB 3021. Representative Beggs moved that HB 3021 be passed out favorably. Representative Campbell seconded.

Discussion followed regarding the concern of contamination for people living around the site and the remediation process. The Chairman stated that the contamination issue is not the responsibility of KDHE. Contamination is there from years and years of contaminants being put at the site. KDHE is there as overseers of the clean-up, not as contributors to the problem. This bill does not relieve OZ or any other contractors from their rightful responsibilities for protection of the people in that area. The risk is not from the contamination, but from actions that they are involved in with the contractors, etc.

The Secretary reiterated that what they are asking is that while they are doing their job of overseeing the work that is going to be done by IT Corp, they should not be joined in any lawsuit that might be brought against OZ, IT Corp or the Army. They are there voluntarily as overseers of the process of remediation. KDHE is not receiving any remuneration for this project, other than the salaries for the three employees that will be on site. Discussion followed regarding various scenarios that could occur resulting in legal action.

Representative Campbell called the question. The motion was defeated.

The Chairman opened the hearing on HB 3010 and called on David Bybee, KDOCH to explain the consolidated amendments (Attachment 6).

Representative Beggs moved that the balloon on page 6, line 17 be struck as well as the original amendment in italics, returning to the original language and figure of \$50,000. On page 6, line 14 and 15, the language would read: *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* Representative Kuether seconded and the motion carried.

Representative Aday moved that the other technical amendments, discounting the 2nd amendment on page 1 relating to manufacturing be accepted. Representative Osborne seconded and the motion carried.

Representative Aday moved that HB 3010 be passed out favorably as amended. Representative Sharp seconded and the motion carried.

The Chairman directed attention to HB 3011 and opened it for discussion. Representative Gatewood moved that the technical change on page 3, line 33, changing the word *expending to expanding* be accepted. Representative Campbell seconded and the motion carried. Discussion followed regarding the number of jobs and investment criteria necessary for participation in the program, other programs that might be more appropriate for smaller businesses and the importance of the bill to local communities and the state. Representative Aday moved that HB 3011 be passed out favorably as amended. Representative Campbell seconded and the motion carried.

Representative Campbell asked the Chairman for another meeting to continue the discussion on HB 3021.

The next meeting is Tuesday, March 21, 2000.

The Chairman adjourned the meeting at 5:10 p.m.

HOUSE ECONOMIC DEVELOPMENT COMMITTEE COMMITTEE GUEST LIST

DATE: March 16, 2000

NAME	REPRESENTING
Bee Jarrett	BOEING
Michael Sullivan	The Leib Group, LLC
PETER "DOFFY" MAHONEY	USA TRACK & FIELD
Ernest Moore	Manassas City
Barl J. Privitera	Multi Sport
Jim Heard	Multi Sports
Mike Holston	Kansas City Kansas Community College
Joe Lund	KDHE
Christy Caldwell	Jopoka Chamber of Comm.
Clyde Graeber	KDHE
Warrick Graves	Prudential Securities
JIM SWORDS	HOK / SPORT ARCHITECTS
BOB GILLIHAN	MULTI SPORT
Al HOBSON	KCK Community College
Rob Turner	" " "
Judd Frazer	Kansas Development Finance Auth.
KENNETH FRATHM	KDFA
Sharon Watson	KDHE
Kirk Lowry	KTCA

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Clyde Bracken

Bill Brynds

Jim Clapper

Lloyd Diamond

Dan Fairbanks

David Han

Jim Hastings

Jerry Helmick

Greg Jones

Fred Kaminska

Earl Kanatzar

Lloyd Lavin

Wil Leiker

Adrain Loomis

Pam Pearson

Emil Ramirez

Craig Rider

Debbie Snow

Betty Vines

Economic Development Committee

Bill Mason, Chairman

Thursday, March 16, 2000 - 3:30 PM

Room 522-S

Chairman Mason and Committee Members. My name is Jim DeHoff and I am here on behalf of the 119,000 members and families who belong to the Kansas AFL CIO.

We support HB 3019 because of the potential of new jobs being added from construction and completion of a sports complex. Passage of HB 3019 would make it possible to construct a multi-sport and recreational complex at the Kansas City Kansas Community College.

The multi-sports complex is very much needed in Wyandotte County and would be used no doubt, by all surrounding Kansas counties. We urge you to pass HB 3019 out of Committee and to support this bill on the House floor.

Thank you.



ECONOMIC DEVELOPMENT COMMITTEE
MARCH 16, 2000
ATTACHMENT 1

**Kansas City Kansas Community College
Proposed Athletic Facility**

Conceptual Financial Structure

Total Estimated Project Cost \$150,000,000

Potential Capital Contributions

Concessionaire	\$ 5,000,000	
Naming Rights/Sponsorships	25,000,000	
Foundation	<u>10,000,000</u>	
Total Contributions		<u>40,000,000</u>

Net Amount to be Financed \$ 110,000,000

Approximate Annual Debt Service \$ 10,538,000

Available Annual Revenue

Net Operating Income	\$6,000,000	
Sales Tax	1,000,000	
Premium Seating	2,500,000	
Broadcasting Fees	<u>1,500,000</u>	
Total		\$ 11,000,000

Kansas City Kansas Community College Proposed Athletic Facility

Illustrative Economic Impact

Construction Period Impacts

Labor	\$67,500,000	
Materials and Supplies	<u>82,500,000</u>	
Total Direct Impacts		\$150,000,000
Indirect Impacts		<u>125,000,000</u>
Total Construction Impacts		\$275,000,000

Impacts from Annual Operations

Spectator Spending	\$30,000,000	
Participant Spending	5,000,000	
Operating Budget	<u>5,000,000</u>	
Total Annual Direct Impacts		\$40,000,000
Indirect Impacts		<u>30,000,000</u>
Total Annual Impacts		\$70,000,000



KANSAS
DEPARTMENT OF HEALTH & ENVIRONMENT
BILL GRAVES, GOVERNOR
Clyde D. Graeber, Secretary

Testimony on House Bill 3020
House Economic Development Committee

March 16, 2000

Presented by Secretary Clyde D. Graeber

House Bill 3020 is legislation being requested by KDHE. I am sure that all members of this committee are aware that last year's legislation, which created the statutory authority for the Oz project, requires that Oz Entertainment Company provide a prepaid third party financial guarantee which will guarantee the funds necessary for the remediation of the Sunflower tract. In compliance with that requirement, Oz Entertainment Company will provide a prepaid \$45 million dollar payment obligation bond issued by the insurance company of Pennsylvania.

Kansas statutes mandate that KDHE have statutory authority to accept and access the bond. This authority will allow KDHE to call the surety bond for any required payments and distribute funds for payment of remediation work.

In the event that Oz fails to pay it's remediation contractor, this legislation provides the necessary statutory authority for KDHE to access the payment obligation surety bond and pay the contractor for the remediation work performed on the project. If Oz fails to pay it's contractor performing the remediation at the federal enclave, all Qualified Expenses may be submitted to KDHE for payment from the guarantee.

This statutory authority will be accomplished with the passage of House Bill 3020.



KANSAS
DEPARTMENT OF HEALTH & ENVIRONMENT
BILL GRAVES, GOVERNOR
Clyde D. Graeber, Secretary

Testimony on House Bill 3021
House Economic Development Committee

March 16,2000

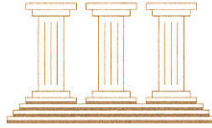
Presented by Secretary Clyde D. Graeber

House Bill 3021 brings the 1999 Oz Statute under the Tort Claims Law.

House Bill 3021 is legislation requested by KDHE and its purpose is simply to protect KDHE and the state of Kansas from any possible lawsuits that might arise by reason of KDHE's voluntarily agreeing to oversee the remediation of the Sunflower Army Ammunition site and assume that oversight from the EPA.

House Bill 3021 amends the Kansas Tort Claims Act. In paragraph W of HB 3021, it brings under the Tort Claims Act the 1999 legislation which created the statutory authority that enables the Oz project to move forward.

I feel that the provisions of HB 3021 will provide protective assurance to KDHE and the state of Kansas.



KANSAS TRIAL LAWYERS ASSOCIATION

Lawyers Representing Consumers

TO: Members of the House Insurance Committee

FROM: ~~Terry Humphrey, Executive Director~~ Testimony given by KIRK W. LOWRY
~~Kansas Trial Lawyers Association~~ Palmer, Lowry, Leatherman
& White

RE: HB 3021

DATE: March 16, 2000

Mr. Chairman and members of the House Insurance Committee, thank you for the opportunity to comment on HB 3021. The Kansas Trial Lawyers Association opposes House Bill 3021. This bill amends the Kansas Tort Claims Act and gives the State of Kansas immunity for its performance, or failure to perform, its required duties under K.S.A. 1999 Supp. 74-8922. We oppose this bill on two main points:

1. The proposed immunity is too broad in scope. This new immunity would relieve the State from its responsibility to issue and enforce consent decree agreements for environmental remediation anywhere in Kansas. HB 3021 is not limited in scope to the proposed Oz Entertainment Company project near DeSoto, Kansas but would apply to any project of "statewide as well as local importance within a redevelopment district". In our view it would be unwise to give the State a blanket immunity for its failure to make responsible parties live up to consent decree agreements for environmental remediation.
2. Secondly, we oppose the bill simply because we do not see it as good government to give the state obligations and responsibilities under one set of statutes, such as those found in K.S.A. 74-8902 which creates a developmental finance authority and then pass conflicting legislation such as an amendment to the Kansas Tort Claims Act set forth in K.S.A. 1999 Supp. 75-6104 which would relieve the state from any responsibility for failure to live up to its statutory obligations.

LETTER - TH1

Terry Humphrey, Executive Director

ECONOMIC DEVELOPMENT COMMITTEE
MARCH 16, 2000
ATTACHMENT 5

Jayhawk Tower • 700 SW Jackson, Suite 706 • Topeka, Kansas 66603-3758 • 785.232.7756

E-Mail: triallaw@ink.org

HOUSE BILL No. 3010

By Committee on Appropriations

9 AN ACT concerning the job expansion and investment credit act of 1976;
10 amending K.S.A. 1999 Supp. 74-50,131 and 79-32,160a and repealing
11 the existing sections.
12

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

14 Section 1. K.S.A. 1999 Supp. 74-50,131 is hereby amended to read Commencing after December 31, 1999:

15 as follows: 74-50,131. (a) As used in this act: "Qualified firm" means a
16 for-profit business establishment, subject to state income, sales or prop- Manufacturing
17 erty taxes, identified under the manufacturing standard industrial classi-
18 fication codes as in effect July 1, 1993, major groups 20 through 39, major

19 groups 40 through 51, and major groups 60 through 89; identified under (SIC)
20 the North American industry classification system (NAICS) as in effect

21 on July 1, 2000 or is identified as a corporate or regional headquarters or October
22 back-office operation of a national or multi-nation corporation regardless

23 of SIC code or NAICS designation. The secretary shall determine elig- of commerce and housing
24 ibility when a conflict exists between a firm's SIC code and NAICS des-
25 igation. A business establishment may be assigned a standard industrial

26 classification code or NAICS designation according to the primary busi- difference
27 ness activity at a single physical location in the state.

28 (b) In the case of firms in major groups 40 through 51, and major appropriate
29 groups 60 through 89; or the corresponding NAICS designation the busi-
30 ness establishment must also demonstrate the following:

31 (1) More than ~~one-half~~ 1/2 of its gross revenues are a result of sales
32 to commercial or governmental customers outside the state of Kansas; or

33 (2) more than ~~one-half~~ 1/2 of its gross revenues are a result of sales to appropriate
34 Kansas manufacturing firms within major groups 20 through 39 or the
35 corresponding NAICS designation; or

36 (3) more than ~~one-half~~ 1/2 of its gross revenues are a result of a com-
37 bination of sales described in (1) and (2).

38 (c) For purposes of determining whether one of the average wage
39 options described in subsection (d) below is satisfied, business establish-
40 ments located within a metropolitan county, as defined in K.S.A. 1999
41 Supp. 74-50,114, and amendments thereto will be compared only to other
42 businesses within that metropolitan county, and business establishments
43 located outside of a metropolitan county will be compared to businesses

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1 within an aggregation of counties representing the business establish-
2 ment's region of the state, which regional aggregation will exclude met-
3 ropolitan counties. Such aggregation shall be determined by the depart-
4 ment of commerce and housing.

5 (d) Additionally, a business establishment having met the criteria as
6 established in subsection (a) or (b), and using the comparison method
7 described in subsection (c), must meet one of the following criteria:

8 (1) The establishment with 500 or fewer full-time equivalent em-
9 ployees will provide an average wage that is above the average wage paid
10 by all firms with 500 or fewer full-time equivalent employees which share
11 the same two-digit standard industrial classification code or ~~correspond-~~
12 ~~ing~~ NAICS designation.

appropriate

13 (2) The establishment with 500 or fewer full-time equivalent em-
14 ployees is the sole firm within its two-digit standard industrial classifica-
15 tion code or ~~corresponding~~ NAICS designation which has 500 or fewer
16 full-time equivalent employees.

appropriate

17 (3) The establishment with more than 500 full-time equivalent em-
18 ployees will provide an average wage that is above the average wage paid
19 by firms with more than 500 full-time equivalent employees which share
20 the same two-digit standard industrial classification code or ~~correspond-~~
21 ~~ing~~ NAICS designation.

appropriate

22 (4) The establishment with more than 500 full-time equivalent em-
23 ployees is the sole firm within its two-digit standard industrial classifica-
24 tion code or ~~corresponding~~ NAICS designation which has 500 or more
25 full-time equivalent employees, in which event it shall either provide an
26 average wage that is above the average wage paid by all firms with 500
27 or fewer full-time equivalent employees which share the same two-digit
28 standard industrial classification code or ~~corresponding~~ NAICS designa-
29 tion, or be the sole firm within its two-digit standard industrial classifi-
30 cation code or ~~corresponding~~ NAICS designation.

appropriate

appropriate

appropriate

31 (e) As an alternative to the requirements of subsections (c) and (d),
32 a firm having met the requirements of subsections (a) or (b), may qualify,
33 if excluding taxable disbursements to company owners, the business es-
34 tablishment's annual average wage must be greater than or equal to 1.5
35 times the aggregate average wage paid by industries covered by the em-
36 ployment security law based on data maintained by the secretary of hu-
37 man resources.

38 (f) For the purposes of this section, the number of full-time equiva-
39 lent employees shall be determined by ~~adding~~ dividing the number of
40 hours worked by part-time employees during the pertinent measurement
41 interval by an amount equal to the corresponding multiple of a 40-hour
42 work week and adding the quotient to the number of full-time employees
43 ~~to the number of hours worked by part-time employees divided by 40.~~

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1 (g) The secretary of commerce and housing shall certify annually to
 2 the secretary of revenue that a firm meets the criteria for a qualified firm
 3 and that the firm is eligible for the benefits and assistance provided under
 4 this act. *The secretary of commerce and housing is hereby authorized to*
 5 *obtain any and all information necessary to determine such eligibility.*
 6 *Information obtained under this section shall not be subject to disclosure*
 7 *pursuant to K.S.A. 45-215 et seq. and amendments thereto, but ~~may~~ be*
 8 *made available to the legislative post audit division.* The secretary of com-
 9 merce and housing shall publish rules and regulations for the implemen-
 10 tation of this act. Such rules and regulations shall include, but not be
 11 limited to:

shall upon request

- 12 (1) A definition of "training and education" for purposes of K.S.A.
 13 1999 Supp. 74-50,132 and amendments thereto.
- 14 (2) Establishment of eligibility requirements and application proce-
 15 dures for expenditures from the high performance incentive fund created
 16 in K.S.A. 1999 Supp. 74-50,133 and amendments thereto.
- 17 (3) Establishment of approval guidelines for private consultants au-
 18 thorized pursuant to K.S.A. 1999 Supp. 74-50,133 and amendments
 19 thereto.
- 20 (4) Establishment of guidelines for prioritizing business assistance
 21 programs pursuant to K.S.A. 1999 Supp. 74-50,133 and amendments
 22 thereto.
- 23 (5) A definition of "commercial customer" for the purpose of K.S.A.
 24 1999 Supp. 74-50,133 and amendments thereto.
- 25 (6) A definition of "headquarters" for the purpose of K.S.A. 1999
 26 Supp. 74-50,133 and amendments thereto.
- 27 (7) *Establishment of guidelines concerning the use and disclosure of*
 28 *any information obtained to determine the eligibility of a firm for the*
 29 *assistance and benefits provided for by this act.*

30 Sec. 2. K.S.A. 1999 Supp. 79-32,160a is hereby amended to read as
 31 follows: 79-32,160a. (a) For taxable years commencing after December
 32 31, ~~1997~~ any taxpayer who shall invest in a qualified business facility, as
 33 defined in subsection (b) of K.S.A. 79-32,154, and amendments thereto,
 34 and also meets the definition of a business in subsection (b) of K.S.A. 74-
 35 50,114 and amendments thereto, shall be allowed a credit for such in-
 36 vestment, in an amount determined under subsection (b) or (c), as the
 37 case requires, against the tax imposed by the Kansas income tax act or
 38 where the qualified business facility is the principal place from which the
 39 trade or business of the taxpayer is directed or managed and the facility
 40 has facilitated the creation of at least 20 new full-time positions, against
 41 the premium tax or privilege fees imposed pursuant to K.S.A. 40-252,
 42 and amendments thereto or as measured by the net income of financial
 43 institutions imposed pursuant to chapter 79, article 11 of the Kansas Stat-

1999

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1 utes Annotated, for the taxable year during which commencement of
 2 commercial operations, as defined in subsection (f) of K.S.A. 79-32,154,
 3 and amendments thereto, occurs at such qualified business facility. In the
 4 case of a taxpayer who meets the definition of a manufacturing business
 5 in subsection (d) of K.S.A. 74-50,114 and amendments thereto, no credit
 6 shall be allowed under this section unless the number of qualified busi-
 7 ness facility employees, as determined under subsection (d) of K.S.A. 79-
 8 32,154, and amendments thereto, engaged or maintained in employment
 9 at the qualified business facility as a direct result of the investment by the
 10 taxpayer for the taxable year for which the credit is claimed equals or
 11 exceeds two. In the case of a taxpayer who meets the definition of a
 12 nonmanufacturing business in subsection (f) of K.S.A. 74-50,114 and
 13 amendments thereto, no credit shall be allowed under this section unless
 14 the number of qualified business facility employees, as determined under
 15 subsection (d) of K.S.A. 79-32,154, and amendments thereto, engaged or
 16 maintained in employment at the qualified business facility as a direct
 17 result of the investment by the taxpayer for the taxable year for which the
 18 credit is claimed equals or exceeds five. Where an employee performs
 19 services for the taxpayer outside the qualified business facility, the em-
 20 ployee shall be considered engaged or maintained in employment at the
 21 qualified business facility if (1) the employee's service performed outside
 22 the qualified business facility is incidental to the employee's service inside
 23 the qualified business facility, or (2) the base of operations or, the place
 24 from which the service is directed or controlled, is at the qualified busi-
 25 ness facility.

26 (b) The credit allowed by subsection (a) for any taxpayer who invests
 27 in a qualified business facility which is located in a designated nonmetro-
 28 politan region established under K.S.A. 74-50,116 and amendments
 29 thereto, on or after the effective date of this act, shall be a portion of the
 30 income tax imposed by the Kansas income tax act on the taxpayer's Kansas
 31 taxable income, the premium tax or privilege fees imposed pursuant to
 32 K.S.A. 40-252, and amendments thereto or the privilege tax as measured
 33 by the net income of financial institutions imposed pursuant to chapter
 34 79, article 11 of the Kansas Statutes Annotated, for the taxable year for
 35 which such credit is allowed, but in the case where the qualified business
 36 facility investment was made prior to January 1, 1996, not in excess of
 37 50% of such tax. Such portion shall be an amount equal to the sum of
 38 the following:

- 39 (1) Two thousand five hundred dollars for each qualified business
- 40 facility employee determined under K.S.A. 79-32,154, and amendments
- 41 thereto; plus
- 42 (2) one thousand dollars for each \$100,000, or major fraction thereof,
- 43 which shall be deemed to be 51% or more, in qualified business facility

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1 investment, as determined under K.S.A. 79-32,154, and amendments
 2 thereto.

3 (c) The credit allowed by subsection (a) for any taxpayer who invests
 4 in a qualified business facility, which is not located in a nonmetropolitan
 5 region established under K.S.A. 74-50,116 and amendments thereto and
 6 which also meets the definition of business in subsection (b) of K.S.A.
 7 74-50,114 and amendments thereto, on or after the effective date of this
 8 act, shall be a portion of the income tax imposed by the Kansas income
 9 tax act on the taxpayer's Kansas taxable income, the premium tax or priv-
 10 ilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto
 11 or the privilege tax as measured by the net income of financial institutions
 12 imposed pursuant to chapter 79, article 11 of the Kansas Statutes An-
 13 notated, for the taxable year for which such credit is allowed, but in the
 14 case where the qualified business facility investment was made prior to
 15 January 1, 1996, not in excess of 50% of such tax. Such portion shall be
 16 an amount equal to the sum of the following:

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

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

24 (d) The credit allowed by subsection (a) for each qualified business
 25 facility employee and for qualified business facility investment shall be a
 26 one-time credit. If the amount of the credit allowed under subsection (a)
 27 exceeds the tax imposed by the Kansas income tax act on the taxpayer's
 28 Kansas taxable income, the premium tax and privilege fees imposed pur-
 29 suant to K.S.A. 40-252, and amendments thereto or the privilege tax as
 30 measured by the net income of financial institutions imposed pursuant to
 31 chapter 79, article 11 of the Kansas Statutes Annotated for the taxable
 32 year, or in the case where the qualified business facility investment was
 33 made prior to January 1, 1996, 50% of such tax imposed upon the amount
 34 which exceeds such tax liability or such portion thereof may be carried
 35 over for credit in the same manner in the succeeding taxable years until
 36 the total amount of such credit is used. Except that, before the credit is
 37 allowed, a taxpayer, who meets the definition of a manufacturing business
 38 in subsection (d) of K.S.A. 74-50,114 and amendments thereto, shall re-
 39 certify annually that the net increase of a minimum of two qualified busi-
 40 ness facility employees has continued to be maintained and a taxpayer,
 41 who meets the definition of a nonmanufacturing business in subsection
 42 (f) of K.S.A. 74-50,114 and amendments thereto, shall recertify annually
 43 that the net increase of a minimum of five qualified business employees

1 has continued to be maintained.

2 (e) Notwithstanding the foregoing provisions of this section, any tax-
 3 payer qualified and certified under the provisions of K.S.A. 1999 Supp.
 4 74-50,131, and amendments thereto; *which, prior to making a commit-*
 5 *ment to invest in a qualified Kansas business, has filed a certificate of*
 6 *intent to invest in a qualified business facility in a form satisfactory to the*
 7 *secretary of commerce and housing; and that has received written ap-*
 8 *proval from the secretary of commerce and housing for participation and*
 9 *has participated, during the tax year for which the exemption is claimed,*
 10 *in the Kansas industrial training, Kansas industrial retraining or the state*
 11 *of Kansas investments in lifelong learning program or is eligible for the*
 12 *tax credit established in K.S.A. 1999 Supp. 74-50,132, and amendments*
 13 *thereto, shall be entitled to a credit in an amount equal to 10% of that*
 14 *portion of the qualified business facility investment which exceeds*
 15 ~~*\$50,000 the annual average investment made over the lesser of: (1) All of*~~
 16 ~~*the taxpayer's prior tax years; or (2) the taxpayer's five most recent tax*~~
 17 ~~*years*~~ in lieu of the credit provided in subsection (b)(2) or (c)(2) without
 18 regard to the number of qualified business facility employees engaged or
 19 maintained in employment at the qualified business facility. The credit
 20 allowed by this subsection shall be a one-time credit. If the amount
 21 thereof exceeds the tax imposed by the Kansas income tax act on the
 22 taxpayer's Kansas taxable income or the premium tax or privilege fees
 23 imposed pursuant to K.S.A. 40-252, and amendments thereto or the priv-
 24 ilege tax as measured by net income of financial institutions imposed
 25 pursuant to chapter 79, article 11 of the Kansas Statutes Annotated for
 26 the taxable year, the amount thereof which exceeds such tax liability may
 27 be carried forward for credit in the succeeding taxable year or years until
 28 the total amount of the tax credit is used, except that no such tax credit
 29 shall be carried forward for deduction after the 10th taxable year suc-
 30 ceeding the taxable year in which such credit initially was claimed and no
 31 carry forward shall be allowed for deduction in any succeeding taxable
 32 year unless the taxpayer continued to be qualified and was recertified for
 33 such succeeding taxable year pursuant to K.S.A. 1999 Supp. 74-50,131,
 34 and amendments thereto.

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

38 Sec. 3. K.S.A. 1999 Supp. 74-50,131 and 79-32,160a are hereby
39 repealed.

40 Sec. 4. This act shall take effect and be in force from and after its
41 publication in the statute book.

is more than \$50,000 above the taxpayer's average annual qualified
 business facility investment. The average annual qualified business facility
 investment shall be computed over: (1) All of the taxpayer's prior tax
 years; or (2) the taxpayer's five most recent tax years, whichever is less.
 The credit allowed by this subsection shall be