

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE.

The meeting was called to order by Chairperson David Corbin at 10:50 a.m. on February 26, 2002, in Room 519-S of the Capitol.

All members were present except: Senator Pugh

Committee staff present: Chris Courtwright, Legislative Research Department
April Holman, Legislative Research Department
Don Hayward, Revisor of Statutes Office
Shirley Higgins, Committee Secretary

Conferees appearing before the committee: Lt. Governor/Secretary Gary Sherrer, Kansas Department of Commerce and Housing

Others attending: See attached list.

The minutes of the February 22, 2002, meeting were approved.

SB 617—Tax incentives for Kansas businesses

Lt. Governor Gary Sherrer, Secretary, Kansas Department of Commerce and Housing, testified in support of **SB 617**. He began by commenting that economic development in the state continues to be very strong. He pointed out that last November's issue of *Expansion* magazine ranked Kansas in the top ten in the nation for work force training and development. In addition, *Site Selection* magazine ranks Kansas in the top ten per capita in new projects and jobs developed in the past year. He followed with an overview of the reason the bill was introduced. He noted that the basic concerns that anyone in economic development or in legislative public policy have in terms of using tax incentives for economic development include determining how to focus on the incentive portion and not simply reward constantly those things which would have occurred with or without the use of tax dollars and determining how to reward businesses in an equitable manner. He noted that, with the bill, the Kansas Business Incentive Program (KBIP) would replace both the Kansas Enterprise Zone Act (EZ) program and the High Performance Incentive Program (HPIP). He explained that the KBIP uses a matrix to more equitably distribute tax credits. He outlined the four points upon which the matrix is based and explained that New Section 3 of the bill provides that the matrix must be approved by a seven member council which would be chaired by the Secretary of Commerce and Housing. In this regard, he called the Committee's attention to copies of a proposed amendment to New Section 3 regarding the incentive program advisory council and a proposed amendment on page 2, line 30, which deals with an annual review of the matrix of criteria. For the Committee's information, he discussed the data shown in a sample matrix. He said that the bill would result in higher tax credits for better wage jobs and higher amounts of investments. (Attachment 1)

Lt. Governor Sherrer commented that he does not view the bill as a panacea and that perhaps some difficulties will be discovered as the bill is reviewed by others. He emphasized that the key issue is: Do we want to establish a threshold which a business must cross before the State of Kansas is interested in using its resources to reward its efforts? He expressed his concern that that perhaps Kansas citizens will not be served as well as they should be served if the state continues to use programs established ten to twelve years ago. Because **SB 617** was introduced late in the legislative process, he suggested that the Committee strongly recommend that it be the subject of an interim study. Senator Corbin agreed with the suggestion and noted that the Division of Budget had not completed the fiscal note on the bill because all of the necessary information was not yet available.

There being no others wishing to testify, the hearing on **SB 617** was closed.

The meeting was adjourned at 11:15 a.m.

The next meeting date is to be announced.

SENATE ASSESSMENT AND TAXATION COMMITTEE GUEST LIST

DATE: February 26, 2002

NAME	REPRESENTING
Steve Kelp	KDOCH
Fred Schwin	KDOCH
Judy Shaw	Kearney Law Office
Hal Hudson	NFIB/KS
Ken Danigel	MIDWAY WHOLESALERS & NFIB
George Petersen	Ks Taxpayers Network
Mike Pineda	ADVIS. CONSULTING
John Frederick	The Boey Co.
David Z Ross	KDOCH
David Bybee	KDOCH
Rachene Cason	KDOR
Brenda Harrington	GPP
Cynthia Smith	GPP
April Spiess	KCRAR - K.C. Realtors
Bill Yank	Kansas Assn of REALTORS
Deann Williams	Ks Motor Carriers ASSOC.
Ken Petersen	Ks Petroleum Council
Jack Graves	PH - Duke & K-M
Dave Hutchins	Hein Law

Kyle Kessler
 Marlee Carpenter
 Natalie Brufis
 DOB
 KCCI
 WIBA

**Testimony of Lt. Governor/Secretary Gary Sherrer
Kansas Department of Commerce and Housing**

**Senate Committee on Assessment and Taxation
Tuesday, February 26, 2002
SB 617 – Kansas Business Incentive Program**

- The Kansas Business Incentive Program (KBIP) is designed to replace both the Kansas Enterprise Zone Act (EZ) program and the High Performance Incentive Program (HPIP).
- KBIP uses a matrix to more equitably distribute tax credits.
 - Matrix based on:
 - Jobs created
 - Wages as % of county average wage; SB 617 sets a threshold of 90% of the average wage to qualify for tax credits
 - Capital investment- gives equity to Kansas companies making capital investments without necessarily creating new jobs
 - Workforce training
 - Matrix approved by 7-member council *New Sect. 3*
 - Secretary of Commerce and Housing
 - Secretary of Revenue
 - Chair and ranking minority member of Senate Commerce
 - Chair and ranking minority member of House New Economy
 - Director of the Budget
- Higher tax credits for better wage jobs and higher amounts of investments
- KDOCH does not believe this will result in greater expense to the state due to the more equitable distribution of the tax credits.

*Senate Assessment & Taxation
2-26-02
Attachment 1*

Session of 2002

SENATE BILL No. 617

By Committee on Commerce

2-15

AN ACT concerning tax incentives for Kansas businesses; amending K.S.A. 2001 Supp. 79-3606 and repealing the existing section.

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

New Section 1. The purpose of this act is to create a simple, flexible and progressive system of tax incentives to equitably promote the development of Kansas businesses.

This act shall be known as the Kansas business incentive program act. The benefits of this act are to be considered an incentive, not an entitlement.

New Sec. 2. In order to be eligible to receive tax credits pursuant to this act, a taxpayer shall meet the following conditions:

(a) The taxpayer shall be a Kansas basic enterprise as defined in K.S.A. 74-50,103, and amendments thereto.

(b) The taxpayer shall pay average wages in excess of 90% of the average private sector wages for the county in which the taxpayer's facility is located.

(c) (1) The taxpayer shall have received written approval for and participate in the Kansas industrial training, Kansas industrial retraining or state of Kansas investments in lifelong learning program, subject to appropriation of funds and program criteria; or (2) invest an amount equal to or greater than 2% of the firm's total payroll costs in job training.

(d) If the taxpayer is not a Kansas basic enterprise, the taxpayer's facility must be located in an unincorporated area of a county with a population of less than 25,000 or a city with a population of less than 3,000 according to the 2000 decennial federal census.

New Sec. 3. A taxpayer that has satisfied the requirements of section 2, and amendments thereto, shall be eligible for business incentives as follow:

New Section 3. (a) There is hereby established the Kansas business incentive program advisory council. The council shall consist of 7 voting members as follows: (1) the secretary of commerce and housing, who shall serve as chairperson of the council; (2) the secretary of revenue; (3) the chairperson of the senate committee on commerce; (4) the chairperson of the house committee on new economy; (5) the ranking minority member of the senate committee on commerce; (6) the ranking minority member of the house committee on new economy; and (7) the director of the budget.

(a) For taxable years commencing after December 31, 2001, any taxpayer who shall invest in a qualified business facility, as defined in section 4 and amendments thereto, shall be allowed a credit for such investment, in an amount determined by the secretary of commerce and housing against the tax imposed by the Kansas income tax, the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, or as measured by the net income of financial institutions imposed pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, for the taxable year during which commencement of commercial

(b) The council shall meet at least one time a year on the call of the chairperson. Four voting members of the council shall constitute a quorum.

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operations, as defined in section 4 and amendments thereto, occurs at such qualified business facility.

(1) The credit allowed by this subsection for any taxpayer who invests in a qualified business facility shall be a portion of the income tax imposed by the Kansas income tax act on the taxpayer's Kansas taxable income, the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, or the privilege tax as measured by the net income of financial institutions imposed pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, 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. The secretary of commerce and housing shall develop rules and regulations establishing a matrix of criteria which shall then be calculated to determine the precise amount of such credit. The matrix of criteria established by the secretary shall provide for varying amounts of credit so that the greater the average wage, the greater the credit provided. The criteria developed by the secretary may include, but not be limited to:

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(A) The rate of wages paid by the taxpayer relative to the average private sector wages for the county in which the taxpayer's facility is located;

(B) the total qualified project investment made by the taxpayer;

(C) the total number of project related jobs created;

(D) whether the project is in a metropolitan or non-metropolitan county;

(E) whether the basic industry of the taxpayer's business is an industry targeted by the Kansas department of commerce and housing. After making such calculation, the secretary shall certify to both the tax payer and the secretary of revenue the amount of such credit subject to the limitations of this act.

(3) Where an employee performs services for the taxpayer outside 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 outside the qualified business facility is incidental to the employee's service inside 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 exemption from sales tax provided in subsection (cc) of K.S.A. 79-3606.

New Sec. 4. As used in this act:

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

(2) Prior to taking effect, the matrix of criteria established by the secretary of commerce and housing shall be subject to annual review and approval by majority vote of the Kansas business incentive program council. At least once annually, the secretary of commerce and housing shall submit a revised matrix of criteria, or re-submit the current matrix, for review and approval by the council. The matrix of criteria shall expire one year after taking effect unless otherwise reauthorized by the council.

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2 movement or storage of tangible personal property in a warehouse or
 3 distribution facility in this state; all sales of installation, repair and main-
 4 tenance services performed on such machinery and equipment; and all
 5 sales of repair and replacement parts for such machinery and equipment.
 6 For purposes of this subsection, a warehouse or distribution facility means
 7 a single, fixed location that consists of buildings or structures in a contig-
 8 uous area where storage or distribution operations are conducted that are
 9 separate and apart from the business' retail operations, if any, and which
 10 do not otherwise qualify for exemption as occurring at a manufacturing
 11 or processing plant or facility. Material handling and storage equipment
 12 shall include aeration, dust control, cleaning, handling and other such
 13 equipment that is used in a public grain warehouse or other commercial
 14 grain storage facility, whether used for grain handling, grain storage, grain
 15 refining or processing, or other grain treatment operation; and
 16 (ggg) all sales of tangible personal property and services purchased
 17 by or on behalf of the Kansas Academy of Science which is exempt from
 18 federal income taxation pursuant to section 501(c)(3) of the federal in-
 19 ternal revenue code of 1986, and used solely by such academy for the
 20 preparation, publication and dissemination of education materials.

21 ~~New Sec. 6. The provisions of the high performance incentive act,
 22 the Kansas enterprise zone act and the job expansion and investment tax
 23 credit act shall expire for all taxable years commencing after December
 31, 2001.~~

24 Sec. 7. K.S.A. 2001 Supp. 79-3606 is hereby repealed.

25 Sec. 8. This act shall take effect and be in force from and after its
 26 publication in the statute book.
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New Sec. 7. The provisions of the high performance incentive act, the
 Kansas enterprise zone act and the job expansion and investment tax
 credit act shall expire upon publication of this act in the statute book.
 No certifications under the high performance incentive program will
 occur after publication of this act in the statute book. A taxpayer
 certified under the provisions of the high performance incentive program
 on or before publication of this act may elect to claim tax credits under
 either the high performance incentive program or the Kansas business
 incentive program, if eligible for both programs. A taxpayer eligible for
 both programs shall notify the secretary of commerce and housing as to
 under which program the taxpayer elects to claim benefits.

Kansas Department of Commerce and Housing
 Sample Matrix
 SB 617

5-1

Jobs		Wages		Investment	
Created	Points	Percentage of County Average Wage	Points	In Dollars	Points
0	0			\$ -	0
6	1	90%	1	\$ 100,000	1
26	2	100%	2	\$ 500,000	2
76	3	110%	3	\$ 1,000,000	3
151	4	115%	4	\$ 5,000,000	4
501	5	125%	5	\$ 10,000,000	5
1001	6	150%	6	\$ 25,000,000	6

Tax Credit Available			
Score	Credit Per Job	Credit Per \$100,000 Invested	
1	\$ 1,000	\$	500
2	\$ 1,095	\$	548
3	\$ 1,199	\$	600
4	\$ 1,313	\$	656
5	\$ 1,438	\$	719
6	\$ 1,574	\$	787
7	\$ 1,724	\$	862
8	\$ 1,888	\$	944
9	\$ 2,067	\$	1,033
10	\$ 2,263	\$	1,132
11	\$ 2,478	\$	1,239
12	\$ 2,714	\$	1,357
13	\$ 2,971	\$	1,486
14	\$ 3,254	\$	1,627
15	\$ 3,563	\$	1,781
16	\$ 3,901	\$	1,951
17	\$ 4,272	\$	2,136
18	\$ 4,678	\$	2,339
19	\$ 5,000	\$	2,500

Training

If a qualified business facility's investment in the training and education of the firm's employees exceeds 2% of the total payroll or the business is participating in the Kansas Industrial Training or Kansas Industrial Retraining program, two additional points toward increased tax credits are earned.