

Approved: 2-19-07  
Date

MINUTES OF THE HOUSE ECONOMIC DEVELOPMENT AND TOURISM COMMITTEE

The meeting was called to order by Chairman Lana Gordon at 3:30 P.M. on February 14, 2007 in Room 519-S of the Capitol.

All members were present.

Committee staff present:

Kathie Sparks, Kansas Legislative Research Department  
Hank Avila, Kansas Legislative Research Department  
Jason Long, Revisor of Statutes  
Ann Deitcher, Committee Assistant

Conferees appearing before the committee:

Patty Clark, Dept. Of Commerce

Others attending:

See attached list.

**HB 2004 - concerning economic development; extending the rural business development tax credit.**

The Chair introduced Kathie Sparks who addressed the Committee regarding **HB 2004**.

Patty Clark also was available to answer questions pertaining to **HB 2004**.

A motion was made by Representative Olson and seconded by Representative Huntington to move **HB 2004** favorably out of Committee. The motion passed on a voice vote.

**HB 2496 - The Kansas Investment Credit Act and the Kansas Jobs Credit Act and the Elimination of Certain Credits.**

Kathie Sparks gave a brief outline of the changes proposed in **HB 2496**. (Attachment 1).

Questions and answers followed.

The meeting was adjourned at 4:25 p.m. The next meeting is scheduled for Thursday, February 15, 2007.



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February 14, 2007

**To:** House Committee on Economic Development and Tourism

**From:** Kathie Sparks, Principal Analyst

**Re:** HB 2498~~6~~ — The Kansas Investment Credit Act and the Kansas Jobs Credit Act and Elimination of Certain Credits

The following is a brief outline of the changes proposed in HB 2496:

## **Kansas Investment Credit Act** (Sections 1 through 8 – new law)

Section 1: Naming the Act

Section 2: Definitions

Please note that the definition of “opportunity zone” will be established by the Secretary of Commerce through rules and regulations. In addition, an “opportunity zone” must comprise at least one county, and would be economically disadvantaged, and would not include any counties in a metropolitan statistical area or micropolitan statistical area. (A US Census Bureau definition of a micropolitan statistical area is a Core Based Statistical Area (CBSA) associated with at least one urban cluster with a population of at least 10,000. The central county plus adjacent counties with a high degree of integration comprise the area. This definition is not in the bill.)

Section 3: An eligible taxpayer for the investment credit must meet all of the following criteria:

- Identified under the North American Industry Classification System (NAICS).
- Identified as a headquarters or ancillary support operation by the Secretary of Commerce for purposes of this act, regardless of NAICS classification:
  - The qualified investment for the project must equal or exceed \$100,000 for those Kansas business facilities that are located in an opportunity zone and \$1.0 million for those Kansas business facilities that are not located in an opportunity zone.
- The taxpayer would be required to pay employees higher-than-average wages within a wage region at the Kansas business facility as follows:
  - The taxpayer’s Kansas business facility with 500 or fewer full-time equivalent employees will provide an average wage that is above the average wage paid by all Kansas business facilities that share the same assigned NAICS category used to develop wage thresholds and that have reported 500 or

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fewer employees to the Kansas Department of Labor on quarterly wage reports;

- The taxpayer's Kansas business facility with 500 or more full-time equivalent employees will provide an average wage that is above the average wage paid by all Kansas business facilities that share the same assigned NAICS category used to develop wage thresholds and that have reported 500 or more employees to the Kansas Department of Labor on quarterly wage reports;
  - The taxpayer's Kansas business facility with more than 500 full-time equivalent employees is the sole facility within its assigned NAICS category; in which event it shall either provide an average wage that is above the average wage paid by all businesses that share the same assigned NAICS category and that have reported wages for 500 or fewer employees or be the sole business facility within its assigned NAICS category that has reported wages to the Department;
  - The Secretary of Commerce would be required to develop each set of wage thresholds for comparison purposes; or
  - The composition of wage regions used in connection with each set of wage thresholds would be determined by the Secretary of Commerce.
- An alternative process is established which would allow that the average wage calculated for the business is greater than or equal to 1.5 times the aggregate statewide average wage paid by industries covered by the employment security law based on data maintained by the Secretary of Labor.

Section 4: For taxable years commencing after December 31, 2006, an eligible taxpayer that makes a qualified investment in Kansas business facility (\$100,000 opportunity zone or \$1.0 million for everyone else) would receive a tax credit equal to 10 percent of the qualified investment. The tax credit would be allowed against the Kansas Income Tax Act, the Premium Tax, Privilege Fees, or Privilege Tax. The tax credit could be carried forward for ten years. The tax credit is available to subchapter S corporations, partnerships, and limited liability companies.

Section 5: Requires the Secretary of Revenue and the Secretary of Commerce to work together to coordinate a set of procedures to implement the provisions of the Act. This section also requires the business to provide information to justify claiming the credits. In addition, the bill would require the Secretary of Revenue to submit an annual report to the Legislature regarding utilization of the credits claimed and the first report would be due with the beginning of the 2009 Legislative Session.

Section 6: The bill gives rules and regulations authority to the Secretary of Revenue and the Secretary of Commerce.

Section 7: The bill provides that any company that receives a Kansas Investment Credit would be exempted from receiving any credits from the Enterprise Zone Act, or the Job Expansion and Investment Tax Credit Act except if those credits were earned prior

to December 31, 2006. In addition, no additional credits would be earned through the High performance Incentive Act after December 31, 2006, except they may be carried forward for the appropriate time frame. Any taxpayer who filed an application prior to July 1, 2007, may claim credits under the High Performance Incentive Act, but not under the Kansas Investment Credit Act for 2007 and 2008 to accommodate the 2007 transition period.

Section 8: The Act would expire on January 1, 2012.

**Kansas Job Credit Act** (Section 9 through 14 – new law)

Section 9: Naming the Act.

Section 10: Definitions

The same NAICS codes would apply to the Kansas Job Credit Act as the Kansas Investment Credit Act, please see attachment 1.

Section 11: For taxable years after December 31, 2006, the bill would provide the following tax credits:

- Opportunity zone business: 5 new employees a credit of \$3,500 per new employee against the Kansas Income Tax Act, the Premium Tax, Privilege Fees, or the Privilege Tax.
- Business outside of an opportunity zone: 20 new employees a credit of \$1,500 per new employee against the Kansas Income Tax Act, the Premium Tax, Privilege Fees, or the Privilege Tax.
- The bill would require a new employee to perform the majority of the services in either an opportunity zone or in the State of Kansas.
- The credits may be carried forward until the total amount of the tax credits used. In the event the taxpayer does not continue to employ the required minimum number of employees, any credit remaining would be forfeited. A taxpayer could only apply for either an opportunity zone or a Kansas Job Credit; but not both for the same employee.
- The credits would apply to subchapter S corporations, partnerships, or limited liability companies.

Section 12: The bill would require the taxpayer to provide documentation as a condition for claiming the credits. The Secretary of Revenue would be required to submit an annual report to the legislature regarding utilization of the credits beginning with the 2009 Legislative Session.

Section 13: The bill would allow the Secretary of Revenue to adopt rules and regulations for administering this Act.

Section 14: The Act would expire on January 1, 2012.

**Kansas Investment Credit Act** (Sections 15 through 20 – amending current law)

Section 15: The bill provides that credits allowed under the Kansas Investment Credit Act and the Kansas Jobs Credit Act would be treated as tax paid for insurance companies, and deletes references to HPIP and qualified business credits.

Section 16: The Kansas Investment Credit Act would not be allowed for any amount of investment related to or computed on the basis of any investment of the proceeds of obligations issued under the Kansas Development Finance Authority Act.

Section 17: The bill would eliminate the tax credits for the qualified business facilities.

Section 18: The bill would require any taxpayer claiming Kansas Investment Credit Act and the Kansas Jobs Credit Act credits to provide the following information:

- Actual jobs created as a direct result of the expenditures on which such credit claim is based;
- Additional payroll generated as a direct result of the expenditures on which such credit claim is based;
- Actual jobs retained as a direct result of the expenditures on which such credit claim is based;
- Additional revenue generated as a direct result of the expenditures on which such credit claim is based;
- Additional sales generated as a direct result of the expenditures on which such credit claim is based; and
- Total employment and payroll at the end of the tax year in which the credits are based.

Section 19: The bill would provide a sales tax exemption on the construction, reconstruction, enlargement, or remodel of a facility for a taxpayer that qualifies for a Kansas jobs or opportunity zone credit. The bill would also provide for a fraction of the sales tax exemption when the qualified taxpayer only leases or uses only part of the facility.

Section 20: The bill would provide for repealers for listed statutes.

Kansas Enterprise Zone Act: 74-50,113; 74-50,116; 74-50,117; 74-50, 118; 74-50,119; 2006 Supp. 74-50,114 and 2006 Supp. 74-50,115

HPIP Statutes: 74-50,135; 74-50, 135a, 2006 Supp. 74-50, 131; 2006 Supp. 74-50, 132; 2006 supp. 74-50,133; 2006 Supp. 74-50, 134; 2006 supp. 79-32,160a. (Note: the bill does **not** repeal the Training and Education Credit portion of HPIP 74-50, 132)

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Business and Job Development Credit: 79-32, 155; 79-32,156; 79-32, 157; 79-32, 158;79-32,159; 79-32, 159a; 79-32, 159b; 79-32, 159c; 79-32,160, 79-32, 160b; 79-32, 160c; 2006 Supp. 79-32, 153; 2006 Supp. 79-32, 154

Professional Employer Associations (Note: they will be eligible for the new investment and jobs credit programs) 79-3269.

The bill does **not** repeal the Plugging Abandoned oil/gas wells; Swine Facility Improvement Credit; Temporary Assistance to Families Contribution Credit; Ag Loan Interest Reduction Credit; nor the Habitat Management Credit.

Section 21: The Act would take effect after its publication in the statute book.