

## MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE

The meeting was called to order by Chairman Barbara Allen at 10:40 A.M. on January 30, 2007 in Room 519-S of the Capitol.

All members were present.

Committee staff present:

Chris Courtwright, Kansas Legislative Research Department  
Martha Dorsey, Kansas Legislative Research Department  
Gordon Self, Office of Revisor of Statutes  
Jason Thompson, Office of Revisor of Statutes  
Judy Swanson, Committee Assistant

Conferees appearing before the committee:

Joan Wagon, Secretary, Department of Revenue

Others attending:

See attached list.

Senator Pine moved to introduce a bill adding precision agriculture equipment into the current agriculture exemption statute. Senator Jordan seconded the motion, and the motion carried.

On request of Secretary of Department of Revenue Joan Wagon, Senator Jordan moved to introduce a bill which would allow any plant that has a minimum \$1 million investment or 100 additional jobs be allowed to elect to use single factor apportionment. Senator Donovan seconded the motion, and the motion carried.

**SB 213--Creating the Kansas investment credit act and the Kansas jobs credit act and providing changes to the franchise tax and the income tax on corporations**

Joan Wagon, Secretary, Kansas Department of Revenue, presented a briefing on the Governor's tax reform proposal, which is included in **SB 213**. (Attachment 1) KDOR said the bill is needed to improve the business climate long-term and to stimulate the economy. KDOR priorities are stimulating the economy, attracting new business, corporate rate reduction and simplification of tax incentives. She provided a list of participants who served on the Corporate Tax Advisory Committee. (Attachment 2) The new business tax incentives/tax credits would be:

- Investment tax credit (10% of investment) with a minimum \$1,000,000 investment
- Jobs credit (\$1500 per job), with a minimum of 20 jobs
- New Opportunity Zone incentive, also a jobs credit and investment credit, but with different thresholds and awards

These would replace the very complicated current credits system. Some counties that currently qualify as Enterprise Zones would not qualify as Opportunity Zones. Raising the investment tax credit threshold would help bigger companies, but not smaller companies. The bill is designed to bring commerce to Kansas over a long-term period. KDOR is prepared to look at a lower threshold for the investment credit. Lower dollar credits provide more tax relief than investment incentive, according to Secretary Wagon. She presented a chart showing the features of current HPIP credits, Enterprise Zone and investment/jobs credits, along with the proposed new investment credit, new jobs credit and Opportunity Zone. (Attachment 3) She testified 91 businesses claimed HPIP last year. 50 were new claims and 41 were carry-forward credits in the year 2004. She requested the Committee consider "what will create more growth" as the yardstick when it considers **SB 213**. The simplification will definitely cause more companies to use the credits.

With the assistance of David Bybee, Kansas Department of Commerce (KDOC), and Kathleen Smith, KDOR, Secretary Wagon performed a skit to illustrate how the simplified tax credit procedures would be helpful to companies. The requirements for doing business out of state and training employees would be eliminated. The average wage requirement would remain for the investment credit and be eliminated for the jobs credit. All information provided to KDOR by businesses will be kept confidential.

Senator Schmidt requested a comparison of the KDOR investment tax credit proposal with the 10% investment tax credit that passed the Senate last year.

CONTINUATION SHEET

MINUTES OF THE Senate Assessment and Taxation Committee at 10:40 A.M. on January 30, 2007 in Room 519-S of the Capitol.

Director Steve Kelly, KDOC, encouraged activities that will spur economic development and simplify implementation. He provided a comparison of the existing Enterprise Zone and HPIP programs. (Attachment 4) He explained which forms will no longer be required and which forms will be retained. Agriculture does not qualify for any of these programs, but agriculture retail would qualify under the O-Zone. There is a five-year sunset provision in the bill.

Secretary Wagnon distributed a paper written by David Matkin, Doctoral candidate, summarizing the use of corporate income tax credits in Kansas. (Attachment 5) Corporations are most likely to consider tax credits prior to making a decision when they (1) expect to incur abnormally large capital and/or labor costs, (2) consider locating a new facility in Kansas that is expected to have a long-term effect on business operations and/or, (3) are in a highly competitive market where a tax credit may help them become the low cost provider.

Secretary Wagnon stated the most controversial issue in the bill is the investment credit threshold of \$1 million and jobs created at 20. KDOR is willing to negotiate on those numbers.

Senator Bruce moved to approve the Minutes of the January 24 and January 25 Committee meetings. Senator Pine seconded the motion, and the motion carried.

Being no further business, the meeting adjourned at 11:50 a.m. The next meeting will be January 31.

SENATE  
ASSESSMENT & TAXATION COMMITTEE

GUEST LIST

DATE: 01/30/07

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Kathleen Smith	KDOR
<del>Shudhakes</del>	Onion Ethanol
Natalie Haag	Security Benefit
Marty Boeschling	Sen. Bruce
Adrienne Strecker	Sen. Lee
Ted Warner	K5 Govs. Consulting
Will Deer	Federico Consulting
Shannon Bell	LGR
<b>BRAD HARRELSON</b>	<b>KFB</b>
Joshua Lewis	Sen. D Schmidt
Laery R Baer	LKR
Mark Tallman	KA SB
Ben Cleaves	D&B
Richard Crum	KDOR
Bruce Farber	KDOR
David R. Colvin	KDOR

SENATE  
ASSESSMENT & TAXATION COMMITTEE

GUEST LIST

DATE: 01-30-07

NAME	REPRESENTING
Steve Kelly	KS Dept of Commerce

**Briefing on SB 213  
Governor's Tax Reform Proposal  
January 30, 2007**

**Why? Growth in the economy**

Improve the business climate long term, with changes in tax policy that could stimulate the economy and grow jobs and investment for Kansas.

**How? Ask Business what they need most.** Their priorities were corporate rate reduction and simplification of tax incentives. Commerce and Revenue, in consultation with the business advisory group developed the plan below.

**A. Business Tax Incentives/Tax Credits** (Sections 1 - 14, 24)

The Enterprise Zone incentives, HPIP credit and Business and Job Development Credit will be replaced by the following two new, simplified incentives.

1. **Investment Tax Credit** – 10% of investment if you qualify:

- Minimum of \$1,000,000
- No retail, mining, agriculture
- Higher than average wage
- 10 year carry forward
- for profit business
- Sales tax exemption available for construction

2. **Jobs Credit** - \$1,500 per job created if you qualify:

- Minimum of 20 jobs
- No retail, mining, agriculture
- No wage requirement
- Unlimited carry forward
- Sales tax exemption available for construction

**NEW!! Opportunity Zones Incentives<sup>1</sup>** (Subsection 10(e))

The incentives for Opportunity Zones are also a Jobs Credit, and Investment credit but with different thresholds and awards:

- \$3,500 Job Credit per new employee for each business creating at least 5 jobs in an Opportunity Zone. Open to any business, including retail. (Subsection 11(a))
- A minimum of \$100,000 in investment in an O-Zone will qualify. All other rules apply. (Subsection 3(a)(2); subsection 4(e))
- Eligible for the sales tax exemption. (Subsection 22(cc))

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<sup>1</sup> Commerce will establish this program by rule and regulation, setting out the areas eligible to participate and program parameters. The eligible areas will be evaluated and reviewed every 3 years

**B. Business Tax Rate Reductions:**

- **Corporate Income Tax reduced from 7.35% to 6.75%**

Section 18 amends K.S.A. 79-32,110 to reduce the corporate income tax surcharge over 2 years from 3.35% to 2.75%, beginning in tax year 2008. The base rate of 4% would remain unchanged. The rate in Tax Year 2008 would be 6.95% and in TY 2009, 6.75%. This is an 18% reduction in the surcharge and about an 8% reduction overall in corporate income taxes when fully implemented.

	<b>Fiscal Year</b>				
	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>
Franchise Tax	\$ (7.0)	\$ (7.3)	\$ (7.6)	\$ (7.9)	\$ (8.2)
Corporate Income	\$ (5.8)	\$ (22.2)	\$ (29.0)	\$ (29.0)	\$ (29.0)
<b>Total</b>	<b>\$ (12.8)</b>	<b>\$ (29.5)</b>	<b>\$ (36.6)</b>	<b>\$ (36.9)</b>	<b>\$ (37.2)</b>

- **Raise the Franchise Tax net worth exemption from \$100,000 to \$1,000,000** beginning tax year 2007. The fiscal impact of this is approximately \$7-8 million annually. (Section 23) The rate and cap will remain unchanged.<sup>2</sup>

**Finally, some administrative provisions are included in the bill:**

- Delinquent taxes must be paid before credits or sales tax exemption is granted. (Subsection 2(c); subsections 10(c) and (f); subsection 22(cc))<sup>3</sup>
- Repeal these unused credits (Section 24):
  - Plugging abandoned oil/gas wells (K.S.A. 79-32,207)
  - Swine Facility Improvement Credit (K.S.A. 79-32,204)
  - Temporary Assistance to Families Contribution credit (K.S.A. 79-32,200; K.S.A. 39-7,132)
  - Ag loan interest reduction (K.S.A. 79-32,181a)
  - Habitat management (expired)

<sup>2</sup> Currently 79,000 small businesses are exempt because of the \$100,000 threshold. Raising the threshold to \$1,000,000 adds an additional 16,000 businesses, leaving only 5,000 paying franchise tax.

<sup>3</sup> Prior to authorization of a tax credit or the sales tax exemption allowed under K.S.A. 79-3606(cc), KDOR will verify that the applicant does not owe any delinquent income, sales, use or premium taxes or interest or penalties on such taxes. If a delinquency exists, no credit or exemption can be issued until all delinquencies are satisfied. Department of Insurance will verify delinquent premium taxes

(DRAFT)

**Investment Credit**

**Commerce** | **Revenue**

Planned Project: | Completed Project:

Name: \_\_\_\_\_

FEIN: \_\_\_\_\_

Address of Facility \_\_\_\_\_

Project Number: \_\_\_\_\_

Project Name: \_\_\_\_\_

Project Description: \_\_\_\_\_

Project Duration: beginning and ending dates \_\_\_\_\_

NAICS of facility \_\_\_\_\_

Description of NAICS \_\_\_\_\_

Headquarters operation \_\_\_\_\_

Ancillary support operation \_\_\_\_\_

Average wage per NAICS Code \$0.00 | \$0.00

Average wage at facility \$0.00 | \$0.00

Difference: \$0.00 | \$0.00

Dates: \_\_\_\_\_

Tax Period: beginning and ending \_\_\_\_\_

Project investment estimate: \_\_\_\_\_

Date placed in service: \_\_\_\_\_

Acct Number: | Acct Number:

Depreciable asset categories: Building \$0.00 | \$0.00

Furniture and fixtures \$0.00 | \$0.00

Machinery and equipment \$0.00 | \$0.00

Leasehold improvements \$0.00 | \$0.00

Land \$0.00 | \$0.00

Other: specify \$0.00 | \$0.00

Rents: specify \$0.00 | \$0.00

\$0.00 | \$0.00

Total investment: \$0.00 | \$0.00

\$100,000 or \$1,000,000 minimum investment

If greater than minimum investment:

Credit @ 10% \$0.00 | \$0.00

(Investment excludes property that leaves the facility.)

Signature of taxpayer \_\_\_\_\_ | Signature \_\_\_\_\_

Date \_\_\_\_\_ | Date \_\_\_\_\_

Commerce signature \_\_\_\_\_

Date \_\_\_\_\_

Revenue signature \_\_\_\_\_

Date \_\_\_\_\_

Revenue signature \_\_\_\_\_

Date \_\_\_\_\_

Assessment & Taxation  
Date 1-30-07  
Attachment # 123

NO TEX  
Attachment #

## Investment Credit Process

### 1. Identify anticipated investment to Commerce.

Taxpayer will give their NAICS (or information providing that the worksite is a headquarters or ancillary support operation), investment amount by categories and description of project, indicate whether they have been or will be paying higher than average wages, and time period for investment project. (See worksheet)

2. Commerce reviews and signs off on the anticipated investment if it qualifies. Revenue also reviews the anticipated investment and signs off on the investment commitment giving a proposed credit amount based on the estimate provided by the taxpayer with the assumption that the taxpayer will meet all of the requirements. Revenue will explain to the taxpayer in written form what investment qualifies and provisions for requesting a project exemption certificate.

3. When the investment has been made and placed into service, the taxpayer will complete a schedule indicating the actual investment made and submit to Revenue with appropriate documentation.

4. Revenue will verify investment and issue a formal letter of offering representing the investment credit available and to be claimed on the taxpayer's income tax, privilege tax or premium tax return. (There will be no documentation or credit schedule attached to income tax return.) Wages will be verified by Commerce. For investment occurring at a Kansas business facility that will operate with an existing workforce, the average wage will be determined based on the four calendar quarters ending prior to the start of the investment spending. For investment occurring at a Kansas business facility that will begin operations with a new workforce, the average wage will be determined based on the first four calendar quarters of operation.

5. Investment credit will be claimed when project is completed and investment is placed into service. Taxpayer may separate project into stages and claim as stage is placed into service as long as that stage is at least \$1,000,000 in investment. If the stage does not have \$1,000,000 in expenditures, the taxpayer can roll this stage to the next stage to claim the credit, again as long as the two stages now are at least \$1M.

6. A new schedule of anticipated investment will be required for each new project or for any material change in the scope of a project originally applied for.

Assessment & Taxation  
Date ~~1-30-07~~ 1-30-07  
Attachment # 1-4



**Additional detail on credits and section reference in the bill:**

**Investment Tax Credit (Sections 1 - 8)**

- Sections 2 and 3 set forth the eligibility criteria:
  - Be a for profit business (Subsection 2(c) defining “eligible taxpayer”)
  - Invest at least \$1,000,000 at a company’s qualified business facility. Investments less than that amount (except in Opportunity Zones) will not qualify. (Subsection 3(a)(2); subsection 4(d)) If the investment occurs over a multi-year period, as long as it is the same project, it will qualify. (Subsection 2(g) defining “qualified investment”)
  - Pay a higher than average wage (Subsection 3(a)(3)—which is modeled after the current HPIP wage requirements in K.S.A. 74-50,131)
  - Company’s facility must be classified under specified NAICS codes or be identified as a headquarters or ancillary support operation. (Subsection 3(a)(1)(A))
- Business must apply for the credit initially with the Department of Commerce. Certification of eligibility by Commerce is required in order to obtain the credit. (Subsection 4(a)) Sections 5 and 6 provide that the Departments of Commerce and Revenue will work together to coordinate the procedures, and those agencies are given rule and regulation authority to do so.
- Commerce determines eligibility and refers applicant to KDOR (subsection 4(a)); a preliminary estimate of the credit is done with KDOR staff and signed by the department and the taxpayer; when investment is made, the form is completed and returned to KDOR to claim the credit. (form attached)
- Credit amount is 10 percent for all the investment actually made, not just the amount above the eligibility threshold. (Subsection 4(a); subsection 2(g))
- Credit is claimed in the year the investment is placed in service (Subsection 4(a))
- Unused credits may be carried-forward for 10 years and will require taxpayer to provide a self-certification statement that it is still paying a higher than average wage and still doing business in Kansas. (Subsection 4(c))
- An eligible company also qualifies for a sales tax exemption for use in conjunction with the company’s eligible capital investment at its business facility. (Subsection 22(cc) amending K.S.A. 79-3606(cc))
- Credits may be used to pay corporate, individual or premium taxes. (Subsection 2(c); subsection 4(a))
- A taxpayer shall elect to claim the investment credit on the original return for the tax year in which the qualified investment was placed into service. (Subsection 4(b))

**B. Jobs Credit (Sections 9 through 14)**

Requirements include:

- Any businesses within appropriate NAICS or identified as a headquarters or ancillary support operation and creating at least 20 net new jobs in

Kansas, as determined by the net gain in employees on the payroll at year end, is eligible for a credit of \$1,500 for each new employee. (Subsection 10(c); subsection 11(a))

- Claim the credit on the tax return; no pre-certification requirement. (Subsection 11(b))
- An eligible company may be issued a two year sales tax exemption certificate for facility construction in conjunction with the company's capital investment at its business facility. (See C. Sales Tax Exemptions.) (Subsection 22(cc))
- Does not apply to retention of existing jobs. (Subsection 10(d); subsection 11(c))
- No restriction on the kind of business in Opportunity Zone; retail excluded in MSA's. (Subsection 10(f); subsection 10(c))
- Enhanced credit and lower job hiring requirement is available in the Opportunity Zone. (Subsection 11(a))
- Credit is non-refundable, but may be carried forward. (Subsection 11(c))
- Websites at both Commerce and Revenue include a benefits calculator for this credit.
- A taxpayer shall elect to claim the job credit on the original return for the tax year in which the employees were hired. (Subsection 11(b))

**C. Sales Tax Exemptions (Subsection 22(cc) amending K.S.A. 79-3606(cc))**

- Available to any certified investment credit or eligible job credit
- Project based, but requires project exemption certificate. The 2 year period of issuance can be extended if needed by KDOR.
- Lessor leasing to a qualified business shall also qualify for a sales tax exemption for the construction, reconstruction of a facility if there is a 5 year lease between the two entities.

There is a 5 year sunset on these credits which will go into effect for all taxable years commencing after December 31, 2006. (Sections 8 and 14)) Businesses with existing credits to carry forward will retain those credits until used.

These items from the HPIP have been simplified or eliminated :

- Simplified calculation of credit and application process, such as removal of calculations of monthly averages, etc. (Subsection 2(g) defining "qualified investment"; section 24 repeal of K.S.A. 79-32,154 definition of "qualified business facility investment"))
- Eliminate the 50% sales outside the state requirement and training credit (Section 24 repeal of K.S.A. 74-50,131).
- Eliminate recertification for carry-forward. (Subsection 4(c))

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Feature	Current Law - HPIP credit	Current Law - Enterprise Zone	Current Law - Business/Job Credit	New Investment Credit	New Jobs Credit	Opportunity Zone
What kind of business qualifies?	Identified under NAICS 221, 311-425, 481-721, or 811-928; or identified as a regional headquarters or back-office operation of a national or multi-national corporation regardless of NAICS designation.)	Manufacturers and non-manufacturers; Worksites can be headquarters or ancillary support; retailers not eligible unless in city of 2500 or less or county of 10,000 or less	A taxpayer that invests in a qualified business facility and hires a minimum number of employees as a result of that investment	same as HPIP	same as HPIP	All jobs qualify - no restrictions
What doesn't qualify?	retail, agriculture, mining	retail in larger areas	retail if not a HQ or ancillary support	same as HPIP	same as HPIP	none
What else do they have to do to qualify?	for-profit; pay a higher than average wage; provide employee training; and 50% of its revenues are from customers outside Kansas	Net new jobs is the only qualification	Some investment must be made to require the hiring of employees	for-profit; pay a higher than average wage; provide employee training; and 50% of its revenues are from customers outside Kansas	no other requirements	
Is there a minimum threshold for jobs or investment?	\$50,000	Manufacturing - 2 ; non-manufacturing 5 ; Ancillary support or retail headquarters - 20 new jobs	2 jobs, manufacturing; 5 jobs non-manufacturing; 20 jobs retail HQ or ancillary support. \$1,000 for each \$100,000 of investment; old credit gave \$100/job or \$100,000 investment	\$1,000,000	20 net new jobs	\$100,000 investment; 5 net new jobs
How much credit do they get?	10% credit for capital investments in excess of \$50,000 in a qualified business facility.	1% on investment over \$50,000	\$1,500 for each new job located in an metropolitan county or any other region not designated as a nonmetropolitan region. \$2,500 for each new job located in a nonmetropolitan region.	10% credit on all the investment when placed in service	\$1,500 per job	\$3,500 per job
Do they have to create jobs?	No	Yes	Yes	No	Yes	Yes, for jobs credit

Feature	Current Law - HPIP credit	Current Law - Enterprise Zone	Current Law - Business/Job Credit	New Investment Credit	New Jobs Credit	Opportunity Zone
Is there a sales tax exemption on the investment?	Yes	Yes, for constructing, enlarging or remodeling a business; purchase of machinery and equipment is also exempt.	Yes	Yes	Yes	Yes
Is there a Training Requirement?	Requires training costs equal to 2% of wages or participation in KIT/KIR/SKILL	None	None	None	None	None
Certification Requirement?	Must have initial certification by Commerce and recertification each year to continue claiming credit.	None		Self-certification for carry-forwards	None	
Complexity?	Complex ITC calculation	Complex ITC calculation	heavily litigated; definitions poor in law; unclear	simplified application/ITC calculation	simplified definitions/rules	

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# **HB 2170**

## **Comparison to existing Enterprise Zone and HPIP Programs**



# HB 2170 COMPARISON TO EXISTING ENTERPRISE ZONE PROGRAM AND EXISTING HPIP

EXISTING ENTERPRISE ZONE PROGRAM	EXISTING HPIP	PROPOSED NEW INCENTIVE PROGRAM
1% credit on investment over \$50,000 requires a net new job creation	10% credit on capital investment over \$50,000	\$1 Million minimum investment, then earns 10% credit on all investment from first dollar (\$100,000 investment threshold for OZ's)

# Comparison Continued


<u>Existing Enterprise</u>	<u>Existing HPIP</u>	<u>New</u>
Requires 2 new jobs for mfgs. & 5 new jobs for non-mfgs. Retailers are not eligible.	No job creation required	20 net new job threshold to earn job creation credits. (5 job threshold for OZ's and retail is eligible)
\$1500 credit per job. (\$2500 per job in eligible non-metro counties)	No job credit is available	\$1500 credit per job. (\$3500 credit per job in OZ's)

# Comparison Continued

<u>Existing Enterprise</u>	<u>Existing HPIP</u>	<u>New</u>
Offers sales tax exemption for investment	Offers sales tax exemption for investment	Offers sales tax exemption for investment
Worksites can qualify as HQ or ancillary support	Requires eligible NAICS or HQ/ancillary support worksite	Requires eligible NAICS or HQ/ancillary support worksite

# Comparison Continued

<u>Existing Enterprise</u>	<u>Existing HPIP</u>	<u>New</u>
No wage requirement	Requires above-average wage	Requires above-average wage
No training requirement	Requires training costs equal to 2%-of-wages or participation in KIT/KIR/SKILL	No training requirement





# Comparison Continued

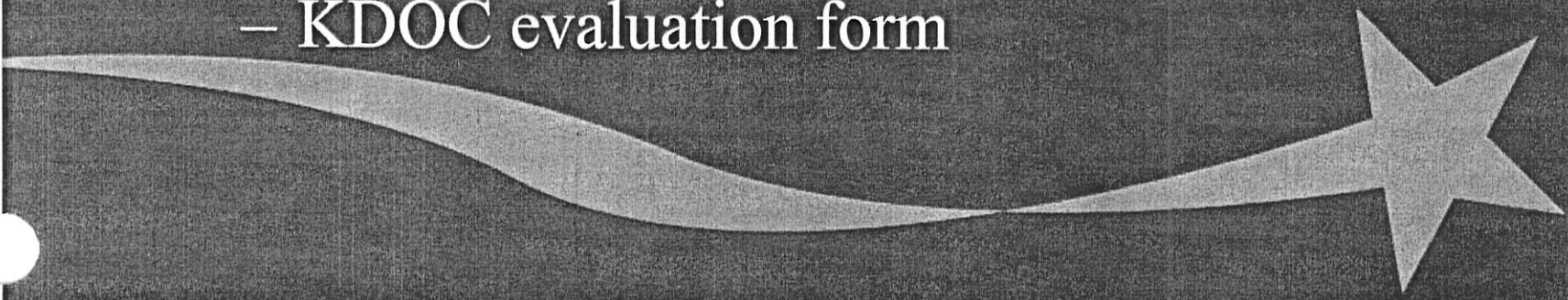
<u>Existing Enterprise</u>	<u>Existing HPIP</u>	<u>New</u>
No sources-of-revenues required	May require sales to specific kinds of customers (mostly out-of-state)	No sources-of-revenues required
No certification process	Re-certification same as initial certification process	Simplified self-re-certification for carry-forward credits

# Comparison Continued

<u>Existing Enterprise</u>	<u>Existing HPIP</u>	<u>New</u>
Current complex ITC calculation	Current complex ITC calculation	Simplified ITC calculation
Extensive application process	Extensive application process	Streamlined application process (Regional/County wide application process for OZ's)

# Introduction to HPIP Application Forms & Documents

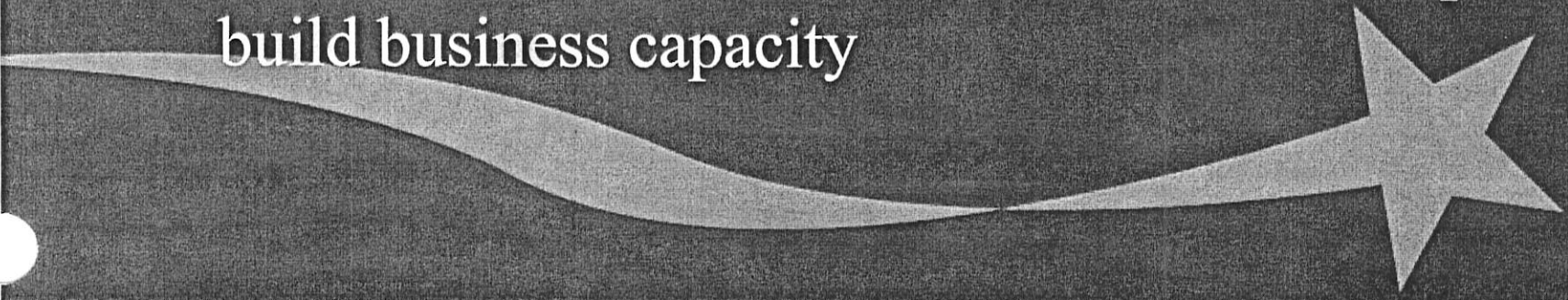
- Intend to retain
  - Pre-application form
  - Certification Checklist
  - Eligibility Questionnaire/Decision Tree
  - Calculation of average wage
  - Agreement to allow audit access
  - KDOC evaluation form



# Application Comparison

- Forms no longer required
  - Summary of training expenditures
  - Summary of non-training expenditures
  - Cost for employees not completing time sheets
  - Cost of employee training per coded time sheets
  - Attestation of eligible training provided
  - Company's analysis of Worksite Revenues

# Opportunity Zones

- Modify thresholds for job creation and capital investment to reflect the business development challenges that are unique to rural areas
  - Increase the job creation tax credit to advantage business growth in rural areas
  - Incentivize strategic planning and regionalism
  - Include retail businesses in rural areas to help build business capacity
- 

## HPIP Explanatory Information Available at [www.kansascommerce.com](http://www.kansascommerce.com)

Our website at [www.kansascommerce.com](http://www.kansascommerce.com) has explanatory materials and application forms and wage standards available for download. Search on "HPIP," then click on the top link on the new page. This will take you to a complete blue-font listing of these materials and forms.

- The most time-critical item is the "Capital Investment Project Description" (CIPD) form HPIP6k. By statute, for anticipated investment to be potentially eligible for HPIP tax credits, that investment must be identified to Commerce on the CIPD before the company has committed to that investment (i.e., before making a purchase or committing to a purchase by executing any document such as an equipment purchase order or lease agreement or construction contract). The company must then complete an HPIP application to obtain HPIP certification at its investment worksite, by documenting satisfaction of wage and training and other requirements, for the period during which investment expenditures actually occur and the related assets are placed into service. There is no formal deadline on submittal of an HPIP application, but the Kansas Dept. of Revenue only allows a company to go back three years to file an amended tax return in order to claim credits for past investment.

As information, the company (and sometimes the lessor) will also need to submit a "Request for Project Exemption Certificate" form PR-70b to the Kansas Dept. of Revenue before making any investment expenditures, in order to obtain a sales tax exemption certificate and avoid paying a sales tax; that form can be downloaded from [www.ksrevenue.org](http://www.ksrevenue.org) or by calling Revenue's Kathleen Smith at 785-296-3070.

- File "summary4.doc" is a summary of HPIP benefits and requirements.
- The "HPIP Reference Booklet" form HPIP6n (about 30 pages) discusses the program in detail, and includes some simple timing illustrations for a worksite that is starting operations with a new workforce, and an established worksite.
- The "HPIP Documentation Requirements Checklist" form HPIP6b provides a checklist for the documentation materials needed in an HPIP application to obtain certification at a worksite. 7 or 8 of the checklist items will be needed for most applications.
- Files "Timing8.doc," "Timing9.doc," and "Timing10.doc" are still under development, and will illustrate the HPIP rules that govern the timing of how to coordinate satisfaction of certification requirements with the investment spending, in order to maximize the tax credits that can be earned. Timing8 is used by the company to sketch out its own timing situation. Timing9 and Timing10 respectively show timing for worksites with a new and existing workforce.
- Wage standards show minimum wage thresholds that must be exceeded by the qualifying worksite, based on (a) when the company chooses to end the four-quarter measurement period during which it will document satisfaction of HPIP requirements, (b) the NAICS category to which the Kansas Dept. of Labor has assigned the worksite for HPIP-qualification purposes, (c) the wage region in which the worksite is located, and (d) whether there are 500-or-fewer employees, or more-than-500 employees, at the worksite. If the worksite does not satisfy the regular wage standard for the relevant timeframe, it can use the alternative wage standard of one-and-one-half the state-wide average wage that applies to that same timeframe.

<i>Existing Enterprise Zone Program</i>	<i>Existing HPIP</i>	<i>Proposed New Incentive Program</i>
1% credit on invest over \$50,000, requires net new job creation	10% credit on capital investment over \$50,000	\$1 million minimum investment, then earns 10% credit on all invest from first dollar (\$100,000 threshold for OZ's)
Requires 2 new jobs for mfgs & 5 jobs for non-mfgs & retailers are not eligible	No job creation required	20 net new job threshold to earn job creation credits (5 job threshold for OZ's)
\$1,500 credit per job (\$2,500 in eligible non-metro counties)	No job credit is available	\$1,500 credit per job (\$3,500 in OZ's)
Offers sales tax exempt for invest	Offers sales tax exempt for invest	Offers sales tax exempt for invest
Worksites can qualify as HQ or ancillary support	Requires eligible NAICS or HQ/ ancillary support worksite	Requires eligible NAICS or HQ/ ancillary support worksite (any NAICS OK for job creation in OZ)
No wage requirement	Requires above-average wage	Requires above-average wage
No training requirement	Requires training costs equal to 2%-of-wages or participation in KIT/KIR/SKILL	No training requirement
No sources-of-revenues required	May require sales to specific kinds of customers (mostly out-of-state)	No sources-of-revenues required
No certification process	Re-certification same as initial certification process	Simplified self re-certification for carry-forward credits
Current complex ITC calculation	Current complex ITC calculation	Simplified ITC calculation

Assessment & Taxation  
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 Attachment # 4-12

# The Use of Corporate Income Tax Credits in Kansas

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## SUMMARY OF KEY FINDINGS

This study of corporate income tax credits in the state of Kansas demonstrates that:

- Corporate decisions to hire employees, increase wages, and invest in equipment and capital are based on market factors. Corporations rarely alter their business operations as a result of, or in order to qualify for, a tax credit.
- In most cases, the decision to claim a tax credit occurs after the qualifying business operation has already occurred. For the HPIP credit, corporations usually seek certification after the decision to engage in a qualifying investment has already occurred.
- Corporations often conduct their business activities in multiple states. Because tax credits do not directly alter corporate operations, the benefits from tax credits (decreased tax liability) profit the whole corporation, not just their Kansas operations. Corporations that operate in multiple states may use their Kansas tax benefits to increase investment in other states. This is particularly likely when corporations have a relatively small presence in Kansas compared to other states.
- Corporations are most likely to consider tax credits prior to making a decision when they (1) expect to incur abnormally large capital and/or labor costs, (2) consider locating a new facility in Kansas that is expected to have a long-term effect on business operations, and/or, (3) are in a highly competitive markets where a tax credit may help them become the low cost provider (see page 5). In each situation, however, Kansas tax credits are only one of many tax and non-tax considerations.
- Tax credits provide benefits and costs. Corporations seek out and use credits with low compliance costs in states where they have a high and stable tax liability. If a corporation's Kansas tax liability is low, then the benefits from the tax relief may not compensate for the various costs incurred in claiming the credit. Also, if a corporation has a high tax liability for only a short time, the opportunity costs of learning how to use the credit and developing the necessary reporting processes may not be worth the benefit (see page 6).

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<sup>1</sup> The research for this report was conducted with the assistance of the Kansas Department of Revenue. Special thanks to Richard Cram, Kathleen Smith, and Yi Geng. Additional thanks to Steve Kelly and David Bybee from the Kansas Department of Commerce.