Approved: February 28, 2007
Date

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE

The meeting was called to order by Chairman Barbara Allen at 10:45 A.M. on February 15, 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:
Eric Sartorius, City of Overland Park
Mike Taylor, Wyandotte County Unified Government
Don Mohler, League of Municipalities
Matt Shatto, City of Lenexa
Marlee Carpenter, Kansas Chamber (written only)
John Frederick, Boeing Company (written only)
Senator Terry Bruce
Duane Simpson, Association of Ethanol Processors
Kenlon Johannes, Kansas Soybean Association
Jere White, Kansas Corn Growers Association
Brad Harralson, Farm Bureau (written only)
Leslie Kaufman, Kansas Cooperatives (written only)
Tony Reinhard, Ford Company (written only)
Tom Palace, Petroleum Marketers (written only)
Jarrod Forbes, Orion Ethanol
Ken Peterson, Kansas Petroleum Council

Others attending:
See attached list.

Hearing on HB 2044--Distributions from the business machinery and equipment tax reduction assistance fund and the telecommunications and railroad machinery and equipment tax reduction assistance fund

Eric Sartorius, City of Overland Park, testified **HB 2044** would correct an error in the law enacted last year. (Attachment 1) He presented a proposed amendment. (Attachment 2) Chris Courtwright said there is no fiscal note for this bill. Senator Schmidt recalled debate and discomfort with the slider provision in conference committee last year, and said this bill is actually a change in policy, not a technical fix.

Mike Taylor, Unified Government of Wyandotte County/Kansas City, concurred with the amendment offered by Mr. Sartorius. (Attachment 3) He said there was little debate on the House side on this bill. If **HB 2044** is not passed, Unified Government will receive $8.6 million less than under current law. He said none of the House members thought the end product of the bill last year was intended to be the law as currently written. He said the entities that lose under the proposed amendment are those with no machinery and equipment tax currently. He did not consult with Montgomery County officials to see how Montgomery County will be affected if this bill is enacted.

Senator Apple expressed the same concerns as Senator Schmidt about the bill, and also said in the 2006 M & E conference committee report, the Senate agreed to reinstate demand transfers of $54 million. In conference, a compromise was reached regarding slider, and now that compromise is being portrayed as a mistake. Senator Donovan said nearly 20% of total property taxes come from machinery and equipment already, and new equipment is all that will be affected. He did not feel the loss ratio would be very big.

Don Moler, League of Kansas Municipalities, testified in favor of **HB 2044**. (Attachment 4)

MINUTES OF THE Senate Assessment and Taxation Committee at 10:45 A.M. on February 15, 2007 in Room 519-S of the Capitol.

Matt Shatto, City of Lenexa, testified in favor of **HB 2044** (Attachment 5) and agreed with the amendment offered by Eric Sartorius.

During discussion, Senator Schmidt said he remembers a specific conversation in conference committee concerning this issue. The House conferees wanted reimbursement tied to the aggregate amounts lost under the proposed M & E exemption. Senator Lee concurred with Senator Schmidt. Mr. Sartorius said there are entities receiving money from the slider provision who actually do not lose any M & E dollars. Mike Taylor will provide information on how much property in Wyandotte County has been abated, that will come back on the books in the next few years, (i.e. General Motors.) The hearing was closed.

Hearing was opened on SB 240–Apportionment of net income for income tax purposes for certain taxpayers

Department of Revenue Secretary Joan Wagnon reviewed how a single factor computation would work in Kansas, as compared to the way it is currently done using the three factors. (Attachment 6) There is a disincentive for businesses to locate in Kansas using the three-factor apportionment.

Denise Walsh, Hill's Pet Nutrition, supports **SB 240**. (Attachment 7) The bill will have a long-term positive effect on any potential expansions and investments Hill's will consider for its current and proposed Kansas manufacturing facilities.

Christy Caldwell, Greater Topeka Chamber of Commerce, testified **SB 240** would be a positive step to determine if the single factor formula will create a positive outcome of growth in high-wage jobs, and growth in business investment, within the state. (Attachment 8) She provided a copy of the "21st Annual Corporate Survey" for attachment to the Committee minutes. (Attachment 9)

Senator Lee requested the Committee review, after legislative turn-around week, how corporations could be taxed in a more friendly manner in Kansas. The hearing closed.

Hearing was opened on SB 334--Changes in the Kansas retailer's sales tax act related to exemptions

Richard Cram, KDOR, reviewed proposed changes in the streamlined sales and use tax agreement included in **SB 334**. (Attachment 10) This is a revenue-neutral bill.

Written testimony from Marlee Carpenter, Kansas Chamber, and John Frederick, Boeing Company, supporting **SB 334**, was received. (Attachment 11) (Attachment 12)

Senator Apple requested a blessing on this bill. Senator Lee volunteered to carry the bill on the Floor. The hearing was closed.

Hearing was opened on SB 327--Renewable fuels; income tax credits

Senator Bruce testified **SB 327** would create two income tax incentives, one for "alternative fuels" and the other for biodiesel. (Attachment 13) He concluded that at most, the fiscal impact would be approximately $5 million in FY '08. Other states are making steps to promote use of alternative fuels and are reaping the benefits. SB 327 is a modified version of Iowa's current law. Only 16 sites in Kansas sell E-85 fuel. Senator Donovan lauded Senator Bruce for his efforts on this bill.

Duane Simpson, Association of Ethanol Processors, testified in favor of SB 327. (Attachment 14) He believes this bill is a major step forward in keeping Kansas competitive for new ethanol plants.

Kenlon Johannes, Kansas Soybean Association, testified **SB 327** would provide incentives for the further development of current fuel marketing systems. (Attachment 15) It is an incentive with minimal budget impact.

Jere White, Kansas Corn Growers Association, testified this bill benefits Kansas. (Attachment 16) By providing incentives to retailers, this bill will make biofuels more available to consumers throughout the state, and those incentives should result in lower fuel prices at the pump for biofuels.

Written testimony in support of **SB 327** was received from the following:

Brad Harrelson, Kansas Farm Bureau (Attachment 17)
Tony Reinhard, Ford Motor Company (Attachment 18)
Tom Palace, Petroleum Marketers (Attachment 19)
Leslie Kaufman, Kansas Cooperative Council (Attachment 20)

Jarrod Forbes, Orion Ethanol, testified in opposition to **SB 327,** because this bill does not achieve the goal of supporting ethanol as an economic development tool for rural Kansas. (Attachment 21) He would like to see the bill blessed and held for further study. Orion Ethanol has committed to spend $500 million on plant development, and he would like to see some of that money spent in Kansas.

Ken Peterson, Kansas Petroleum Council, testified the Council is not opposed to the Legislature's efforts through the years to promote ethanol with tax incentives, but suggests extending the effective date for the tax credits to tax year 2009. This would allow retailers to establish procedures for tax credits, and would allow more renewable fuels to come online. (Attachment 22)

Richard Cram, KDOR, said the Department is still gathering information concerning: 1) the number of fuel retailers in the state; 2) what their current sales volumes are, and 3) current percentage of sales attributable to renewable fuels. Thus, a fiscal impact for the bill cannot yet be calculated. Currently, KDOR has no fiscal note for **SB 327**. (Attachment 23) The hearing was closed.

Being no further business, the meeting adjourned at 12:15 p.m. The next meeting will be February 19.

SENATE
ASSESSMENT & TAXATION COMMITTEE

GUEST LIST

DATE: 2-15-07

NAME	REPRESENTING
Matt Shatto	City of Lenexa
Will Deer	Federico Consulting
Marlee Carpenter	KS Chamber
Christy Caldwell	Topeka Chamber
Duane Simpson	KAEP
Bill Thompson	Commerce
Denise Walsh	Hill's Pet Nutrition, Inc.
TERRY FORSYTH	KNEA
Ted Warner	KS Govt. Consulting
Carole Jordan	KDA
Daniel Forbes	Orion Ethanol
Erik SARTORIUS	City of Overland Park
[illegible]	LGR
Scott Heidner	Gaches Braden
Kenlon Johannes	KS Soybean Assoc.
Brad Harrelson	KS Farm Bureau
Michelle Peterson	Capitol Strategies
Leslie Kaufman	Ks Co-op Council

The City of
Overland
Park
KANSAS

8500 Santa Fe Drive
Overland Park, Kansas 66212
• Fax: 913-895-5003
www.opkansas.org

Testimony Before The
Senate Assessment & Taxation Committee
Regarding
House Bill 2044

February 15, 2007

The City of Overland Park appreciates the opportunity to appear before the committee and present testimony in support of House Bill 2044.

This legislation would correct an error in the law enacted last year exempting newly purchased business machinery and equipment from property taxes. As this issue progressed through the legislative process last year, this committee in particular worked hard to mitigate the bill's effect on cities and other entities that levy ad valorem taxes.

The mitigation mechanism, which came to be known as the "slider," was designed to provide a soft landing for cities and others as they saw property tax revenue from business machinery and equipment shrink. Over the course of five years, taxing jurisdictions will see from the State partial compensation for their reduction in business machinery and equipment property taxes.

A portion of the "slider" is altered by HB 2044 to reflect legislative intent. The slider was to compensate local governments based on actual losses of machinery and equipment property tax revenue. Instead, the law lays out a mechanism to distribute the aid within a county based on a taxing jurisdiction's mill levy in relation to the sum of all mills levied in the county.

Such a distribution formula bears no relationship to the amount of property tax revenue a city derives from business machinery and equipment. Taxing jurisdictions that may have virtually no business machinery and equipment within their boundaries but have a high mill levy will see a windfall. Meanwhile, taxing jurisdictions with significant business machinery and equipment will see their aid come in dramatically below projections if their mill levies are lower relative to other jurisdictions within the county.

The City of Overland Park is proposing an amendment to further clarify changes made in the House of Representatives. As we have continued to study House Bill 2044, we believe the changes we propose would remove any question as to how the reimbursement mechanism would work.

We ask that this committee give strong consideration to our proposed amendment, and then pass out House Bill 2044 favorably for passage.

Assessment & Taxation
Date 2-15-07
Attachment # 2

City of Overland Park Testimony on HB 2044
February 15, 2007

(2) The state treasurer shall apportion and distribute the moneys credited to the business machinery and equipment tax reduction assistance fund to the county treasurers in accordance with subsection (b). Upon receipt of each such amount, each county treasurer shall apportion such amount among the ad valorem taxing subdivisions imposing ad valorem taxes on commercial machinery and equipment in the same proportion that the amount of the difference in total ad valorem taxes levied for commercial machinery and equipment by such ad valorem taxing subdivision for the tax year 2005 and total ad valorem taxes levied for commercial machinery and equipment by such ad valorem taxing subdivisions for the tax year of the apportionment bears to the total amount calculated for that county pursuant to the provisions of subsection (b) for the tax year of the apportionment of such moneys to that county. The county treasurer shall pay such amounts to the taxing subdivisions at the same time or times as their regular operating tax rate mill levy is paid to them.

(2) The state treasurer shall apportion and distribute the moneys credited to the business machinery and equipment tax reduction assistance fund to the county treasurers in accordance with subsection (b). Upon receipt of each such amount, each county treasurer shall apportion such amount among the ad valorem taxing subdivisions imposing ad valorem taxes on commercial machinery and equipment in an amount equal to the difference in the total ad valorem taxes levied on commercial machinery and equipment levied by each such ad valorem taxing subdivision for the tax year 2005 and the total ad valorem taxes on commercial machinery and equipment levied by each such ad valorem taxing subdivisions for the tax year of the apportionment subject to the percentage reduction set forth in subsection (b) for the tax year of the apportionment of such moneys to that county. The county treasurer shall pay such amounts to the taxing subdivisions at the same time or times as their regular operating tax rate mill levy is paid to them.

Testimony

Unified Government Public Relations
701 N. 7th Street, Room 620
Kansas City, Kansas 66101

Mike Taylor, Public Relations Director
913.573.5565 mtaylor@wycokck.org

House Bill 2044
Machinery and Equipment Tax Exemption Correction

Delivered February 15, 2007
Senate Assessment and Taxation Committee

The Unified Government of Wyandotte County/Kansas City supports the purpose of House Bill 2044, which is to correct the mistake made in the way the Machinery and Equipment Tax exemption law was written last year.

The Legislature intended and thought it was creating a mechanism to reimburse a percentage of the actual losses in machinery and equipment tax revenues suffered by cities and counties. Instead, the legislation devised a formula which reimburses local governments based on mill levy. Everyone admits the law needs to be fixed and that's what this bill is supposed to do.

While the Unified Government very much appreciates the work done by the House Tax Committee and in fact, by the full House of Representatives in passing the legislation so promptly, there are a couple of additional language changes we believe need to be made. The Unified Government has discussed these proposed language with Overland Park and other cities. We are in agreement about the wording changes. The purpose of the changes are simply to make crystal clear how the reimbursements are to be distributed and to meet the original intent of the Legislature.

The taxpayers of Wyandotte County and cities across Kansas appreciate your commitment to correct the issues surrounding the original machinery and equipment tax legislation and those in House Bill 2044.

300 SW 8th Avenue, S... 100
Topeka, Kansas 66603-3951
Phone: (785) 354-9565
Fax: (785) 354-4186

LKM
League of Kansas Municipalities

To: Senate Assessment and Taxation Committee

From: Don Moler, Executive Director

Re: Support for HB 2044

Date: February 15, 2007

First I would like to thank the Committee for allowing the League to testify today on HB 2044. HB 2044 is essentially a trailer bill to clarify provisions of the machinery and equipment bill from last session. It's focus is the need to directly return to those units of government who will experience economic shortfalls as a result of the M&E exception, monies based on the slider formula which is now found in K.S.A. Supp. 79-2978 and 79-2979. We support the concept, and believe that the need for this legislation is clear to fully enact the intention of the slider provisions from last session. We fully support the amendatory language to clarify the provisions of HB 2044.

Thank you very much for allowing the League to testify today on HB 2044.

Assessment & Taxation
Date 2-15-07
Attachment # 4

Lenexa
KANSAS

TESTIMONY IN SUPPORT OF HB2044

To: Assessment and Taxation Committee

From: Matt Shatto, Assistant City Administrator

Date: February 11, 2007

Thank you for the opportunity to present testimony regarding HB 2044. The City of Lenexa understands that this bill was introduced in an effort to change the distribution formula currently in place for the purpose of reimbursing municipalities for their loss related to the elimination of the personal property tax on machinery and equipment. The City of Lenexa supports this legislation.

When HB 2583 was being discussed last year, the City of Lenexa came before you testifying that the eventual impact on the City would be a decrease in annual revenue of more that $3.5 million per year. Based upon that loss, the City asked that you consider a mitigation strategy to reduce the immediate impact of this legislation and allow the City to attempt to absorb this loss over a longer period. After much discussion, the "slider" amendment was added to HB 2619 for the purpose of helping local jurisdictions adjust to the revenue losses incurred as a result of the implementation of this tax exemption. A sliding scale was introduced that would reduce the immediate impact on local governments and spread such an impact out over the course of five years. The understanding was that the payments from the State would be based upon the actual loss of each local government and would be distributed as follows:

90% of the difference for tax year 2007 (February 2008)
70% of the difference for tax year 2008 (February 2009)
50% of the difference for tax year 2009 (February 2010)
30% of the difference for tax year 2010 (February 2011)
10% of the difference for tax year 2011 (February 2012)

Instead, the language included in HB2583, as adopted, provides that the State will distribute the funds based on the percentage of a jurisdiction's mill levy as compared to all mill levies within their respective county; meaning that local governments will receive reimbursement based upon mill levy as opposed to the actual loss. The impact of this distinction is substantial to the City of Lenexa.

Assessment & Taxation
Date 2-15-07
Attachment # 5

The estimated impact ranges from $400,000 to $700,000 annually and results in a cumulative impact of more than $2.6 million.

The City of Lenexa is in support of HB 2044 and any other statewide legislation that would aid in mitigating the impact of the personal property tax exemption on machinery and equipment. With that said we do support the amendment being offered by the City of Overland Park as we believe it is important that that this bill be approved correctly, keeping us from having to consider an additional fix next session. Please do not hesitate to contact me should you have any questions or if the City of Lenexa can provide you with additional information. Thank you for your consideration.

Single Entity Taxpayer
Apportionment Factor Computation

Assessment & Taxation
Date 2-15-07
Attachment # 6

12/31/2005	Numerator- Activity within Kansas Co. A 11-1111110	Denominator-Activity everywhere within the business Co. A 11-1111110
Property		
Average value of owned real and tangible personal property used in the business at original cost or eight times the net annual rental rate during the tax year.		
1 Inventory- Beginning	0	24,900,511
2 Depreciable Assets- Beginning	14,483,891	240,000,500
3 Land- Beginning	414,003	20,500,000
4 Other Tangible Property-Beginning	1,260,781	10,000,000
5 Construction in Progress-Beginning	(1,260,781)	(10,000,000)
6 Subtotal-Beginning	14,897,894	285,401,011
7 Inventory- Ending	0	20,900,400
8 Depreciable Assets- Ending	15,018,896	275,000,500
9 Land- Ending	414,003	18,500,000
10 Other Tangible Property-Ending	0	4,200,000
11 Construction in Progress-Ending	0	(4,200,000)
12 Subtotal-Ending	15,432,899	314,400,900
13 Total	30,330,793	599,801,911
14 Average	15,165,397	299,900,956
15 Capitalized Rent Expense	378,056	53,000,000
16 Total Property	45,874,246	952,702,867
17 Kansas Property	4.8152%	

Total compensation of the business within the tax year.		
18 **Payroll**	10,984,734	180,325,000
19 Total Payroll	10,984,734	180,325,000
20 Kansas Payroll	6.0916%	

Sales		
Total gross receipts of the business within the tax year.		
21 Sales	22,518,935	150,000,000
22 Net Dividends	0	0
23 Interest	0	250,000
24 Rents	208,675	450,000
25 Royalties	0	0
26 Proceeds on Tangible Sales	5,898	3,500,000
27 Gains/Losses on Intangible Sales	0	0
28 Other Income	0	0
29 Total Sales	22,733,508	154,200,000
30 Kansas Sales	14.7429%	

Single Entity Taxpayer
Apportionment Factor Computation

12/31/2005

	Numerator- Activity within Kansas	Denominator-Activity everywhere within the business
	Co. A 11-1111110	Co. A 11-1111110

Apportionment Summary

31	Kansas Property	4.8152%
32	Kansas Payroll	6.0916%
33	Kansas Sales	14.7429%
34	Total	25.6497%
35	Average Percent to Kansas	8.5499%

Assessment & Taxation
Date 2-15-07
Attachment # 2

Assessment & Taxation
Date 2-15-07
Attachment # 2-3

Single Entity Taxpayer
Apportionment Factor Computation

12/31/2005	Numerator- Activity within Kansas Co. A 11-1111110	Denominator-Activity everywhere within the business Co. A 11-1111110
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3 Land- Beginning	414,003	20,500,000
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Single Entity Taxpayer
Apportionment Factor Computation

12/31/2005	**Numerator- Activity within Kansas** Co. A 11-1111110	**Denominator-Activity everywhere within the business** Co. A 11-1111110
Apportionment Summary		
31 Kansas Property	4.8152%	
32 Kansas Payroll	6.0916%	
33 Kansas Sales	14.7429%	
34 Total	25.6497%	
35 Average Percent to Kansas	8.5499%	

Hill's®
Hill's Pet Nutrition, Inc. and Subsidiaries
P. O. Box 148
Topeka, Kansas 66601-0148
(785) 354-8523

January 29, 2007

Chairperson and members of the Committee:

My name is Denise Walsh. I am the Director of Corporate Tax for Hill's Pet Nutrition here in Topeka. I am here today to express our support of the proposed bill which would allow certain manufactures making significant investments in the state to apportion their income taxable to Kansas based on only their sales factor as opposed to using the current three factor formula.

Kansas currently determines a company's corporate income tax liability by considering the company's payroll, property and sales within the state. This methodology effectively places a higher tax burden on companies that employ more Kansas workers and own more manufacturing facilities, and therefore have more assets within the state. This current method creates a disincentive to invest capital and employ Kansans. Eight Midwest states: Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska and Wisconsin currently (some as recently as within the last 24 months) determine a corporation's tax liability by primarily considering the sales location of their customers. A company expanding its capital or employment in any of these states would not incur additional income taxes solely based on their decision to invest or expand their presence within these jurisdictions as is the case in Kansas.

The enactment of House Bill 2619 this past legislative session which revoked the imposition of personal property taxes on new machinery and equipment was a very positive movement towards making Kansas a competitive location for major manufacturing investments. Passing the current proposed bill which would allow the state to grant single factor relief to manufacturers making significant investments in the state, hiring Kansans and paying above-average wages would make Kansas competitive with other states in the Midwest, especially its neighboring states of Missouri and Nebraska which share many of the same available natural resources of the Midwest with Kansas but have a significant advantage on their corporate tax structure. Currently, just by locating manufacturing facilities outside of the state of Kansas a current Kansas company can lower its income tax liability and be taxed a fraction of what that same investment would be taxed in the state of Kansas.

The US government has recognized at the Federal Income Tax level the need for the US to become more competitive in order to secure manufacturing jobs within its borders. The Federal Manufacturing Deduction is a significant step in that direction and it will be a significant positive factor in US companies deciding to manufacturer in the US. By Kansas passing this proposed bill, the state will be in a positive position to partner with the Federal government to drive new manufacturing jobs within not only the US borders but also the State of Kansas.

While Kansas Investment tax credits can mitigate the single factor impact on a short-term basis it does not address the long-term effect of creating jobs and increasing investments in the state. This proposed Bill will have a long term positive effect on any potential expansions and investments we consider for our current and proposed Kansas manufacturing facilities as products produced here would be more price competitive as we analyze differences in the cost structures between locations.

Thank you for your consideration and I would be pleased to answer any questions you may have.

Assessment & Taxation
Date 2-15-07
Attachment # 7

GREATER TOPEKA CHAMBER
GO TOPEKA

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Topeka, Kansas 66603-3515

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Testimony: SB 240
Senate Assessment and Taxation Committee
February 15, 2007
By: Christy Caldwell
Vice President Government Relations
Greater Topeka Chamber of Commerce
ccaldwell@topekachamber.org

Chairwoman Allen and members of the Committee:

The Greater Topeka Chamber of Commerce would like to ask your support for SB 240 – regarding the method of apportionment of net income. This bill will allow a narrowly defined group of manufacturing taxpayers to utilize only the sales-factor, instead of the current three factor formula of property, payroll and sales, in determining net income for Kansas tax purposes.

The bill defines a qualified manufacturing company as one who has made an investment of $100 million in the construction of a new business facility, has added 100 new jobs to the Kansas economy, and pays employees a higher than average wage.

We believe this legislation will allow the state to determine if an election to utilize the sales factor only will create a positive outcome of growth in high-waged jobs and growth in business investment within the state. Current tax policy regarding the apportionment of income for Kansas is considered a disincentive for business growth; it penalizes a company's investment in new jobs and added capital. Other states have derived benefit by allowing a single factor to determine tax liability.

Senate Bill 240 will give Kansas the opportunity to "try out" this new policy in order to determine its effect on the economy and job growth. We realize it is a departure from current practice, but sometimes one need to 'stick a toe in the water' to determine if it's "too hot to handle" or "just right for a long soak."

In a 2006 study completed for Area Development Magazine on the factors manufacturers use to determine domestic and foreign site selections, they have indicated: "More significant is the movement of the **corporate tax rate factor**, which received a 90.8 rating [out of a possible 100] this year – up 5.8 percentage points over last year – and moved from sixth to third place in rankings. Site selectors look very carefully at corporate tax rate when comparing locations in the United States or in deciding whether to move offshore." The respondents in this study are the top site location decision makers in their companies. This survey speaks to the desire we have for the Kansas Legislature to consider lowering the income tax rate, and to consider the outcomes that could result from allowing an election of utilizing the sales factor only in determining what income tax rates are applied toward.

Kansas government leaders have embraced changes in tax policy over the last several years to position our state as more competitive in a global environment. Even the limited utilization of the tax changes in this bill, we believe, can lead to significant new investment in Kansas and be helpful in situating our state for future manufacturing expansions.

Chairwoman Allen and Committee, we ask that you "test the water" by voting favorably for SB 240.

Attachment: 21st Annual Corporate Survey – Area Development Magazine, December 2006 (provided to the Topeka Chamber by Bernie Koch, Wichita Chamber of Commerce)

Assessment & Taxation
Date 2-15-07
Attachment # 8

21ST ANNUAL CORPORATE SURVEY

FIGURE 25

Combined Ratings* of 2006 Factors

SITE SELECTION FACTORS Ranking		2005	2006
1.	Labor costs	87.9	95.0
2.	Highway accessibility	91.4	90.9
3.	Corporate tax rate	85.0	90.8
4.	State and local incentives	86.0	88.6
5.	Availability of telecommunications services	79.8	88.3
6.	Tax exemptions	83.6	86.7
7.	Occupancy or construction costs	83.7	85.5
8.	Availability of skilled labor	87.2	85.1
9.	Energy availability and costs	82.8	82.4
10.	Availability of high-speed Internet access	85.7	82.1
11.	Cost of land	79.1	79.2
12.	Low union profile	77.0	78.4
13.	Proximity to major markets	83.2	76.9
14.	Availability of land	75.0	73.3
15.	Environmental regulations	71.1	68.9
16.	Right-to-work state	69.7	67.1
17.	Availability of unskilled labor	50.6	65.3
18.	Raw materials availability	62.3	64.1
18T.	Availability of long-term financing	56.5	64.1
19.	Accessibility to major airport	50.0	61.4
20.	Training programs	59.6	56.0
21.	Proximity to suppliers	66.7	49.3
22.	Proximity to technical university	30.2	30.0
23.	Railroad service	28.9	20.8
24.	Waterway or oceanport accessibility	20.2	17.0

QUALITY-OF-LIFE FACTORS Ranking			
1.	Low crime rate	67.8	70.8
2.	Ratings of public schools	56.8	64.4
3.	Housing costs	60.0	63.9
4.	Health facilities	62.1	60.8
5.	Housing availability	59.3	54.4
6.	Climate	46.5	48.6
7.	Colleges and universities in area	46.0	44.6
8.	Recreational opportunities	44.8	43.7
9.	Cultural opportunities	48.8	41.4

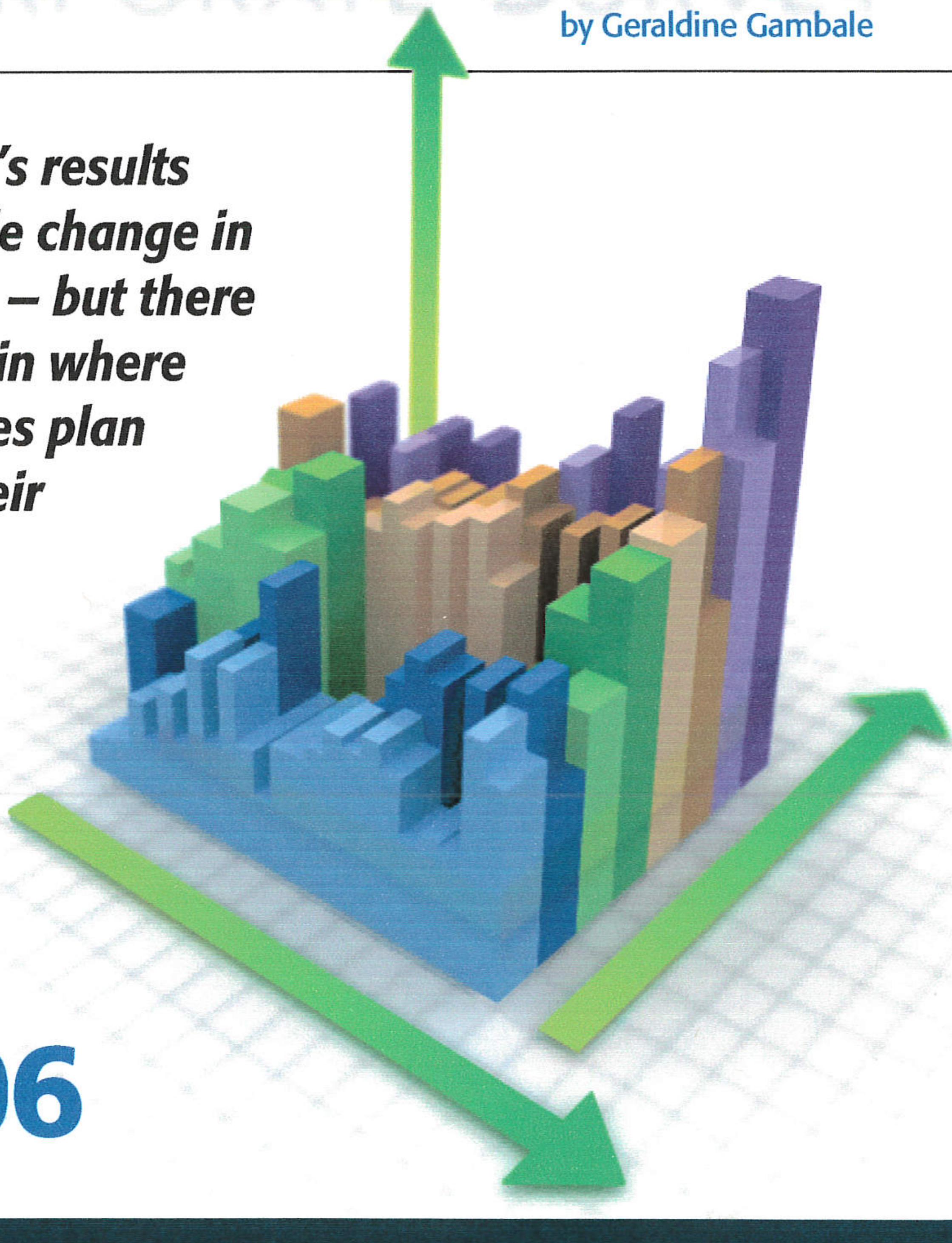
*All figures are percentages and are the total of "very important" and "important" ratings of the *Area Development* Corporate Survey and are rounded to the nearest tenth of a percent.

Assessment & Taxatio
Date 2-15-09
Attachment # 9

21ST ANNUAL CORPORATE SURVEY

by Geraldine Gambale

This year's results show little change in priorities – but there is a shift in where companies plan to put their facilities.



2006

AREA DEVELOPMENT
SITE AND FACILITY PLANNING

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21ST ANNUAL CORPORATE SURVEY

As 2006 winds down, so has the economy. According to advance estimates released by the Bureau of Economic Analysis at the end of October, real GDP — the output of goods and services produced in the United States — only increased by an annual rate of 1.6 percent in the third quarter of 2006. GDP had increased by 5.6 percent in the year's first quarter, slowing to 2.6 percent in the April–June period, and now slowing even further, apparently, over the summer months.

FIGURE 1

Current operations of respondent companies:

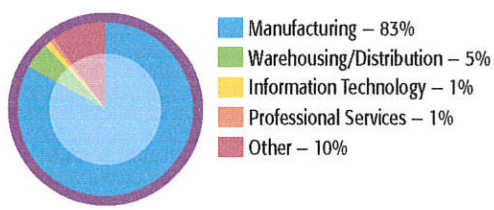
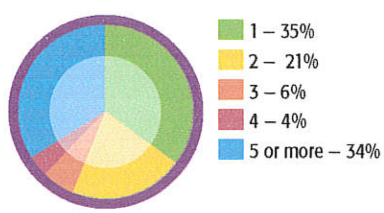


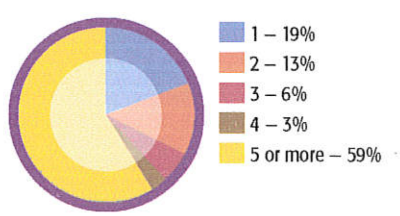
FIGURE 2

Number of facilities currently operated by respondents worldwide:

Domestic



Foreign



Economists as well as the National Association of Manufacturers (NAM) attribute this moderating growth primarily to the downturn in the housing market. In fact, NAM representatives note that if residential investment is excluded, the economy actually grew by 2.7 percent in the third quarter, nearly identical to second quarter growth. NAM further notes that over the last four quarters, business investment has increased 8 percent and merchandise exports have risen 11 percent. Notably, manufacturers account for nearly two-thirds of exports, and this is one reason why manufacturing output has risen 6.2 percent over the past year — more than double the percent pace of the overall economy. In fact, NAM notes that manufacturing sectors that are closely connected with exports and business investment, e.g., machinery and electronics, have gained more than 170,000 jobs over that period.

Notwithstanding NAM's optimism, the Conference Board recently presented a more pessimistic outlook. The business research group said that CEO confidence had fallen to 44 in the third quarter, as compared to 50 in the second quarter; this was the first time the index had fallen below 50 in nearly five years (it was at 40 post-9/11/2001). A rating below 50 signifies more negative than positive responses.

According to Lynn Franco, a Conference Board research director, "The lack of confidence expressed by CEOs is a result of [not only] the recent slowdown…[but

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also] expectations that this lackluster pace of growth will carry over into the beginning months of 2007." The board's survey found that only 16 percent of chief executives expect economic conditions to improve in the coming months — down from 21 percent that felt that

FIGURE 3

Number of employees (all facilities):

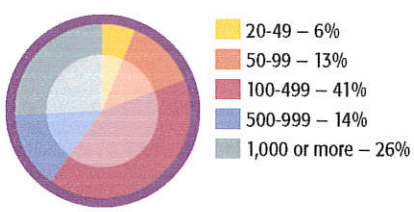
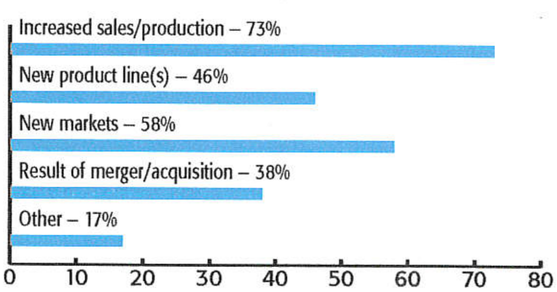


FIGURE 4

Change in the number of facilities during the past 12 months:

FIGURE 5

Primary reasons for increasing number of facilities:



way in the second quarter of 2006. Additionally, fewer than half of the 60 senior manufacturing executives recently interviewed by PricewaterhouseCoopers are optimistic about the state of the U.S. economy over the next 12 months — down from 76 percent who were optimistic just six months prior.

So which prognosticators are correct? In order to find out — as we have done for the past 20 years — *Area Development*'s editors surveyed the magazine's corporate readership this past August to find out about their plans to open up new facilities at home and abroad, expand existing facilities, and/or relocate. We also asked about their site selection priorities so that we could gauge how they had changed over the last year. The results of our 2006 Corporate Survey are presented in this report.

Who Are They?

As in years past, more than four-fifths of the respondents to our survey are with manufacturing companies. Only 5 percent said they represented warehousing/distribution firms (Figure 1).

Thirty-five percent of the respondent companies operate just one domestic facility, about a fifth operate two, while more than a third have five or more facilities in operation. When it comes to foreign operations, however, 59 percent of the respondents that operate foreign facilities have five or more, with about a fifth having just one (Figure 2).

For the most part, the respondent companies are

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mid-size or large in terms of employment. More than 40 percent employ 100–499 people at all facilities, 14 percent have 500–999 employees, and more than a quarter employ 1,000 or more (Figure 3).

There has been a decline in the number of respondent firms increasing their number of facilities. This year, 25 percent said they had increased their number of facilities over the past 12 months, as compared with 29 percent citing an increase in facilities in the 2004 and 2005 surveys. However, only 10 percent of this year's respondents reported a decrease in their number of facilities over the past 12 months — fewer than the 13 percent in 2005 and 17 percent in 2004 making such a claim (Figure 4).

Nearly three-quarters of the respondents reporting an increase in their number of facilities said it was due to increased sales/production. More than half said they were serving new markets, and nearly half had new product lines (Figure 5).

Of those who said they had decreased their number of facilities, nearly two thirds said this was in response to a consolidation of existing operations. Importantly, a full three quarters said they needed to lower operating and labor costs (Figure 6).

Forty-five percent of the respondents to our 2006 Corporate Survey are involved in their companies' final location decision. And another 50 percent are either involved in the preliminary location decision or information gathering (Figure 7). These respondents are at high levels within their firms: 41 percent are the chairpersons, CEOs, or owners; and a third are corporate officers (Figure 8). Knowing the respondents' level of involvement in the site selection process makes their facilities projections for the coming years — which follow below — quite credible.

FIGURE 6

Primary reasons for decreasing number of facilities:

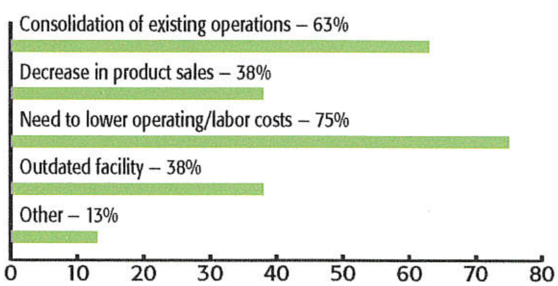


FIGURE 7

Primary role in company's location decisions:

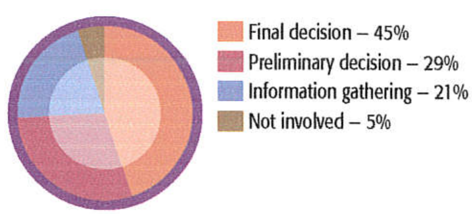
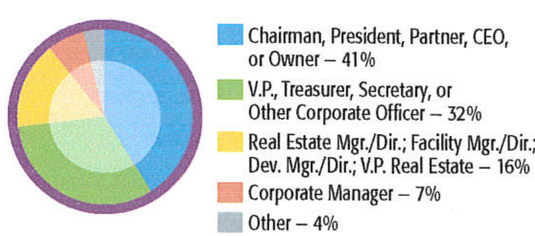


FIGURE 8

Title of respondents:



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21ST ANNUAL CORPORATE SURVEY

FIGURE 9

Expect to open new facilities within:

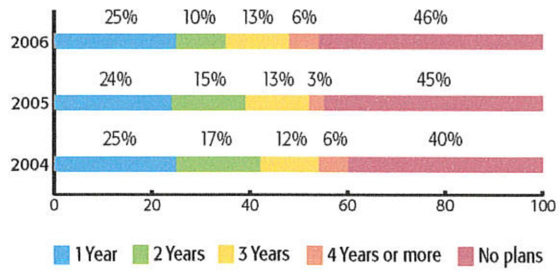


FIGURE 10

Of those with plans, number of new facilities to be opened within the next five years:

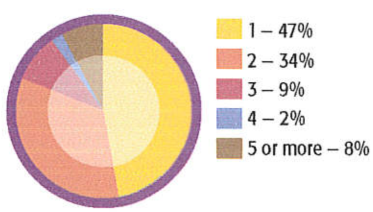
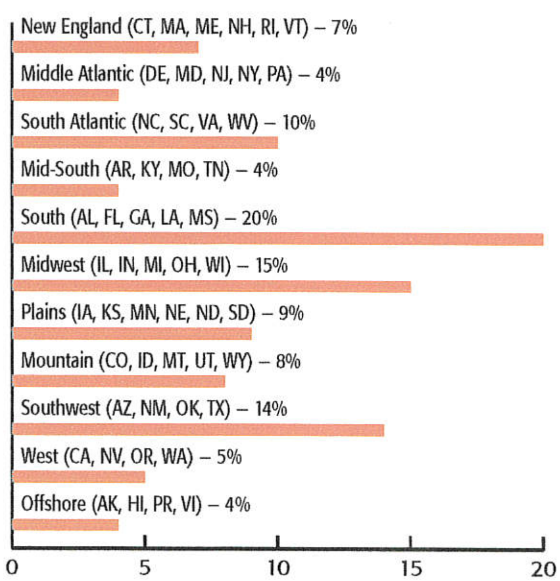


FIGURE 11

Location of new domestic facilities:
(as a percentage of total projects)



What Are Their New Facilities Plans?

This year's survey respondents' plans for new facilities are comparable to those of last year's survey respondents' (Figure 9). A quarter of the 2006 Corporate Survey respondents expect to open up new facilities within one year; another 23 percent expect to do so within two to three years; and 6 percent within four years or more. Of those with plans, about half will open just one facility, and another third will open two (Figure 10).

The South (Alabama, Florida, Georgia, Louisiana, Mississippi) is the leading choice for their new domestic facilities — 20 percent of the survey respondents' new facilities are headed to this region, as compared with

FIGURE 12

Types of new domestic facilities to be opened:
(as percentage of total projects)

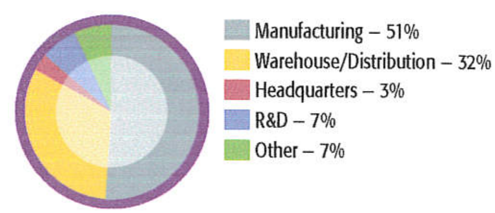
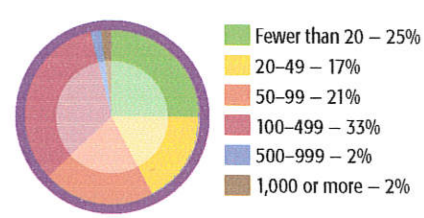


FIGURE 13

Total number of new jobs to be created at new domestic facilities:



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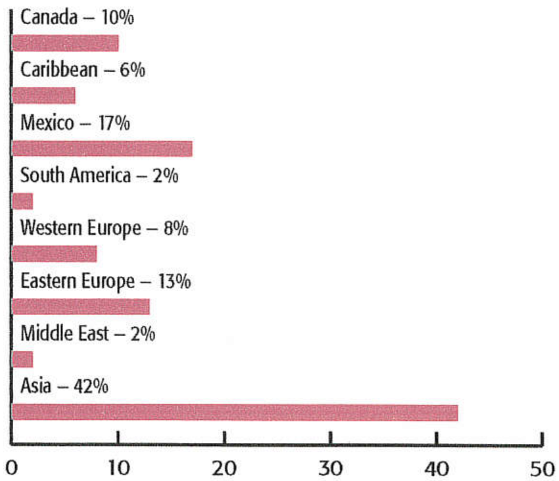
21ST ANNUAL CORPORATE SURVEY

FIGURE 14

Location of new foreign facilities:
(as a percentage of total projects)



just 10 percent headed there according to last year's survey respondents. The second location of choice for new facilities is the Midwest (Illinois, Indiana, Michigan, Ohio, Wisconsin), which will garner 15 percent of the projects. Closely following at 14 percent is the Southwest (Arizona, New Mexico, Oklahoma, Texas) — a region that was last year's survey respondents' top pick, expected to receive 16 percent of their new facilities. The West (California, Nevada, Oregon, Washington), which was in the number-two spot last year (expected to garner 13 percent of the projected new facilities) has dropped considerably in favor, with only 5 percent of the 2006 survey respondents' planned new facilities slated for this region (Figure 11).

About half of the new domestic facilities will be manufacturing plants, and nearly a third will serve as warehouse/distribution centers (Figure 12). Unfortunately, our 2006 survey respondents' new domestic facilities will not be huge job creators. More than 60 percent of the respondents will create fewer than a total of 100 jobs at the projected new domestic facilities. Only a third will create 100–499 jobs, and a mere 4 percent expect to add 500+ jobs to their U.S. work forces via these new facilities (Figure 13).

Asia is once again far and away the leading recipient of our respondents' planned new foreign facilities. It will receive 42 percent of the projects (up from 34 percent last year). And our 2006 Corporate Survey respondents are also making plans for new facilities in Mexico — which is expected to garner 17 percent of the new foreign facilities, down from 19 percent last year — and Eastern Europe, which will receive 13 percent of the projects, compared with just 10 percent last year. Interest in Canada (10 percent of the new facilities) and Western Europe (8 percent) is fairly consistent with last year's survey responses (Figure 14).

Nearly two-thirds of these new foreign facilities will be manufacturing operations, and about a fifth will house warehouse/distribution operations (Figure 15). Nearly 60 percent of the survey respondents say their new foreign facilities will create fewer than 100 jobs in total; another 35 percent, however, claim they will create 100–499 jobs at these new foreign facilities, and 7 percent expect to add more than 500 positions all told (Figure 16). Nearly half of these offshore jobs will require lower manufacturing skills, with another 36 percent expected to require higher manufacturing skill levels (Figure 17).

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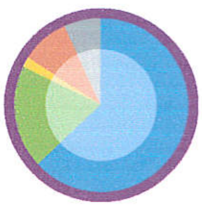
Last year, the respondents to our Corporate Survey said they were placing 48 percent of the facilities they

FIGURE 15

Types of new foreign facilities to be opened:
(as percentage of total projects)



planned for Asia in China (PRC). That number is up to 59 percent. Another fifth of the Asian facilities slated by the 2006 Corporate Survey respondents will go to India, and another 22 percent to other Asian nations, including Japan, Malaysia, South Korea, Thailand, and Vietnam (Figure 18).

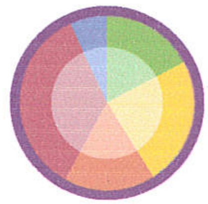
Unfortunately, operating in Asia has not gotten any easier for those planning new facilities in that part of the world. More than half of the respondents who expect to open up new Asian facilities say they have already encountered or anticipate problems operating in the Asian social/culture milieu. Nearly half say they also expect to grapple with regulatory problems. A fifth also believe they will face skilled labor shortages and problems with the transportation infrastructure (Figure 19).

Are They Expanding and/or Relocating?

The percentage of corporate survey respondents planning an expansion within one year is the same this

FIGURE 16

Total number of new jobs to be created at new foreign facilities:



year as last — 22 percent. Long-range expansion plans have also remained consistent at 32 percent (Figure 20).

Nearly 80 percent of the 2006 Corporate Survey respondents said their companies' expansions would create fewer than 100 jobs; and fewer than one-fifth of the respondents said the expansions are expected to be mid-size in terms of employment, creating 100–499 jobs in total (Figure 21).

Relocation activity, however, is showing an uptick: 22 percent of the 2006 Corporate Survey respondents expect to relocate a domestic facility within two years, as compared with only 16 percent making such projections last year. And twice as many — 14 percent — have three-year relocation plans this year as last (Figure 22).

Nearly 30 percent of those planning relocations will do so to be in closer proximity to suppliers and/or markets served; a fifth need to reduce labor costs; and nearly 20 percent also need to reduce operating/occupancy costs (Figure 23).

What Are Their Priorities?

In order to find out how our corporate executive readers make their location decisions, each year the editors of *Area Development* ask our survey-takers to rate a series of site selection factors as either "very impor-

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FIGURE 17

Types of jobs at new foreign facilities:
(as percentage of total jobs)

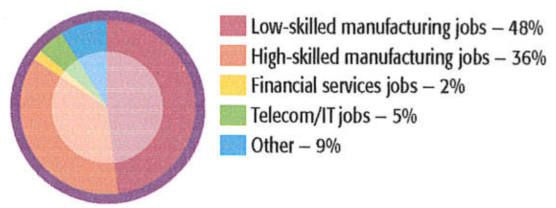


FIGURE 18

Where new facilities are planned for Asia:

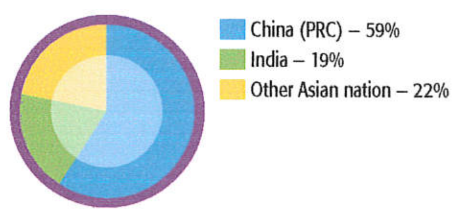
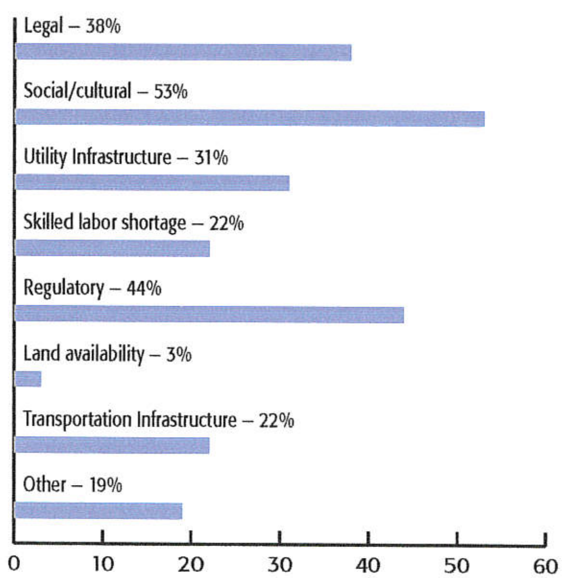


FIGURE 19

Problems encountered/anticipated when operating in Asia:



tant," "important," "minor consideration," or "of no importance" (Figure 24). We then add the percentage of respondents rating a factor as either "very important" or "important" in order to rank the factors in order of importance to the location decision. Quality-of-life factors are ranked separately from the other site selection factors. This year's rankings appear in Figure 25.

Invariably, *labor costs* and *highway accessibility* are ranked by our corporate survey-takers as the two most important factors in the location decision, and this year is no exception. *Labor costs* is ranked as the number-one factor, considered "very important" or "important" by 95 percent of the survey respondents. *Highway accessibility* is ranked second, considered "very important" or "important" by 90.9 percent of the survey respondents.

Although *labor costs* gained 7.1 percentage points over last year's rating, it only moved up one place in the rankings from second to first place. And *highway accessibility*, which lost a half of a percentage point in the ratings, slipped down one spot from first to second place in the rankings. In other words, regardless of percentage, these two factors are still ranked higher than all the others.

More significant is the movement of the *corporate tax rate* factor, which received a 90.8 rating this year — up 5.8 percentage points over last year — and moved from sixth to third place in rankings. Site selectors look very carefully at *corporate tax rate* when comparing locations in the United States or in deciding whether to

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move offshore. In fact, in November 2005, The Tax Foundation released a study showing that the United States had the highest overall corporate income tax rate (39.4 percent combined federal and sub-federal) of all countries in the Organization for Economic Cooperation and Development (OECD).

This may explain why *state and local incentives* held its fourth-place ranking this year, receiving an 88.6 percent rating in importance from our survey respondents, actually up from 86 percent last year. And, *tax exemptions* jumped up two places in the rankings to sixth place this year, with an 86.7 percent rating, up from 83.6 percent in 2005.

Some 47 percent of the corporate survey respondents consider tax incentives the most important type of incentive when making a location decision; 29 percent of the respondents look for financial incentives like grants and loans; and about a quarter consider other incentives like free land, infrastructure support, and training as most important (Figure 26).

In fifth place in the rankings is *availability of telecommunications services,* receiving an 88.3 percent rating. This factor was in 11th place last year but gained 8.5 percentage points and six places in the rankings. However, *availability of high-speed Internet access* dropped from its fifth place position in 2005, with an 85.7 rating, to 10th place this year, with 82.1 percent of the survey respondents rating this factor as either "very important" or "important." This year's respondents seem to have rated Internet access as a sub-factor of telecommunica-

FIGURE 20

Expect to expand existing facilities at present location within:

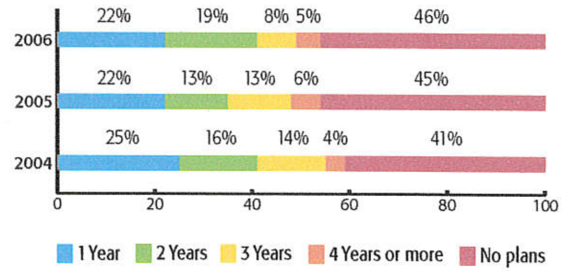


FIGURE 21

Total number of new jobs to be created by company's expansion(s):

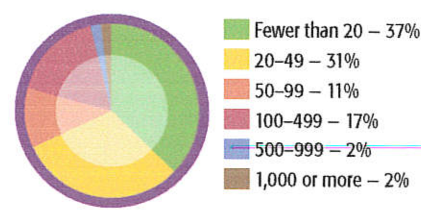


FIGURE 22

Expect to relocate a domestic facility within:

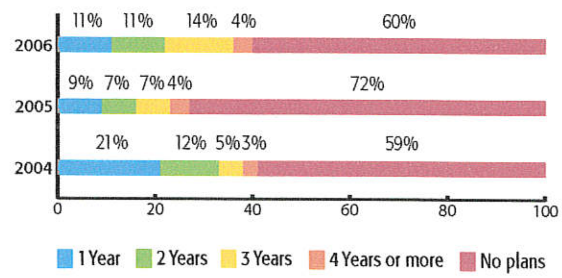
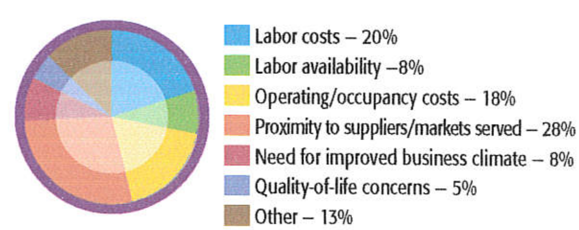


FIGURE 23

Primary reason for planning a relocation:



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21ST ANNUAL CORPORATE SURVEY

FIGURE 24

SITE SELECTION FACTORS

Labor	Very Important %	Important %	Minor Consideration %	Of No Importance %
Availability of skilled labor	46.3	38.8	13.8	1.2
Availability of unskilled labor	29.3	36.0	26.7	8.0
Training programs	9.3	46.7	36.0	8.0
Labor costs	52.5	42.5	3.8	1.2
Low union profile	51.4	27.0	14.9	6.8
Right-to-work state	37.1	30.0	22.9	10.0
Transportation/Telecommunications				
Highway accessibility	40.3	50.6	7.8	1.3
Railroad service	6.9	13.9	38.9	40.3
Accessibility to major airport	10.7	50.7	21.3	17.3
Waterway or oceanport accessibility	8.5	8.5	32.4	50.7
Availability of telecommunications services	28.6	59.7	10.4	1.3
Availability of high-speed Internet access	44.8	37.3	13.4	4.5
Finance				
Availability of long-term financing	30.8	33.3	21.8	14.1
Corporate tax rate	40.8	50.0	6.6	2.6
Tax exemptions	42.7	44.0	9.3	4.0
State and local incentives	45.7	42.9	8.6	2.9
Other				
Proximity to major markets	39.7	37.2	19.2	3.8
Cost of land	24.7	54.5	18.2	2.6
Availability of land	17.3	56.0	22.7	4.0
Occupancy or construction costs	26.3	59.2	13.2	1.3
Raw materials availability	28.2	35.9	24.4	11.5
Energy availability and costs	40.5	41.9	13.5	4.1
Environmental regulations	27.3	41.6	27.3	3.9
Proximity to suppliers	15.1	34.2	42.5	8.2
Proximity to technical university	5.7	24.3	41.4	28.6

QUALITY-OF-LIFE FACTORS

Climate	11.1	37.5	36.1	15.3
Housing availability	17.6	36.8	35.3	10.3
Housing costs	20.8	43.1	26.4	9.7
Health facilities	18.8	42.0	27.5	11.6
Ratings of public schools	11.0	53.4	24.7	11.0
Cultural opportunities	7.1	34.3	48.6	10.0
Recreational opportunities	9.9	33.8	43.7	12.7
Colleges and universities in area	13.5	31.1	39.2	16.2
Low crime rate	23.6	47.2	18.1	11.1

*All figures are percentages and are rounded to the nearest tenth of a percent.

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FIGURE 25

Combined Ratings* of 2006 Factors

SITE SELECTION FACTORS

Ranking		2005	2006
1.	Labor costs	87.9	95.0
2.	Highway accessibility	91.4	90.9
3.	Corporate tax rate	85.0	90.8
4.	State and local incentives	86.0	88.6
5.	Availability of telecommunications services	79.8	88.3
6.	Tax exemptions	83.6	86.7
7.	Occupancy or construction costs	83.7	85.5
8.	Availability of skilled labor	87.2	85.1
9.	Energy availability and costs	82.8	82.4
10.	Availability of high-speed Internet access	85.7	82.1
11.	Cost of land	79.1	79.2
12.	Low union profile	77.0	78.4
13.	Proximity to major markets	83.2	76.9
14.	Availability of land	75.0	73.3
15.	Environmental regulations	71.1	68.9
16.	Right-to-work state	69.7	67.1
17.	Availability of unskilled labor	50.6	65.3
18.	Raw materials availability	62.3	64.1
18T.	Availability of long-term financing	56.5	64.1
19.	Accessibility to major airport	50.0	61.4
20.	Training programs	59.6	56.0
21.	Proximity to suppliers	66.7	49.3
22.	Proximity to technical university	30.2	30.0
23.	Railroad service	28.9	20.8
24.	Waterway or oceanport accessibility	20.2	17.0

QUALITY-OF-LIFE FACTORS

Ranking		2005	2006
1.	Low crime rate	67.8	70.8
2.	Ratings of public schools	56.8	64.4
3.	Housing costs	60.0	63.9
4.	Health facilities	62.1	60.8
5.	Housing availability	59.3	54.4
6.	Climate	46.5	48.6
7.	Colleges and universities in area	46.0	44.6
8.	Recreational opportunities	44.8	43.7
9.	Cultural opportunities	48.8	41.4

*All figures are percentages and are the total of "very important" and "important" ratings of the *Area Development* Corporate Survey and are rounded to the nearest tenth of a percent.

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tions services in general, and this may account for the "swap" in the rankings of these two factors.

Occupancy and construction costs remained in seventh place in the rankings but actually gained 1.8 percentage points in the ratings, with an 85.5 percent combined rating. This factor is traditionally given an upper-middle position, perhaps because its importance is variable depending on the type of project being considered — e.g., assembly line or specialized manufacturing process, warehouse/distribution center, offices, etc. — as well as the region being looked at. Construction costs can vary widely across the nation.

Interestingly, the *availability of skilled labor* factor fell from third to eighth place in the 2006 rankings. Last year it received an 87.2 percent rating in importance, as compared with 85.1 percent this year. According to site location consultants, labor skills are carefully evaluated once a community gets short-listed and then they can become an overriding factor in the location decision.

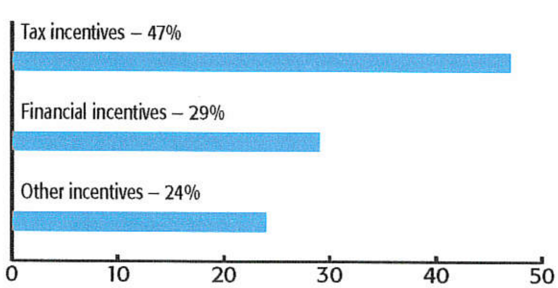
More interesting is the fact that *availability of unskilled labor* had the second-highest gain — advancing 14.7 percentage points to 65.3 percent in importance — and moving up in the rankings from 21st to 17th place. This may be a reflection in the rise of the number of college graduates in the United States. Skilled workers are defined as those having a college degree or greater. Meanwhile, unskilled workers are those with just a high school diploma who are willing to take that hourly, entry-level job. Even these unskilled workers, however, must have good reading, math, and communication skills and an aptitude to learn. Perhaps it is this group of "unskilled" individuals whom the respondents are having a hard time finding.

Moving up just one spot in the rankings to ninth place is *energy availability and costs*, which was rated as "very important" or "important" by 82.4 percent of the survey respondents. Energy costs have remained high over the last year and so has the importance of this factor.

If we look at the factors that did not make the top 10, those showing significant changes involve market and supplier proximity and the means of reaching both. *Proximity to major markets* lost 6.3 percentage points in importance and ranked 13th this year with a 76.9 percent combined rating, as compared to ninth last year. *Proximity to suppliers* exhibited the largest change among all the factors, dropping 17.4 percentage points. This year only 49.3 percent of the survey respondents rated proximity to suppliers as either "very important" or "important" and it dropped from 17th to 21st in the

FIGURE 26

Type of incentives considered most important when making a location decision:



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rankings. And *railroad service* and *waterway or oceanport accessibility* took the last two spots among the factors — just as they did in 2005. However, they both decreased in importance. *Railroad service* lost 8.1 percentage points and *waterway or oceanport accessibility* lost 3.2 percentage points. *Accessibility to major airport,* on the other hand, gained 11.4 percentage points, with 61.4 percent of the 2006 Corporate Survey respondents rating this factor as "very important" or "important" as compared to only 50 percent of the 2005 survey respondents giving it a similar rating.

It is quite surprising that this year's survey respondents did not place more importance on the supplier and market proximity factors as well as the factors related to rail and water transport, considering the increasing importance of international trade. Perhaps those

Analysis of the 2006 Corporate Survey

By Les J. Cranmer, Senior Managing Director, and Art M. Wegfahrt, Corporate Managing Director, Studley, Inc.

In comparing this year's survey to those from past years, at a macro level, not much has changed. Simply stated, over the past five years:

- the top-three ranked factors have always been in the top-four rankings (except for 2005);
- the bottom-three factors have always been in the bottom-three rankings;
- 15 of the top-15 ranked factors have not changed;
- eight of the top-10 factors have always been the same; and
- the factors rarely change more than 3–4 percentage points from the previous year's selections.

Although the order of the ranking has not changed much, the 2006 results have seen several factors change in the percentage of respondents indicating "very important" or "important" in their weighting selections. Specifically, *labor costs* increased seven percentage points, *corporate tax rate* increased about six percentage points, and *availability of telecommunications services* increased 8.5 points. Again, it is fairly typical to see a 3–5 percent fluctuation; therefore, there is obviously a serious focus on these issues. The focus on low operating costs — criteria ratings as well as reasons for decreasing facilities — and the dramatic jump in importance of *availability of unskilled labor* (50 percent up to 65 percent) especially in China points to the current economic climate of the continuing importance of product cost margins.

This survey is dominated by the manufacturing, warehouse, and distribution sectors (combined 88 percent of respondents) and, therefore, overwhelmingly reports the current preferences of American manufacturers involving the business of making and/or moving goods. Based on this consideration, it is curious (if not surprising) that more change is not being reported relative to the importance of proximity to deepwater ports and rail service (these two factors are always ranked last and next to last). The dramatic growth of international trade is certainly causing significant modifications to supply-chain thinking — including significant volume increase in port and rail service.

If one were to contrast these manufacturing/distribution-sector–oriented results to the methods and factors commonly utilized on service-sector site selection projects, one key consideration stands out as being drastically different. The fact that the majority of all respondents indicate that they do not place much importance on the fact that similar employers (or jobs) may be in the target area (53 percent said they do not even consider this piece of data) suggests that interviews with competing local employers are not a method used during due diligence. This technique is a critical component of the service-sector location consideration — in order to collect real time current compensation, union election activity, and recruiting practices to calculate comparative operating costs.

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responding to our 2006 Corporate Survey are primarily manufacturers of high-value added products, with parts and finished goods being shipped by air as opposed to other means. This is one possible explanation for the results.

Finally, with interest rates having risen over the last year, our corporate survey respondents are concerned with the *availability of long-term financing.* This factor

Analysis of the 2006 Corporate Survey

By Buzz Canup, President, Site Selection Services, Angelou Economics

In reviewing the 2006 Corporate Survey results against the 2005 results, one immediately noticeable observation was that nine of the top-10 factors for 2005 were also included in the top-10 factors for 2006. While the rank order changed to some degree, the only top-10 factor from 2005 not included in the top-10 for 2006 was *proximity to major markets*, and it was replaced with *availability of telecommunications services.*

In fact, if one examines the Annual Corporate Survey results back to the year 2000, a significant trend is evident. There are four factors that are included in the top-five rankings every year except for 2001 and 2006. Those four factors are *labor costs, highway accessibility, state and local incentives,* and *availability of skilled labor.* Interestingly, each of these four factors has been ranked first at least once since the 2000 survey.

A further examination of results back to the 2000 survey reveals another significant trend. There are four additional factors that are consistently included in the second half of the top 10. These additional factors are *tax exemptions, occupancy or construction costs, energy availability and costs,* and *corporate tax rate.* The other factors that have moved in and out of the top 10 since 2000 are *cost of land, proximity to major markets, availability of telecommunications services, availability of high-speed Internet access,* and *environmental regulations.* These findings provide strong evidence that while the rating of factors may vary slightly from year to year, the overriding factors driving site location decisions have remained fairly constant.

Other findings of significance from the survey include the following:

- 63 percent of companies decreasing their number of facilities have done so due to consolidation, and 75 percent have done so to lower operating and labor costs. A large number of companies are pursuing similar strategies in an attempt to reduce real estate costs within their portfolios.
- 48 percent of companies indicate they will open a new facility within the next three years, an indication of the continuing strength and growth of the economy, both domestic and international.
- Foreign investment by U.S. and multinational corporations continues to flow more heavily to Asia, India, and Mexico. The percentage of companies planning to invest in China increased from 48 percent last year to 59 percent this year, a very significant shift. However, companies continue to acknowledge the challenges of social and cultural differences (53 percent), regulatory problems (44 percent), and potential legal issues (38 percent) in locating operations in Asia.
- A significant number of companies continue to initiate their site location studies looking for existing buildings (78 percent this year compared to 73 percent last year). The speed with which companies want to conduct their site location study and initiate operations is driving the preference for existing facilities.

All in all, there were not any surprises in this year's annual survey. The survey did, however, reinforce the continuing importance of certain site location factors identified in the top-10 factors as described above. These findings are very much in line with the factors and priorities set by our clients in performing site location studies.

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gained 7.6 percentage points and was rated 64.1 percent in importance, moving it up two spots in the rankings to 18th place this year.

When it comes to quality-of-life factors, *low crime rate* is the top-rated factor, as it has been over the 21-year course of our survey. After dipping to fifth place in the rankings in 2005, *ratings of public schools* gained the number-two spot this year, followed by *housing costs, health facilities,* and *housing availability,* which were also top-rated quality-of-life factors in 2005. Obviously, these five quality-of-life factors are more important than *climate* or *cultural* and *recreational opportunities.*

There are a few other considerations that companies have when site selecting. First, are they looking to be in proximity to businesses performing similar activities to their own? More than half of the Corporate Survey respondents (53 percent) said this was not a factor (Figure 27). However, 28 percent claim to meet with representatives of area businesses similar to theirs when making site visits — less than half the percentage that meet with community representatives (Figure 28).

Meanwhile, more than three-quarters of the respondents do consider whether there are available buildings at the locations under scrutiny (Figure 29). Of these, 68 percent say this factor is more or equally important to other site selection factors (Figure 30).

Where Do They Get Their Information?

The Internet is still our survey-takers' prime source of site selection information (used by 59 percent of the respondents). However, this is closely rivaled by site magazines: 57 percent of the respondents say they rely

FIGURE 27

Does firm consider whether there are businesses performing similar activities in the area of search?

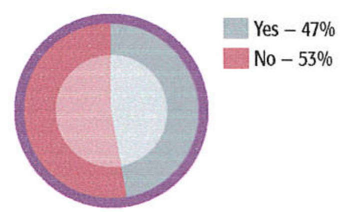

FIGURE 28

Individuals with whom you meet when making site visits:

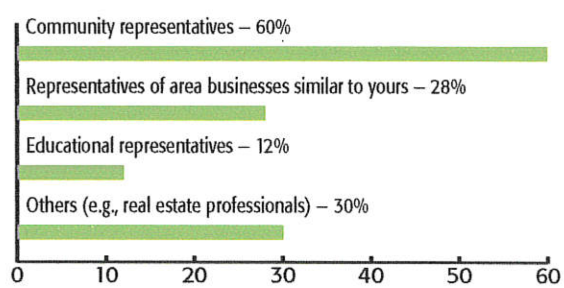

FIGURE 29

Are available buildings at locations under consideration a factor in the location decision?

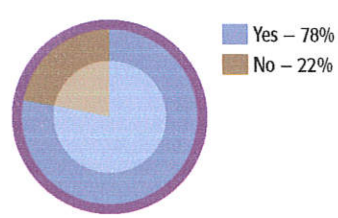

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FIGURE 30

Importance of an available building in the location decision:

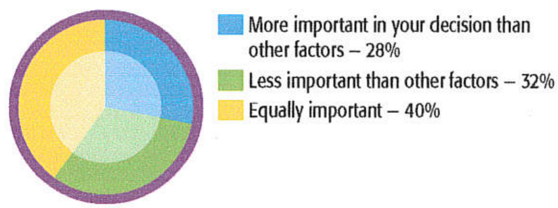


FIGURE 31

Sources of site selection information used during the past year:

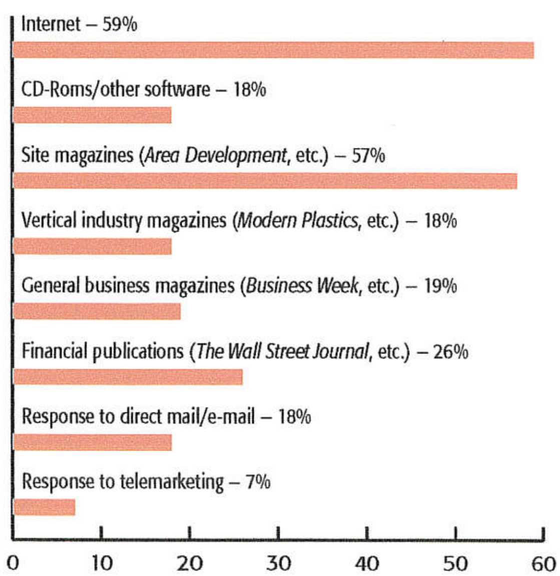
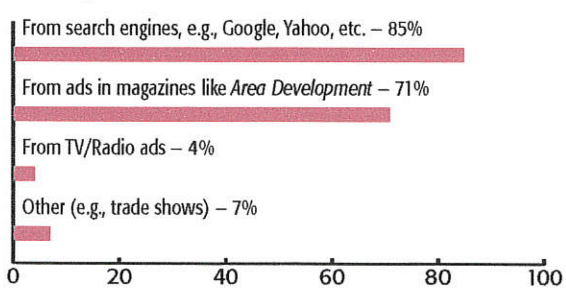


FIGURE 32

Of those who use the Internet to make site and facility planning decisions, sources of website addresses:



on magazines like *Area Development* for information when making location decisions (Figure 31).

Of those who use the Internet, 85 percent obtain website addresses of the locations they are considering from search engines like Google or Yahoo. It follows that more than 70 percent get the addresses from magazines like ours (Figure 32).

Nearly 70 percent of the survey respondents find economic development websites to be most useful; nearly 60 percent also find site magazines like *Area Development* most useful; and 45 percent rely on real estate or location directories as well (Figure 33).

Importantly, two-thirds of the 2006 Corporate Survey respondents do not use outside consultants when site selecting (Figure 34). When we look at the results of our Third Annual Consultants Survey that follow, this will help to explain the incongruities between the consultants' responses and those of our corporate survey-takers.

Where Do We Go From Here?

The 2006 Corporate Survey respondents' plans and concerns seem to reflect the moderating growth of the U.S. economy. As previously stated, the softening in the housing market and rising energy prices have led to a blip in general business confidence.

One bright spot on the horizon, however, is interest rate stabilization. Increases in the prime rate had put a damper on borrowing, but if the Fed begins to lower interest rates — now that concerns about inflation have abated — there may be a rise in business confidence

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Analysis of the 2006 Corporate Survey

By Phil Schneider, Partner, Deloitte Consulting, Practice Lead for Global Expansion Optimization (GEO)

First, I see that 83 percent of the respondents are in manufacturing, more than half of the respondents have two or fewer domestic facilities (though nearly 60 percent of the respondents have five or more foreign facilities), and only 25 percent of them have actually put in a new location in the last year — this will naturally skew the answers and affect the ranking in importance of some of the factors.

It's no surprise to see *labor costs* as the top factor. It is the top variable cost for most companies and drives so many projects, especially those going offshore. With ever-increasing pressure on manufacturers to lower prices, it is only natural that they will continue to seek lower labor costs. However, we do not see this pattern as much in very high-tech or capital-intensive projects where availability and quality of skills, market access, and taxes are key drivers.

Incentives are sort of double counted, with both *state and local incentives* and *tax exemptions* listed. Nonetheless, this tracks with what many clients say but, in the end, we find other issues are the true drivers and incentives are the differentiators among closely competitive candidates in the final phases. Industries where incentives and overall tax rates truly are the key drivers are those that throw off tremendous profit and/or have huge capital expenditures, such as bio-pharma and semiconductors.

I'm surprised that the *availability of telecommunications services* and *high-speed Internet access* were ranked so high, as these are rather ubiquitous — at least in the Western world. Telecom is a "must have," but nearly every location has it so it is rarely a differentiator or even a factor of consequence in my experience.

It's the same with *highway accessibility*. I agree that it is critical in the first phases of location screening, but it tends to act more as a check-off factor to narrow the field to a long list and isn't a factor in determining the short-list or final candidates as so many locations have good to excellent access. We find that customer access (i.e., time/cost to get product to customers) is the real driver, and highways are the facilitators within the defined zone. Those that don't have the access will, of course, be eliminated. However, *proximity to suppliers/markets* is the highest-rated reason for relocation at 28 percent versus 20 percent for second-place finisher, *labor costs* (Figure 23). That tracks with our experience, where those are the number-one and two issues, in that order.

Availability of skilled labor is, however, a big issue and has been for a long time. I am surprised it isn't rated even higher. It is disheartening to see *proximity to technical universities*, *training programs*, and *ratings of public schools* ranked relatively low, as these factors are key in providing skilled manufacturing and other talent within a market. This has become a serious Achilles heal for the United States and one that must be addressed if we have any hope of maintaining our manufacturing and process prowess.

I strongly suspect *energy availability and costs* are going to rise in importance in the next year. Already our clients are pushing this issue to the front, and it is even driving relocations for manufacturers escaping areas with rapidly escalating power costs. Along those lines, I wonder whether *railroad service* will gain more importance in the future as fuel costs continue to rise.

I'm surprised that *accessibility to a major airport* is ranked so low, as so many clients put that very high on the list as an early screen — just like *highway accessibility*. Often they want to be within two hours of a medium to large airport, or close to a smaller one with excellent connections to a large hub. It's more of a check-off factor or first-level screen. If the sample had fewer mid-sized manufacturers and more service providers and large global manufacturers, I suspect this factor would rise in importance.

I'm not surprised that *right-to-work state* continues to decline in importance; it's not nearly the issue it was 15–20 years ago.

Finally, I agree that quality-of-life factors such as *colleges in area* and *recreational and cultural opportunities* are low priorities for mid-scale manufacturers, but they rise in importance significantly for higher technologies, service operations, R&D, and headquarters operations.

The location choices offshore track pretty well with what we are seeing with our clients, i.e., a very heavy Asia focus, dominated by China, with interest in India on the rise, and some Southeast Asian countries now competing more strongly with China, such as Vietnam (and Singapore continues to do very well with semiconductors and bio-pharma), followed by Mexico (which has seen an up tick), and Eastern Europe. We have seen some new interest in the UAE given the relative safety for the region and very low energy costs, plus government inducements to attract manufacturing projects.

Notice that the percentage of high-skilled jobs going to offshore facilities is pretty high (36 percent) — low-skilled is still higher (48 percent), but high-skilled is definitely increasing all the time. More and more companies are going offshore to find these high skills at competitive rates, and this should really concern us as even our high-skilled base is quickly being hollowed out.

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and all businesses may begin to invest more. Additionally, if energy prices decline, this will further boost business confidence and investment.

A third-quarter survey by another business group, the National Association for Business Economics, shows a rebound in capital spending plans for 2007. Let's hope that this is the case and plans for new facilities and expansions come to fruition. If this holds true, manufacturers may enjoy a smooth — albeit not necessarily accelerating — ride.

FIGURE 33

Of those who use the Internet to make site and facility planning decisions, online sites found most useful:

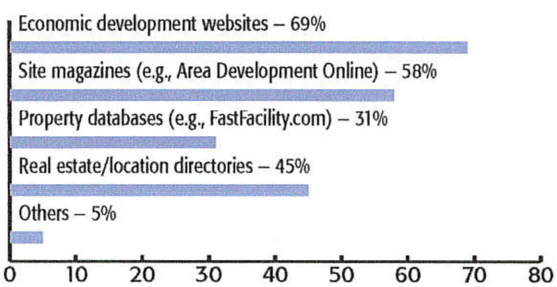
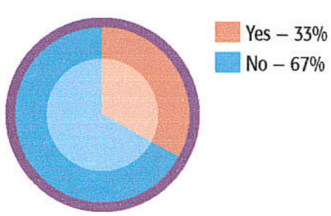


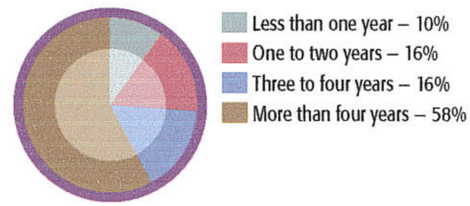
FIGURE 34

Does your company use outside consultants when site selecting:

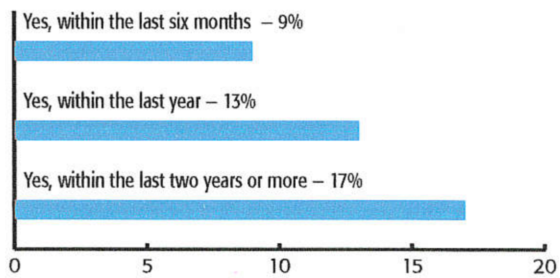


Readership Survey

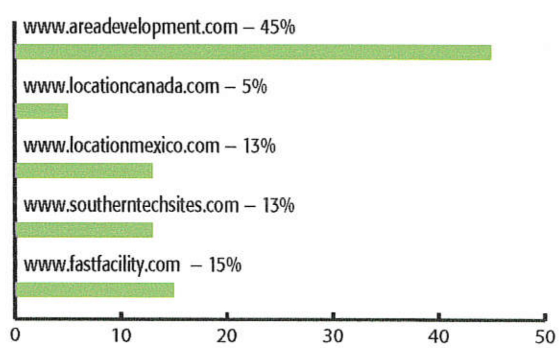
For how many years have you been reading *Area Development*?



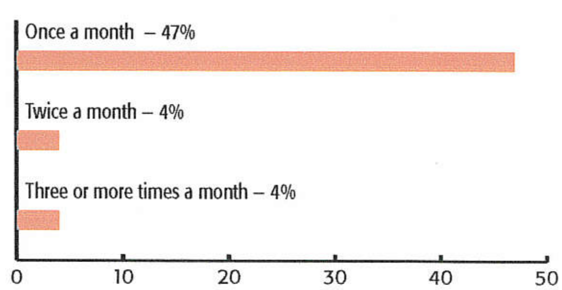
Have you recently used *Area Development* magazine for projects concerning site selection or facility planning?



Which of the following websites have you visited?



How often do you visit these sites?



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KANSAS
DEPARTMENT OF REVENUE

Kathleen Sebelius, Governor
Joan Wagnon, Secretary

www.ksrevenue.org

Testimony to the Senate Committee on Assessment and Taxation

Richard Cram

February 15, 2007

Senate Bill 334 - Statutory Changes Needed to Conform to Recent Amendments to the Streamlined Sales and Use Tax Agreement

Senator Allen, Chair, and Members of the Committee:

Since Kansas adopted legislation in 2003 to conform its sales tax administration laws to the uniformity requirements of the Streamlined Sales and Use Tax Agreement (Agreement) and became a Member State on the Governing Board in 2005, there have been several changes to the Agreement requiring additional uniformity provisions that Member States must adopt to retain full member status. The business community worked for these Agreement changes. The statutory changes that Kansas will need to adopt are highlighted below.

Exemption Administration

Sellers obtaining exemption certificates from purchasers are afforded greater liability protection.

K.S.A. 79-3691 is repealed (Section 13, page 57)--out-of-state retailer who does not have nexus with Kansas need not be registered as a Kansas retailer to claim the resale exemption when dealing with a vendor drop shipping the retailer's product to a Kansas customer.

K.S.A. 79-3609 is amended (Section 4, page 44)—retailers have 90 days from sale date to obtain exemption certificate from purchaser and 120 days from date of KDOR auditor's request for exemption certificates to prove transaction is exempt or to provide exemption certificate from purchaser.

K.S.A. 79-3651 is amended (Section 5, pages 46-47)--retailer relieved from liability for failure to collect sales tax when exemption certificate obtained from purchaser, except in limited circumstances. Also, purchaser can use blanket exemption certificate when there is a recurring business relationship between the buyer and seller.

Liability Relief for CSP's, Sellers and Purchasers

New Section 10 (pages 53-54) provides liability relief from tax, penalty and interest to purchasers for failure to pay the correct tax in reliance on erroneous data from the Department on tax rates, taxing jurisdiction boundaries, or in the taxability matrix.

New section 11 (pages 54-55) provides liability relief to a certified service provider (CSP) or model 2 seller for not collecting the correct tax if the secretary has certified the CSP's software program as adequately classifying product-based exemptions, and the CSP, as a certified automated system (CAS), or model 2 seller relied on that certification in making the error. CSP's are also afforded the same liability protection as sellers under the K.S.A. 79-3609 and 79-3651 amendments when taking exemption certificates from their purchasers.

Rates and Boundaries Database

K.S.A. 79-3668 is amended (Section 7, pages 48-50) to provide that once the Department has developed an address-based system for assigning taxing jurisdictions, CSP's and sellers are required to use that system, instead of the zip code database, which is less accurate. The Department can also certify a vendor-provided database, which a seller or CSP can use in place of the Department's database. Any database that the Department provides must be free of charge.

K.S.A. 79-3667 is amended (Section 6, pages 48-49) so that if the Department provides an address-based system for assigning taxing jurisdictions, CSP's and sellers are not given liability relief for errors resulting in reliance on the five-and nine-digit zip code database. The Secretary can extend liability relief for a designated time period to a seller demonstrating that it would create an undue hardship to rely on the address-based system.

Bundled Transactions

A "bundled" transaction involves the sale of two or more products for one non-itemized price and only some items in the "bundle" are taxable. As a general rule when that occurs, the entire transaction is deemed taxable. Only if the taxable and non-taxable portions of the price are broken out or itemized separately, would the tax be limited to the sale of the taxable items contained in the bundle. The business community worked closely with participating states to develop an acceptable definition for a bundled transaction and rules that narrow the situations when a bundled transaction exists.

New Section 12 (pages 55-56) contains the Agreement definition of "bundled transaction" and provides that only when a transaction fits within that definition will the non-itemized price for the bundle be fully taxable. There is a "typo" on page 56, line 32 of the bill: the first "or" should be "one."

K.S.A. 79-3602(ll) is amended (Section 1(ll), pages 7-8) to eliminate a provision in the definition of "sales or selling price" that would otherwise conflict with the

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"bundled transaction" definition. Also, uniform rules for how various types of discounts and coupons affect the sales price are added to the "sales price" definition.

Durable Medical Equipment Definition

The Department has treated certain prescribed oxygen delivery equipment, kidney dialysis machines, and enteral feeding systems as exempt prosthetic devices. However, the Agreement definition of "prosthetic device" adopted in 2003 imposed a requirement that a "prosthetic device" has to be "worn in or on the body." These items are not and more properly fit within the Agreement definition of "durable medical equipment," at K.S.A. 79-3606(hh). The sales tax exemption for "durable medical equipment" is limited to purchases by nonprofit skilled nursing homes or nonprofit intermediate nursing care homes. The Agreement permits states to separately exempt oxygen delivery equipment, kidney dialysis machines, and enteral feeding systems and exclude them from the definition of "durable medical equipment." K.S.A. 79-3606(r) (Section 3(r), page 21) and (hh) (Section 3(hh), page 25) are amended to exempt these items, when prescribed, and exclude them from the "durable medical equipment" definition.

Telecommunications Services

To obtain uniform terminology in sales tax statutes concerning telecommunications services, the telecommunications industry developed several technical definitions now included in the Agreement. A "telecommunications services" definition is provided for imposing sales tax on telecommunications. "Ancillary services," excluded from the "telecommunications services" definition, are defined, as are specific types of "ancillary services" and other technical terms. K.S.A. 79-3602 is amended (Section 1, pages 9-11) to adopt those definitions.

K.S.A. 79-3603(b), (t) and (u) the tax imposition statutes for telecommunications services, are amended (Section 2, pages 11-12, 16) to tax the telecommunications services and ancillary services that Kansas is currently taxing, and exempt those types of services that Kansas is currently exempting, using the new definitions.

The Agreement also contains a special "bundled transactions" rule applicable to telecommunication service, ancillary service, internet access, or audio or video programming service. When the "bundle" includes any one of these services, the portion of the price attributed to the nontaxable products is taxable unless the provider can identify the non-taxable portion of the price from its books and records. The old telecommunications "bundling" rule in K.S.A. 79-3603(b) (requiring the provider and the Department to enter into an agreement containing the provider's methodology for determining the taxable portion of the non-itemized price, and requiring the provider, upon request, to disclose to the consumer the price of the taxable portion of the services purchased) is deleted (Section 2, page 12) and replaced with new Section 12(c) (page56).

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Sections 8 (page 50) and 9 (pages 50-53) make some technical changes to the telecommunications sourcing statutes, K.S.A. 79-3670 and K.S.A. 79-3673, to conform to the new Agreement telecommunications definitions.

Multiple Points of Use

K.S.A. 79-3671, the "multiple points of use" (MPU) sourcing statute, is repealed (Section 13). At the Seattle meeting in December 2006, the Governing Board voted to repeal the MPU provisions in the Agreement, which were intended to provide a way to source purchases of computer software delivered electronically and used at multiple locations in different states. Both the states and business community have struggled, unsuccessfully thus far, to come up with a way to satisfactorily implement this sourcing provision. Efforts will continue toward reaching consensus on dealing with this issue, but in the meantime, the MPU provisions are out of the Agreement.

Direct Mail Delivery Charges

The Agreement gives Member States the flexibility to exclude from the definition of "delivery charges" postage on direct mail (defined at K.S.A. 79-3602(j)). This change is made to the definition of "delivery charges" at K.S.A. 79-3602(i) (Section 1(i), page 2), so sales tax would not apply to postage on direct mail.

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Legislative Testimony

SB 334

February 15, 2007

Testimony before the Senate Assessment and Taxation Committee by Marlee Carpenter, Vice President of Government Affairs

THE KANSAS CHAMBER

The Force for Business

835 SW Topeka Blvd.

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Chairman Allen and members of the committee:

I am Marlee Carpenter with the Kansas Chamber. We represent over 10,000 members, small, medium and large businesses from all corners of the state. The Kansas Chamber supports the changes in SB 334. These changes were requested by the business community at the national level and reflect the provisions needed to keep Kansas in compliance with the Streamlined Sales Tax Project.

While the Kansas Chamber has reservations about destination sourcing provisions enacted in the SSTP, we continue to support the concept of the project and the ability of the national retailers to comply with one, uniform system of enforcement and remittance.

We urge this committee to support SB 334.

The Kansas Chamber, with headquarters in Topeka, is the statewide business advocacy group moving Kansas towards becoming the best state in America to do business. The Kansas Chamber and its affiliate organization, The Kansas Chamber Federation, have more than 10,000 member businesses, including local and regional chambers of commerce and trade organizations. The Chamber represents small, medium and large employers all across Kansas.

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February 15, 2007

To: The Senate Assessment & Taxation Committee
Senator Barbara Allen, Chair
Senator Les Donovan
Senator Derek Schmidt
Senator Pat Apple
Senator Terry Bruce
Senator Nick Jordan
Senator Roger Pine
Senator Janis Lee
Senator Greta Goodwin

Subject: SB 334

Madame Chair and Members of the Committee, my name is John Frederick, Director of State and Local Government Relations for The Boeing Company. Boeing would like to offer its support to Senate Bill 334, concerning changes in the Kansas retailer's sales tax act related to exemptions, exemption certificates, liability for errors in collection and jurisdiction and rate database with regard to streamlined sales tax compliance.

Boeing has supported tax simplification generally and has been an advocate for the changes included in the SST Agreement. Most of the requirements in the SST Agreement have been adopted at the request of the business community. Businesses will benefit from the simplification effort only if the SST Member States continue to comply with those requirements. For this reason we urge your favorable consideration of SB 334 to ensure that Kansas is able to continue its participation in the SST. Boeing appreciates the State of Kansas' commitment to SST and the hard work of Secretary of Revenue Joan Wagnon on the SST Governing Board and hopes for her continued participation.

Thank you for your consideration regarding SB 334.

STATE OF KANSAS

TERRY BRUCE
STATE SENATOR
34TH DISTRICT
RENO COUNTY

COMMITTEE ASSIGNMENTS
VICE CHAIR: JUDICIARY
MEMBER: JOINT COMMITTEE ON SPECIAL CLAIMS AGAINST THE STATE
AGRICULTURE
ASSESSMENT & TAXATION
NATURAL RESOURCES

TOPEKA

SENATE CHAMBER

Testimony on Senate Bill 327
before the Assessment and Taxation Committee

Madam Chair and Members of the Committee,

Our geographic location along with the available resources necessary to create alternative fuels places Kansas in the unique position to benefit from the production of ethanol and biodiesel. To realize the potential benefit at hand, we must recognize that a once in a lifetime opportunity exists for Kansas to capitalize on our opportunity, and we must have the resolve to make the appropriate investments in our state's future.

Economic Benefits of Alternative Fuels

New ethanol facilities have the benefit to revive Kansas' rural economy. A single 40 million gallon ethanol facility has the following impact on a local community:

A one-time gross output of $142.2 million and new household income of $46 million.
The local economy is expanded by $110.2 million each year.
An additional 5 to 10 cents per bushel increase in local prices.
The creation of 41 jobs at the facility and 694 jobs in the community.

The need to Develop Infrastructure

Despite these impressive figures and our desire to produce more alternative fuels, there are setbacks facing the industry. Currently, Kansas produces enough ethanol to supply 10% of our fuel needs. However, there are only 16 E-85 pumps in the state of Kansas. In order to increase the production of alternative fuels, and thereby increase economic development in rural Kansas, we must focus our attention on expanding the number of E-85 pumps and the use of biodiesel.

Although the legislature has heard numerous bills that promote alternative fuels over the last few sessions, Senate Bill 327 (SB 327) is the best way to dramatically promote alternative fuels in Kansas and it will instigate the availability of alternative fuels.

Current Bill Structure

SB 327, as currently written, creates two income tax incentives one for "alternative fuels" and the other for biodiesel. Regarding the alternative fuels incentive, SB 327 creates two gradually increasing percentage standards. The first standard applies to filling stations that have 100,000 gallons of gasoline sales or more each year. This standard requires such stations to have at least 10% of its sales to be renewable fuel for the first year the tax incentive is in existence and maxes out at 25% by the year 2023.

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The second standard applies to filling stations that have less than 100,000 gallons of gasoline sales a year. This standard requires the station to have at least 10% of its sales to be renewable fuel for the first year the tax incentive is in existence and maxes out at 25% by the year 2025.

Under each standard under the renewable fuels standard, if a station meets the required percentage for that tax year, it will be able to receive a income tax credit of 6 cents for each gallon of renewable fuel sold. If a station misses the requirement for that year by less than 2%, it will be able to receive an income tax credit of 4 cents for each gallon of renewable fuel sold. If a station misses the requirement for that year by more than 2% but less than 4%, it will be able to receive an income tax credit of 2 cents for each gallon of renewable fuel sold.

As for the biodiesel tax incentive, a percentage standard is established in a similar fashion as to the renewable fuel incentive, but it is not divided by the size of the station. During the first year the income tax credit applies, 2% of a station's diesel sales must be from biodiesel. This standard gradually increases until it maxes out at 25% by the year 2025. If a station meets the required percentage to qualify, it will receive a 3 cent income tax credit for each gallon of biodiesel sold.

An income tax credit received under Senate Bill 327 allows the taxpayer to deduct the credit from their tax liability. If the tax credit is greater than the tax liability, the taxpayer may elect to receive a refund or have the credit carried over to the next tax year. A business that operates more than one station has the option of filing separately for each location, or it can file jointly. This is to cut down on the amount of paperwork required for the taxpayer and the Department of Revenue.

Fiscal Note

I have not had the chance to review an official fiscal note, nor do I know if one currently exists. After conversations with individuals familiar with the petroleum and alternative fuel industries, it was concluded that at most the fiscal impact to the state would be approximately $5 million. In all likelihood, considering the estimated compliance by retailers, it is more likely to be less than $1.3 million.

I am aware that much of this session is being controlled by how much can we afford. Given the economic benefits that just one, modest sized ethanol facility would generate, if SB 327 were to only create one such facility, the fiscal note is more than paid off.

Conclusion

I would suggest that the question is not how much does SB 327 cost. The question is how much would not doing something cost our state. Other states have made the appropriate steps to promote alternative fuels and they are reaping the benefits. Instead of waiting to play catch up, Kansas needs to lead in this venture, and SB 327 is the best way to accomplish this goal.

Association Of Ethanol Processors

Kansas AEP

Ethanol - *Made in Kansas*

Statement in Support of SB 327
Senate Assessment and Taxation Committee
Barbara Allen, Chair
February 15, 2007

Thank you, Madam Chair and Members of the Senate Assessment and Taxation Committee, my name is Duane Simpson; I am the Vice President of Government Affairs for the Kansas Association of Ethanol Processors. KAEP is the trade association that represents ethanol plants and their affiliated industries in the state. On behalf of the members of KAEP I am testifying in support of SB 327.

SB 327 gives a 6.5 cent per gallon refundable tax credit for every gallon of renewable fuel blended into gasoline as long as the retailer meets the Renewable Fuel Standard (RFS) for that tax year. See Table:

Facility with 100,000 gallons of sales or less		Facility with more than 100,000 gallons of sales	
Tax Year Beginning 1/1	Percent Required	Tax Year Beginning 1/1	Percent Required
2008	6%	2008	10%
2009	6%	2009	11%
2010	10%	2010	12%
2011	11%	2011	13%
2012	12%	2012	14%
2013	13%	2013	15%
2014	14%	2014	16%
2015	15%	2015	17%
2016	16%	2016	18%
2017	17%	2017	19%
2018	18%	2018	20%
2019	19%	2019	21%
2020	20%	2020	22%
2021	21%	2021	23%
2022	22%	2022	24%
2023	23%	2023	25%
2024	24%	2024	25%
2025	25%	2025	25%

KAEP, 816 SW Tyler, Topeka, KS 66612, 785-234-0461, Fax 785-234-2930, www.ethanolkansas.org

If a retailer misses the RFS by 2% or less, they qualify for a 4.5 cent per gallon refundable tax credit. If they miss by 2-4% they qualify for 2.5 cents per gallon.

For biodiesel, the RFS is set as a percentage of biodiesel gallons divided by total diesel gallons. Biodiesel retailers get a straight 3 cents per gallon if they meet their RFS schedule. The RFS schedule is below:

Tax Year Beginning 1/1	Percent Required
2008	2%
2009	3%
2010	5%
2011	6%
2012	7%
2013	9%
2014	10%
2015	12%
2016	13%
2017	14%
2018	16%
2019	18%
2020	20%
2021	21%
2022	22%
2023	23%
2024	24%
2025	25%

Although the official fiscal note on this bill is around $5 million, we believe that the real fiscal note will be considerably less. The reality is that at the 10% level, not every gas station in the state will participate. In order to have a $5 million fiscal note, it would take approximately 80% participation – something that took Iowa years of incentives to reach. In addition, every year after the first year will only be achieved by stations that sell E-85. Currently, there are only 16 stations in the state though there are plans for approximately 25 more. Clearly, the fiscal note in out years will be less than the first year and will decrease as the standard becomes more difficult to achieve.

Also, it should be noted that there is legislation in the Senate Agriculture Committee that mandates a minimum 10% blend of ethanol in each gallon of gas sold in Kansas. That bill is opposed by many of the supporters of this legislation, but if this committee is looking for a "free alternative," a mandate is something that can be considered.

KAEP believes that the time has come for the state to start considering whether or not we are going to be a state that either through incentives or mandates requires the petroleum industry to provide ethanol access to the wholesale market. Currently, several terminal facilities in the state do not provide ethanol to retailers. The oil industry has limited resources throughout the nation to upgrade terminal facilities to provide ethanol. Understandably, they are focusing their attention on states that mandate ethanol blended fuel. If Kansas is to attract the capital from these companies to upgrade our fuel distribution facilities, we must compete with other states that are passing mandates. The refineries have told us that they view SB 327 as a *de facto* mandate and that this bill would be sufficient to spur the development necessary to make ethanol available to retailers that wish to sell it.

If Kansas wants to see the continued growth of the ethanol industry in this state, we must provide a local market for the fuel. Currently, most ethanol made in Kansas is sold in Texas or California. Our plants enjoy a transportation advantage over Iowa and Minnesota plants to these markets, but ethanol plants are being built in Texas and California that will obviously have a similar advantage over Kansas plants. Without access to the distribution market, future ethanol plants in Kansas will not be built because outside venture capital will not believe the plants are economically viable.

I do want to thank Senator Bruce for his hard work in bringing all of the parties interested in this legislation together. We first started working on this bill sometime in August. Eventually, a group of stakeholders representing ag groups, the ethanol industry, the petroleum industry, the trucking industry and automobile manufacturers were meeting regularly to work on language to improve this bill.

Of course, we also know that the version in front of you is not the perfect bill. There is a proposed amendment to the definition of biodiesel that simply cite current law. KAEP would recommend that the implementation date and RFS schedule be pushed back one year to allow the oil industry time to make the necessary infrastructure investments to make this bill work. We also understand that there is a problem with having annual payments to the retailers because they would have a difficult time passing the incentive on to the consumer. We would support an amendment that allows for monthly payments to be filed along with their motor fuels tax.

We believe that this bill is a major step forward in keeping Kansas competitive for new ethanol plants and it is also necessary to get ethanol from Kansas plants to Kansas consumers. We urge the committee to support SB 327 and I will stand for questions at the appropriate time.

KANSAS SOYBEAN ASSOCIATION
Kansas Soybean Association
2930 S.W. Wanamaker Drive
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Phone (785) 271-1030 or (800) 328-7390
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Kansas Senate Assessment and Taxation Committee Hearing
February 15, 2007
Testimony on Senate Bill 327

Chairman Allen and members of the Kansas Senate Assessment and Taxation Committee, my name is Kenlon Johannes and I serve as the CEO for the Kansas Soybean Association (KSA). I am here to offer our support for Senate Bill 327.

As part of our scope of work we travel the state promoting the use of biodiesel in agriculture, transportation, and by school districts as an alternative, renewable, and cleaner burning fuel. The attitude of those that stop by to talk to us about biodiesel has changed. The discussion has gone from saying that it looks like a good idea and they hope it works, to asking where it is available and what the cost is. Most express their displeasure of sending money overseas to a foreign country for our transportation fuels.

With current and future risks to the United States energy security increasing, domestic and global energy demands growing dramatically, Kansas soybean farmers and other agricultural producers in Kansas are well positioned to play an expanded role in producing transportation fuels.

The Kansas legislature acted on this concern last year when it passed HCR 5042, the 25 X '25 legislation that sets a goal of having 25% of our fuel energy coming from renewable energy sources by 2025. Now it is time to put some of the pieces in place to obtain that goal. This legislation takes action with a scaled up utilization system working through incentives toward meeting the goals of the 25 X '25 legislation. SB 327 is one step in helping reach that goal.

The provisions in SB 327 provide incentives for the development our current fuel marketing system, the petroleum distribution/ retailer system to help biodiesel to continue to emerge as a mainstream fuel.

KSA would recommend that the RFS scheduled implementation date be changed to July 2008 to allow the industry time to make the necessary infrastructure investments. If there is a problem with annual payments to the retailers we would support an amendment that allows for monthly payments to be filed along with their motor fuels tax.

This is not a mandate; it is an incentive with minimal budget impact. This is a way to grow the biodiesel and ethanol industry without mandates. Our producers support an incentive based approach of developing an alternative fuel industry. A renewable fuel tax credit is a vision that will provide agriculture with increased farm income and added value uses. It is a good idea.

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Under the definition of biodiesel under (a) we would like to see the following used from current law:

55-443

Chapter 55.--OIL AND GAS

Article 4.--PETROLEUM PRODUCTS INSPECTION

(11) ...Biodiesel fuel used in biodiesel fuel blends shall conform with specification D6751-02, issued March 2002, by the American society of testing and materials or a later version as adopted by rules and regulations of the secretary...

and keeping the definition for "renewable fuels" under (f) as is.

Thank you for the opportunity to address the committee on this issue.

Kansas Grain Sorghum Producers Association

Kansas Corn Growers Association

TO: Senate Assessment and Taxation Committee
FROM: Jere White, Executive Director
DATE: February 15, 2007
SUBJECT: Senate Bill 327

The Kansas Corn Growers Association and Kansas Grain Sorghum Producers Association wish to stand in support for Senate Bill 327, which would create a renewable fuels standard (RFS) in Kansas.

This bill uses incentives to help Kansas achieve a renewable fuel standard. Additionally, this RFS is not only for ethanol and biodiesel, as well as other renewable fuels that might come downstream in the future, such as bio-butanol. Ethanol is the largest player in Kansas today and as you know, the ethanol industry in Kansas continues to experience very strong growth. Just yesterday, a 100 million gallon per year ethanol facility was announced here in Topeka. Biodiesel production in the state is also growing and should enjoy a very promising future.

While Kansas is becoming an increasingly influential player in the biofuels production industry, the use of biofuel in our state lags behind other states that have adopted various policies aimed at increasing that use. It makes sense that our state would encourage the use of these homegrown fuels. It is also important to remember that under the provisions of this bill, if a retailer chooses not to offer renewable fuels, they simply do not benefit from the incentives offered. There is no penalty.

Our associations believe the best way to achieve the level of use and availability of biofuels in Kansas envisioned in this bill is through the offering of incentives. This bill is well thought out, phasing in a renewable fuels standard that begins at 10 percent in 2008 for ethanol and 2 percent for biodiesel, both achievable goals even today. By 2025, it calls for 25% renewable fuels in order to qualify for the incentive. We would support an additional delay in implementation of one year to allow for adequate education and implementation.

Our associations have endorsed the 25 x 25 initiative that calls our nation to get 25 percent of its energy from renewable resources by the year 2025. By passing this legislation, Kansas will be moving assertively toward that goal.

By providing incentives to retailers, this bill will make biofuels more available consumers throughout the state, and those incentives should also result in lower fuel prices at the pump for biofuels. A renewable fuels standard will also lessen our dependence on foreign oil and provide for cleaner burning fuels for our vehicles, and is a perfect match for other public policy initiatives with similar goals.

This bill benefits Kansas. It will create a stronger in-state market for biofuels made in Kansas plants. The eight ethanol plants we have today provide strong markets for our Kansas grains as well as jobs and economic growth for Kansas communities. As the biofuel industries grow in Kansas, so will the economies of our rural communities. The RFS provides a good climate for that growth in Kansas. Thank you.

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KANSAS FARM BUREAU
The Voice of Agriculture

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800 SW Jackson St., Suite 1300, Topeka, Kansas 66612-1219 • 785-234-4535 • Fax 785-234-0278

PUBLIC POLICY STATEMENT

SENATE COMMITTEE ON Assessment and Taxation

RE: SB 327 – an act relating to renewable fuel and energy; providing for certain income tax credits.

February 15, 2007
Topeka, Kansas

Testimony provided by:
Brad Harrelson
State Policy Director
KFB Governmental Relations

Chairman Allen, and members of the Senate Committee on Assessment and Taxation, thank you for the opportunity to appear today and offer testimony in support of SB 327. I am Brad Harrelson, State Policy Director—Governmental Relations for Kansas Farm Bureau. KFB is the state's largest general farm organization representing more than 40,000 farm and ranch families through our 105 county Farm Bureau Associations.

On behalf of Kansas Farm Bureau (KFB) I would like to extend our appreciation to the Kansas Legislature for it's past support for bio-fuels. You undoubtedly share our firm commitment to this valuable, renewable energy resource. We at KFB stand ready to assist you in your mission to promote these alternative fuels.

Ethanol has tremendous upside not only for ag producers, but also fuel consumers. Consumption of alternative fuel reduces our dependence on foreign oil and enhances market demand for corn, soybeans and other crops, which is good for Kansas agriculture, and the rural Kansas economy.

Therefore, producing fuel from Kansas corn and soybeans is better long-term than continuing to rely on imported foreign oil. That's why putting new ethanol incentives in place are important to Kansas Farm Bureau. These new incentives would help us build more local demand for Kansas crops, while at the same time creating increased availability for ethanol purchasers. It is a win-win for Kansas farmers and consumers. For these reasons, KFB supports the proposal contained in SB 327, which is a positive step and viable commitment by the state that should be seriously considered.

In conclusion, thank you for your consideration, your support of bio-fuels and Kansas agricultural producers. We stand ready to assist as you consider these important measures. Thank you.

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Testimony of Tony Reinhart
Regional Governmental Affairs Director
Ford Motor Company
In support of SB327
Submitted to the Senate Assessment and Taxation Committee
February 15, 2007

My name is Tony Reinhart and I am the Regional Governmental Affairs Director for Ford Motor Company. I appreciate this opportunity to share with you Ford Motor Company's views on the renewable fuels issue and in particular, SB 327.

At Ford, we recognize that we have a responsibility to do something to address America's energy security needs, and we are accelerating our efforts to develop innovative solutions. As Bill Ford has said, "Ford Motor Company is absolutely committed to making innovation a central part of everything we do." In our recent product announcements we committed to increase our hybrid production capabilities to a quarter-million units per year by 2010 and to continuing our leadership in ethanol powered flexible fuel vehicles.

Flexible fuel vehicles have been a key part of Ford's alternative fuel strategy for some time. We believe ethanol is an important step toward the development of more efficient, future renewable biofuels – lessening dependence on foreign oil, addressing customer concerns over high gas prices, as well as providing environmental benefits.

By the end of this year, Ford Motor Company will have placed more than 2 million FFVs on America's roads and the industry will have produced more than 6 million vehicles. In 2006 alone, Ford produced more than 250,000 FFVs including four new vehicles with flexible fuel technology -- the Ford F-150, Ford Crown Victoria, Mercury Grand Marquis and Lincoln Town Car. If all of these vehicles were operated on E85, over 2.5 billion gallons of gasoline a year could be displaced.

And we are not stopping there. Last year, we unveiled the Ford Escape Hybrid FFV research vehicle which marries two petroleum-saving technologies – hybrid electric power and E85 flexible-fuel capability. Though there are many technical and cost challenges to address, we believe that if just 5% of the US fleet were powered by E85 HEVs, oil imports could be reduced by about 140 million barrels a year.

But there is a problem. Even though the volume of E85 and other flex fuel vehicles continues to grow rapidly, there are less than 1000 E85 fueling stations in the US – and that's out of over 170,000 retail gasoline fueling stations nationwide. For ethanol and other renewable fuels to compete as a motor fuel in the transport sector and play an increasingly significant role in addressing our nation's energy concerns, we need strong, long-term focus on policies that increase US ethanol production, accelerate E85 infrastructure development and increase consumer demand.

As fuel prices soar at the pumps and energy security remains a concern, Ford Motor Company is dedicated to produce vehicles that can run on 85% ethanol (E85) and will work to expand the fueling infrastructure to support flexible fuel vehicles (FFVs). Ethanol is an innovative energy source straight from the heartland of America. E85 has great potential as an alternative fuel. Increasing FFV production and E85 use represent the best near-term solution to significantly reducing our dependence on foreign oil. The two greatest challenges facing greater E85 use are access to convenient fueling locations and a lack of consumer demand.

Ford supports increasing the availability of renewable fuels and legislation like SB 327 which we believe will help answer the call for increased infrastructure and consumer demand. Energy is literally the fuel that powers the industrial and manufacturing growth of the United States. The energy supply disruptions of last year, increases in global demand, and geopolitical concerns with some of the oil rich regions of the world led to significantly higher energy prices and consumer angst at the fuel pump. It's our view that action must be taken in all sectors if we are to meet these challenges as a nation. In our sector, we believe E85 is a significant part of the solution and we appreciate your consideration of legislation like SB 327 to increase consumer demand for the product.

Thank you for your consideration.

Tony Reinhart
Regional Governmental Affairs Director
Ford Motor Company
1201 NW Briarcliff Parkway Suite 315
Kansas City, Missouri 64116

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PMCA
of Kansas

Memo To: Senate Assessment and Taxation Committee
From: Thomas M. Palace
Date: February 14, 2007
Re: Comments on SB 327

Madam Chairman and members of Senate Assessment and Taxation Committee:

My name is Tom Palace. I am the Executive Director of the Petroleum Marketers and Convenience Store Association of Kansas (PMCA of Kansas), a statewide trade association representing over 300 independent Kansas petroleum distribution companies and convenience store owners throughout Kansas.

PMCA supports the expansion of renewable fuels for both ethanol and biodiesel fuel. We feel Kansas has made great strides in the past few years promoting the use of ethanol by way of tax incentives to build state-of-the art ethanol plants, and by requiring the state's vehicle fleet to use these products if the price of the fuel is within the acceptable levels.

Senate Bill 327 provides for tax incentives to retail motor fuel dealers who meet certain gallonage requirements. We feel this is a step in the right direction for incentive-based ethanol sales. Petroleum retailers will sell whatever the consumer demands. If ethanol is priced lower than the price of gasoline, there is no doubt that the driving consumer will gravitate toward ethanol products. However, if ethanol prices continue to remain above the price of gasoline, it is certain that, regardless as to how much incentive is available to the retailers, ethanol sales will suffer.

SB 327 has a rather complicated formula for the income tax credit for retailers that sell ethanol. An income tax credit for retailers, as provided in SB 327, makes it very difficult for a retailer to pass the tax break on to the consumer because normally income tax credits are taken at year end. The easy way to pass on the tax credit to the consumer would be to apply a credit against the motor fuel taxes paid monthly by the retailer on their monthly motor fuel tax report. However, if this were to be considered, the Kansas

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Department of Transportation would be opposing this bill as well as many of the highway construction companies that rely on the state's full 24 cent per gallon excise tax being dedicated to highway construction.

Consumers today are "price sensitive" and ethanol today is not "price sensitive." Driving consumers will drive several miles or more, to save 2-3 cents on a gallon of gas. If ethanol is priced right (by that I mean lower than the price of regular gasoline) consumers will buy ethanol.

Madam Chairman, petroleum retailers will sell whatever the consumer demands. Today, petroleum marketers are becoming more compatible with ethanol, and we attribute that to the price that was showing up at the pump when we took the pump labels off in 2005. As an example, in July of 2005, the spread between ethanol and gasoline was so great that marketers, who had never sold ethanol, were forced to do so because they were not competitive price-wise at the pump compared to regular gasoline.

Here we are in February 2007, and that example has changed dramatically. For the past 12 months the price of ethanol has consistently been higher than regular gasoline. The demand for ethanol continues to grow, and as such, prices will remain high until supply catches up. With the amount of new ethanol plants being built in Kansas today, we assume that supply will increase, taking some of the pressure off the price of ethanol. Any offset at the pump will be well received by the consumer. The problem that exists today is how to get the "price-break" back to the consumer at the pump. I don't believe SB 327 is the answer, but it is a step in the right direction.

Thank you.

Kansas Cooperative Council

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Senate Committee on Assessment & Taxation

February 15, 2007

Topeka, Kansas

SB 327 - Income Tax Credits for Renewable Fuels.

Chair Allen and members of the Senate Assessment & Taxation Committee, thank you for the opportunity to share our support for SB 327 enacting certain income tax credits for sale of renewable fuels. I am Leslie Kaufman and I serve the Kansas Cooperative Council as Executive Director.

The Kansas Cooperative Council represents all forms of cooperative businesses across the state -- agricultural, utility, credit, financial and consumer cooperatives. Approximately half our members are involved in agriculture co-ops. As farmer cooperatives, they are owned and controlled by their ag producer members. These member-owners are actively engaged in growing the crops that proved feed stocks for processing renewable motor vehicle fuels.

Our policy position on renewable energy simply states:

The KCC supports initiatives which promote the use of renewable energy sources.

While this statement is short and to the point, it was intentionally broad to cover a wide array of initiatives designed to promote the development and increased use of various types of renewable energy sources. The bill before you today, SB 327, provides for one of the many types of incentives that could be adopted for increasing the availability and use of ethanol-blended fuels and biodiesel (income tax credit for retail dealers).

We are certain many of the other conferees will speak to the intricacies of the proposed legislation. For brevities sake, we will simply state our support for incentive-based initiatives, such as those contained in SB 327, and ask for your favorable action on the measure. Thank you.

Benchmark Communications

Testimony On

SB 327

Senate Committee on Assessment and Taxation
February 15, 2007

Thank you Madam Chair and distinguished Committee Members for the opportunity to address you this morning regarding SB 327. My name is Jarrod Forbes and I represent Orion Ethanol, an ethanol company based in Pratt, Kansas. Orion is a renewable fuels company focusing on ethanol production. We nearing completion of our first ethanol refinery in Pratt, Kansas and have locations secured to build 5 more refineries, 3 of which are in rural Kansas, including Hugoton and Colby. We became involved with the Pratt project, now called Gateway Ethanol, in 2003 and have endured numerous obstacles on the road to completion. These obstacles have come primarily in the form of price volatility due to our dual commodity structure, that is to say that we face commodity price risk both in the feedstocks that we use and in the finished products that we sell. The industry is currently facing numerous headwinds which include near record high corn prices, declining oil prices, rising construction costs, and poor investor sentiment. Although there is widespread political support for ethanol incentives, our companies experience has lead us to the conclusion that the business climate in Kansas is lagging with respect to potential business development. As Kansas companies like Orion Ethanol and other ethanol producers strive to compete for capital looking to invest in ethanol, we need to show them more state support for the products that we produce. In fact, Madam Chair, failing to support an ethanol requirement will divert investment capital away from rural Kansas and to States that offer mandated protection.

Pratt is currently and will continue to enjoying many economic benefits because of the ethanol plants construction. These impacts are felt throughout the community, including restaurants, hotels, doctors offices, dentists, insurance agents, as well as the new and existing housing markets and many more businesses that have been impacted.

President Bush as well as Governor Sebelius have asked us all to come up with solutions to our dependence on foreign oil. We believe SB 327 is well intended; however we are confident it will not result in economic development in rural Kansas. On the contrary, SB 303 would provide the needed comfort for investment capital to make rural development a reality—and without a fiscal impact to the State General Fund.

Ethanol development benefits the State of Kansas in three ways. Ethanol production spurs local economic development, reduces dependence on foreign oil, and is environmentally friendly. However, Pratt's ethanol production, as well as ALL other Kansas ethanol production is vulnerable to decreasing domestic support and therefore

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vulnerable to imported ethanol, which is produced more cheaply than ours. Unless State governments act to support domestic producers of ethanol, we will become as dependant on foreign ethanol as we are on foreign oil today. Through legislation, you have the power to keep Kansas energy dollars in Kansas rather than shipping them to the Middle East or South America. Supporting SB 303 sends a clear message to Wall Street Investors that you support the Kansas rural economy and the Kansas workforce.
Both the Federal and other State governments are using mandates and tax incentives to mitigate the risk associated with price volatility and enhance the competitive position for Domestic producers of ethanol in a global market place.

Although the federal ethanol program has been an unmitigated success, state governments must create a development climate that both encourages new ethanol production and continues to support existing ethanol producers. From just 175 million gallons in 1980, the industry has increased more than ten-fold to more than 5.5 billion gallons today. Approximately 30% of the nation's gasoline is now blended with ethanol - reducing the demand for imports, stimulating economic benefits across the country, and reducing air pollution. The federal government realizes a positive budgetary impact from the program. The U.S. Department of Agriculture has concluded the ethanol tax incentive program actually saves the government money by reducing farm program costs and stimulating rural economies. USDA has stated the net impact of the tax incentive and farm programs is a net savings of more than $2 billion annually.

A Renewable Fuels Association study on the economic impacts of a 40 million gallon ethanol facility on local communities found:

- During construction, capital spending generates $142.2 million in gross output to a local economy and $46 million in new household income (one-time impact);
- More than $56 million is spent locally on its daily operations each year;
- The local economy is expanded by $110.2 million each year;
- Local farmers receive an additional 5–10 cents per bushel in increased revenue at the farm gate (whether delivered to the ethanol facility or not);
- The plant creates 41 permanent direct jobs; and,
- The ethanol plant will generate $19.6 million in annual household income for the community.

In conclusion, we appreciate the efforts by all 21 Senators sponsoring the bill but, if you truly want to support ethanol as an economic development tool for rural Kansas, this bill does not achieve your goal. However, SB 303 does—and without an impact to the State General Fund. The simple fact is investment capitol demands protection. If Kansas is not prepared to offer that protection, then our neighbors who are, will reap the benefits of rural development. By supporting SB 303 and legislation similar to that of other states, you will further the goal of stimulating economic development in Kansas, reducing dependence on foreign ethanol, and helping reduce harmful emissions.

Orion Ethanol respectfully requests that you give due consideration to SB 303 as you discuss your support of the Kansas ethanol industry. I would be happy to stand for any questions the committee may have.

Kansas
Petroleum
Council

STATEMENT TO THE SENATE ASSESSMENT AND TAXATION COMMITTEE
ON SENATE BILL 327
FEBRUARY 15, 2007

Madame Chairman and members of the Committee, thank you for allowing me to offer comments on Senate Bill 327.

I am Ken Peterson, director of the Kansas Petroleum Council, a trade association that represents several refiners who supply fuel to the state.

I need to emphasize that the Council has not opposed the Legislature's efforts through the years to promote ethanol with tax incentives. So from that standpoint, we are not opponents of Senate Bill 327.

Our companies are the leading user of ethanol and a key player in increasing the use of ethanol. Ethanol plays an important role in meeting the nation's transportation fuel needs.

Congress enacted a federal Renewable Fuels Standard in 2005 to integrate more ethanol into the national gasoline pool and to provide a secure, reliable and seamless integration of growing ethanol supplies to consumers.

The industry has made significant investments to meet and exceed the existing federal requirement for ethanol-blended gasoline in the RFS.

In 2006 we were required to use 4 billion gallons; in fact we used 5.4 billion gallons. It appears a higher number in future years will be enacted, based on the President's proposal and the positive reaction in Congress.

The RFS will play a significant role in the future of ethanol.

One suggestion for SB 327 would be to extend the effective date for the tax credits to tax year 2009. This would allow retailers to establish procedures for tax credits and for more renewable fuels to come on line.

We also have discussed broadening the definition of biodiesel to incorporate more processes.

Thank you for your attention and courtesy.

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KANSAS
DEPARTMENT OF REVENUE

Kathleen Sebelius, Governor
Joan Wagnon, Secretary

www.ksrevenue.org

Testimony to the Senate Committee on Assessment and Taxation

Richard Cram

February 15, 2007

Department Concerns with Senate Bill 327

Senator Allen, Chair, and Members of the Committee:

Senate Bill 327 provides a refundable income tax credit to retailers of gasoline and diesel of a stated amount per gallon of renewable fuels sold per year, based on the retailer meeting certain benchmark percentages of renewable fuels sold compared to total volume of fossil fuels sold. This is no cap, creating unlimited state exposure, and no sunset until 2026, which is too long.

We are still gathering information concerning the number of fuel retailers in the state, what their current sales volumes are, and current percentage of sales attributable to renewable fuels, so that we can calculate a fiscal impact for the bill. We will provide that information as soon as it becomes available. With each new tax credit, the Department incurs significant administrative expense: development of a new credit schedule; reprogram computer systems to accept and process the data from the new schedule; test and retest the system until errors are resolved. Generally, at least three months of programming resources are required. The estimated administrative costs to the Department needed to implement this bill are $261,165 of programming, testing and other costs in fiscal year 2008.

Last year, the legislature enacted 2006 Senate Bill 388, which provides an incentive fund for production of biodiesel fuel. For many years, there has been a production incentive fund for ethyl alcohol. The House Energy and Utilities Committee has had hearings this session on House Bill 2405, which would provide a 10% investment tax credit, accelerated depreciation, and property tax exemption for new biodiesel plants. We currently have a tax credit for the purchase of certain alternative fueled vehicles, and there are bills this session that would enhance that credit (Senate Bill 140) or add a new credit (House Bill 2222). On top of all that, do we need another tax credit per gallon of renewable fuels sold at retail? Does that mean there should be yet another new tax credit based on gallons of renewable fuels consumed? Certainly, it is important to encourage use of alternative fuels. But are new tax credits the solution for everything?

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