

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairperson Karin Brownlee at 8:30 A.M. on January 30, 2007 in Room 123-S of the Capitol.

All members were present.

Committee staff present:

Amy Deckard, Kansas Legislative Research Department
Kathie Sparks, Kansas Legislative Research Department
Norm Furse, Revisor of Statutes
Jackie Lunn, Committee Assistant

Conferees appearing before the committee:

Steve Kelly, Interim Secretary, Department of Commerce
Joan Wagnon, Secretary, Department of Revenue

Others attending:

See attached list.

Chairperson Brownlee announced that the Committee had a bill introduction in regard to workforce development; to request the monitoring unit of the Department of Commerce report annually to the Senate Commerce Committee and the House Committee. **Senator Emler made a motion to conceptually introduce a bill to request the monitoring unit of the Department of Commerce report annually to the Senate Commerce Committee and the House Committee . Senator Jordan seconded. Motion carried.**

Chairperson Brownlee introduced Kathie Sparks, Legislative Research to give information regarding immigration employment issues. Ms. Sparks stated Colorado had passed a bill requiring any public employment contractor be required to be a member of the "basic pilot program" requiring they will not use undocumented immigrants. Also, propose that no union dues will be held from paychecks of undocumented workers.

Senator Emler made a motion to introduce a bill patterned after the Colorado bill. Senator Teichman seconded. Motion carried.

Chairperson Brownlee turned the Chair over to Senator Jordan.

Chairperson Jordan introduced Tom Whitaker, Executive Director of the Kansas Motor Carriers Association, to introduce a bill. Mr. Whitaker presented written copy. (Attachment 1) He stated he was requesting to introduce legislation which would clarify the relationship between an owner-operator and a licensed motor carrier.

Senator Emler made the motion to introduce the bill. Senator Reitz seconded. Motion carried.

Chairperson Jordan called the Committee's attention to corrected information related to the confirmation of Timothy C. Schaller to the Kansas Development Finance Authority.

Chairperson Jordan introduced Steve Kelly, Interim Secretary, Department of Commerce, to give his presentation on the Governor's proposed tax changes.

Interim Secretary Kelly introduced Secretary Wagnon stating she would give her information first. Secretary Wagnon called the Committee's attention to a report comparing the current law on HPIP, Enterprise Zone, and Business/Job Credit to the New Investment Credit, New Jobs Credit and Opportunity Zone. (Attachment 2) Secretary Wagnon reviewed the report.

Next, Secretary Wagnon called the Committee's attention to *The Use of Corporate Income Tax Credits in Kansas*. (Attachment 3) She stated this study of corporate income tax credits in the state of Kansas which was done by David S. T. Matkin, Doctoral Candidate, Department of Public Administration, University of Kansas

CONTINUATION SHEET

MINUTES OF THE Senate Commerce Committee at 8:30 A.M. on January 30, 2007 in Room 123-S of the Capitol.

with the assistance of the Kansas Department of Revenue and the Department of Commerce . Secretary Wagon gave a brief review highlighting the study demonstrates that:

- Corporate decisions to hire employees, increase wages, and invest in equipment and capital are based on market factors
- In most cases, the decision to claim a tax credit occurs after the qualifying business operation has already occurred.
- Corporations often conduct their business activities in multiple states. Because tax credits do not directly alter corporate operations, the benefits from tax credits profit the whole corporation, not just their Kansas operations.
- Corporations are most likely to consider tax credits prior to making a decision when they (1) expect to incur abnormally large capital and/or labor costs, (2) consider locating a new facility in Kansas that is expected to have a long-term effect on business operations, and/or, (3) are in highly competitive markets where a tax credit may help them become the low cost provider.
- Tax credits provide benefits and costs. Corporations seek out and use credits with low compliance costs in states where they have a high and stable tax liability.

She also stated empirical studies have demonstrated that state tax rates have a slight but statistically significant relationship with economic development. Bartik (1991) found that a 10 percent decrease in overall state taxes is expected to increase employment by 1 to 3 percent. Wasylenko (1997) found a similar effect. Though such findings support a state's ability to influence economic development through tax policy, enacting a 10 percent tax rate decrease is improbable.

Secretary Wagon called the Committee attention to *Update to Analysis of Kansas Corporate Income Tax Dated October 14, 2004 to Reflect Tax Year 2004 Data.* (Attachment 4). She then gave a brief review of the report.

Secretary Wagon called the Committee's attention to *Tax Credits Tax Year 2004* (Attachment 5) and gave a brief review.

Questions and answers followed.

Upon the conclusion of questions and answers, Chairperson Jordan introduced Interim Secretary Kelly to give a power point presentation entitled *HB 2170 Comparison to existing Enterprise Zone and HPIP Programs.* (Attachment 6)

Upon the conclusion of the power point presentation, Interim Secretary Kelly called the Committee's attention to a memo from the Kansas *Department of Commerce* entitled *HPIP Explanatory Information Available at www.kansascommerce.com.* (Attachment 7) and a comparison of Existing Enterprise Zone program, Existing HPIP to the Proposed New Incentive Program. (Attachment 8)

Brief questions and answers followed.

Chairperson Jordan adjourned the meeting at 9:30 a.m. with the next scheduled meeting being on January 31, 2007 at 8:30 a.m. in room 123S.



Kansas Motor Carriers Association

Trucking Solutions Since 1936

Mike Miller
Miller Trucking, LTD
President

Calvin Koehn
Circle K Transport, Inc.
Chairman of the Board

Michael Topp
TT&T Towing, Inc.
First Vice President

Larry Dinkel
Mitten Trucking, Inc.
Second Vice President

Greg Orscheln
Midwest Express Corp.
Treasurer

Larry "Doc" Criqui
Kansas Van & Storage
Criqui Corp.
Corporate Secretary

Jerry Arensdorf
Arensdorf Trucking, Inc.
ATA State Vice President

Ken Leicht
Rawhide Trucking, Inc.
ATA Alternate State VP

Mike Ross
Ross Truck Line of Salina, Inc.
ProTruck PAC Chairman

Kelly Kile
Wal-Mart Stores, Inc.
Public Relations Chairman

Dave Eaton
Cummins Central Power, LLC
Allied Industries Chairman

Tom Whitaker
Executive Director

Bill Request
by the
Kansas Motor Carriers Association
before the
Senate Commerce Committee
Senator Karen Brownlee, Co-Chairman
Senator Nick Jordan, Co-Chairman
Tuesday, January 30, 2007

CHAIRMAN BROWNLEE, CHAIRMAN JORDAN AND MEMBERS OF THE SENATE COMMERCE COMMITTEE:

I am Tom Whitaker, executive director of the Kansas Motor Carriers Association. I appear here this morning representing our 1,200 member firms requesting the Senate Commerce Committee introduce legislation which would clarify the relationship between an owner-operator and a licensed motor carrier.

We are requesting this proposed legislation today because of legislative deadlines and to bring the issue before the State Employment Security Advisory Council. Our industry continues to have concerns about the Kansas Department of Labor's determination of independent contractor status for owner-operators that lease to licensed motor carriers. KMCA is beginning a dialogue with the Department on this issue.

We have attached a proposed amendment to K.S.A. 44-703, which will address our industry's concerns.

Thank you for the opportunity to appear before you this morning, I would be pleased to respond to any questions you may have.

Senate Commerce Committee
January 30, 2007
Attachment 1-1

PROPOSED LEGISLATION TO AMEND:

KANSAS STATUTES ANNOTATED
CHAPTER 44.--LABOR AND INDUSTRIES
ARTICLE 7.—EMPLOYMENT SECURITY LAW

44-703. Definitions

Subsection

(i)(4) The term 'employment' shall not include:

Shall be amended by adding subsection,

(Y) Any individual who is an 'owner-operator' of a 'motor vehicle' that is leased or contracted to a 'licensed motor carrier' with the services of a driver and is not treated under the terms of the lease agreement or contract with the licensed motor carrier as an employee for purposes of the federal insurance contribution act, 26 U.S.C. § 3101 et seq. , the federal social security act, 42 U.S.C. § 301 et seq. , the federal unemployment tax act, 26 U.S.C. § 3301 et seq., and the federal statutes prescribing income tax withholding at the source, 26 U.S.C. § 3401 et seq. Employees or agents of the 'owner-operator' shall not be considered employees of the 'licensed motor carrier' for purposes of employment security taxation or compensation. As used in this subsection, the following definitions apply:

(i) 'Motor vehicle' means any automobile, truck-trailer, semitrailer, tractor, motor bus or any other self-propelled or motor-driven vehicle used upon any of the public highways of Kansas for the purpose of transporting persons or property;

(ii) 'licensed motor carrier' means any person, firm, corporation or other business entity that holds a certificate of convenience and necessity or a certificate of public service from the state corporation commission or is required to register motor carrier equipment pursuant to 49 U.S.C. § 14504; and

(iii) 'owner-operator' means a person, firm, corporation or other business entity that is the owner of a single motor vehicle that is driven exclusively by the owner under a lease agreement or contract with a licensed motor carrier.

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

Senate Commerce
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 Attachment 2-1

Senate Commerce Committee
 January 30, 2007

Attachment 2-1

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

2-2

2-2

The Use of Corporate Income Tax Credits in Kansas

David S. T. Matkin¹
Doctoral Candidate
Department of Public Administration
University of Kansas

SUMMARY OF KEY FINDINGS

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

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

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

Senate Commerce Committee
January 30, 2007

Attachment 3-1

INTRODUCTION

This study was conducted at the request and support of the Kansas Department of Revenue (KDOR) in order to analyze the use of corporate income tax credits in Kansas. The tax credits under review are the Business and Job Development credit, the High Performance Incentive Program credit, the Machinery and Equipment credit, and the Research and Development credit.

The purpose of this study is to:

- (1) assess whether corporate income tax credits stimulate increased economic output in Kansas—such as increased employment, wages, and capital investment; and,
- (2) better understand corporate decisions to claim income tax credits.

This report proceeds in the following manner. The first section presents a review of previous academic studies on state and local tax incentives. The second section describes the research methodology. The third section presents the studies key findings, including illustrative quotations from interviews with corporate officials and supportive. The report concludes with a discussion of policy implications and suggestions for further research.

ACADEMIC RESEARCH ON TAX CREDITS AND INCENTIVES

Before engaging in the present study, applicable academic literature on state tax credits and incentives was reviewed. In general, academic studies provide little support to advocates of economic development through corporate tax credits and incentives. To date, however, no research has been done on state-level statutory-based tax credits such as those analyzed in this study. Most of the existing research looks at negotiated tax incentives for large well-publicized developments, such as sports stadiums and large manufacturing plants (see Rosentraub 1997), or economic incentives for development within targeted geographic boundaries in metropolitan regions, such as enterprise zones and TIF districts. Though there are not any previous studies on the type of tax credits being analyzed in Kansas, there are several lessons from other studies that generally inform this report.

Empirical studies have demonstrated that state taxes rates have a slight but statistically significant relationship with economic development. Bartik (1991) found that a 10 percent decrease in overall state taxes is expected to increase employment by 1 to 3 percent. Wasylenko (1997) found a similar effect. Though such findings support a state's ability to influence economic development through tax policy, enacting a 10 percent tax rate decrease is improbable.

Studies of tax incentives provided to large manufacturing plants and athletic stadiums suggest that governments tend to give away too much tax revenue for the economic development that can be reasonably expected (Rosentraub 1997). Studies of enterprise zones and TIF districts demonstrate modest evidence that tax incentives may induce economic development (Peters and Fisher 2004, Wilder and Rubin 1995). These studies, however, also raise concern that corporate development within targeted geographic areas tends to come at the expense of development outside of that area, producing an inefficient neutral affect on economic development.

Studies of corporate site selection demonstrate that state and local tax incentives are one of many factors that influence corporate decisions (Area Development Site and Facility Planning 2003). The independent effect of the state and tax incentives, however, is unknown.

There is some evidence that corporations make business development decisions with little thought to possible tax incentives (LeRoy et al. 1997). Pomp (1995) suggests that businesses use tax incentives to minimize their tax obligations, not to inform their development decisions. And Vogel (2002) contends that corporations use tax incentives to increased profit with no intent to engage in additional business development.

This report compliments these previous studies and greatly extends our knowledge of corporate tax credits, and similar abatements, through a better understanding of corporate decisions to claim tax credits.

RESEARCH METHODOLOGY

The content of this report is primarily based on interviews with 16 corporate officials from 12 corporations who claimed corporate income tax credits over the past 8 years. Fifteen of the interviews were conducted by phone; one interviewee submitted a written response to the interview questions. On average, the interviews were 38 minutes long. Interviews were recorded and transcribed at a later date. Analysis was conducted on the transcriptions to identify answers to research questions as well as to discover common themes.

Most of the interviewees have a managerial role within a corporate tax or finance department, but participants also include a vice-president, human resources officer, senior manager, and minority owner/president. Participating corporations represent a variety of industries (4 retail, 6 manufacturing, 1 financial services, 1 professional/construction) and include large multinational corporations, national firms, and smaller regional corporations.

Participating firms claim between 0 and 4 tax credits each year. The M&E credit and the B&J credit are the most frequently claimed credits. Every participating corporation claimed the M&E credit at least once between 1998 and 2004. Most corporations claim at least two types of credits each year. Care was taken to ensure that the participating firms would provide a variety of perspectives on tax credits and conducting business operations within Kansas. All of the firms have claimed the machinery and equipment credit; all but two have claimed the business and job development credit; four firms have claimed the research and development credit; and, six firms have claimed the high performance incentive program credit. Some corporations have claimed tax credits routinely over the time period of interest while others only recently began claiming income tax credits in Kansas.

In addition to the interview transcripts, data from corporate income tax returns from 1998-2005 was analyzed to compare the relationship between Kansas taxable income, Kansas tax liability, and tax credit claims—an relationship that was identified by several of the interview participants. This analysis, illustrated in Appendix A, is not limited to the 12 corporations who agreed to participate in the interviews.

KEY FINDINGS

This section presents the results from the corporate interviews. Interview quotes have been selected to represent common themes across all interviews. Each quote is coded (1-12) to indicate the source. The codes are used to protect the confidentiality of the participants. A code key and the full transcripts have been provided to the KDOR.

Do corporate tax credits increase business investment?

The evidence suggests that corporations do not increase their business production (eg. hire more employees, increase wages, and/or invest in capital) because they receive corporate income tax credits. In some situations businesses, consider the tax credits as one of many factors in their cost-benefit analysis; however, there are only a few situations where tax credits directly influence a final decision.

“I know the government wants to hear that tax credits are getting corporations to do things that they normally would not have done and they definitely provided us some with some money that we can do some other things with...but we go through all the up front work and anything that comes later is a bit of cream for us. It may allow us to buy something that we wouldn't have bought before but it really wasn't part of the decision.” (10)

“I would have to say that an honest answer is this: that no jobs--maybe one here at headquarters, because that is how I argued for, I argued for a part-timer two years ago, that's precisely how I argued to get another headcount was to help me obtain some of the credits. So I can point to one. But beyond that, the honest answer is that the incentives never created jobs, they helped us perhaps with the cost of the business decision having made to generate those jobs are to generate investment in the state. It helps us reduce those costs, but the decision was made before the incentive was received.” (1)

“Yet, but as far as the jobs go, it's tough to quantify specifically that we hire more people because we take this credit, I don't think that's necessarily the case. And if it is the case, it pretty marginal, I don't think we could say that we are hiring 10 people we wouldn't have otherwise hired because of the credit or anything like that.” (4)

“The tax credits are kind of an afterthought. First we determine whether we need or want to do whatever it is—a new process or program we are doing. And then we will see if there are tax credits available to help finance it. Like I said, I don't think we would ever do anything just for the tax credit. It has to be something that makes economic sense.” (5)

“I would say that [increased employment and wages] were the result of the expansion. But is the expansion directly the result of the credit...I can't say that for sure.” (2)

In what situations are corporate tax credits considered prior to making a business development decision?

Large one-time investment. Tax credits are likely to be considered when corporations make a large capital investment, such as a new manufacturing plant or corporate headquarters. Such investments usually involve higher levels of financial risks, affect corporate revenues for many years, and significantly impact corporate tax obligations. Firms that are most likely to meet these conditions are start-up corporations and those looking to expand into Kansas. Though tax credits are more likely to be considered in large one-time investment decisions, the direct influence of tax credits in these decisions is still small, relative to other market factors and targeted tax benefits from local governments.

“[The] decision to locate a store is generally going to be market-based and not so much based on incentives. So to the extent that one city and Kansas versus another city in Kansas had incentives that make a decision on a store, from one city to an adjacent city. But the statewide incentive, I'd have to say in general we're going to come into the market anyhow. Now where it does make a pretty big difference is in situations where we're trying to locate a distribution center. Those can play a pretty big part in the decision process and in the influencing what location is more appropriate or better than another one.”(4)

“We are really looking at the underlying business needs first, and then the incentives, they are frosting on the cake. They may move us one way or another in some cases, like large capital projects, but in most cases we deal with the underlying business needs first.” (1)

“It depends on whether we are just going into a state versus if we are already in there. I think as we are going in we have more contact and work with companies that help us digest and scope out different credit and incentive opportunities in those states and localities.” (4)

“So in situations like that where we know that we're going to be ordering a lot of capital equipment, we may wait and see if we can get the credit first. For the most part, we normally just operate the business and the tax is kind of like the tail that does not wag the dog. But on certain big decisions, when we know there's a tax incentive out there, we may let the tax drive our decision a little bit.” (9)

Competitive Markets. Corporations in highly competitive business environments are more likely to consider the benefits of tax credits in their business decisions. A corporation that is able to reduce the price of their product by 5% may be able to under price their competition and gain a larger market share. These corporations, therefore, more closely monitor the effect of tax credits on their overall cost of production. One of the interesting ways this occurs is with manufacturing

plants that complete for production jobs from their home office. A Kansas manufacture that produces widgets for the parent company will bid for a contract to expand their production of widgets or to add a new production line. The parent company will decide which subsidiary will receive the job. Subsidiaries will often claim advantages of tax credits to attract jobs from the parent company. Though, once again, the tax credit was unlikely to be the primary reason for taking a business action.

“Now, when the team [at headquarters] evaluates all these alternatives, including third-party contractors, who are also in the business of manufacturing [our] projects, and in some cases could actually do it cheaper than we can. Those were all thrown out on the table as alternatives, and at the end of the day it's the low-cost provider who typically wins that. And the HPIP is a piece of that formula. Because if are going to spend that amount of capital, it triggers the ability for us to qualify for that credit.” (7)

“(Tax credits help) us grow as a business as a whole because being a low-cost provider helps us obtain more work. Because we operate in a competitively bid industry, and so if we can be low cost provider that helps us with our business expansion plans.” (6)

What factors affect corporate decisions to claim a tax credit?

Corporate officials often know about tax credits and yet do not apply for them. They many even know they qualify for the credit, but chose not to claim it. Other officials may have heard about some credits but don't take the time to learn whether they apply to their corporation or not. Several common factors, some overlapping, influence corporate decisions to claim corporate tax credits.

Tax Credit Costs. Nearly every firm identified costs as a major factor in their use of corporate tax credits. Costs include the time and effort to: discover appropriate tax credit programs, consider whether tax credits are appropriate for their business, develop the procedures to claim the credit, gather the necessary information, file the required documents with KDOR and/or KDOC, monitor legislation for changes to the credit program, and comply with the audit. Many corporations are understaffed and the costs to understand and apply for the credits can be very high. In some situations, corporations will contract with a consultant the first time they claim any tax credit. Accountant and consulting fees add additional costs. Corporations have to decide whether the transaction costs to claim a tax credit are worth the effort and whether an employee's time is not better spent in other pursuits.

“I know there have been some smaller credits, because of how the job and development credit works you have to look at it by, kind of by location, or business line, and due to the compliance burden, sometimes while they can generate a credit that is small, maybe under \$10,000, they will decide not to proceed to try and gather the information to comply, to take the credit. So if it's fairly small, sometimes the effort is not worth it.” (2)

"[Now] the question is are we spending 30 hours worth of time and labor to get a \$300 credit...and if there is a credit and it doesn't take long to get it, we just take it. Why wouldn't we, it's out there we'll take it...if we don't take it, we probably just don't know about it." (3)

"We are in close to 30 states, where we file tax returns, and yet I only have 1.6 staff to handle that. So I have to be really careful about what we pursue. We just don't have time for everything you know. There's no doubt there is value in that HPIP credit; we just don't have time to do it. So we've actually just backed off on it though we were aware of it. Now, going forward it is going to be a very large credit. We are going to spend close to 50 or 52 million on the new building and a good chunk of them is going to be available. So, we may be able to get the HPIP credit on and that credit can be north of \$4 million. At that point it's going to definitely be worth pursuing." (1)

"Right now, we are growing very rapidly, and we are doing a lot of acquisitions. So everyone's time is stretched so thin, whereas no one really has excess capacity. If we did, it may change our cost-benefit analysis. But if it comes down to a question of whether a credit will save us a couple thousand dollars a year or whether this person can be spending their time working on other things, the credits may be good, but we don't have the spare time in the accounting department to deal with it, then it may get passed over." (9)

"I know someone that worked at [X company] many years ago, and she said it was just a nightmare trying to keep up with all the filings for HPIP. So, of course, this is 15 years ago and maybe HPIP and the reporting requirements around it have changed. I worked at [Y company] prior to working for [current company], and they have a fairly significant Kansas operation and we said there that were just not going to pursue it, it's just too much work. So the application process just made the process that much more extensive, and it starts to weigh on the decision to pursue and obtain a credit."(1)

Release of Sensitive Business Information. Some corporations are concerned how the state will manage the information required to claim a credit. Companies are concerned that the information may violate the confidentiality of individual employees (ex. information on wages and social security numbers) and/or may provide harmful information to their competitors. Corporate concerns on confidential information, however, are mixed with their resistance to the cost of gathering the information.

"I would say that there are two issues there. One: is it going to require a lot of time on my part and my staff's part to put it together, if so it's going to impede our efforts to obtain those credits and those incentives. Secondly, we want to make sure that it's not information that is sensitive to our company. We wonder how they would use it. We don't want them to use it against us and we certainly don't want to go to any of our competitors." (1)

“Because what the states are asking is typically, the economic development group goes ahead and offers the credit, then the Department of Revenue comes out in their job is to make sure you're appearing to it, and so what they want is a list of all employees are eligible for the credit, meaning new employees, they want their Social Security numbers they want their personal address to find out if they're living in state or outside state, they want to know their wages, the amount of withholding taxes associated with it. Well, we as a company don't feel like we can share that information, and it's a huge administrative effort to keep up with that, for a credit that, if we are adding 30 employees at \$1500 apiece, is that good use of our time?” (7)

Access to Information. Identifying available credits, determining possible eligibility, and understanding the process of claiming the credits requires a significant investment for many corporations. Corporations without their own tax department are particularly disadvantaged in understanding tax credit opportunities. Therefore, corporations rely heavily on accountants, consultants, computer database/information programs, and tax attorneys to stay informed on current tax policy. Those corporations that rely on private sources to identify credits appear to be the least likely to consider tax credits prior to making business development decisions.

“Unfortunately, I don't think there are enough good sources out there that really understand the credits. I think everybody knows that there are credits but, in turn, even with the accounting firms, you call them...well they know there are credits, but it's digging in and finding the right person in their organization that has really dealt with them, because it is complicated. And, like I said, we haven't used the smaller firms that contacted us, they may actually be the specialty firms...that I don't know. But, I really rely, when I have questions, rather than asking an accounting firm I go right to David Bybee or Kathleen Smith and their group and ask the questions of them.” (2)

“Even though I am the financial guy, we really rely on our accountants to do the tax issues. Because I am not a tax guy. And that such changes so much, they keep us apprised of anything that is coming down the pike. Usually we discuss towards the end of the year, if there is anything that might be available or things that we might do in the middle of the year, but by and large as a company, we don't say. Oh, there is a tax credit and we are going to make a decision to try to get it.” (10)

“We have research services like CCH that stay up to date on current changes in tax law. At some point in time, though, you've got a base situation, you know pretty much everything that's out there. Our people have to continually stay up to date with changes, and that's one way. We also have various consultants and legal people that are experts in this area and we will contact with changes. For example, the bond counsel for the IRB that we did last year called me up when the Kansas Legislature passed the new law on the property tax and was filling me in on some of the things that were probably going on. Just different ways on keeping up-to-date.” (7)

Fragmentation within the Corporation. In many large corporations the tax accounting functions are separate from the do business operations departments. Communication between these two functions is often limited. Therefore, operation decisions are made without considering tax credit because there is no one in the operations division who has tax credit expertise; the tax department, or accounting firm, then monitors the business operations and tries to decrease tax liability after operation decisions have already been made.

“If our accountant thinks there’s an additional credit out there, they’ll bring us what the credit is and we rely on them for what the credit is and what we’re going to need to take the credit.... Tax credits do not affect our decision on business development. At the end of the year we have our human resources create a spread sheet on employees which we provide to our accountants...The credits don’t influence the operations, operations does their work and then we claim the credits on the backside.” (3)

“A lot of the history, through the 90s, a lot of that was really hit or miss. Especially at the store level, just, oh, there is something statutory, great, let’s take it. And I think it’s now becoming a little more in the forefront of people’s decision making, and it is asked more and more. It’s always been in the thought process, but now it’s a little more at the forefront of that thought process. So every real estate manager, when they’re looking at sites, asked the question now. And when we do our research now going into a new state, we asked the question. In theory, that’s what happened 10 years ago, but it probably didn’t always get put into practice as well as it does now.” (4)

“Since (we missed that opportunity to claim a credit), we have worked with our operations people to try and get them educated about the credits that are available to us. In the future, just to have that knowledge upfront to make decisions about expansion, get that information into the budgets...estimated costs.” (11)

Tax Liability. These findings challenge the logic of tax credits as incentives to encourage business development. Conventional logic assumes that tax credits are claimed in connection with decision to hire more employees or some other development decision. However, the evidence from this study suggests that corporate tax credits have little influence on business development decisions but that tax credits are a rational tool for corporations to decrease their tax liability. Corporations seek out and use credits in states where they have a high and stable tax liability. If a corporation’s Kansas tax liability is low, then the benefits from the tax relief may not compensate for the various costs incurred in claiming the credit. Also, if a corporation has a high tax liability for only a short time, the opportunity costs of learning how to use the credit and developing the necessary reporting processes may not be worth the benefit

“What I do is I look for where I have a stable amount of income, and therefore income tax, before I get involved with some of the credits because I don’t do it just once because it costs me more to do it the first time, to understand and develop it; and then, once I’ve got a steady stream of income tax that I’m trying to

cover, then I know it is worth pursuing that credit and going after it year after year.”(1)

“When I think of strictly an income tax credit, if it's in a particular state or jurisdiction where we have a lower tax liability, the credit could be, let's say you've got an investment tax credit, where you get a credit for 10% of the capital that you spend and you spend \$100 million and you get \$10 million in tax credits, but if you're tax credit liability is only \$100,000 a year, that credit doesn't mean a lot to you. So those are the kinds of things that we look at, that make an impact. And I ran into that very scenario in a project I was working on in [another state]. And so what you have to do to kind of balanced the sites is do a little education with the Department of Economic Development, and say I know you offer these types of credits, but because of our tax position they are not valuable. They are not going to make an impact.” (7)

“We have looked with our outside consultants at other states, with the purpose of proposing other credits and other states. But with us, with our operations being here, located in [a city in Kansas], the tax liabilities in the other states just did not warrant going any further to try and pursue those.” (11)

“I would say that maybe on a scale of one to 10, [Kansas has a priority] of maybe three. You know, that with one being very low to no priority and 10 being high priority. Our federal credits take high priority, the dollars are much bigger, I mentioned [another state we work in], the dollars there are much bigger. Those are higher priority. There are a few other states, where, just because the nature of our business we have a higher tax liability, so we focus on the credits in those states first.” (8)

“From a tax perspective, some of our tax strategies are impacted by credits and structures that are available in the various states and federally and internationally. And I will change and I'm in the process of looking at tax strategies, interestingly enough, because there's going to be tax incentives in Kansas, I'm going to have try to have more taxable income in Kansas. And I will only do so, if it is a rational. I won't do anything that I don't think is right. [My company] does place a very high premium on integrity, and I do also. And I do think looking at our tax strategies. There are some things we can do structurally, that will increase our tax liability in Kansas because of their incentives available in Kansas, and absolutely make sense for us to do. And it will keep some of our business activities, as a result, in Kansas.” (1)

To further explore the connection between corporate tax liability and corporate tax credits, data was analyzed from Kansas corporate income tax returns filed in 1998-2004 (see Appendix A).

Graph 1 illustrates the relationship between a corporation's total taxable income and their tax liability. As expected, taxable income is correlated with tax liability. Taxable income increases

exponentially among the top 20% of tax returns. Tax liability increases exponentially as well, but not until the top 5% of tax returns.

Graph 2 compares corporate tax liability with total claimed tax credit. Any space under the tax liability trend line indicates how much the corporations actually pay in Kansas corporate income tax. Tax returns with higher tax liabilities are more likely to claim tax credits. This graph supports claims by interview participants that corporate tax credits are used to reduce tax liability.

Graphs 3 through 6 use the same tax liability data from Graph 2 but disaggregate the tax credits by credit type. Graph 3 demonstrates that the machinery and equipment credit claims do not increase systematically with tax liability. Rather, machinery and equipment credits appear to be either clustered around returns with very low tax liabilities and those with higher liabilities. This clustering requires further analysis but does suggest that the M&E credits are not claimed only to decrease tax liability. This is not surprising since the M&E credit has the lowest compliance costs of the credits and is refundable. Graphs 4 and 5 demonstrate that B&J and R&D credits increase on returns with higher liabilities. Graph 6 demonstrates that only corporations with very high tax liabilities claim the HPIP credit. This trend is also supported by the interviews as the HPIP credit has the highest compliance cost of all the credits and therefore only corporation with high liability are willing to incur the compliance costs to claim an HPIP credit.

POLICY DISCUSSION

Corporation income tax credits are not likely to stimulate companies in Kansas to hire additional employees, increase their wages, and/or invest in additional capital. Tax credits are used to decrease tax liability which increases corporate profits and *may* lead to increased business activity in Kansas—though such a benefit would be indirect and not strategically connected to a corporation's ability to claim a tax credit. What are the tax policy implications of these findings? Since tax credits do not provide sufficient incentive to alter corporate development, should credits be eliminated, reduced, or restructured? What will be the effect of increasing reporting requirements for corporations that claim tax incentives? This research does not answer these questions but does point out several factors that should be considered when evaluating and altering tax policy on tax credits.

Additional factors to consider based on the findings of this report.

* Corporations receive financial benefits from tax credits. The traditional logic is that this benefit acted as an incentive to stimulate increased investment that would not have occurred otherwise. If the credits do not alter business operations, as these findings suggest, what happens to that benefit? They either increase the profits of the company and thereby the wealth of its owners or they allow the company to reinvest in other business actions, possibly those that are not supported by tax credits. The latter effect is the indirect benefit of tax credits. The policy question is this: if tax credits have an indirect and positive effect on economic development, how do you keep those benefits in Kansas?

It is necessary to think of a corporation as single tax entity with multiple tax obligations over multiple states, nations, and municipalities. Obviously corporations seek to make money, which requires investment in land, labor, and capital. But increased business production also means increased tax liability. Tax credits are, therefore, a tool for corporations to maintain a low tax liability. Logically, corporations will shift business practices to jurisdictions where they can keep the highest proportion of their income. The logic of corporate tax credits, from the corporate perspective, therefore, is not to facilitate corporate development (hiring new employees, training employees, increasing wages, investing in new equipment) but rather to minimize its overall tax obligation and thereby increase profits. This logic is clearly demonstrated when a corporation only learns of tax credits when their accountant "pitches" the benefits from a tax credit for investment practices that have already occurred.

This becomes more complex when we consider that many businesses conduct their operations in multiple states and have the choice of where to incur increased tax liability. If Kansas has a favorable tax credit program, corporations may choose to increase their taxable activities in the state. Not because they receive a tax credit for those activities, but because the tax liability that is incurred can be covered by the credits. Such corporate actions are difficult to track. However, multiple interviewees discussed this type of strategic shifting of taxable liability as one of the main effects of tax credits. Corporations that shift business activity into the state will likely produce indirect positive effects on the state economy. Whether the indirect benefits produce a positive return on the investment, however, is difficult to assess.

There is also a negative effect from corporations operating in multiple states and shifting indirect benefits from the tax credits. These corporations are also able to use the financial benefits from Kansas's tax credit programs to finance economic development in other states. In that situation Kansas tax payers end up subsidizing economic development in other states.

* The interview results and graphs in Appendix A demonstrate that corporations are influenced by the structure and compliance costs of the tax credits. What type of compliance process is best in order to facilitate economic improvement in Kansas? Any compliance structure will result in costs for a corporation. Do higher compliance costs, such as mandatory pre-operations certification, improve the likelihood that a tax credit will achieve the state's economic development objectives? Maybe. Increasing the compliance costs has positive and negative effects. I suggest three below:

- 1) Corporations are likely to claim tax credits with high compliance costs when their taxable income is stable. High compliance costs can be overcome because the corporation expects to become more efficient at claiming the credit overtime. However, since it is the stability of the taxable activity that permitted the corporation to incur the high compliance costs, the credit is unlikely to affect business operations.
- 2) Corporations are likely to only claim tax credits with high compliance costs for short term increases in taxable income when their net benefit is very high. These projects, however, are unlikely to be contingent on receiving a tax credit, which is typically a very small benefit in relation to all the capital and labor costs.
- 3) Less sophisticated and financially distressed corporations are likely to be at a disadvantage to larger corporations in obtaining high compliance cost credits. Many

corporations contract with expensive consulting firms to claim a credit for the first time. That expense is likely to only be available to a small portion of corporations. And arguably, it is the smaller, struggling corporations that are most in need of a tax credit.

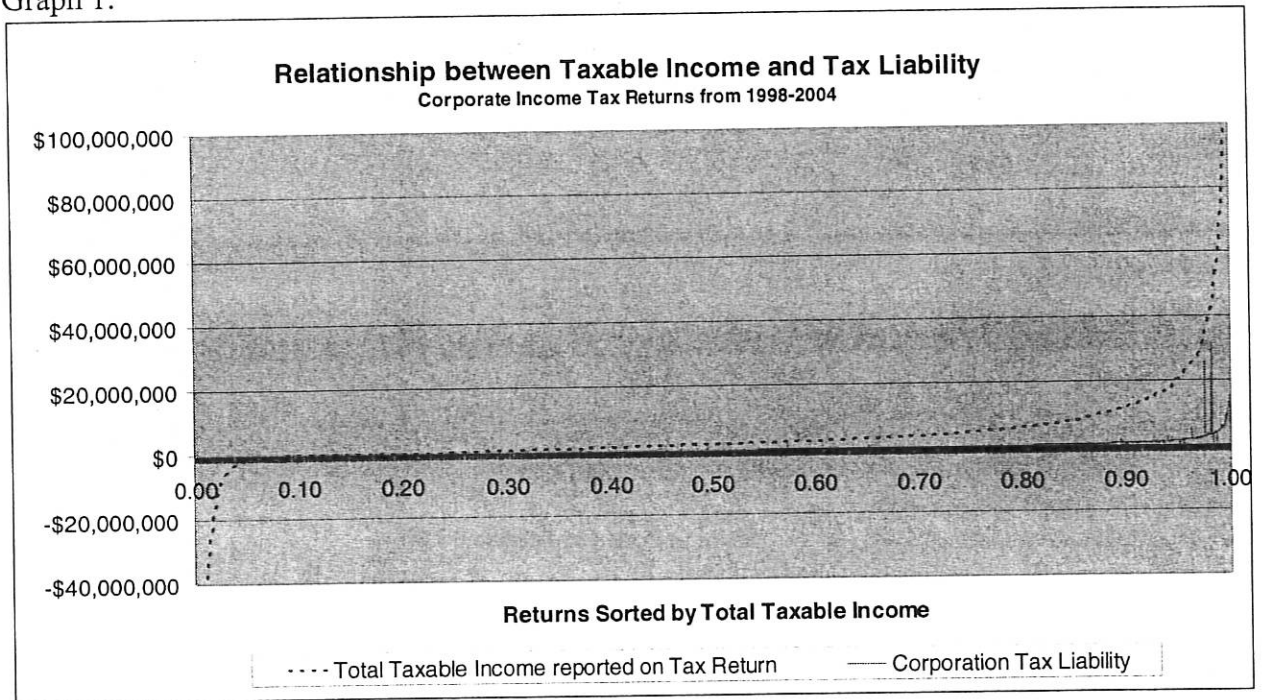
* Tax credits that are likely to have a lasting positive effect on the Kansas economy are those that are best able to keep the benefits within the state of Kansas. Providing a tax credit for purchasing computer equipment or machinery that can easily be moved out of Kansas may lead companies to conduct more taxable business in Kansas, but not to improve the base economy. Rather, benefits to support employee training, unless the employees quickly move out of state, are likely to have lasting benefits in a more educated workforce. Additional consideration should be given to structuring corporate tax credits to keep the indirect benefits within the state of Kansas.

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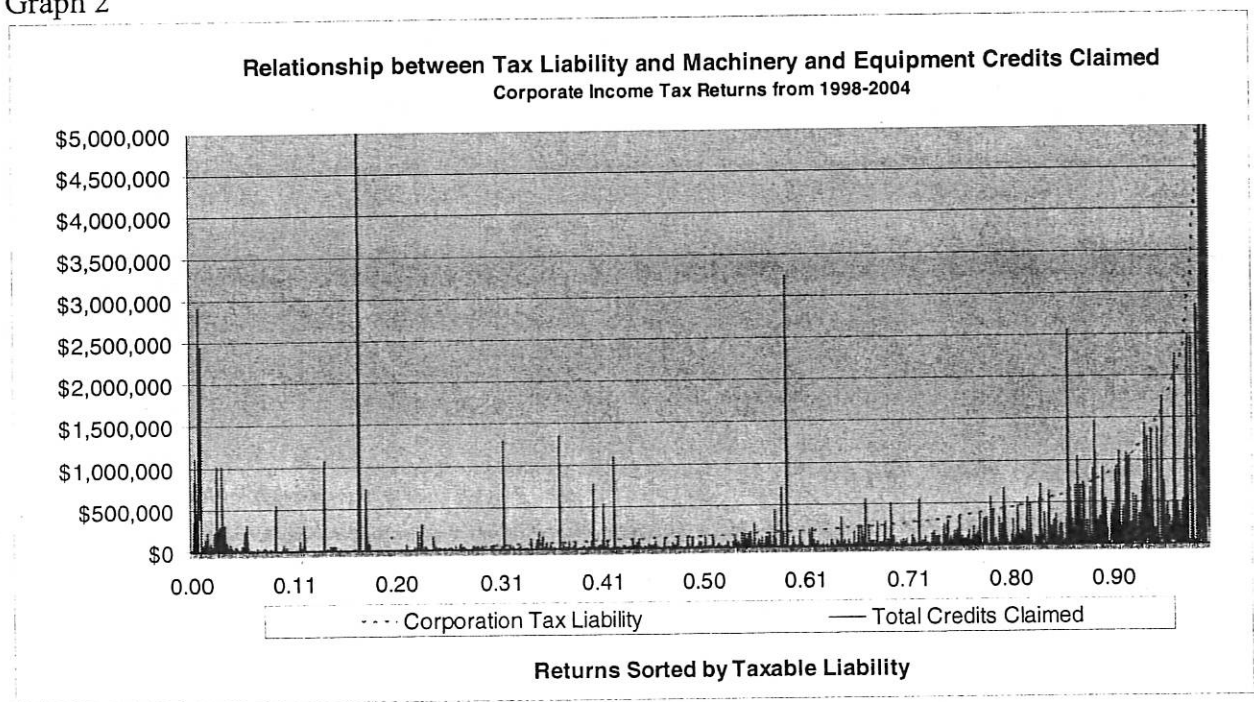
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APPENDIX A

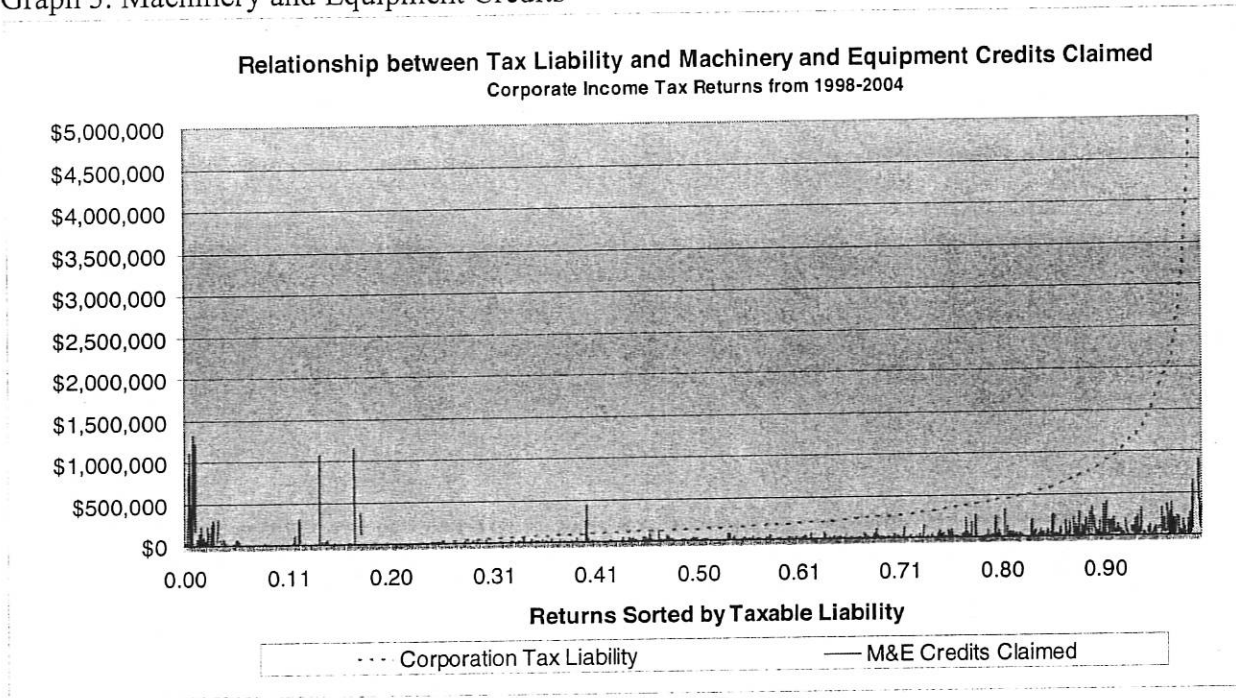
Graph 1.



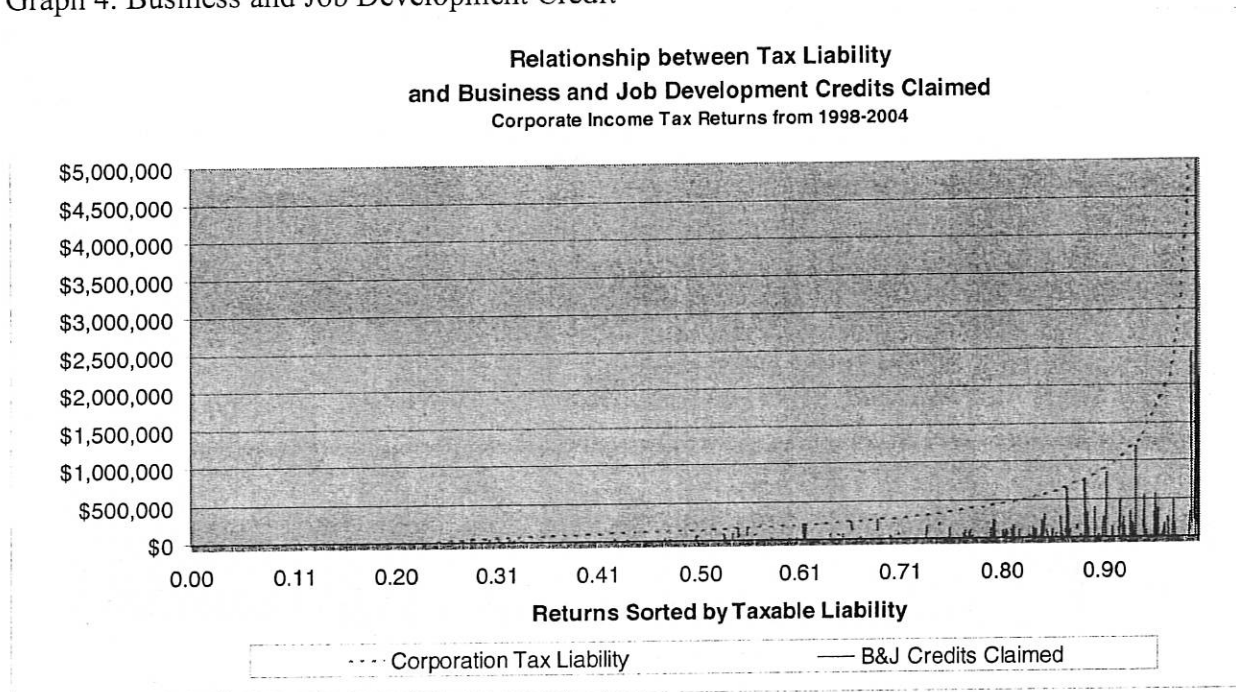
Graph 2



Graph 3. Machinery and Equipment Credits

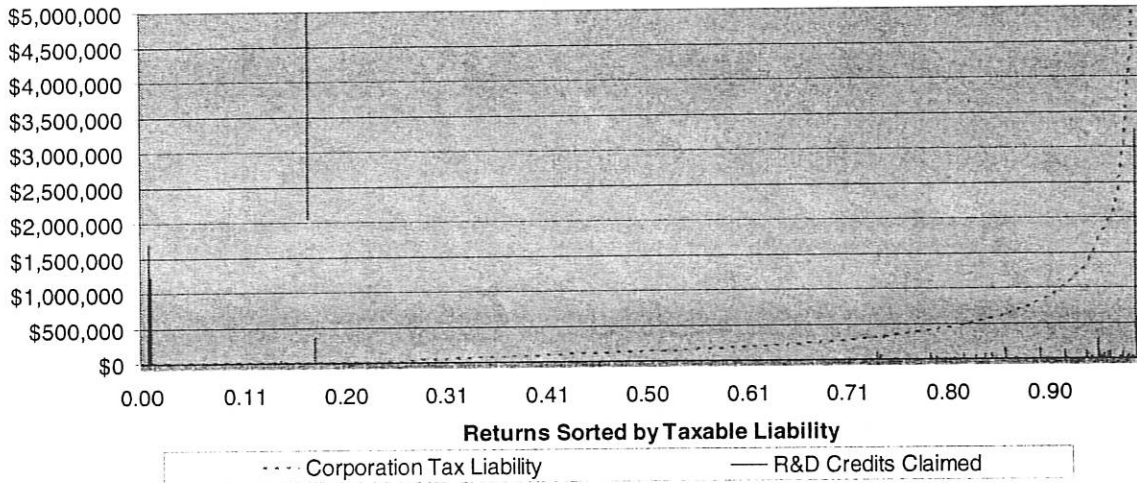


Graph 4. Business and Job Development Credit



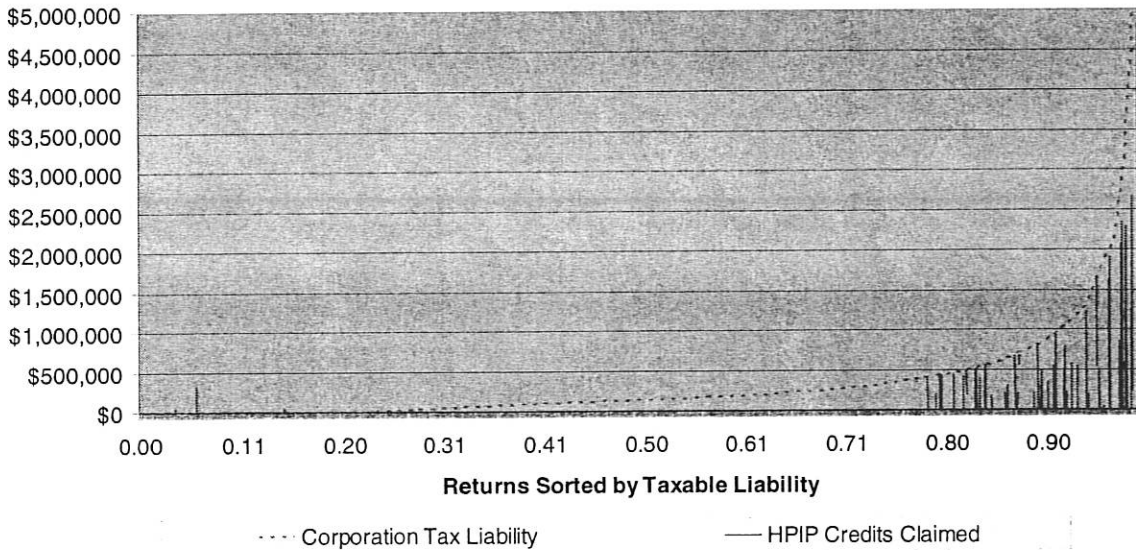
Graph 5. Research and Development Credit

**Relationship between Tax Liability
and Research and Development Credits Claimed**
Corporate Income Tax Returns from 1998-2004



Graph 6. High Performance Incentive Program Credit

**Relationship between Tax Liability
and High Performance Incentive Program Credits Claimed**
Corporate Income Tax Returns from 1998-2004





K A N S A S

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November 1, 2006

Update to Analysis of Kansas Corporate Income Tax Dated October 14, 2004 To Reflect Tax Year 2004 Data

The Analysis dated October 14, 2004 focused on the Kansas corporate income tax during tax years 2000, 2001 and 2002 and the impact of the 4 largest business income tax credit incentive programs on corporate income tax receipts, in an effort to determine how the corporate income tax burden falls within various industry sectors. Attached are updates to Tables 2 and 3 of the Analysis, to reflect the addition of tax year 2004 data. The discussion of the Top 20 claimants of the Business and Job Development (B&J) income tax credit is updated for tax year 2004 data. For comparison purposes, also attached are Analysis Tables 2 and 3, updated to include tax year 2003 data. Data on the Top 12 claimants of the High Performance Incentive Program (HPIP) tax credits for tax year 2004 is also discussed.

Recent History of Corporate Income Tax Receipts

Annual Kansas corporate income tax receipts (by fiscal year) since 1995 are shown below:

Fiscal Year	Amount Collected	Percent Change
1995	\$229,421,376	
1996	\$218,586,552	-4.7%
1997	\$263,573,332	20.6%
1998	\$281,651,300	6.9%
1999	\$227,369,923	-19.3%
2000	\$250,122,826	10.0%
2001	\$211,906,919	-15.3%
2002	\$93,958,484	-55.7%
2003	\$105,222,316	12.0%
2004	\$141,173,000	34.2%
2005	\$226,071,634	60.1%
2006	\$350,201,000	55.0%

Although the bottom fell out of corporate income tax receipts in FY 2002, the recent trend is very encouraging. Fiscal Year 2006 receipts set a new record. Thus far in FY 2007, corporate income tax receipts of \$135 million through the end of October are 55% above the April 2006 Consensus Revenue Estimate of \$306 million for FY 2007 and 50% above actual corporate income tax receipts for this same time period last year.

Corporate Income Tax Burden

In updating the Analysis dated October 14, 2004, tax returns from a sample of the largest 414 corporate taxpayers for tax year 2004 were reviewed in order to determine how much impact the business tax credit programs (Business & Job Development, High Performance Incentive Program, Research & Development, Business Machinery & Equipment) have on the corporate income tax burden. These corporations accounted for approximately 60% of the corporate income tax base for tax year 2004. The North American Industry Classification System (NAICS) code, Kansas taxable income, Kansas corporate income tax liability before credits, credits claimed, and the net tax receipts after credits for tax year 2004 for each of these corporations were captured in the database.

The update to Table 2 (attached) summarizes the results by NAICS code categories (using the first 2 digits of the NAICS code) for tax year 2004. The number of corporations included in each NAICS code category is shown in parenthesis in the first column.

Consistent with the Table 2 in the prior Analysis, the Update to Table 2 for tax year 2004 continues to show disparity between the various industry sectors in the proportion of tax liability that is reduced or eliminated by tax credits from participation in business incentive tax credit programs. The "payment percentage" column shown on the attached Update to Table 2 reflects the percent of tax liability (measured before credits are taken) actually paid after credits were applied to reduce tax liability. Manufacturers continue to experience a low tax payment percentage rate, 59.9% for tax year 2004, although higher than the 54.35% payment percentage rate for tax year 2003, and 45.60% tax payment percentage rate for tax years 2000 through 2002. The retail trade sector, now by far the largest in generating total tax liability before credits, as well as in the amount of net taxes paid (tax paid after credits are taken), had a higher tax payment percentage rate of 88.01% for tax year 2004, compared to 87.21% for tax year 2003, and the wholesale trade sector an even higher tax payment percentage rate than retail, 91.29%, although slightly lower than for tax year 2003, which was 94.61%.

While the Analysis dated October 14, 2004 (see Charts 2 and 3 of that document) indicated that manufacturers represented the largest portion of Kansas tax liability before credits (and Kansas taxable income) in the sample during tax years 2000 through 2002, the tax year 2003 data (see Update to Table 2 for tax year 2003) shows that retail trade represents the largest portion of Kansas taxable income, Kansas income tax liability generated before credits are taken, and net taxes paid after credits are taken. The 2004 tax year data continues that trend. As Update to Table 2 for tax year 2004 indicates, the retail sector's total corporate income tax liability before credits was \$35.6 million and tax payments after credits (see "net receipts" column) were \$31.3 million, while the manufacturing sector's total corporate income tax liability before credits was \$31.2 million and tax payments after credits were \$18.7 million.

B&J Credit Data

Within the sample of 414 corporations, the group of top 20 corporations that claimed the most B&J credits during tax year 2004 were identified. Corporations in this group were divided into 2 broad categories by NAICS code: manufacturing/transportation/warehousing and retail/wholesale/other. The effective tax rate for each corporation was computed, as well as the average effective tax rate for each of the two categories. The results are shown below.

Top 20 B & J Credit Claimants Tax Year 2004

Tax Year 2004

5 in Manufacturing/Transportation/Warehousing	15 in Retail/Wholesale/Other
Total Taxable Income: \$99.9 million	Total Taxable Income: \$323.14 million
Total Net Tax: \$6.32 million	Total Net Tax: \$19.45 million
Ave. Effective Tax Rate: 6.33%	Ave. Effective Tax Rate: 6.02%
Range: .69% to 6.78%	Range: -2.23% to 6.47%

This compares to the data for tax year 2003, shown below.

Top 20 B & J Credit Claimants Tax Year 2003

Tax Year 2003

6 in Manufacturing/Transportation/Warehousing	14 in Retail/Wholesale/Other
Total Taxable Income: \$40.96 million	Total Taxable Income: \$247.77 million
Total Net Tax: \$1.742 million	Total Net Tax: \$15.69 million
Ave. Effective Tax Rate: 4.2%	Ave. Effective Tax Rate: 6.3%
Range: -.58% to 7.78%	Range: 3.51% to 6.59%

The tax year 2004 results show rough parity between the manufacturing/transportation/warehousing category and the retail/wholesale/other category in terms of effective tax rates. In fact, the manufacturing/transportation/warehousing category averaged a higher effective tax rate (6.33%) than the retail/wholesale/other category (6.02%), and the range of effective tax rates within the manufacturing/transportation/warehousing category is narrower than for the retail/wholesale/other sector. This contrasts with the tax year 2003 results, which continued to show a significant disparity between the average effective tax rate paid by the manufacturing/transportation/warehousing category vs. the retail/wholesale/other category and wide disparity in effective tax rates paid by individual corporations within the manufacturing/transportation/warehousing category. For example, in tax year 2003, the 6 corporations in the manufacturing/transportation/warehousing category had an average effective tax rate of 4.2% (compared to a lower effective tax rate of 2.1% for tax years 2000 through 2002), although within that category, the effective tax rate ranged from -.58% to 7.78%. Of the corporations in the retail/wholesale/other category in tax year 2003, the average effective tax rate was 6.3%, although within that category, the effective tax rate ranged from 3.51% to 6.59%, a much smaller variance.

The Update to Table 3 for tax years 2000 through 2004 (attached) compares the manufacturing firms and retail firms within the group of corporations included in the "top 20" in B & J credit claimants during tax years 2000 through 2004 (a sample size of 114 corporations). The amount of tax liability (measured before credits are taken), credits and net receipts (tax paid after credits were taken) for all four tax years for manufacturing and retail firms in the group are listed. Of the 114 corporations in the group, 34 were manufacturing corporations and 30 were retail trade corporations. The "total" row at the bottom sums the information not only for these 34 manufacturers and 30 retailers, but also the rest of the 114 corporations in the group.

The Update to Table 3 for tax years 2000 through 2004 shows that manufacturing firms that are large B & J credit claimants continue to succeed in offsetting significant tax liability with tax credits, owing only 32.75% of the amount of their tax liability measured before credits were applied, while retailers offset a much smaller portion of their tax liability, owing 81.52% of the

amount their tax liability measured before credits. The average payment percentage for all 114 corporations in this group of largest B&J credit claimants is 61.23%. Comparing this table to Update to Table 3 for tax years 2000 through 2003, manufacturers owed only 24.14% of their tax liability measured before credits were applied, while retailers owed 81.38% of their tax liability measured before credits. The average payment percentage for all 78 corporations in this group of largest B&J credit claimants for tax years 2000 through 2003 was 56.95%.

HPIP Data

Within the sample of 414 corporations, the top 12 corporations claiming the most HPIP credits during tax year 2004 were identified. Corporations in this group were divided into 2 broad categories by NAICS code: manufacturing and other. The effective tax rate for each corporation was computed, as well as the average effective tax rate for each of the two categories. The results are shown below.

Top 12 HPIP Credit Claimants Tax Year 2004

Tax Year 2004

7 in Manufacturing

Total Taxable Income: \$146.4 million

Total Net Tax: \$2.548 million

Ave. Effective Tax Rate: 1.74%

Range: -1.35% to 4.07%

5 in Other

Total Taxable Income: \$50.6 million

Total Net Tax: \$2.423 million

Ave. Effective Tax Rate: 4.79%

Range: -2.23% to 6.6%

The tax year 2004 data indicates that manufacturers benefited the most from the HPIP program, with over half (7) of the "top 12" claimants being manufacturers, paying a low average effective tax rate of 1.74%. Some participants had negative effective tax rates, eliminating their corporate income tax liability entirely with credit offsets. The 5 non-manufacturer HPIP claimants in the "top 12" group succeeded in offsetting significant tax liability with tax credits, maintaining a low effective tax rate of 4.79% (although not as low as for manufacturers in HPIP), with some of these participants also eliminating their tax liability entirely. This data shows that large-scale participants in HPIP are able to offset most, if not all, of their corporate income tax liability with tax credits, the majority of large claimants being manufacturers.

Updated Conclusions

Many of the conclusions in the Analysis dated October 14, 2004 remain valid for the tax year 2004 corporate income tax data sample: manufacturers continue to utilize the business tax credit incentive programs heavily and have claimed the largest amounts of the credits. Because tax credits are used to lower tax burden, the effective tax rates continue to vary within industry groups of all types, although that disparity narrowed in tax year 2004, a year for strong corporate income tax receipts, and manufacturers were able to offset a lower percentage of their tax liability with credits than in prior years. Generally, the manufacturing sector bears a smaller share of the corporate income tax burden than other sectors of the economy, compared to the taxable income generated by those sectors. However, the tax year 2004 data indicates that the average tax payment percentage for manufacturers increased from 54.35% for tax year 2003 to 59.9% for tax year 2004, while the average tax payment percentage for all corporations in the sample decreased from 85.15% for tax year 2003 to 78.44% for tax year 2004. Also, among the top 20 B&J credit claimants for tax year 2004, the manufacturing/transportation/warehousing category average effective tax rate (6.33%) actually exceeded the average effective tax rate for

the retail/wholesale/other category (6.02%). During years when the economy and tax receipts are strong (such as 2004), even manufacturers have a higher average tax payment percentage.

The tax year 2004 data, as did the 2003 data, continues to show that the retail sector is the most dominant portion of the corporate income tax base, generating the largest amount of Kansas taxable income and contributing the largest portion of the corporate income tax receipts. In tax years 2000, 2001 and 2002, the manufacturing sector generated the largest amount of Kansas taxable income (but not corporate income tax receipts). The retail sector has benefited somewhat less than the manufacturing sector from the tax credit programs. The retail sector typically bears a higher share of the corporate income tax burden, and pays higher effective tax rates, although that disparity did narrow in tax year 2004.

Update to Table 2: Tax and Credits Statistics by Industry from a sample of 414 Corporations for Tax year 2004.

Industry (# of corporations)	Total Tax Liability	Total NR Credits	B&J	R&D	HPIP	CIME Credit	Total Ref. Credits	Net Receipts	Payment Percentage
Mining (10)	\$10,164,775	\$5,337,022	\$0	\$0	\$0	\$84,965	\$0	\$4,742,788	46.66%
Utilities (8)	\$2,617,772	\$0	\$0	\$0	\$0	\$4,814	\$8,362	\$2,604,596	99.50%
Construction (10)	\$1,062,113	\$436,967	\$0	\$0	\$436,967	\$25,456	\$0	\$599,690	56.46%
Manufacturing (75)	\$31,200,763	\$8,711,141	\$764,439	\$112,185	\$7,380,319	\$3,771,681	\$30,000	\$18,687,941	59.90%
Wholesale Trade (84)	\$20,218,220	\$597,101	\$18,000	\$216,734	\$416,225	\$1,133,930	\$30,324	\$18,456,864	91.29%
Retail Trade (59)	\$35,563,751	\$3,325,521	\$3,326,251	\$3,718	\$2,599,171	\$940,131	\$0	\$31,298,099	88.01%
Transportation and Warehousing (10)	\$10,628,394	\$519,233	\$210,113	\$0	\$0	\$313,500	\$0	\$9,795,661	92.17%
Information (25)	\$8,717,709	\$1,055,292	\$23,800	\$0	\$1,028,986	\$2,234,716	\$2,502,520	\$2,925,181	33.55%
Finance and Insurance (41)	\$11,617,309	\$1,123,859	\$473,727	\$0	\$27,715	\$79,849	\$0	\$10,413,601	89.64%
Real Estate and Rental and Leasing (8)	\$842,259	\$0	\$0	\$0	\$0	\$87,435	\$0	\$754,824	89.62%
Professional, Scientific, and Technical Se (21)	\$5,509,049	\$208,037	\$15,760	\$0	\$0	\$63,188	\$0	\$5,237,824	95.08%
Management of Companies and Enterprises (16)	\$9,850,735	\$179,062	\$179,062	\$0	\$0	\$206,854	\$0	\$9,464,819	96.08%
Administrative and Support and Waste Manag (1)	\$862,623	\$24,000	\$24,000	\$0	\$0	\$47,204	\$0	\$791,419	91.75%
Health Care and Social Assistance (15)	1670376	0	0	0	0	1102	0	\$1,669,274	99.93%
Accommodation and Food Services (10)	\$2,140,856	\$370,973	\$365,477	\$0	\$0	\$65,054	\$0	\$1,704,829	79.63%
Other Industries (12)	4826240.77	175608	175608	0	0	266212	0	\$4,384,421	90.85%
Total All Industries (415)	\$157,492,944	\$22,063,816	\$5,576,237	\$332,637	\$11,889,383	\$9,326,091	\$2,571,206	\$123,531,830	78.44%

Other industries includes: Agriculture, Forestry, Fishing and Hunting, Educational Services, Arts, Entertainment and Recreation, and other service sectors not specified by the current codes

Update to Table 3. Summary information for the corporations that claimed most B&J Credits from TY 2000 to 2004

Sector (# of sample)	Total Tax Liability	Total NR Credits	B&J	R&D	HPIP	BM&E	Total Ref. Credits	Net Receipts	Payment Percentage
Manufacturing (34)	\$52,737,690	\$30,965,768	\$16,272,236	\$6,140,317	\$8,400,818	\$4,199,955	\$298,675	\$17,273,292	32.75%
retail Trade (30)	\$61,975,221	\$10,362,521	\$10,643,159	\$0	\$2,599,171	\$1,091,391	\$0	\$50,521,310	81.52%
Total (114)	\$160,070,038	\$52,296,474	\$36,265,460	\$6,694,224	\$12,430,647	\$7,148,085	\$2,013,593	\$98,004,077	61.23%

Update to Table 2: Tax and Credits Statistics by Industry from a sample of 244 Corporations for Tax year 2003.

Industry (# of corporations)	Total Tax Liability	Total NR Credits	B&J	R&D	HPIP	CIME Credit	Total Ref. Credits	Net Receipts	Payment Percentage
Agriculture, Mining and Utilities (10)	\$12,487,012	\$544,410	\$0	\$0	\$544,410	\$219,237	\$0	\$11,723,364	93.88%
Construction (6)	\$666,750	\$0	\$0	\$0	\$0	\$15,329	\$16,256	\$635,165	95.26%
Manufacturing (39)	\$20,412,158	\$7,894,827	\$613,466	\$283,740	\$6,897,871	\$1,378,092	\$46,100	\$11,093,139	54.35%
Wholesale Trade (51)	\$16,840,931	\$135,443	\$96,000	\$39,443	\$0	\$771,757	\$0	\$15,933,731	94.61%
Retail Trade (44)	\$30,064,738	\$3,170,582	\$2,493,213	\$12,165	\$665,204	\$673,794	\$0	\$26,220,362	87.21%
Information (12)	\$7,102,178	\$243,117	\$900	\$0	\$0	\$390,130	\$19,952	\$6,448,979	90.80%
Finance and Insurance (24)	\$6,874,239	\$0	\$0	\$0	\$0	\$17,780	\$0	\$6,856,459	99.74%
Real Estate and Rental and Leasing (5)	\$979,887	\$0	\$0	\$0	\$0	\$1,194	\$0	\$978,693	99.88%
Professional and Technical Services (17)	\$4,715,392	\$124,700	\$99,700	\$0	\$0	\$59,258	\$0	\$4,531,434	96.10%
Management of Companies and Enterprises (11)	\$6,246,353	\$0	\$0	\$0	\$0	\$234,429	\$0	\$6,011,924	96.25%
Health Care and Social Assistance (6)	\$1,372,700	\$0	\$0	\$0	\$0	\$19,756	\$0	\$1,352,944	98.56%
Accommodation and Food Services (7)	\$2,086,084	\$295,116	\$222,956	\$0	\$0	\$67,261	\$0	\$1,723,707	82.63%
Other Services (12)	\$6,099,645	\$590,426	\$379,484	\$0	\$188,946	\$287,194	\$0	\$5,222,025	85.61%
Total All Industries (244)	\$115,948,066	\$12,998,621	\$3,905,719	\$335,348	\$8,296,431	\$4,135,211	\$82,308	\$98,731,927	85.15%

Other services includes: Administrative and Waste Service, Educational Services, Arts, Entertainment and Recreation, Transportation and Warehousing, and other service sectors not specified by the current codes

Update to Table 3. Summary information for the corporations that claimed most B&J Credits from TY 2000 to 2003

Sector (# of sample)	Total Tax Liability	Total NR Credits	B&J	R&D	HPIP	BM&E	Total Ref. Credits	Net Receipts	Payment Percentage
Manufacturing (17)	\$45,169,004	\$30,137,026	\$15,507,797	\$6,140,317	\$8,400,818	\$3,830,802	\$298,675	\$10,902,501	24.14%
retail Trade (18)	\$41,517,023	\$7,125,540	\$7,125,540	\$0	\$0	\$605,059	\$0	\$33,786,424	81.38%
Total (78)	\$125,095,156	\$46,969,073	\$30,689,223	\$6,694,224	\$9,387,536	\$5,917,080	\$359,019	\$71,242,175	56.95%

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Kansas Tax Credits
Tax Year 2004

Program Name	Statutory Reference	Description	Number of Filers	Tax Expenditure	Projected Jobs Created	Actual Jobs Created	Projected Jobs Retained	Actual Jobs Retained	Projected Capital Investment Generated	Actual Capital Investment Generated	Projected Revenue/Sales Generated	Actual Revenue/Sales Generated	Projected Payroll Generated	Actual Payroll Generated
High Performance Incentive Program	K.S.A. 74-50,132	A qualified firm making a cash investment in the training and education of its employees can receive a credit equal to the portion of the investment in the training and education that exceeds 2% of the business total payroll costs.												
	K.S.A. 79-32,160a(e)	A credit is available for those qualified firms that make an investment in a qualified business facility. The investment credit is 10% of the qualified business facility investment which exceeds \$50,000.												
Income and Privilege Taxpayers		Sector 11- Agriculture, Forestry, Fishing and Hunting, Sector 22- Utilities, and Sector 31-33- Manufacturing	50	\$10,859,374	377	332	1,832		\$253,792,021	\$111,358,238				
		Sector 42-Wholesale	8	\$579,741	17	51	6		\$7,666,464	\$1,359,274				
		Sector 44-45-Retail Trade, Sector 48-49-Transportation and Warehousing, and Sector 51-Information	9	\$510,549	107	35	-		\$21,326,865	\$10,886,796				
		Sector 52-Finance and Insurance, Sector 53-Real Estate and Rental and Leasing, Sector 55-Management of Companies and Enterprises, and Sector 56-Administrative and Support and Waste Management	14	\$2,657,211	134	24	-		\$11,357,646	\$7,523,902				
		Sector 54-Professional, Scientific, and Technical Services	10	\$862,176	163	92	10		\$14,498,920	\$5,191,064				
Total High Performance Incentive Program Credits			91	\$15,469,051	798	534	1848		\$308,641,916	\$136,319,274				

Senate Commerce Committee
 January 30, 2007
 Attachment 5-1

Senate Commerce Committee
 January 30, 2007
 Attachment 5-1

Kansas Tax Credits
Tax Year 2004

Program Name	Statutory Reference	Description	Number of Filers	Tax Expenditure	Projected Jobs Created	Actual Jobs Created	Projected Jobs Retained	Actual Jobs Retained	Projected Capital Investment Generated	Actual Capital Investment Generated	Projected Revenue/Sales Generated	Actual Revenue/Sales Generated	Projected Payroll Generated	Actual Payroll Generated
Business and Job Development Credit	K.S.A. 79-32,153	Any taxpayer that invests in a qualified business facility and hires at least two employees as a result of that investment may be eligible for an investment tax credit of \$100 for every \$100,000 of investment made and a job creation tax credit of \$100 for every qualified business facility employee.												
	K.S.A. 79-32,160a	Any taxpayer that meets the definition of business in K.S.A. 74-50,114(b), that invests in a qualified business facility and hires a minimum number of employees as a result of that investment may be eligible for an investment tax credit of \$1,000 for every \$100,000 of investment made and a job creation tax credit of at least \$1,500 for every qualified business facility employee.												
Income Taxpayers		Sector 11-Agriculture, Forestry, Fishing and Hunting and Sector 21-Mining	24	\$183,091		78				\$4,113,149				
		Sector 23-Construction	34	\$256,127		83				\$6,890,367				
		Sector 31-33-Manufacturing	268	\$4,490,509		2,390				\$128,475,909				
		Sector 42-Wholesale Trade	33	\$912,344		308				\$10,255,353				
		Sector 44-45-Retail Trade	110	\$3,108,874		2,378				\$199,876,036				
		Sector 48-49-Transportation and Warehousing	21	\$267,748		109				\$5,067,403				
		Sector 52-Finance and Insurance	14	\$200,025		199				\$3,987,103				
		Sector 54-Professional, Scientific, and Technical Services	129	\$1,884,319		686				\$36,567,631				
Privilege Taxpayers		Sector 52-Finance and Insurance	65	\$201,872		269				\$27,240,376				
Total Business and Job Development Credits			698	\$11,504,909		6,500				\$422,473,327				

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NAICS Titles and Descriptions of Industries

Sector	Title	Description
Sector 11	Agriculture, Forestry, Fishing and Hunting	Establishments primarily engaged in growing crops, raising animals, harvesting timber, and harvesting fish and other animals from a farm, ranch or their natural habitats.
Sector 21	Mining	Establishments that extract naturally occurring mineral solids, such as coal and ores; liquid minerals, such as crude petroleum; and gases, such as natural gas. The term mining is used in the broad sense to include quarrying, well operations, beneficiating (e.g., crushing, screening, washing, and flotation), and other preparation customarily performed at the mine site, or as a part of mining activity.
Sector 22	Utilities	Establishments engaged in the provision of the following utility services: electric power, natural gas, steam supply, water supply, and sewage removal.
Sector 23	Construction	Establishments primarily engaged in the construction of buildings or engineering projects (e.g., highways and utility systems). Establishments primarily engaged in the preparation of sites for new construction and establishments primarily engaged in subdividing land for sale as building sites also are included in this sector.
Sector 31-33	Manufacturing	Establishments engaged in the mechanical, physical, or chemical transformation of materials, substances, or components into new products.
Sector 42	Wholesale Trade	Establishments engaged in wholesaling merchandise, generally without transformation, and rendering services incidental to the sale of merchandise.
Sector 44-45	Retail Trade	Establishments engaged in retailing merchandise, generally without transformation, and rendering services incidental to the sale of merchandise.
Sector 48-49	Transportation and Warehousing	Industries providing transportation of passengers and cargo, warehousing and storage for goods, scenic and sightseeing transportation, and support activities related to modes of transportation.
Sector 51	Information	Establishments engaged in the following processes: (a) producing and distributing information and cultural products, (b) providing the means to transmit or distribute these products as well as data or communications, and (c) processing data.
Sector 52	Finance and Insurance	Establishments primarily engaged in financial transactions (transactions involving the creation, liquidation, or change in ownership of financial assets) and/or in facilitating financial transactions.
Sector 53	Real Estate and Rental and Leasing	Establishments primarily engaged in renting, leasing, or otherwise allowing the use of tangible or intangible assets, and establishments providing related services.
Sector 54	Professional, Scientific, and Technical Services	Establishments that specialize in performing professional, scientific, and technical activities for others. Activities performed include: legal advice and representation; accounting, bookkeeping, and payroll services; architectural, engineering, and specialized design services; computer services; consulting services; research services; advertising services; photographic services, translation and interpretation services; veterinary services; and other professional, scientific, and technical services.

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NAICS Titles and Descriptions of Industries

Sector	Title	Description
Sector 55	Management of Companies and Enterprises	Comprises (1) establishments that hold the securities of (or other equity interests in) companies and enterprises for the purpose of owning a controlling interest or influencing management decisions or (2) establishments (except government establishments) that administer, oversee, and manage establishments of the company or enterprise and that normally undertake the strategic or organizational planning and decisionmaking role of the company or enterprise.
Sector 56	Administrative and Support and Waste Management and Remediation Services	Establishments performing routine support activities for the day-to-day operations of other organizations. Activities performed include: office administration, hiring and placing of personnel, document preparation and similar clerical services, solicitation, collection, security and surveillance services, cleaning, and waste disposal services.
Sector 61	Educational Services	Establishments that provide instruction and training in a wide variety of subjects.
Sector 62	Health Care and Social Assistance	Establishments providing health care and social assistance for individuals.
Sector 71	Arts, Entertainment, and Recreation	Establishments that operate facilities or provide services to meet varied cultural, entertainment, and recreational interests of their patrons. This sector comprises (1) establishments that are involved in producing, promoting, or participating in live performances, events, or exhibits intended for public viewing; (2) establishments that preserve and exhibit objects and sites of historical, cultural, or educational interest; and (3) establishments that operate facilities or provide services that enable patrons to participate in recreational activities or pursue amusement, hobby, and leisure time interests.
Sector 72	Accommodation and Food Services	Establishments providing customers with lodging and/or preparing meals, snacks, and beverages for immediate consumption.
Sector 81	Other Services (except Public Administration)	Establishments engaged in providing services not specifically provided for elsewhere in the classification system. Establishments in this sector are primarily engaged in activities, such as equipment and machinery repairing, promoting or administering religious activities, grantmaking, advocacy, and providing dry-cleaning and laundry services, personal care services, death care services, pet care services, photofinishing services, temporary parking services, and dating services.
Sector 92	Public Administration	Establishments of federal, state, and local government agencies that administer, oversee, and manage public programs and have executive, legislative, or judicial authority over other institutions within a given area.

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Kansas Tax Credits
Tax Year 2004

Program Name	Statutory Reference	Description	Number of Filers	Tax Expenditure
Research and Development Credit	K.S.A. 79-32,182b	A taxpayer with qualifying expenditures in research and development activities conducted within Kansas may be eligible to receive a credit of 6 1/2% of the amount expended for research.		
Income Taxpayers		Sector 23-Construction and Sector 31-33-Manufacturing	52	\$177,402
		Sector 42-Wholesale Trade	19	\$298,135
		Sector 44-45-Retail Trade and Sector 48-49-Transportation and Warehousing	8	\$8,411
		Sector 51-Information	7	\$10,663
		Sector 52-Finance and Insurance and Sector 54-Professional, Scientific, and Technical Services	11	\$27,885
		Sector 56-Administrative and Support and Waste Management and Remediation Services, Sector 62-Health Care and Social Assistance, Sector 72-Arts, Entertainment, and Recreation, and Sector 81-Other Services	14	\$52,388
Total Research and Development Credit			111	\$574,884
Business Machinery and Equipment Credit	K.S.A. 79-32,206	A credit may be allowed based on a percentage of the personal property tax levied and paid on commercial and industrial machinery and equipment classified for property taxation purposes pursuant to section 1 of article 11 of the Kansas Constitution in subclass (5) or (6) of class 2, and machinery and equipment classified for such purposes in subclass (2) of class 2.		
Income Taxpayers			14,768	\$20,322,632
Privilege Taxpayers			347	\$589,714
Total Business Machinery and Equipment Credit			15,115	\$20,912,346

Kansas Tax Credits
Tax Year 2004

Program Name	Statutory Reference	Description	Number of Filers	Tax Expenditure
Abandoned Well Plugging Credit	K.S.A. 79-32,207	A taxpayer that makes expenditures to plug an abandoned oil or gas well on their land may be eligible for a credit of 50% of the amount expended.		
Income Taxpayers			7	\$23,461
Total Abandoned Well Plugging Credit			7	23,461
Adoption Credit	K.S.A. 79-32,202	<p>General Adoption Credit Residents of Kansas who adopt a child can receive a credit of 25% of the adoption credit allowed against the federal income tax liability on the federal return.</p> <p>Special Needs/SRS Custody Adoption Credit A \$1,500 credit is available for those Kansas residents that adopt a special needs child or a child in the custody of the secretary of Social and Rehabilitation Services.</p>		
Income Taxpayers			543	\$556,154
Total Adoption Credit			543	\$556,154
Agricultural Loan Interest Reduction Credit	K.S.A. 79-32,181a K.S.A. 79-1126a	A taxpayer which extends or renews an agricultural production loan at least one whole percentage point less than the prime interest rate on loans with equivalent collateral can receive a credit against their tax liability.		
Income Taxpayers			0	\$0
Privilege Taxpayers			*CONFIDENTIAL	
Total Agricultural Loan Interest Reduction Credit			*CONFIDENTIAL	
Agritourism Liability Insurance Credit	K.S.A. 74-50,173	An income tax credit shall be allowed in an amount equal to 20% of the cost of liability insurance paid by a registered agritourism operator that operates an agritourism activity.		
Income Taxpayer			25	\$6,783
Total Agritourism Liability Insurance Credit			25	6,783

Kansas Tax Credits
Tax Year 2004

Program Name	Statutory Reference	Description	Number of Filers	Tax Expenditure
Alternative Fuel Tax Credit	K.S.A. 79-32,201	A credit is allowed for any individual, association, partnership, limited liability company, limited partnership, or corporation that makes expenditures for a qualified alternative-fueled motor vehicle licensed in the state of Kansas or that makes expenditures for a qualified alternative-fuel fueling station.		
Income Taxpayers			26	\$115,530
Total Alternative Fuel Tax Credit			26	\$115,530
Child Day Care Assistance Credit	K.S.A. 79-32,190	A taxpayer may be eligible for a credit if they pay for child day care services for its employees children, locate child day care services for the employees children, or provide facilities and necessary equipment for child day care services for its employees children.		
Income Taxpayers			19	\$34,114
Privilege Taxpayers			0	\$0
Total Child Day Care Assistance Credit			19	\$34,114
Community Service Contribution Credit	K.S.A. 79-32,197	Any business firm which contributes to an approved community service organization engaged in providing community services may be eligible to receive a tax credit of at least 50% of the total contribution made.		
Income Taxpayers			1,232	\$3,364,317
Privilege Taxpayers			28	\$438,768
Total Community Service Contribution Credit			1,260	\$3,803,085

Kansas Tax Credits
Tax Year 2004

Program Name	Statutory Reference	Description	Number of Filers	Tax Expenditure
Disabled Access Credit	K.S.A. 79-32,175 K.S.A. 79-1117	Individual and business taxpayers that incur certain expenditures to make their property accessible to the disabled may be eligible to receive a credit.		
Income Taxpayers			142	\$188,381
Privilege Taxpayers			0	\$0
Total Disabled Access Credit			142	\$188,381
Habitat Management Credit	K.S.A. 79-32,203	An income tax credit is allowed for a property owner that pays property taxes and assessments on property designated as a critical habitat.		
Income Taxpayers			*CONFIDENTIAL	
Total Habitat Management Credit			*CONFIDENTIAL	
Historic Preservation Credit	K.S.A. 79-32,211	An income tax credit is allowed for expenditures incurred in the restoration and preservation of a qualified historic structure.		
Income Taxpayers			113	\$1,139,423
Privilege Taxpayers			12	\$2,299,149
Total Historic Preservation Credit			125	\$3,438,572
Regional Foundation Credit	K.S.A. 74-50,154	Any taxpayer that contributes to an organization designated as a regional foundation may be eligible to receive a tax credit of 50% of the total amount contributed.		
Income Taxpayers			*CONFIDENTIAL	
Privilege Taxpayers			*CONFIDENTIAL	
Total Regional Foundation Credit			*CONFIDENTIAL	

Kansas Tax Credits
Tax Year 2004

Program Name	Statutory Reference	Description	Number of Filers	Tax Expenditure
Single City Port Authority Credit	K.S.A. 79-32,212	An income tax credit is allowed equal to 100% of the amount attributable to the retirement of indebtedness authorized by a single city port authority established before January 1, 2002.		
Income Taxpayers			*CONFIDENTIAL	
Total Single City Port Authority Credit			*CONFIDENTIAL	
Small Employer Health Benefit Plan Credit	K.S.A. 40-2246	An income tax credit is allowed for any small employer establishing a small employer health benefit plan for the purpose of providing a health benefit plan.		
Income Taxpayers			104	\$117,657
Total Small Employer Health Benefit Plan Credit			104	\$117,657
Swine Facility Improvement Credit	K.S.A. 79-32,204	An income tax credit of 50% of the cost incurred is allowed for a taxpayer making required improvements to a qualified swine facility.		
Income Taxpayers			0	\$0
Total Swine Facility Improvement Credit			0	\$0
Telecommunications Credit	K.S.A. 79-32,210	A credit for property tax paid by telecommunications companies is allowed on property initially acquired and first placed in service after January 1, 2001 that has an assessment rate of 33%. The credit is equal to the amount of property taxes timely paid for the difference between an assessment level of 25% and the actual assessment of 33%.		
Income Taxpayers			143	\$972,486
Total Telecommunications Credit			143	\$972,486

Kansas Tax Credits
Tax Year 2004

Program Name	Statutory Reference	Description	Number of Filers	Tax Expenditure
Temporary Assistance to Families Contribution Credit	K.S.A. 79-32,200 K.S.A. 39-7,132	Any individual, corporation, partnership, trust, estate and other legal entity who enters into an agreement with the Secretary of Social and Rehabilitation Services to provide financial support to a person who receives Temporary Assistance for Families (TAF) is allowed a credit of 70% of the amount of financial assistance given.		
			0	\$0
Total Temporary Assistance to Families Contribution Credit			0	\$0
Venture Capital Credits and Local Seed Capital Credits	K.S.A. 74-8205 K.S.A. 74-8304 K.S.A. 74-8401 K.S.A. 74-8316	A 25% tax credit shall be allowed for those taxpayers that invest in stock issued by Kansas Venture Capital, Inc., certified Kansas venture capital companies, certified local seed capital pools, or Sunflower Technology Venture, LP.		
Income Taxpayers			*CONFIDENTIAL	
Privilege Taxpayers			0	\$0
Total Venture Capital Credits and Local Seed Capital Credits			*CONFIDENTIAL	
*CONFIDENTIAL - This information is confidential as there are less than 5 filers. This information is not included in the total.				

Kansas Tax Credits
Tax Year 2004

Program Name	Statutory Reference	Description	Number of Filers	Tax Expenditure
SUMMARY				
Abandoned Well Plugging Credit	K.S.A. 79-32,207	A taxpayer that makes expenditures to plug an abandoned oil or gas well on their land may be eligible for a credit of 50% of the amount expended.	7	\$23,461
Adoption Credit	K.S.A. 79-32,202	<p>General Adoption Credit Residents of Kansas who adopt a child can receive a credit of 25% of the adoption credit allowed against the federal income tax liability on the federal return.</p> <p>Special Needs/SRS Custody Adoption Credit A \$1,500 credit is available for those Kansas residents that adopt a special needs child or a child in the custody of the secretary of Social and Rehabilitation Services.</p>	543	\$556,154
Agricultural Loan Interest Reduction Credit	K.S.A. 79-32,181a K.S.A. 79-1126a	A taxpayer which extends or renews an agricultural production loan at least one whole percentage point less than the prime interest rate on loans with equivalent collateral can receive a credit against their tax liability.	*CONFIDENTIAL	
Agritourism Liability Insurance Credit	K.S.A. 74-50,173	An income tax credit shall be allowed in an amount equal to 20% of the cost of liability insurance paid by a registered agritourism operator that operates an agritourism activity.	25	\$6,783
Alternative Fuel Tax Credit	K.S.A. 79-32,201	A credit is allowed for any individual, association, partnership, limited liability company, limited partnership, or corporation that makes expenditures for a qualified alternative-fueled motor vehicle licensed in the state of Kansas or that makes expenditures for a qualified alternative-fuel fueling station.	26	\$115,530
Business and Job Development Credit	K.S.A. 79-32,153 K.S.A. 79-32,160a	<p>Any taxpayer that invests in a qualified business facility and hires at least two employees as a result of that investment may be eligible for an investment tax credit of \$100 for every \$100,000 of investment made and a job creation tax credit of \$100 for every qualified business facility employee.</p> <p>Any taxpayer that meets the definition of business in K.S.A. 74-50,114(b), that invests in a qualified business facility and hires a minimum number of employees as a result of that investment may be eligible for an investment tax credit of \$1,000 for every \$100,000 of investment made and a job creation tax credit of at least \$1,500 for every qualified business facility employee.</p>	698	\$11,504,909
Business Machinery and Equipment Credit	K.S.A. 79-32,206	A credit may be allowed based on a percentage of the personal property tax levied and paid on commercial and industrial machinery and equipment classified for property taxation purposes pursuant to section 1 of article 11 of the Kansas Constitution in subclass (5) or (6) of class 2, and machinery and equipment classified for such purposes in subclass (2) of class 2.	15,115	\$20,912,346
Child Day Care Assistance Credit	K.S.A. 79-32,190	A taxpayer may be eligible for a credit if they pay for child day care services for its employees children, locate child day care services for the employees children, or provide facilities and necessary equipment for child day care services for its employees children.	19	\$34,114
Community Service Contribution Credit	K.S.A. 79-32,197	Any business firm which contributes to an approved community service organization engaged in providing community services may be eligible to receive a tax credit of at least 50% of the total contribution made.	1,260	\$3,803,085
Disabled Access Credit	K.S.A. 79-32,175 K.S.A. 79-1117	Individual and business taxpayers that incur certain expenditures to make their property accessible to the disabled may be eligible to receive a credit.	142	\$188,381
Habitat Management Credit	K.S.A. 79-32,203	An income tax credit is allowed for a property owner that pays property taxes and assessments on property designated as a critical habitat.	*CONFIDENTIAL	

Kansas Tax Credits
Tax Year 2004

Program Name	Statutory Reference	Description	Number of Filers	Tax Expenditure
High Performance Incentive Program	K.S.A. 74-50,132 K.S.A. 79-32,160a(e)	A qualified firm making a cash investment in the training and education of its employees can receive a credit equal to the portion of the investment in the training and education that exceeds 2% of the businesses total payroll costs. A credit is available for those qualified firms that make an investment in a qualified business facility. The investment credit is 10% of the qualified business facility investment which exceeds \$50,000.	91	\$15,469,051
Historic Preservation Credit	K.S.A. 79-32,211	An income tax credit is allowed for expenditures incurred in the restoration and preservation of a qualified historic structure.	125	\$3,438,572
Regional Foundation Credit	K.S.A. 74-50,154	Any taxpayer that contributes to an organization designated as a regional foundation may be eligible to receive a tax credit of 50% of the total amount contributed.	*CONFIDENTIAL	
Research and Development Credit	K.S.A. 79-32,182b	A taxpayer with qualifying expenditures in research and development activities conducted within Kansas may be eligible to receive a credit of 6 1/2% of the amount expended for research.	111	\$574,884
Single City Port Authority Credit	K.S.A. 79-32,212	An income tax credit is allowed equal to 100% of the amount attributable to the retirement of indebtedness authorized by a single city port authority established before January 1, 2002.	*CONFIDENTIAL	
Small Employer Health Benefit Plan Credit	K.S.A. 40-2246	An income tax credit is allowed for any small employer establishing a small employer health benefit plan for the purpose of providing a health benefit plan.	104	\$117,657
Swine Facility Improvement Credit	K.S.A. 79-32,204	An income tax credit of 50% of the cost incurred is allowed for a taxpayer making required improvements to a qualified swine facility.	0	\$0
Telecommunications Credit	K.S.A. 79-32,210	A credit for property tax paid by telecommunications companies is allowed on property initially acquired and first placed in service after January 1, 2001 that has an assessment rate of 33%. The credit is equal to the amount of property taxes timely paid for the difference between an assessment level of 25% and the actual assessment of 33%.	143	\$972,486
Temporary Assistance to Families Contribution Credit	K.S.A. 79-32,200 K.S.A. 39-7,132	Any individual, corporation, partnership, trust, estate and other legal entity who enters into an agreement with the Secretary of Social and Rehabilitation Services to provide financial support to a person who receives Temporary Assistance for Families (TAF) is allowed a credit of 70% of the amount of financial assistance given.	0	\$0
Venture Capital Credits and Local Seed Capital Credits	K.S.A. 74-8205 K.S.A. 74-8304 K.S.A. 74-8401 K.S.A. 74-8316	A 25% tax credit shall be allowed for those taxpayers that invest in stock issued by Kansas Venture Capital, Inc., certified Kansas venture capital companies, certified local seed capital pools, or Sunflower Technology Venture, LP.	*CONFIDENTIAL	
TOTAL			18,409	\$57,717,413

HB 2170

Comparison to existing Enterprise Zone and HPIP Programs

*Senate Committee
January 30, 2007
Attachment 6-1*

Senate Commerce Committee
January 30, 2007
Attachment 6-1

HB 2170 COMPARISON TO EXISTING ENTERPRISE
ZONE PROGRAM AND EXISTING HPIP

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

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Comparison Continued

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

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Comparison Continued

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

6-4

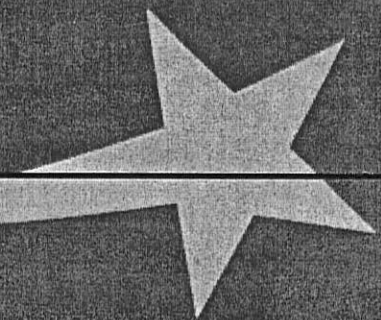
6-9

Comparison Continued

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

6-5

6-5



Comparison Continued

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

6-6

9-9

Comparison Continued

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

6-7

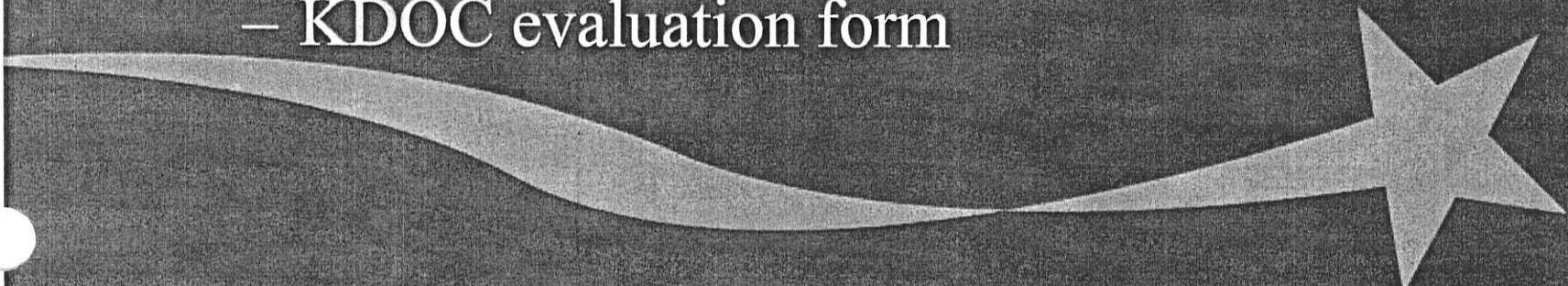
L-9

Introduction to HPIP Application Forms & Documents

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

8-9

8-9



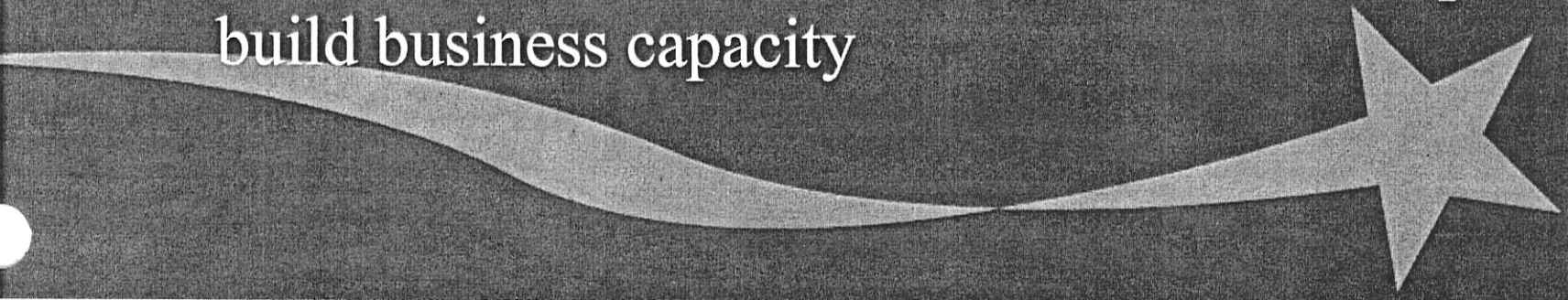
Application Comparison

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

b-9

b-9

Opportunity Zones

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

6-10

6-10

HPIP Explanatory Information Available at www.kansascommerce.com

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

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

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

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

<i>Existing Enterprise Zone Program</i>	<i>Existing HPIP</i>	<i>Proposed New Incentive Program</i>
1% credit on invest over \$50,000, requires net new job creation	10% credit on capital investment over \$50,000	\$1 million minimum investment, then earns 10% credit on all invest from first dollar (\$100,000 threshold for OZ's) 4-12
Requires 2 new jobs for mfgrs & 5 jobs for non-mfgrs & retailers are not eligible	No job creation required	20 net new job threshold to earn job creation credits (5 job threshold for OZ's)
\$1,500 credit per job (\$2,500 in eligible non-metro counties)	No job credit is available	\$1,500 credit per job (\$3,500 in OZ's)
Offers sales tax exempt for invest	Offers sales tax exempt for invest	Offers sales tax exempt for invest
Worksites can qualify as HQ or ancillary support	Requires eligible NAICS or HQ/ ancillary support worksite	Requires eligible NAICS or HQ/ ancillary support worksite (any NAICS OK for job creation in OZ)
No wage requirement	Requires above-average wage	Requires above-average wage
No training requirement	Requires training costs equal to 2%-of-wages or participation in KIT/KIR/SKILL	No training requirement
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No certification process	Re-certification same as initial certification process	Simplified self re-certification for carry-forward credits
Current complex ITC calculation	Current complex ITC calculation	Simplified ITC calculation

6-12

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Senate Commerce Committee

January 30, 2007

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Senate Commerce Committee
 January 30 2007 Attachment 8
 Amie's Ammerick
 1-30-2007 Attachment 8

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