

MINUTES OF THE JOINT MEETING
SENATE ASSESSMENT & TAXATION COMMITTEE AND SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairman Barbara Allen at 9:40 A.M. on February 1, 2008 in Room 519-S of the Capitol.

All members were present except Senator Schodorf-excused

Committee staff present:

Gordon Self, Office of Revisor of Statutes
Chris Courtwright, Kansas Legislative Research Department
Scott Wells, Office of Revisor of Statutes
Ryan Hoffman, Kansas Legislative Research Department
Kathie Sparks, Kansas Legislative Research Department
Jason Long, Office of Revisor of Statutes
Jennifer Thierer, Kansas Legislative Research Department
Judy Swanson, Committee Assistant
Jackie Lunn, Committee Assistant

Conferees appearing before the committee:

Dave Kerr, Secretary, Kansas Department of Commerce
Kathleen Smith, Tax Specialist, Kansas Department of Revenue
David Bybee, Manager of HPIP, Kansas Department of Commerce
Betty Nelson, CBIZ, Leawood, Kansas
Marlee Carpenter, Kansas Chamber
Kent Eckles, Overland Park Chamber of Commerce
Christy Caldwell, Greater Topeka Chamber of Commerce
Ashley Sherard, Lenexa Chamber of Commerce
Bernie Koch, Wichita Metro Chamber of Commerce (Written only)
Duane Simpson, Kansas Association of Ethanol Processors (Written only)
Eric Stafford, Associated Contractors of Kansas (Written only)

Others attending:

See attached list.

Chairman Allen and Senator Brownlee welcomed members of the Joint Committee.

Hearing on **SB 497—Creating the Kansas investment credit act and the Kansas jobs credit act—was** opened.

Senator Brownlee said **SB 497** was jointly referred to both Senate Assessment & Taxation and Senate Commerce Committee, so it must be voted on jointly.

David Kerr, Secretary, Kansas Department of Commerce (KDOC), presented an overview of the Tax Incentive Package in **SB 497**. (Attachment 1) He reviewed the four objectives:

1. Establish a Selectively Applied Tax Credit Cash Refund Program
2. Establish the Creation of Opportunity Zones
3. Replace Existing Tax Credit Programs with Streamlined Investment Tax Credit and Job creation Credit Plans
4. Simplify Qualified Investment Calculation for Investment-Based Credits

Kathleen Smith, Tax Specialist, Kansas Department of Revenue (KDOR), presented a report showing the differences in benefits and requirements among existing HPIP, Enterprise Zone Program (EZ), Business & Jobs Program (B&J), and **SB 497**. (Attachment 2) Some of the differences between the existing programs and the proposed programs include:

- Creation of new enhanced investment and job creation tax credits for businesses in disadvantaged areas
- Higher threshold, but all qualifying investment earns credits; a one-time credit versus B&J method
- Carry-forward 10 years of unused investment tax credits compared to indefinitely for EZ and 10-year

CONTINUATION SHEET

MINUTES OF THE Senate Assessment and Taxation Committee at 10:0 A.M. on February 1, 2008 in Room 519-S of the Capitol.

running claim for B&J

- Cash-in-lieu of investment credits is a new benefit
- Sales tax exemption is the same as for HPIP & Enterprise Zone
- HPIP training tax credit is eliminated
- Job creation is de-coupled from investment requirement

Among differences in requirements are:

- Changes in NAICS code
- Eliminates the HPIP training requirement
- Simpler tax credit calculations, based on newly added investment that is in-service at year-end and newly added employees still working at year-end

Ms. Smith will provide a specific breakdown of the NAICS category codes for committee members, both currently being used and those proposed in **SB 497**. She was also requested to provide a list county by county of non-retail businesses in counties of under 20,000 population that would have qualified under the new bill in the Enterprise Zones in the past ten years. Under the new proposal, there would be no NAICS requirement for a business in a disaster area that has been designated as an Opportunity Zone.

In response to Senator Lee, Secretary Kerr said KDOC proposes a waiver of NAICS codes in Opportunity Zones (OZ), but that is not reflected in the bill. Ms. Smith said Opportunity Zones are established through the KDOC, and would be reviewed after a period of three years. Criteria for designation of an OZ are that it must be at minimum one whole county and it must be in a disadvantaged economic area. Ms. Smith will provide a map of counties designated as micropolitan areas. Senator Brownlee said it does not appear the complicated application process has been simplified much. She said the "construction" industry was left out of the eligible NAICS codes and feels it is important to have it included.

David Bybee, HPIP Manager, KDOC, explained the current HPIP application process. In response to Senator Kelly, he said there could be a problem in calculating "hires" because a company could hire someone on December 31 and fire that person on January 1. Ms. Smith will look into tightening that problem up. In response to Senator Wagle, Mr. Bybee provided the website for filing forms: www.kansascommerce.com

In response to Chairman Allen, Secretary Kerr said it was his understanding the \$300,000 Job Creation Tax Credit level in the bill came as a result from deliberations in Commerce Committee last session, however he was not involved at the time. He suggested criteria also include number of jobs created, wages, investment made, plus others yet to be determined.

The \$10 million annual appropriation for the tax credit cash refund would not be distributed on a first-come, first-serve basis per Secretary Kerr. He said KDOC would set up an application process, and take applications for the entire year. Objective criteria must be set in determining how cash refunds are awarded. There would not be a cap per individual company.

Senator Apple expressed concern that Miami County would not qualify as an entire county to be an Opportunity Zone, yet one portion of the county would qualify. Secretary Kerr said his staff is trying to find a way to address that issue.

Discussion was held between Senator Wagle and Secretary Kerr concerning Kansas, Inc.'s "tax expensing". This idea was considered by the Joint Committee on Economic Development and is contained in 2008 **SB 571**.

Betty Nelson, CBIZ Accounting, testified she works with clients every day who are expanding, creating jobs and adding capital investments in Kansas. (Attachment 3) She is pleased with the proposal to refund up to 40% of a specific company's tax credits in a given year, but is concerned about how those who are allowed to receive a refund will be selected. She proposed the investment tax credit threshold should be no more than \$150,000. She also proposed the training tax credit should be a separate tax credit. This would allow all companies that meet the NAICS code requirements and wage standards to receive a tax credit for

CONTINUATION SHEET

MINUTES OF THE Senate Assessment and Taxation Committee at 10:0 A.M. on February 1, 2008 in Room 519-S of the Capitol.

investing in human capital, for training that exceeds 2% of their gross payroll.

Marlee Carpenter, Kansas Chamber, testified the Kansas Chamber supports the simplification of the current investment tax credits. (Attachment 4) The Chamber supports the threshold amount being lowered from \$300,000 to \$150,000 maximum and would like to see the 50% of sales requirement eliminated from the bill. The Chamber has some concerns with the structure of the refund program, and would like to see some additional criteria enacted into law. Ms. Carpenter had concern about the fiscal note because she had not yet had the opportunity to review it.

Kent Eckles, Overland Park Chamber of Commerce, testified the Chamber supports the concept of making tax credits refundable and simplifying the process. (Attachment 5) The Overland Park Chamber would prefer "sellable" tax credits and is concerned about the \$10 million per year cap on tax credits that may be refunded.

Christy Caldwell, Greater Topeka Chamber of Commerce, testified changes in tax credit legislation are needed but must be considered carefully. (Attachment 6) She is concerned the bill does not outline the methodology that will be used to determine when the KDOC will authorize a tax credit refund, expected qualifications, etc. She felt the \$300,000 investment to access the 10% investment tax credit is too high.

Ashley Sherard, Lenexa Chamber of Commerce, testified the Chamber supports **SB 497**, but has several concerns. (Attachment 7) Lenexa does not believe the proposals to increase the investment tax credit eligibility threshold to \$300,000 and eliminate the current training tax credit program are good public policy. Ms. Sherard proposed eliminating the requirement that a company must derive at least 50% of its revenue from outside Kansas, increasing the cap on the refundability program from the proposed \$10 million, and lowering the default wage requirement when determining wage eligibility.

Written testimony supporting **SB 497** was received from Bernie Koch, Wichita Metro Chamber of Commerce. (Attachment 8)

Neutral written testimony was received from Duane Simpson, Association of Ethanol Processors. (Attachment 9)

In response to Senator Teichman, Chairman Allen said conferees from rural or disaster areas were not specifically invited to testify, but public notice of the Committee meeting had been posted for over a week. It was noted Senator Teichman and Senator Apple represent rural areas, and Senator Schmidt represents a disaster area.

During brief committee discussion, Senator Donovan said if the credit cap is \$10 million annually, one large company could use up that credit. He thought this would build up another large amount of unused tax credits. Secretary Kerr said this tax credit is not intended to be used as a recruitment tool for businesses to come to Kansas, but rather as a tool for businesses already located in Kansas.

Senator Brownlee requested the following information from Staff:

- Information from the State of Oklahoma's Oklahoma Opportunity Fund to which Mr. Koch referred in his written testimony (KLRD)
- More information about "selling" tax credits which Mr. Simpson referred to in his written testimony (KLRD)
- A "net" fiscal note (KDOR)

Being no further business, the meeting adjourned at 10:00 a.m. The next Joint Meeting of Senate Assessment & Taxation and Senate Commerce Committee will be February 8, at 9:30 a.m. in Room 123-S.

SENATE
ASSESSMENT & TAXATION COMMITTEE
& COMMERCE COMMITTEE
GUEST LIST

DATE: 02-01-08

NAME	REPRESENTING
Christy Caldwell	Topeka Chamber of Commerce
MARK BOBANYAK	CAPITOL STRATEGISTS
Ron Seiber	Hen Law Firm
J. Kent Eckles	O.P. Chamber of Commerce
Ashley Sherard	Lenexa Chamber
John Kaufman	Ks Co-op Council
Mike Reecht	GBBA
Betty Nelson-Ekay	CB12
Richard Crum	KD&R
Kathleen Smith	"
Sheila Fadden	KACCT
Martee Carpenter	KS Chamber
Berin Can	KFE
Demick Santag	NFIB
Amy Thompson	Post Audit
Jack Brooks	Post Audit
Shahin Stafford	Kansas Assn. of Grocers
Duane Simpson	KAEP

2008 LEGISLATIVE PROPOSAL TAX INCENTIVE PACKAGE

2008 Legislative Proposal
Tax Incentive Package

Tax Incentive Package Objectives:

1. **Establish a Selectively Applied Tax Credit Cash Refund Program**
2. **Establish the Creation of Opportunity Zones**
3. **Replace Existing Tax Credit Programs with Streamlined Investment Tax Credit and Job Creation Credit Plans**
4. **Simplify Qualified Investment Calculation for Investment-Based Credits**

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2008 Legislative Proposal
Tax Incentive Package

1. Establish a Selectively Applied Tax Credit Cash Refund Program

- Applied on a prospective basis only (12/31/07 and after)
- Total amount of appropriation capped at \$10M annually
- Companies may apply for a select number of a discounted cash refund of up to 40% of earned credits
- If awarded and a discounted cash refund is accepted, the remaining amount of company's tax credits would be forfeited
- Application made through Commerce with selection criteria developed through rules & regulations
- Commerce submits annual report to Legislature, detailing the company and total credit awarded

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2008 Legislative Proposal
Tax Incentive Package

2. Establish the Creation of Opportunity Zones to Enhance Investment and Job Creation Credits

- **Mirrors Provisions of HB 2170**
 - Established by Secretary of Commerce
 - Comprised of at least one county
 - Economically disadvantaged
 - Outside of designated metropolitan county or micropolitan statistical areas
- **Opportunity Zone Can Be Created in Response to a Disaster Area Designation**

2008 Legislative Proposal
Tax Incentive Package

3. Replace Existing Tax Credit Programs with Streamlined Investment Tax Credit and Job Creation Credit Plans

- **Investment Tax Credit - Set at 10% of qualified investment**
 - For-profit businesses
 - Identified under specific NAICS codes or HQ /ancillary support operation
 - **Qualified investment**
 - Equal or exceeds \$50K for businesses in Opportunity Zones
 - Equal or exceeds \$300K for businesses outside of Opportunity Zones
 - Average wages must exceed regional NAICS code wages

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**2008 Legislative Proposal
Tax Incentive Package**

3. Replace Existing Tax Credit Programs with Streamlined Investment Tax Credit and Job Creation Credit Plans

▪ **Job Credit Creation**

- \$3,500 per new employee with a minimum of 2 new jobs created in an Opportunity Zone
- \$1,500 per new employee with a minimum of 5 new employees outside of an Opportunity Zone
- \$1,500 per new employee with a minimum of 20 employees for HQ/ ancillary support operations outside of an Opportunity Zone

▪ **Investment Tax Credit and Job Creation Credit Plans Replace:**

- Enterprise Zone Incentives
- High Performance Incentive Program (HPIP)
- and the Business and Job Development credits

2008 Legislative Proposal
Tax Incentive Package

4. Simplify Qualified Investment Calculation for Investment-Based Credits

- Qualified investment placed in service during taxpayer's tax year
 - Investment must remain in service through the last day of the year
 - Recertification not required for investment or job credits

Kathleen S.

Benefits	HPIP (existing)	Enterprise Zone Pgm (existing)	Business & Jobs Pgm (existing)	SB 497 (proposed)	Differences (proposed vs. existing)
Opportunity Zones in rural areas, and also in disaster areas that are declared to be Opportunity Zones by Commerce	Not Defined	Not Defined	Not Defined	Economically disadvantaged rural counties and also disaster areas designated as Opportunity Zones, where firms can earn enhanced invest & job credits	Creation of new enhanced investment and job creation tax credits for businesses in disadvantaged areas
Investment Tax Credit	10% investment tax credit for qualifying investment above \$50,000	1% investment tax credit for qualifying investment above \$50,000	\$100 investment tax credit for each \$100,000 of qualifying investment, each year for 10 years (start of 10 year claim can be delayed 3 years)	after \$300,000 minimum threshold is reached, 10% tax credit for all investment from first \$1 (\$50,000 threshold in Opportunity Zones)	Higher threshold, but all qualifying investment earns credits; a one-time credit versus B&J method; Revenue Secretary reports annually on this
Carry-forward of Unused Investment Tax Credits	10-year carry-forward; re-qualification is required in order to use any carry-forwards	indefinite carry-forward until able to use	Jobs must be maintained during the years in the 10-year claim period in which credits are claimed; unused credits are lost after the 10-year claim period	10-year carry-forward; requires re-certification (probably self re-certification) that program requirer re cert that program	Carry-forward 10 years compared to indefinitely for EZ and 10-year running claim for B&J; requires re-qualification to use
Cash-in-lieu of investment credits	not offered	not offered	not offered	Up to 40% of investment credit value based on Commerce Secretary's evaluation; amount that exceeds tax liability to be refunded; remaining investment tax credits are forfeited	New benefit; Commerce Secretary reports annually on this
Sales Tax Exemption	Available with program qualification	Available with program qualification	not offered	Available with program qualification	Same as for HPIP & Enterprise Zone
Training Tax Credit	Up to \$50,000 for training costs that exceed 2% of wage costs; no carry-forward	not offered	not offered	not offered	HPIP training tax credit is eliminated
Job Creation Tax Credit	not offered	2 minimum for "mfgs" & "retailers" 5 minimum for "non-mfgs" 20 minimum for "HQ"/"Anc. Support" Job credit equals \$1,500 or \$2,500 depending on county strategic planning efforts; job creation must be associated with investment	Requires at least 2 new jobs associated with an investment; any NAICS is OK; \$100 per job can be claimed each year for 10 years (start 10-year claim can be delayed 3 yrs)	Normally requires 5 jobs (\$1,500/job) HQ/Anc.Support 20 jobs (\$1,500/job Opportunity Zone 2 jobs (\$3,500/job) (Any NAICS category is OK for HQ, ancillary support & Op Zone jobs)	Job creation is de-coupled from investment requirement; minimum job thresholds have changed; there is a higher credit for Op Zone jobs in any NAICS category; also count employees who are effectively leased; Revenue Secretary to report annually
Job Credit Carry-forward	not offered	Indefinite carry-forward until able to use; if taxpayer does not maintain minimum required jobs all remaining carry-forward is forfeited	Jobs must be maintained during the years in the 10 year claim period in which credits are claimed, or else credits cannot be claimed in that year; after 10-year claim period unused credits are lost	Indefinite carry-forward until able to use; if taxpayer does not maintain minimum required jobs all remaining carry-forward is forfeited	No change from current Enterprise Zone Program requirements
Credits offset income tax, privilege tax, premium tax	100%	100%	50%	100%	SB 497 offers 100% same as HPIP & EZ, versus 50% for B&J
Other benefits	Priority consideration for other business programs; small cash awards for consulting costs to increase company growth rate	None	None	None	SB 497 eliminates these two HPIP benefits

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Requirements					
Pre-identification of investment	To insure incentive function, investment must be pre-identified to Commerce before commitment	no pre-identification requirement	no pre-identification requirement	pre-identification requirement	To insure incentive function, investment must be pre-identified to Commerce before commitment
Eligible Types of Businesses	Worksite must be categorized by KDL in NAICS 221, 311-425, 481-721, 811-928, or else qualify as a headquarters or back-office (similar to an ancillary support operation) of a national or multi-corporation, in any NAICS code	"Manufacturers," "non-manufacturers," or any headquarters or ancillary support operation; also, for the sales tax exemption benefit only, "retailers" in communities of 2,500 or fewer	Retailers	Worksite must be categorized by KDL in NAICS 112112, 221, 311-425, 481-624, 812-813, 922-928, or else qualify as a headquarters or ancillary support operation in any NAICS category, or be in any NAICS category in a disaster area that has been designated an Opportunity Zone	SB 497 adds NAICS 112112, deletes NAICS 711-721, 811, 814 & 921, eliminates EZ & B&J benefits for retailers, and disallows credits for regulated utilities with a guaranteed rate-of-return; Opportunity Zone firms in any NAICS category can earn job & invest credits; firms must be current in their Kansas taxes to earn benefits
Types of Businesses that Do Not Qualify	Generally ineligible are businesses whose decision about where to locate is not affected by tax incentives (retail, ag, construction, mining, etc.) and not-for-profits	Most retailers & not-for-profits	Businesses that are not retailers generally have access to larger tax benefits from other programs	Generally ineligible are businesses whose decision about where to locate is not affected by tax incentives (retail, ag, construction, mining, etc.) and not-for-profits	Not applicable
Wage Requirement	Worksite must pay an above-average wage based on NAICS/location/size	No wage requirement	No wage requirement	Worksite must pay an above-average wage based on NAICS/location/size	Same wage requirement as HPIP
Training Requirement	Spend at least 2% of wages on training, or participate in KIT/KIR/IMPACT	No training requirement	No training requirement	No training requirement	SB 497 eliminates the HPIP training requirement
Sources-of-Revenues Requirement	Over half of worksite revenues must come from sales to Kansas manufacturers or out-of-state commercial/governmental customers (does not apply to manufacturers or if HQ or back-office site of a (multi)national)	No sources-of-revenues requirement	No sources-of-revenues requirement	Over half of worksite revenues must come from sales to Kansas mfgs or out-of-state commercial/governmental customers (does not apply to mfgs, or to HQ/ancillary support worksites, or to disaster areas designated as Op Zones, or for job credits in Op Zones)	Nearly the same as HPIP (this filters out most companies whose decision about where to locate is unlikely to be influenced by tax benefits)
Process to Access Benefits	Submit application documenting satisfaction of certification criteria; re-certification process the same	No application process	No application process	Submit application documenting satisfaction of certification criteria; simplified re-certification (probably self re-certification by the company)	Nearly the same as HPIP for initial certification, then simpler re-certification (probably self re-certification by the company)
Tax Credit Calculations on Tax Filings	Complicated weighting methodology for investment tax credits	Complicated investment tax credit and job credit calculations	Complicated investment tax credit and job credit calculations	Simplified investment tax credit and job credit calculations	Simpler tax credit calculations, based on newly added investment that is in-service at year-end and newly added employees still working at year-end
Sunset Provisions	no sunset	no sunset	no sunset	Cash-in-lieu of investment credits in effect 01/01/08 through 12/31/12	partial sunset

Testimony on Senate Bill 497

**By Betty Nelson
Senior State Incentive Manager
CBIZ Accounting, Tax & Advisory Services of Kansas City**

February 1, 2008

CBIZ is a national leader in accounting, tax and advisory services with 140 offices in 34 major cities throughout the country. We are one of the nation's leading providers of outsourced business services, including accounting and tax, benefits and insurance, and a wide range of consulting services.

CBIZ is headquartered in Cleveland, Ohio with our mid-west regional office in Leawood, KS. CBIZ moved our regional office from Missouri to Kansas in July of 2003 based on the incentive package we received from the State of Kansas for committing to \$20,000,000 of new investment and 540 net new jobs.

I am part of our State and Local Tax (SALT) group and work with clients every day that are expanding, creating jobs and adding capital investment. We prepare our clients' State and Federal tax returns and advise them on related issues such as tax credits, training grants and sales tax exemptions. Taxes are important to business. Business decisions are affected by them. Job creation and retention, site selection, competition and numerous other decisions hinge on them. Our clients make location decisions based on our advice.

Currently, companies have three ways to invest in the State of Kansas:

1. Invest in capital by purchasing or leasing new equipment and/or expanding facilities.
2. Create net new jobs, thereby increasing payroll.
3. Invest in training initiatives by spending greater than 2% of their gross payroll on training their workforce (both existing and new employees).

Although I am very pleased with the state considering refunding 40% of a specific company's tax credit in a given year, I am concerned about how those who are allowed to receive a refund will be selected. I am also concerned about any one company being able to get the entire \$10,000,000 refunded to them or a very large portion of the \$10,000,000 being given to just a small elite group of companies. SB 497 will adversely affect our small business clients' ability to move to or expand in Kansas. Although we applaud the State's efforts to simplify the document preparation and allow a portion of the credit to be refundable, we believe that the raising of the threshold and eliminating the training tax credit will adversely affect small, growing Kansas companies.

Until now, Kansas has been very effective at winning new businesses in the state based on the incentive packages they have offered to those who are considering opening a business or moving an existing business to the state. If the tax credits for smaller businesses are removed, Kansas will certainly not be in a competitive position and will struggle to catch up with the surrounding states.

Assessment & Taxation
Date 2-1-08
Attachment # 3

Investment Tax Credit

Current investment level required

- Currently all companies must subtract out the first \$50,000 of investment and can earn a 10% tax credit on qualified investment greater than \$50,000.

New Legislation proposed

- Raise the investment eligibility threshold to \$300,000 in Non-Opportunity Zones.

Our proposal

- The investment threshold (if it must be raised) should be no more than \$150,000 in a Non-Opportunity Zone and/or remain at \$50,000 for those small businesses that have less than \$3,000,000 in assets. (Fixed assets are calculated based on the company's fixed asset list plus eight times the company's annual rent.)

Job Creation Tax Credit

Current job creation level required

- Manufacturers must create two net new jobs in all areas of the state.
- Retail businesses must create two net new jobs in all areas of the state.
- Non manufacturing/non-retail businesses must create five net new jobs.
- Business headquarters and ancillary support must create 20 net new jobs in all areas of the state.

New Legislation proposed

- Businesses in Opportunity Zones would be required to create two net new jobs.
- Businesses in Non-Opportunity Zones would be required to create five net new jobs.
- Business headquarters and ancillary support would be required to create 20 net new jobs.
- Retail businesses will not be eligible.

Our proposal

- We can accept mandatory five net new jobs in the Non-Opportunity Zones.

Training Tax Credit

Current Training Tax Credit

- Companies who invest ***greater than 2% of their gross payroll in training*** their workforce can earn a dollar-for-dollar tax credit up to \$50,000 for providing Kansas with a well-trained workforce.

New Legislation proposed

- *Eliminate* this tax credit for all businesses.

Our proposal

- Make this a separate tax credit and allow all companies who meet the NAICS code requirements and wage standards to receive a tax credit for investing in human capital, for training that exceeds 2% of their gross payroll. Training employees is expensive, especially if your employees leave. However, not training them and having them stay is even more expensive.

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Incentives are a natural lightning rod for criticism. Debate often centers on whether they are necessary and effective or simply a waste of resources. Companies seek such objectives as a skilled labor force, the availability of raw materials and a short distance to markets. In the final analysis, however, government incentives are crucial to a company's ultimate decision on where to locate that new facility.

Many of our clients are small businesses that are growing and expanding. These companies pay higher than above average wages. They invest in properly training their workforce. These are the types of businesses all of you want in your communities. This legislation, as proposed, will discourage small businesses from spending significant amounts of their revenue on training and from expanding in Kansas.

Thank you for your consideration.

Legislative Testimony

SB 497

February 1, 2008



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

Chairman Allen and members of the committee;

The Kansas Chamber supports the simplification of the current investment tax credits in Kansas. The business community has expressed concerns with the complexity of the current HPIP program and is encouraged by SB 497.

Tax credits continue to be important as businesses make decisions on where to locate, expand, invest and create jobs. Site selectors have ranked State and Local Tax Incentives fourth behind Corporate Tax Rate, Highway Accessibility and Labor Costs.

In addition, the Kansas Chamber's 2007 CEO and Business Owners Poll ranks economic incentives for business as the third most important issue to their profitability, behind managing health care costs and lower taxes on business.

<i>Chamber of Commerce</i>		Most Important to Profitability			
MENTIONED:		Nov. 07	Nov.06	Nov.05	Nov. 04
Lower taxes on business		46%	46%	39%	38%
Managing health care costs		41%	47%	46%	42%
Economic incentives for business		21%	20%	20%	15%
Stop friv. lawsuits/Tort reform		18%	22%	21%	21%
Decrease regulation/mandates		18%	18%	14%	13%
Workers' Compensation		14%	13%	14%	11%
Limit growth of state gov.		12%	7%	10%	8%
Unemployment Compensation		4%	4%	9%	5%
(2 responses accepted)					



Because tax incentives are of critical importance to our members, the Kansas Chamber is committed to working to structure these credits and ensuring that they are indeed an incentive for those making important investment decisions in Kansas.

The HPIP program is the flagship economic development program of the state. This is the program that companies look at when making investment decisions in the state. The current HPIP program is complicated, complex and burdensome to navigate. Only very sophisticated taxpayers that have access to accountants or lawyers can claim this credit.

HB 497 is the proposed simplification is overdue and supported by our business members. For tax year 2006, 117 taxpayers claimed \$19.4 million in HPIP credits. The \$19.4 million in credits equates to \$194 million of investment made in the state. This is only part of the total businesses investment in the state because many businesses do not try and qualify for the program because of its complexity. While we are very supportive of this concept, there are several concerns we have with the current bill.

- **Simplification.** Our members have expressed support for simplification of the current HPIP program. While there are several simplification aspects to this bill it is still a complicated process and more simplification needs to be done.
- **Threshold amount.** Under current HPIP law, there is a \$50,000 threshold for investment to qualify for investment. The bill requires a \$50,000 investment threshold for opportunity zones, but requires a \$300,000 threshold for all other parts of the state. If small and medium sized businesses are going to be able to take advantage of these credits and is not located in an opportunity zone, the threshold need to be lowered or a different standard needs to be developed for small and medium sized companies.
- **50% of sales requirement.** Finally, last year the 50% of out of state sales requirement was eliminated from the bill. We would like to see this requirement eliminated. Requiring 50% of sales occur out of state is prohibitive for small businesses to qualify for this tax credit.

The business community is supportive and encouraged by the refundability provisions included in this bill. We have been advocating for the refundability of tax credits for many years and are encouraged by this proposal. However, we have some concerns with the structure of the program and the amount of administration that is left up to the rules and regulations process. We would like to see some certainty and additional criteria enacted into law.

In addition, the business community has expressed concerns about the HPIP credit and proposed investment tax credit to be claimed by a unitary group. Kansas is a unitary state and companies must report income on a combine basis. This is a very complicated and fact specific area. Currently, only the company that generates the tax credit can claim it, even if their income is grouped together with other related entities for income tax purposes. There is much litigation around this area of tax law and we believe that if income is combine for income tax purposes, then tax credits should apply to income taxed in Kansas from the unitary group.

Finally, the Chamber is supportive of the new Job's Credit. The bill requires the creation of 2 new jobs in opportunity zones and 5 jobs in all other parts of the state. The current law requires 2 new jobs be created.

The Kansas Chamber is supportive of the overall goal of the bill and is ready and willing to continue to work with the Department of Revenue and Department of Commerce on these issues. We are committed to advancing pro-jobs, pro-growth legislation and making Kansas a more attractive place to locate, invest and create jobs.

Thank you for your time and I will be happy to answer any questions.

Kansas Chamber, with headquarters in Topeka, is the leading statewide pro-business advocacy group moving Kansas towards becoming the best state in America to live and work. The Chamber represents small, medium and large employers all across Kansas.

2008 Session SB 497

4-4

	Investment Threshold	Credit Amount	Refundable	Use Within a Unitary Group	Training Tax Credit	Recertification Process	50% Required for Out of State Sales
HPIP	\$50,000	10%	No	No	Yes (\$1.4 million claimed in 2006)	Yes	Yes
SB 497	\$50,000 in an opportunity zone. \$300,000 not in an opportunity zone	10%	Up to 40% with a \$10 million cap	No	No	No	Yes (Not in last year's version)



**Testimony before the
Joint Senate Assessment & Taxation Committee
and Senate Commerce Committee
Senate Bill 497**

The Overland Park Chamber of Commerce appreciates the opportunity to submit testimony in favor of Senate Bill 497 – The Kansas Investment Credit Act.

The Chamber is enthusiastic about the concept of making tax credits refundable and has been calling for the simplification of the High Performance Incentive Program for several years. We believe cash incentives are the strongest incentives available to states today; however, simplification of our current tax credit program will be a welcome enhancement to our economic development marketing efforts.

Site location consultants throughout the county have told us they advise companies considering relocating to Kansas not to bother seeking out tax credits because they are too complicated and offer little real value. In fact, many consultants will now **only** consider cash or cash equivalent programs in their analysis because so many other states offer cash. The fact that there are approximately \$300 million in unclaimed tax credits on the books is clear evidence of their worth, which puts the State at a competitive disadvantage with our neighbors.

While SB 497 doesn't specifically assist those companies with unusable tax credits, we see it as a positive development that companies making future investment in the State might be able to realize a cash incentive, albeit on an even further devalued percentage of up to 40 cents on the dollar.

The Chamber would have preferred "sellable" tax credits to those of a refundable nature because we believe the open market is a better indicator of tax credits' value than that of a somewhat random percentage of refundability, but believe refundable tax credits are better than the system presently in place.

Another concern with SB 497 is the \$10 million per year cap on tax credits that may be refunded. One major project in the State could wipe out the entire balance for the year and leave many companies with few options to see value with a tax incentive they've been granted. Still undetermined is the method the Department of Commerce will use to weigh which tax credits to refund at what percentage, otherwise, it's somewhat of an unknown incentive when companies are considering relocating or expanding in Kansas.

Again, we appreciate the opportunity to offer testimony on SB 497 and look forward to working with both committees and the Department of Commerce as the measure makes its way through the legislative process.

9001 W. 110th Street • Suite 150
Overland Park, KS 66210
913.491.3600 • w: opks.org

Assessment & Taxation
Date 2-1-08
Attachment # 5

Testimony - SB 497 – Kansas Investment and Credit Act
Joint Committee on Assessment and Taxation and Commerce
Friday, February 1, 2008
By Christy Caldwell, Vice President Government Relations
Greater Topeka Chamber of Commerce

120 SE 6th Avenue, Suite 110
Topeka, Kansas 66603-3515

P.785.234.2644 F.785.234 8656
www.topekachamber.org
topekainfo@topekachamber.org

Chairpersons Allen, Barnett, Jordan and members of the Joint Committee;
I'm Christy Caldwell, Vice President Government Relations for the Greater Topeka Chamber of Commerce. I am here today in support of SB 497, with some additional thoughts for your consideration.

I would first like to thank Secretary Kerr for contacting the Topeka Chamber a few weeks ago with this tax credit concept and asking us to provide input. Our most important consideration is that Kansas and our community maintains and grows capital investment and jobs. State incentives are an important component in attracting attention to our state as a place to locate or expand businesses and jobs. Our community also wants to do what it can locally to attract investment and jobs – the citizens voted an additional sales tax to help in that effort and the business community commits significant private sector dollars as well to the effort.

Changes in tax credit legislation is needed but must be considered carefully and any changes made should be with full understanding of the positive effects and any negative effects that might result. We strongly agree that the state's ability to offer cash incentives is very positive. Allowing companies to choose to use the tax credits they earn from investment and job creation in the traditional way or to cash them in will be well-received as we work to encourage economic growth. However we continue to compete with other state's that have many resources readily available to offer companies. We support the Secretary's concept of allowing a buy-out or refund of up to 40% of the tax credit amount, but the cap of \$10 million can be problematic when trying to incentivize companies to locate in Kansas. We realize the current fiscal situation may require the state to begin this new option with this cap, but we hope that this figure is quickly reviewed to determine if it should be increased.

The Topeka Chamber believes the Secretary and Department of Commerce should have flexibility in working with companies who are considering investing and creating jobs in Kansas, but we do have some concern that the bill does not outline the methodology that will be used to determine when the Department will authorize a tax credit refund, what qualifications will be expected, what percent will be offered - 40% or 20% or 10%, and how the \$10 million will be spread across the year. These are important questions that we think need discussion and guidance so that everyone understands their options.

Last year there were several bills in House and Senate Committees dealing with the simplification of the High Performance Incentive Program (HPIP) and Investment and Job Tax Credits. We testified in support of the simplification and better access to these programs to encourage business growth in the state. We also relayed our concerns with the investment threshold last year, and we still have some concern this year.

SB 497 requires a \$300,000 investment to access the 10% investment tax credit; in current law the threshold is \$50,000. While this higher amount of investment is very doable for larger companies, the higher threshold can be problematic for mid and small sized businesses we would like to see expand or locate in Kansas. Small businesses are critical to healthy and diverse economy; our state and community may miss some great opportunities to assist small companies to grow into the giants of industry tomorrow.

We support the creation of Opportunity Zones to encourage investment and jobs, across our state; growth in these areas of the state is good for the urban areas as well. We are very supportive of the Department's desire to replace the current recertification process with a simplified self-certification. Any opportunity to further simplify the qualification process is encouraged.

Currently there is a training tax credit in HPIP; this tax credit is available when at least 2% of the gross payroll amount is used for training. It has been removed in SB 497. Our chamber is currently working with a company we would like to locate in Topeka; this company has a great need for specific workforce training. We are concerned about the possibility of removing an incentive that may help us as we develop our portfolio to attract this sizable investment and jobs and for other projects that might utilize this training tax credit in the future.

Committee, we do support the proposed changes to the state's tax credit program, however we recommend that details be reviewed and considered so there are no unforeseen consequences. We are pleased to work with the Joint Committee and the Department to assure that Kansas continues to attract great investment and good paying jobs to our state and our communities.



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TO: Senator Barbara Allen, Chair, Senate Taxation
Senator Karin Brownlee, Co-Chair, Senate Commerce
Senator Nick Jordan, Co-Chair, Senate Commerce
Members, Senate Taxation and Senate Commerce

FROM: Ashley Sherard, Vice-President
Lenexa Chamber of Commerce

DATE: February 1, 2008

RE: **SB 497—Streamlining and Revising State Tax
Credit Programs**

The Lenexa Chamber of Commerce appreciates the opportunity to express its views on Senate Bill (SB) 497, which would create a selectively-applied tax credit cash refund program, simplify the qualified tax credit investment calculation, create economic development “opportunity zones,” and replace current incentive programs (enterprise zones, HPIP, and Business & Job Development tax credits) with new streamlined investment tax credit and job creation tax credit plans.

We strongly support the business-friendly concepts represented in SB 497. Simplifying incentive programs and creating opportunities for companies to monetize their tax credits would significantly increase the state’s global competitiveness in attracting and retaining businesses, as well as provide Kansas companies with additional resources to reinvest in their operations and workforce. Both of these outcomes are critical to helping maintain and foster a healthy and growing statewide economy in the years ahead.

While we applaud and join this effort to promote economic development, we do have concerns about certain details in the bill. We believe these specific proposals will put economic incentives out of reach of smaller growing companies and make Kansas less competitive in attracting and assisting key sectors of the economy.

First, we do not believe increasing the investment tax credit eligibility threshold from \$50,000 to \$300,000 in non-opportunity zones is good public policy. This significant jump effectively limits the availability of investment tax credits to only larger companies and ignores the many growing companies that make up our economic foundation, a number of whom are currently utilizing the HPIP program for assistance. We do appreciate the need to control the fiscal impact of the bill and to also ensure tax credits are awarded

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to projects that represent meaningful new investment in the state, so we would propose either an increase in the minimum investment threshold only up to \$150,000 in non-opportunity zones and/or retaining the \$50,000 threshold for businesses with fixed assets of less than \$3 million.

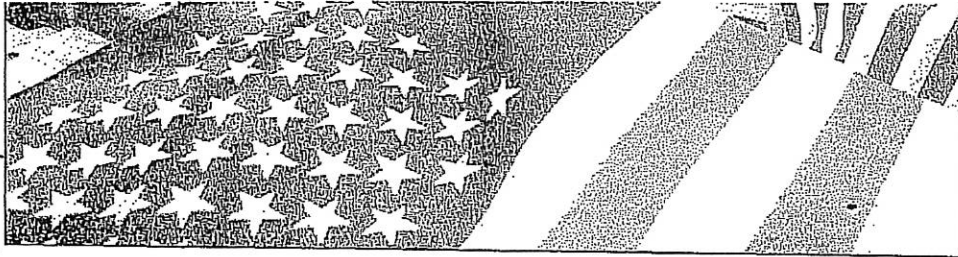
Second, we do not believe eliminating the current training tax credit program is good public policy. In a globally competitive marketplace, why would Kansas want to stop encouraging and assisting employers that spend above-average resources investing in their workforce? More highly skilled workers are both more productive and earn better wages – all of which generates additional revenue for the state. We would propose not only preserving the current training tax credit in association with the investment tax credit, similar to the HPIP program, but also recognizing the 21st century workplace by including computer-based training among the program's eligible expenditures and considering making the training tax credit a separate program in order to expand its availability.

Lastly, additional proposals we would suggest be discussed to allow Kansas to better compete with Missouri and other states include:

- Eliminating the investment tax credit eligibility requirement that a company must have at least 50% of its revenue from outside the state, particularly for small businesses. (Last year HB 2170 proposed striking this requirement entirely; the bill this year does not.)
- Increasing the cap on the refundability program from the currently proposed \$10 million. Missouri has a \$40 million cap on tax credits only; there is no cap on keeping of withholding. If the refund “pie” must remain relatively small, consider an annual refund limit per company of perhaps \$500,000.
- When determining wage eligibility, lower the default wage requirement from 1½ times the statewide average closer to the statewide average.
 - In Kansas, the wage comparison is currently based on the first 4-digits of the NAICS code regional average wage and the default is 1½ times the statewide average wage (currently \$53,528).
 - In Missouri, the wage comparison is based on the countywide average wage and the default is the statewide average wage (currently \$37,379).

In summary, without certain changes we believe SB 497 will remove critical assistance from backbone Kansas businesses. Therefore, while we generally support the simplification and monetization concepts embodied in SB 497, we oppose specific details currently in the bill. We sincerely hope that these concerns can be resolved so that we may fully support SB 497, which we believe can enhance business attraction and expansion efforts across Kansas. Thank you very much for your time and attention to these important issues.

From USA Today 1/22/06



By Ty Wright, Bloomberg News

At work Molly Smith sews a hem onto an American flag at Annin Co. in Coshocton, Ohio. About 20% of small to midsize manufacturers say their No. 1 concern is retaining or training employees, according to a 2007 survey.

Desperately seeking workers

Skilled staff in short supply at manufacturers

By Joanné Morrison
Reuters

TRAFFORD, Pa. — Only half the machines are running at precision parts maker Hamill Manufacturing, nestled in the Allegheny Mountains just east of Pittsburgh, once the booming center of the U.S. steel industry.

The economy

The factory's inactivity is not the result of a shortage of business — it has more orders than it can fill — but a shortage of skilled workers. "I'd hire 10 machinists right now if I could," says John Dalrymple, president of the company that makes high-end parts for military helicopters and nuclear submarines. "That's 8%-10% of our workforce."

While millions of jobs making everything from textiles to steel have moved to powerhouses such as China in recent years, precision manufacturing remains a crucial niche in the USA, one that is overworked and chronically understaffed. That shortage of skilled workers is likely to get worse as baby boomers retire with no younger generation of manufacturing workers to take the baton.

"Our workforce is an aging workforce," says CEO Jeff Kelly, whose father founded Hamill nearly 60

years ago. "There isn't a queue of people lining up to come into the industry."

About 20% of small to midsize manufacturers — those with up to 2,000 workers — cited retaining or training employees as their No. 1 concern, according to a 2007 survey by the National Association of Manufacturers that has not been published yet.

A separate study in 2005, the latest available, said 90% of manufacturers are suffering a moderate to severe shortage of qualified workers.

"The irony is we pay very well, we have good benefits, we have job security, and most of the companies that have survived the manufacturing recession at the early part of this decade can't find enough skilled workers," Kelly said.

A typical manufacturing job pays about \$60,000 a year, according to manufacturing industry figures, a premium of about 25% to the service industries.

Attracting younger workers

At Hamill, a general machinist will start at \$9 an hour, rising to \$14.50 an hour after training and going up to the mid- to high-\$20s for senior machinists, who can earn nearly \$70,000 a year.

But that is not enough to attract younger workers to manufacturing, a sector that has suffered a bad rap over the years with layoffs in well-known companies such as the Big Three U.S. automakers.

"Too few young people consider manufacturing careers and often are unaware of the skills needed in an advanced environment," the U.S. Labor Department wrote in a study on the issue.

Edward Lazear, chairman of President Bush's Council of Economic Advisers, warns that the skills shortage will eventually cut into the country's economic growth.

"I can tell you on my desk right now I have over 300 very high-quality job openings that I cannot fill," said Michael Smeltzer, executive director of the Manufacturers' Association of South Central Pennsylvania, who coordinates job openings for that part of the state.

State officials say less-skilled work will continue to move overseas where pay is lower. The state has pledged \$17 million to develop a skilled workforce and keep the high-precision sector here. "We're not going to compete on the price of our labor, we're going to compete on the skill of our labor," said Sandi Vito, the state's deputy secretary for workforce development.

Smaller businesses — those with 200 employees or fewer — make up the bulk of the U.S. manufacturing sector, and for them the skills shortage is a crucial issue. Nationally, one in four businesses has a vacancy it can't fill, finds a survey by the National Federation of Independent Business. "We could make more GDP if we could find some hands to do it," says Bill Dunkelberg, NFIB's chief economist.



of stress-free living and feel younger in just 15 minutes a

day. It's surprisingly easy with the remarkable new medical device called the StressEraser.

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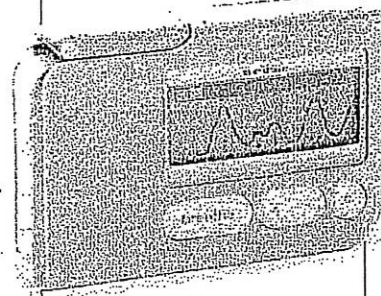


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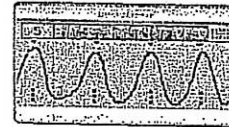


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Robert Reiner, Ph.D. Exec. Director, Behavioral Associa Dept. of Psychiatry, NYU Medic

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7-4

<u>INVESTMENT TAX CREDIT COMPARISON**</u>		
Issue	Kansas	Missouri
Investment tax credit eligibility requirements	<ul style="list-style-type: none"> • Make a capital investment of at least \$50,000 (proposed to increase to \$300,000 in non-opportunity zones) • Pay “higher than average” wages • Greater than 50% of company revenues must be from out-of-state • Invest at least 2% of gross payroll in qualified workforce training to also be eligible for a training tax credit (proposed to be eliminated) 	<ul style="list-style-type: none"> • Create either 10/20/40 jobs, depending on the type of business and location (10=manufacturers/technology; 20=other businesses, rural; 40=other businesses, metro) • Pay 50% of employee health insurance • Be current on all taxes
Benefit	<ul style="list-style-type: none"> • 10% investment tax credit against Kansas income tax liability • Sales tax exemption on equipment and building materials related to the investment • Dollar-for-dollar training tax credit up to \$50,000 (proposed to be eliminated) 	<ul style="list-style-type: none"> • Company gets to keep their withholding on new employees • Company may also earn an additional tax credit depending on wages paid and/or local community incentive participation
Current use	<ul style="list-style-type: none"> • Up to 100% of Kansas income tax liability 	<ul style="list-style-type: none"> • Company keeps withholding taxes • Additional tax credits are refundable or sellable
Carry-forward	<ul style="list-style-type: none"> • Up to 10 years for investment tax credit • No carry-forward on training tax credit 	<ul style="list-style-type: none"> • None; credits are 100% refundable or sellable
Cap on refundable tax credits	<ul style="list-style-type: none"> • \$10 million (as proposed) 	<ul style="list-style-type: none"> • \$40 million on tax credits only • No cap on keeping the withholding
Basis for wage comparison	<ul style="list-style-type: none"> • Based on first 4 digits of NAICS code regional average wage • Default is 1½ times the statewide average wage (currently \$53,528) 	<ul style="list-style-type: none"> • Based on countywide average wage • Default is statewide average wage (currently \$37,379)

**Addresses investment tax credits only; does not include current Business & Job Development tax credits in Kansas (proposed for elimination to be replaced by Job Creation tax credits that would have similar requirements and benefits -- \$3,500 per new employee, minimum of 2 new jobs in opportunity zones; \$1,500 per new employee, minimum of 5 new jobs in non-opportunity zones.)

Testimony from 2007 - Lenexa-based business that has grown to 35 employees at two locations

Testimony
Before the Senate Commerce Committee
Kelly Schoen, CEO, Z3 Graphix
March 8, 2007

Z3 Graphix HPIP Program History

- In 1999 I purchased the assets of a Missouri corporation to use as the basis to launch a new business model. The predecessor company had low-tech equipment and pay rates that were low by industry standards. Given that, I purchased the assets with the intention of leveraging them into a "High Value" marketing services company that utilized technology to produce value-based marketing products and services.
- As we built the plan for the new business model, we began the search for a location to launch our new printing & marketing services center. We evaluated properties in both Kansas & Missouri, as the predecessor organization had facilities in both states. During the evaluation process, our realtor introduced us to CBIZ so that they could educate us on the potential tax incentives that might be available if we chose to locate in Kansas. After learning more about the HPIP program, and factoring the tax benefits of the HPIP program into our decision, we chose to locate in the College Crossing business park in Lenexa, Kansas.
- Like most small businesses we struggled with the challenges of meeting our debt service related to the leveraged buy out, while still committing the financial resources necessary to equip the company with the assets necessary to execute our business model. By utilizing the HPIP investment tax credit program, we were able to justify investments that we wouldn't otherwise have been able to make. We averaged over \$200,000 in equipment investments per year for a total of over \$1,000,000.
- Another thing that most small businesses struggle with is dedicating the financial resources and time to train their workforce. The purchase of higher tech equipment required a higher skilled operator. The HPIP Training Tax Credit program provided us with the incentive to dedicate the resources to train our employees to higher skill levels. The result is that we have a work force with significantly higher skill levels, and in turn can deliver a higher level of value to our customers, and accordingly are compensated at significantly higher levels (average compensation is nearly double that of the predecessor organization).
- More skilled employees operating higher tech equipment led to a higher value of products and services for our clients. In turn, our sales grew at double-digit annual rates (sales growth of approximately \$2 mm over the past 5 years). This in turn has allowed us to add new jobs (10 over the past 5 years).

- As we grew sales and added equipment and employees, space became tight. Once again the HPIP investment tax credit program provided us with the incentive to open a new facility in the State of Kansas. In 2005 we opened our second facility in Lenexa.

Primary Concerns With Proposed Legislative Changes To The HPIP Program:

- The raising of the investment threshold from \$50,000 would eliminate the incentive for small businesses such as Z3 to continue to invest in equipment and facilities in the State of Kansas. Very often the investment tax credit is the difference maker in allowing a small business to be able to stretch into a deal. Small business provides the majority of jobs and fuel for the economy, and the proposal to raise the investment threshold to a level that is not attainable for most small business would be detrimental.
- The elimination of the training credit would significantly reduce the incentive for small businesses to properly train their employees to be competitive into the future. Because employees in small companies wear a lot of hats, it is extremely difficult to justify the time and expense to train employees to the levels that will enhance their future value. Without the incentive of the HPIP Training Credit, small businesses will be more likely to take a shorter-term approach and reduce or eliminate much of their training. Over time, this will lead to lower skilled and lower paid employees.
- Increasing the jobs creation requirement from 2 to 20 will essentially eliminate the incentive for small businesses. While it may be possible to strive to add 2-5 new jobs per year, it is not realistic to expect to add 20.

Summary

- In summary, I see the proposed legislative changes to the HPIP program as being extremely detrimental to the small businesses of Kansas. It will eliminate much of the incentive for investment and training, which in turn will slow the growth potential for the company, which in turn will slow the growth of the economy.
- I believe the Z3 story is a classic example of how the HPIP program can provide the incentive and capability to expand and grow the company. The result has been a substantial increase in sales which has led to increased sales tax revenue and income tax revenue for the State of Kansas. It has also led to substantially higher wages which has provided increased income tax revenue for the State. Increased equipment has led to increased property taxes.



**Testimony to Senate Assessment and Taxation Committee/Senat
Commerce Committee
Submitted February 1, 2008
Bernie Koch, VP/Government Relations
Wichita Metro Chamber of Commerce
350 W. Douglas. Wichita. Kansas 67202**

Submitted Testimony on Senate Bill 497

Thank you for the opportunity to submit testimony on Senate Bill 497, the Kansas Investment Credit Act and the Kansas Jobs Credit Act, on behalf of the Wichita Metro Chamber of Commerce.

We welcome the legislature's review of this area of economic development. We believe that our state incentives need to change to address the intense competition from other states. Those states have long targeted our aerospace industry.

At this time in particular, our aerospace industry is healthy and ready for major expansions, and the activity from other states and some foreign countries competing for these expansions is troublesome. The backlog of orders for aircraft is impressive. Even with an economic downturn or a recession, the large number of orders from foreign buyers could help Kansas weather a storm in the economy.

The State of Oklahoma can offer cash, with a war chest of \$45 million in the Oklahoma Opportunity Fund. The Oklahoma Quality Jobs program includes payroll refunds and investment tax credits. Some recent Oklahoma incentives:

- Nanjing Automobile (2006) \$20 million
- Spirit AeroSystems (2007) – 300 jobs - \$4.3 million
- American Airlines (2007) – 300 jobs - \$5.7 million for new hanger

Oklahoma has a particular strength through the ability to offer no cost or low cost customized training as an incentive. Although we have not done a through analysis of Senate Bill 497, there is concern that training incentives remain or be strengthened. We would not favor diminishing incentives in this area.

Although Oklahoma is a neighboring state and a tough economic development competitor, other states have huge economic development incentive funds.

Kansas has offsetting attractions for the aerospace industry and manufacturing which will help us retain expansions. These include the machinery and equipment property tax exemption, the current capitol investment in plant and equipment in the state, and the large network of suppliers that exist here already which cannot be matched by other locations without great difficulty.

We need not match other states enormous incentives, but we do need to carefully overhaul current tax credits to make them more useful and more attractive.

Thank you for your efforts in this area.

Assessment & Taxation
Date 2-1-08
Attachment # 8



Testimony to Senate Assessment and Taxation Committee/Senate
Commerce Committee
Submitted February 1, 2008
Bernie Koch, VP/Government Relations
Wichita Metro Chamber of Commerce
350 W. Douglas, Wichita, Kansas 67202

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Thank you for your efforts in this area.

8-21



Ethanol - *Made in Kansas*

Association Of Ethanol Processors

Written Statement in Support of SB 497
Senate Assessment and Taxation Committee
Senate Commerce Committee
Senator Barbara Allen, Chair
January 31, 2008

Thank you Madam Chair and members of the Committee, my name is Duane Simpson; I am the Chief Operating Officer and Vice President of the Kansas Association of Ethanol Processors. KAEP represents the ethanol manufacturers and affiliated industries in our state. On behalf of the industry I am providing this testimony in support of SB 497.

Ethanol plants typically qualify for many of the credits that are being replaced by the proposed Investment Tax Credit and Job Creation Credit. This bill makes the process of actually receiving the credit easier and also makes it possible for businesses to monetize credits in the future so that we will eliminate the problem caused by our current system where we grant credits that cannot be claimed. While this bill does a good job of making it easier to receive the credit, we would like to see some consideration given to making it easier to transfer the credit between subsidiaries and parent corporations without taking the 60% penalty.

While being able to receive 40% of the credit in cash is good start, we are concerned that the 60% "penalty" is too steep. In Colorado, state tax credits can be sold. According to accountants in our industry that work in both states, the market is typically 85% of face value. In other words, Colorado businesses pay a 15% penalty to turn tax credits into cash where Kansas businesses would pay 4 times that amount. If the goal of this legislation is to make Kansas more competitive with our neighbors, perhaps this committee should consider raising the percentage of the credit that can be converted to cash.

A general question we have is at what level would a taxpayer's decision to ask for a refund be made? For example, a partnership (or S-Corporation) is taxed at the owner level and not at the company level. Does the partnership make the decision on a refund? Or does each partner make their own decision? For ethanol plants, some owners will be much better off (60% better off) if the full credit is used. But other owners (particularly out-of-state owners) would get no benefit from the credit and would want the refund. It is not immediately clear how this would be implemented. KAEP would prefer to allow each partner to make their own decision so that they may make the decision that makes the most sense to them.

On a final note, while this does not directly impact our members, we would suggest that the committee amend the bill to include NAICS code 112111. The bill includes 112112 which is the code for feedlots. It does 112111 is the code for an operation that raises calves for feeder or dairy stock. It seems that the state's interest should not change with the age of the cattle.

KAEP believes this is a good start to making our tax credit system more user friendly. We urge the committee to consider improving this bill to allow businesses to more fully take advantage of the incentives they have earned.