Approved: February 28, 2008
Date

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

The meeting was called to order by Chairman Barbara Allen at 10:40 A.M. on February 8, 2008 in Room 123-S of the Capitol.

All members were present except:
Pat Apple- excused
Roger Reitz-excused
Jay Emler-excused

Committee staff present:
Scott Wells, Office of Revisor of Statutes
Ryan Hoffman, Kansas Legislative Research Department
Jason Long, Office of Revisor of Statutes
Jennifer Thierer, Kansas Legislative Research Department
Jackie Lunn, Committee Assistant
Judy Swanson, Committee Assistant

Conferees appearing before the committee:
Joan Wagnon, Secretary of Kansas Department of Revenue
Dave Kerr, Secretary of Kansas Department of Commerce

Others attending:

Jason Long, Revisor of Statutes Office, presented a review of **SB 497–creating the Kansas investment credit act and the Kansas jobs credit act**. (Attachment 1) **SB 497** creates two new business tax credits called the investment credit and the jobs credit. These two new credits would replace the current business tax credit acts known as the Enterprise Zone Act, the HPIP tax credit, and the Job Expansion and Investment Credit Act. The Investment Credit Act would provide a tax credit for eligible taxpayers against such taxpayer's income tax liability equal to 10% of the amount of the qualified investment made by the taxpayer. The qualified investment must be equal to at least $300,000 if the facility is not located in an Opportunity Zone. Opportunity Zones are established by the Secretary of Commerce. **SB 497** would allow the taxpayer to apply to receive a cash refund in lieu of claiming the tax credit. This new tax credit is intended to replace existing business tax credits.

The Kansas jobs credit portion of the bill provides a tax credit against the eligible taxpayer's income tax liability equal to a specified dollar amount per new employee hired. The bill includes business facilities located in a disaster area that has been designated an Opportunity Zone.

During Committee discussion on **SB 497**, Mr. Long said additional requirements, along with NAICS codes, are needed if a business is an ancillary headquarters. The qualifying NAICS codes in the proposed bill are not the same as current qualifying NAICS codes. There is no cap on the amount of credits that can be awarded annually as long as the business meets qualifications in the statute. Micropolitan areas are not excluded under current law but are excluded in the proposed legislation.

Joan Wagnon, Secretary of Kansas Department of Revenue (KDOR), said the $10 million in refundable payments proposed in **SB 497** was not figured into the Governor's FY 2009 Budget, but the Governor supports the bill. A way to finance the $10 million needs to be found. In response to Senator Brownlee, Secretary Wagnon said without the refundability provision the bill is revenue neutral. There will be approximately $55 million claimed in 2009 under current law, and that amount would remain the same in the proposal, but the program make-up has been changed in the bill. Secretary Wagnon said KDOR and Kansas Department of Commerce (KDOC) both support the $10 million refund portion of **SB 497.**

Senator Derek Schmidt asked who the "winners" and "losers" would be if **SB 497** was enacted. Secretary Wagnon said it was not the intent to incent routine investment in Kansas, but to encourage new investment in Kansas. The winners will be the poorest areas of the state, and the losers will be businesses which do not need incentives. She said it is all about "return on investment". The threshold level for qualifying investments was set high so routine investment would not qualify under the bill. She indicated the definition of "retail" is tortuous. The bill is a comprehensive re-write of current law. Secretary Wagnon said there is some wisdom in not taking action on this bill before a comprehensive audit is complete, but she anticipates the audit will be completed next week.

Jennifer Thierer, Kansas Legislative Research Department (KLRD), presented information which the Committee requested in the Joint meeting on February 1. (Attachment 2)

Secretary of Commerce Dave Kerr said he would provide the Committee information on the net fiscal impact of **SB 497** next week.

Ms. Thierer reported Oklahoma has two programs that provide cash rebates to companies that create new jobs, and also an investment fund that is used to finance capital improvements.

Colorado sells tax credits, but only conservation easement credits, not economic development credits.

The following was distributed to Committee members:

- Current NAICS codes (Attachment 3)
- Proposed NAICS codes in **SB 497** (Attachment 4)
- Map of Micropolitan areas in State of Kansas (Attachment 5)
- Business and job development credits by county (Attachment 6)
- Key points about the HPIP program (Attachment 7)
- Letter from Dave Kerr, President of Hutchinson/Reno County Chamber of Commerce expressing concerns (Attachment 8)
- Letter from Alli Devine, Kansas Livestock Association, concerns about **SB 497** (Attachment 9)
- Potential amendments to **SB 497** (Attachment 10)

In response to Senator Brownlee, Secretary Wagnon said **SB 497** does not affect current available tax credits. They will be preserved and companies will be allowed to carry them forward. Under **SB 497**, if a company wants to claim tax credits that is permissible, but the company could in lieu thereof apply for the credit refundability. KDOC will make the decision as to what company gets refundable credits and the amount of each credit.

Senator Brownlee said the outstanding $400 million in existing HPIP credits is a looming amount still out there. Secretary Wagnon said some companies have settled recently and some companies will never use the credits, although they could be claimed at some future date.

Prioritization of the $10 million in available refunds under **SB 497** was discussed. Secretary Kerr said he hoped the process would be threefold: 1) Established through Rules and Regulations: 2) Set up according to objective criteria; and 3) Proposed credits would be built into a fair formula that is weighted. He said a first-come, first-serve method of awarding these credits would not be appropriate.

Senator Jordan stated the Angel Tax Credit program was a program that probably did not get the most out of the dollars invested.

Secretary Kerr said some small towns will be excluded under this bill due to the micropolitan exclusion, but he felt it is more important to look at the economically disadvantaged areas. In response to Senator Schmidt, Richard Cram (KDOR) said this bill would subsidize people who will probably not have a tax liability.

Being no further business, the meeting adjourned at 10:30 a.m. The next meeting of the Joint Committee will be February 15.

MA... ANN TORRENCE, ATTORNEY
REVISOR OF STATUTES
JAMES A. WILSON III, ATTORNEY
FIRST ASSISTANT REVISOR
GORDON L. SELF, ATTORNEY
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OFFICE OF REVISOR OF STATUTES
KANSAS LEGISLATURE

Legal Consultation—
Legislative Committees and Legislators
Legislative Bill Drafting
Legislative Committee Staff
Secretary—
Legislative Coordinating Council
Kansas Commission on
Interstate Cooperation
Kansas Statutes Annotated
Editing and Publication
Legislative Information System

Briefing on Senate Bill 497 - Investment and Jobs Tax Credits

Jason B. Long
Assistant Revisor
Office of Revisor of Statutes

February 8, 2008

Overview

Senate bill 497 creates two new business tax credits called the investment credit and the jobs credit. Under the bill these two new credits will replace the current business tax credit acts known as the Enterprise Zone Act, the HPIP tax credit, and the job expansion and investment credit act. The investment tax credit provides a tax credit for qualified investments in a business facility located in Kansas. The jobs tax credit provides a tax credit for the creation of new jobs in the state. Both tax credits are refundable with an aggregate cap of $10 million on the amount of refunds that may be paid out in any one fiscal year. Finally, the bill amends K.S.A. 79-3606 to provide sales tax exemptions for tangible property or services purchased as part of the qualified investment.

Investment Credit Act

Sections 1 through 9 of the bill consist of the Kansas investment credit act. The act would provide a tax credit for eligible taxpayers against such taxpayer's income tax liability equal to 10% of the amount of the qualified investment made by the taxpayer. If there is

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February 8, 2008
Joint Mtg Senate Tax
Attachment 1-1

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insufficient tax liability the taxpayer may carry the credit forward for 10 years or until the credit is exhausted, whichever comes first.

In order to qualify for the tax credit the taxpayer must meet the requirements of section 3 of the bill. First, the taxpayer must make a qualified investment in a Kansas business facility. A "qualified investment" is defined in subsection 2(g) as the value of real and tangible personal property permanently and physically located at a Kansas business facility, excluding inventory, construction in progress or property held for sale to customers. As defined in subsection 2(e), a "Kansas business facility" includes structures such as factories, plants, mills and feedlots, and requires that the structure be located in Kansas. The definition also requires that: (1) the structure house employees or machinery and equipment; (2) the facility be used in the operation of a revenue producing enterprise; and (3) if it is acquired from another person that it was not used in substantially the same enterprise as it will be used by the eligible taxpayer.

In order to qualify the business facility must be identified under the following NAICS codes: 112112; or a subsector of 221, 311-425, 481-624, 812, 813 or 922-928. If the facility is identified under one of these codes then the taxpayer must also demonstrate that more than 50% of the business gross revenues are a result of sales to Kansas manufacturing firms identified under NAICS codes 311-339, or to customers outside of the state. If the facility does not fall under one of the above NAICS codes it may still qualify if it is a headquarters or ancillary support operation. Those terms are defined in subsections 2(d) and 2(b), respectively.

Second, the qualified investment must be equal to at least $300,000 if the facility is not located in an opportunity zone. If the facility is located in an opportunity zone, then the investment only needs to be equal to at least $50,000. "Opportunity zones" are zones established by the secretary of commerce in accordance with the following statutory criteria: (1) it must consist of at least one county; (2) it must be deemed economically disadvantaged by the secretary; (3) it must not include any county located in a metropolitan or micropolitan statistical area; and (4) it must meet any other criteria established by the secretary through rules and regulations. Additionally, the secretary may designated a county as a disaster area and establish that county as an opportunity zone for so long as the county remains a designated disaster area.

This designation may be made regardless of whether the county meets any of the above four requirements for standard opportunity zones.

Finally, to qualify for the tax credit the taxpayer must meet one of the criteria for satisfying the requirement that the taxpayer will pay a higher-than-average wage within a wage region at the business facility. Subsection 3(a)(3) contains the criteria for meeting this requirement. This is similar to what is currently required for the HPIP tax credit.

Under section 9 of the bill if the taxpayer has a Kansas business facility, located in a disaster area that has been designated as an opportunity zone by the secretary of commerce, that has sustained damage or lost jobs as a result of damage due to sever weather, the taxpayer will qualify for investment tax credits under the act for investments made to rebuild or replace the facility. A taxpayer qualifying under this section qualifies for the investment tax credits regardless of whether such taxpayer meets any of the requirements of section 3.

Section 8 allows the taxpayer to apply to receive a cash refund in lieu of claiming the tax credit. Refunds are only granted upon approval by the secretary of commerce, whose decision is final. The secretary is required to establish criteria for the consideration of refunds. The refund amount cannot exceed 40% of the tax credit earned under the act. If the refund is approved by the secretary and accepted by the taxpayer, then the taxpayer will forfeit the remaining portion of the tax credit. This section expires on January 1, 2013.

As stated above, this new tax credit is intended to replace existing business tax credits. Section 7 of the bill provides that no additional credits may be earned under the Kansas Enterprise Zone Act, the job expansion and investment credit act or the HPIP tax credit program after December 31, 2007. Any credits earned under those provisions may still be carried forward in accordance with those provisions.

Jobs Credit Act

Sections 10 through 16 of the bill comprise the Kansas jobs credit act. This act provides a tax credit against the eligible taxpayer's income tax liability equal to a specified dollar amount per new employee hired. If there is insufficient tax liability the taxpayer may carry forward the credit until it is fully exhausted.

Under section 12 of the bill in order to qualify for the jobs credit the taxpayer must be either a Kansas job credit taxpayer or an opportunity zone job credit taxpayer. A "Kansas job credit taxpayer," as defined in subsection 11(c), must have a Kansas business facility, as defined in the investment credit act that either meets one of the NAICS codes listed, or is a headquarters or ancillary support operation, as those terms are defined in the investment credit act. An "opportunity zone job credit taxpayer" simply must have a Kansas business facility operating in an opportunity zone. Opportunity zones are designated by the secretary of commerce in the same manner and under the same criteria as set forth in the investment credit act.

The amount of the tax credit depends on the type and location of the Kansas business facility. If the facility is operating in an opportunity zone then the taxpayer is allowed a credit of \$3,500 per new employee hired, provided the taxpayer hires at least two new employees. If the facility is not located in an opportunity zone, but is identified under one of the listed NAICS codes then the taxpayer is allowed a credit of \$1,500 per new employee hired, provided the taxpayer hires at least five new employees. If the facility is not located in an opportunity zone, but is a headquarters or ancillary support operation, then the taxpayer is allowed a credit of \$1,500 per new employee, provided the taxpayer hires at least 20 new employees. As stated above, the credit may be carried forward until exhausted, but if the taxpayer fails to continue to employ the minimum number of employees then any remaining credit will be forfeited.

The jobs credit is also refundable pursuant to section 15 of the bill. Any refund may only be for up to 40% of the amount of the tax credit. All refunds are subject to the approval of the secretary of commerce. If a refund is awarded and accepted the taxpayer forfeits any remaining portion of the tax credit. As with section 8, this section expires on January 1, 2013. The total aggregate amount of refunds that may be awarded for both investment and job credits cannot exceed \$10,000,000 for any one fiscal year.

Section 16 of the bill contains provisions almost identical to section 9 regarding qualification for tax credits by taxpayers with business facilities located in a disaster area that has been designated an opportunity zone by the secretary of commerce. As with the investment credit act, such taxpayers will also qualify for job credits for employees the taxpayer hires back or retains in the opportunity zone.

Sales Tax Exemption

Section 21 of the bill amends K.S.A. 79-3606(cc). This subsection currently exempts sales of tangible personal property or services purchased for the purpose of and in conjunction with construction, reconstruction, enlarging or remodeling a business under the Enterprise Zone Act, and the sale and installation of machinery and equipment in such business from sales tax. The bill changes the application of the exemption from businesses under the Enterprise Zone Act to a Kansas business facility, as defined in section 2. The bill would also allow an eligible taxpayer under the investment credit act, or a Kansas or opportunity job credit taxpayer to obtain a tax exemption certificate for purchases that are exempt from sales tax under this subsection. This exemption certificate is only valid for two years from the date of application, but that time period may be extended under the proper circumstances.

Finally, a person constructing, reconstructing, enlarging or remodeling a business facility that is to be leased for at least five years to an eligible taxpayer, as defined in the investment credit act, or a Kansas or opportunity job credit taxpayer will still be entitled to a sales tax exemption under this subsection. The amount of the exemption is reduced if the person claiming the exemption leases less than all of the facility.

Other Amendatory Sections

Sections 17 through 20 make amendments to other statutes to strike references to the current tax credits that are being repealed by the bill. Where applicable these sections are amended to replace the current tax credit references with references to the new tax credit acts established by the bill.

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February 7, 2008

To: Chairperson Barbara Allen
Chairperson Karin Brownlee
Chairperson Nick Jordan
Members of the Senate Committee on Assessment and Taxation
and Senate Committee on Commerce

From: Jennifer Thierer, Legislative Intern

Re: Questions raised about SB 497

The Committee raised several questions related to testimony given on January 31, 2008 on SB 497. Below is a brief response to those questions.

What Is the Net Fiscal Impact?

Chairperson Brownlee raised concerns with the fiscal note's exclusion of information about the net impact of the bill, which would take reinvestment of the tax credit amounts into consideration. The Department of Commerce was contacted to provide reinvestment information, and this information will be provided to the Committee as soon as it is made available to our office.

How Does Oklahoma Fund Its Programs?

Oklahoma has two programs that were mentioned in testimony from the Wichita Metro Chamber of Commerce: the Oklahoma Quality Jobs Program and the Oklahoma Opportunity Fund. The Oklahoma Quality Jobs Program provides cash rebates to companies that create new jobs and meet certain minimum wage, salary, and payroll standards. It is funded through general fund appropriations from the Oklahoma Legislature. The Oklahoma Opportunity Fund was created last calendar year using a $45 million surplus in state funds from the previous fiscal year. The Fund also can be funded through further appropriations by the Oklahoma Legislature. This fund provides investment money for businesses in Oklahoma. If the investment is used to finance a capital improvement, the state then retains an interest in the project in proportion to the amount invested. If the improvement is sold, the state investment is repaid with interest and the business must provide the state with a proportionate share of any profit from the sale. This aspect provides potential additional revenue for the Fund, as well as a disincentive for companies to move out of Oklahoma.

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Attachment 2-1

How Does Colorado's Tax Credit Sale Program Work?

Testimony from the Association of Ethanol Processors indicated that in Colorado state tax credits may be sold. However, a representative from the Colorado Office of Economic Development and International Trade indicated that economic development tax credits may not be sold in the state. He said proposals have been made to implement a sale program, but none have been passed by the Colorado Legislature. In order to clarify this, Duane Simpson, of the Association of Ethanol Processors, was contacted. He indicated his information came from an accounting firm that does business in Colorado. David Berger, of the accounting firm Kennedy and Company, provided the original information, which Mr. Berger said did not apply to economic development credits. Mr. Berger stated that Colorado allows the sale of Conservation Easement credits, which are income tax credits granted to businesses based on participation in water conservation programs. These sales are done by private negotiation between businesses and usually earn about 85 cents on the dollar.

The following major NAICS categories are currently eligible for HPIP:

221	utilities
311-339	manufacturing
423-425	wholesaling
481-488	transportation
491-492	postal service/couriers & messengers
493	warehousing/storage
511-519	publishing/motion pictures/broadcasting/other information services
521-525	finance & insurance related
531-533	real estate & leasing services
541-562	professional/technical/management/administrative services
611	educational services
621-623	medical services
624	social assistance
711	performing arts & spectator sports (currently HPIP-eligible)
712	museums, historical sites, zoos & parks (currently HPIP-eligible)
713	amusements, gambling & recreation (currently HPIP-eligible)
721	accommodation (currently HPIP-eligible)
811	repair & maintenance (currently HPIP-eligible)
814	private households (currently HPIP-eligible)
812	personal & laundry services
813	membership associations & organizations
921	executive, legislative, and general government (currently HPIP-eligible)
922	justice, public order, and safety activities
923	administration of human resource programs
924	administration of environmental programs
925	community and housing program administration
926	administration of economic programs
927	space research & technology
928	national security & international affairs

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Attachment 3-1

The **following major NAICS categories** are **not eligible, unless** the worksite is determined by Commerce to be a headquarters or ancillary support operation:

111-115	agriculture-related
211-213	mining/mineral extraction
236-238	construction
441-454	retail
722	food services/drinking establishments

David Bybee
HPIP Manager
785-296-7174

NAICS included in proposed legislation (SB 497)

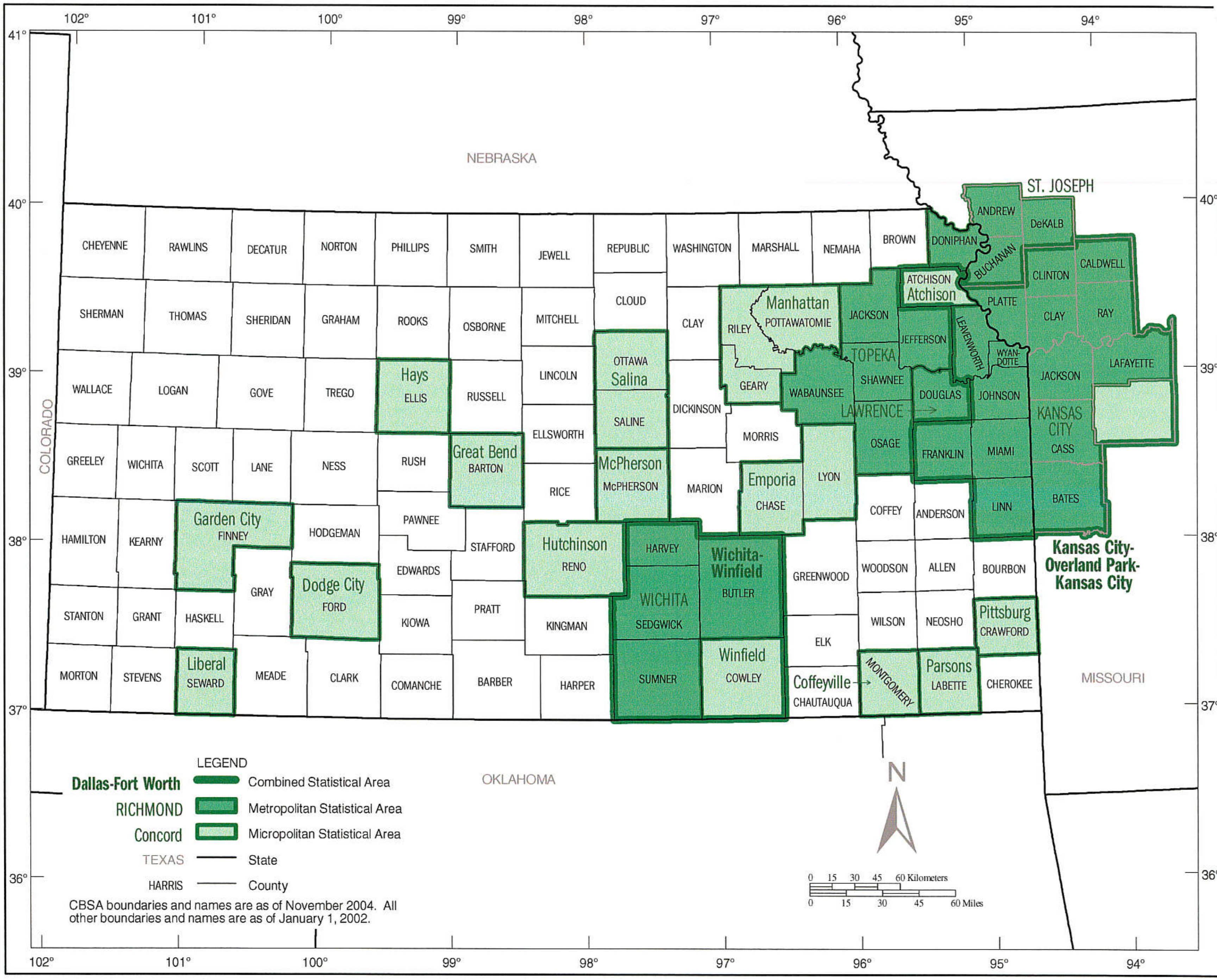
112112 Cattle Feedlots
221 Utilities
311-339 Manufacturing
311-Food Manufacturing
312-Beverage and Tobacco Product Manufacturing
313-Textile Mills
314-Textile Product Mills
315-Apparel Manufacturing
316-Leather and Allied Product Manufacturing
321-Wood Product Manufacturing
322-Paper Manufacturing
323-Printing and Related Support Activities
324-Petroleum and Coal Products Manufacturing
325-Chemical Manufacturing
326-Plastics and Rubber Products Manufacturing
327-Nonmetallic Mineral Product Manufacturing
331-Primary Metal Manufacturing
332-Fabricated Metal Product Manufacturing
333-Machinery Manufacturing
334-Computer and Electronic Product Manufacturing
335-Electrical Equipment, Appliance, and Component Manufacturing
336-Transportation Equipment Manufacturing
337-Furniture and Related Product Manufacturing
339-Miscellaneous Manufacturing
423-425 Wholesale Trade
423-Merchant Wholesalers, Durable Goods
424-Merchant Wholesalers, Nondurable Goods
425-Wholesale Electronic Markets and Agents and Brokers
481-493 Transportation and Warehousing
481-Air Transportation
482-Rail Transportation
483-Water Transportation
484-Truck Transportation
485-Transit and Ground Passenger Transportation
486-Pipeline Transportation
487-Scenic and Sightseeing Transportation
488-Support Activities for Transportation
491-Postal Service
492-Couriers and Messengers
493-Warehousing and Storage
511-519 Information
511-Publishing Industries (except Internet)

512-Motion Picture and Sound Recording Industries
515-Broadcasting (except Internet)
516-Internet Publishing and Broadcasting
517-Telecommunications
518-Internet Service Providers, Web Search Portals, and Data Processing Services
519-Other Information Services
521-525 Finance and Insurance
521-Monetary Authorities-Central Bank
522-Credit Intermediation and Related Activities
523-Securities, Commodity Contracts, and Other Financial Investments and Related Activities
524-Insurance Carriers and Related Activities
525-Funds, Trusts, and Other Financial Vehicles
531-533 Real Estate and Rental and Leasing
531-Real Estate
532-Rental and Leasing Services
533-Lessors of Nonfinancial Intangible Assets (except Copyrighted Works)
541 Professional, Scientific, and Technical Services
551 Management of Companies and Enterprises
561-562 Administrative and Support and Waste Management and Remediation Services
561-Administrative and Support Services
562-Waste Management and Remediation Services
611 Educational Services
621-624 Health Care and Social Assistance
621-Ambulatory Health Care Services
622-Hospitals
623-Nursing and Residential Care Facilities
624-Social Assistance
812 Personal and Laundry Services
813 Religious, Grantmaking, Civic, Professional, and Similar Organizations
922 Justice, Public Order, and Safety Activities
923 Administration of Human Resource Programs
924 Administration of Environmental Quality Programs
925 Administration of Housing Programs, Urban Planning, and Community Development
926 Administration of Economic Programs
927 Space Research and Technology
928 National Security and International Affairs

NAICS not included in proposed legislation

111-115 Agriculture, Forestry, Fishing and Hunting (except for 112112-Cattle Feedlots)
111-Crop Production
112-Animal Production (except for 112112-Cattle Feedlots)
113-Forestry and Logging
114-Fishing, Hunting and Trapping
115-Support Activities for Agriculture and Forestry
211-213 Mining
211-Oil and Gas Extraction
212-Mining (except Oil and Gas)
213-Support Activities for Mining
236-238 Construction
236-Construction of Buildings
237-Heavy and Civil Engineering Construction
238-Specialty Trade Contractors
441-454 Retail Trade
441-Motor Vehicle and Parts Dealer
442-Furniture and Home Furnishings Stores
443-Electronics and Appliance Stores
444-Building Material and Garden Equipment and Supplies Dealers
445-Food and Beverage Stores
446-Health and Personal Care Stores
447-Gasoline Stations
448-Clothing and Clothing Accessories Stores
451-Sporting Goods, Hobby, Book, and Music Stores
452-General Merchandise Stores
453-Miscellaneous Store Retailers
454-Nonstore Retailers
711-713 Arts, Entertainment, and Recreation
711-Peforming Arts, Spectator Sports, and Related Industries
712-Museums, Historical Sites, and Similar Institutions
713-Amusement, Gambling, and Recreation Industries
721-722 Accommodation and Food Services
721-Accommodation
722-Food Services and Drinking Places
811 Repair and Maintenance
814 Private Households
921 Executive, Legislative, and Other General Government Support

U.S. DEPARTMENT OF COMMERCE Economics and Statistics Administration U.S. Census Bureau



cal Areas and Counties

Senate Commerce Committee
February 8, 2008
Attachment 5-1

02/07/08 Kansas Dept. of Commerce file = part of worksheet in "Lois cert letters 07-01-04 thru 01-09-08.xls" & "Senlee2.xls"

This is a response to Senator Janis Lee's request for the number of company worksites qualifying for HPIP certification in counties of 20,000 or fewer, over the last 10 years, that would also qualify under SB 497 (this covers the last 3 1/2 fiscal years, and information for the rest of the 10-year timeframe will follow as soon as it can be prepared).

Important notes:

1) Each line represents submittal of an HPIP application through which one-or-more worksites of a company were qualified for the same certification period.
2) SB 497 requires a minimum investment of $300,000 ($50,000 in an Opportunity Zone).
3) "Continuation" is a worksite being HPIP-certified in connection with an investment project in which spending started during an earlier certification period and is continuing.
4) $0 investment means a worksite has HPIP-qualified in order to use previously earned credits that are being carried-forward, or to earn a training tax credit.
5) Multiple investment projects that start at a worksite during a single certification period have been combined into a single line item.
7) These records show the HPIP applications processed during the fiscal year. Since there is no formal submittal deadline for applications, multiple applications for multiple certifcation periods at a worksite may be submitted and processed within a fiscal year. The time-critical deadline is to submit the investment project description before committing to the anticipated spending. This documentation of foreknowledge about HPIP before being locked into the scope of investment helps insure the program is performing its intended incentive function.

County	Location City	Projected Investment
Allen	Humboldt	More than $300,000
Bourbon	Ft Scott	More than $300,000
Bourbon	Ft Scott	Less than $50,000
Cloud	Concordia	More than $300,000
Harper	Harper	More than $300,000
Harper	Harper	More than $300,000
Logan	Oakley	More than $300,000
Neosho	Chanute	continuation
Pottawatomie	Mahattan	More than $300,000
Pottawatomie	St. Mary's	More than $300,000
Pottawatomie	St. Mary's	continuation
Pottawatomie	St. Mary's	More than $300,000
Russell	Russell	More than $300,000
Wilson	Neodesha	More than $300,000
FY 05	13 certifications	12 new invest projs started

County	Location City	Projected Investment
Atchison	Atchison	More than $300,000
Atchison	Atchison	More than $300,000
Atchison	Atchison	More than $300,000
Bourbon	Ft. Scott	Between $50,000 & $300,000
Cloud	Concordia	More than $300,000

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Cloud	Concordia	More than $300,000
Dickinson	Solomon	More than $300,000
Dickinson	Enterprise	Between $50,000 & $300,000
Dickinson	Abilene	More than $300,000
Dickinson	Abilene	More than $300,000
Dickinson	Solomon	More than $300,000
Harper	Harper	Between $50,000 & $300,000
Mitchell	Tipton	Between $50,000 & $300,000
Mitchell	Tipton	Between $50,000 & $300,000
Nemaha	Seneca	continuation
Nemaha	Seneca	Between $50,000 & $300,000
Neosha	Chanute	More than $300,000
Osborne	Downs	More than $300,000
Pottawatomie	Manhattan	More than $300,000
Russell	Russell	More than $300,000
FY06	19 certifications	20 new invest projs started

County	Location City	Projected Investment
Anderson	Garnett	More than $300,000
Atchison	Atchison	More than $300,000
Bourban	Ft. Scott	More than $300,000
Cloud	Concordia	More than $300,000
Harper	Harper	More than $300,000
Harper	Harper	More than $300,000
Kingman	Norwich	More than $300,000
Kingman	Norwich	More than $300,000
Logan	Oakley	More than $300,000
Mitchell	Tipton	More than $300,000
Nemaha	Bern	More than $300,000
Osborne	Downs	More than $300,000
Russell	Russell	More than $300,000
FY07	13 certifications	17 new invest projs started

County	Location City	Projected Investment
Brown	Sabetha	More than $300,000
Cowley	Winfield	More than $300,000
Crawford	Pittsburg	More than $300,000
Crawford	Pittsburg	Between $50,000 & $300,000
Dickinson	Solomon	More than $300,000
Hamilton	Coolidge	More than $300,000
Harvey	Hesston	More than $300,000
Nemaha	Seneca	More than $300,000
Neosho	Chanute	$0
FY08 (Q1 & Q2 only)	9 certifications	9 new invest projs started

02/07/08 Kansas Dept. of Commerce file = part of worksheet in "FY98-FY05 certs by letter date.xls" & "Senlee3.xls"

This is a response to Senator Janis Lee's request for the number of company worksites qualifying for HPIP certification in counties of 20,000 or fewer, over the last 10 years, that would also qualify under SB 497 (this covers FY98 through FY04 - information for FY05 through the first 2 quarters of FY08 were previously provided).

Important notes:

1) Each line represents submittal of an HPIP application through which one-or-more worksites of a company were qualified for the same certification period.
2) SB 497 requires a minimum investment of $300,000 ($50,000 in an Opportunity Zone).
3) "Continuation" is a worksite being HPIP-certified in connection with an investment project in which spending started during an earlier certification period and is continuing.
4) $0 investment means a worksite has HPIP-qualified in order to use previously earned credits that are being carried-forward, or to earn a training tax credit.
5) Multiple investment projects that start at a worksite during a single certification period have been combined into a single line item.
7) These records show the HPIP applications processed during the fiscal year. Since there is no formal submittal deadline for applications, multiple applications for multiple certifcation periods at a worksite may be submitted and processed within a fiscal year. The time-critical deadline is to submit the investment project description before committing to the anticipated spending. This documentation of foreknowledge about HPIP before being locked into the scope of investment helps insure the program is performing its intended incentive function.

County	Location City	Projected Investment
Bourbon	Ft Scott	continuation
Jefferson	Meriden	More than $300,000
Neosho	Chanute	More than $300,000
Pottawatomie	Mahattan	More than $300,000
FY98	4 certifications	3 new invest projs started

County	Location City	Projected Investment
Atchison	Atchison	More than $300,000
Bourbon	Uniontown	$0
Bourbon	Ft Scott	$0
Pottawatomie	Manhattan	More than $300,000
Wilson	Neodesha	More than $300,000
FY99	5 certifications	3 new invest projs started

County	Location City	Projected Investment
Marshall	Marysville	$0
Neosho	Chanute	More than $300,000
Osage	Osage City	More than $300,000

Pottawatomie	Manhattan	$0
Wilson	Neodesha	More than $300,000
FY00	5 certifications	3 new invest projs started

County	**Location City**	**Projected Investment**
Atchison	Atchison	Between $50,000 & $300,000
Atchison	Atchison	continuation
Brown	Hiawatha	More than $300,000
Gray	Montezuma	Between $50,000 & $300,000
Harper	Harper	More than $300,000
Harper	Harper	More than $300,000
Marshall	Marysville	$0
Washington	Linn	More than $300,000
Wilson	Neodesha	More than $300,000
FY01	9 certifications	7 new invest projs started

County	**Location City**	**Projected Investment**
Marshall	Marysville	More than $300,000
Pottawatomie	Norwich	More than $300,000
Neosho	Chanute	More than $300,000
Wilson	Neodesha	More than $300,000
Harper	Harper	More than $300,000
FY02	5 certifications	5 new invest projs started

County	**Location City**	**Projected Investment**
Dickinson	Abilene	More than $300,000
Harper	Harper	More than $300,000
Harper	Harper	More than $300,000
Marshall	Marysville	continuation
Mitchell	Tipton	Less than $50,000
Neosho	Chanute	continuation
Neosho	Chanute	More than $300,000
Russell	Lucas	More than $300,000
Russell	Russell	More than $300,000
Wilson	Neodesha	More than $300,000
FY03	9 certifications	9 new invest projs started

County	**Location City**	**Projected Investment**

Bourbon	Ft Scott	More than $300,000	
Gray	Montezuma	More than $300,000	
Marshall	Marysville	continuation	
Nemaha	Bern	More than $300,000	
Nemaha	Seneca	More than $300,000	
Neosho	Chanute	$0	
Neosho	Chanute	More than $300,000	
Pottawatomie	Manhattan	$0	
Russell	Lucas	Between $50,000 & $300,000	
Russell	Russell	More than $300,000	
FY04	10 certifications	8 new invest projs started	

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 "mfgrs" & "retailers" 5 minimum for "non-mfgrs' 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

Senate Commerce Committee
February 8, 2008
Attachment 7-1

February 5, 2008

Committee Co-Chairperson Brownlee,

We are pleased that the Senate Commerce Committee is considering SB497 to simplify the HPIP program and streamline it together with the Enterprise Zone program. While both of these programs are beneficial and often utilized by Hutchinson and Reno County, they are extremely cumbersome for companies to utilize and to administer. The Kansas Department of Commerce tries to be very helpful to us and to eligible businesses, but the complexity of these programs makes them less than business friendly.

As supportive as we are of simplifying these programs, we are extremely concerned with certain provisions of the bill that make Opportunity Zones non-applicable Micropolitan Statistical Areas. Enhanced Enterprise Zone incentives have made it possible for us to work in small Reno County communities, such as Haven, Partridge, and Buhler, that otherwise would have no tools with which to assist business locations and expansions. Without these incentives, these small communities will be placed on the same competitive level as the largest cities.

As SB497 is written currently, Hutchinson and the ten very small towns in Reno County, as well as all Kansas Micropolitans and their surrounding counties will be at a disadvantage competitively as they work to attract new companies. Their small businesses seeking to expand will also be at a disadvantage. The list of affected Micropolitans is as follows:

- Atchison & Atchison County
- Coffeyville & Montgomery County
- Dodge City & Ford County
- Emporia & Lyon County
- Garden City & Finney County
- Hays & Ellis County
- Hutchinson & Reno County
- Liberal & Seward County
- Manhattan & Riley County
- McPherson & McPherson County
- Parsons & Labette County
- Pittsburg & Crawford County
- Salina & Saline County
- Winfield & Cowley County

Senator Brownlee, we ask that you distribute this information to the Senate members of the Commerce Committee and that SB497 be changed to designate Micropolitans as Opportunity Zones. Thank you for understanding our concerns.

Sincerely,

Dave Kerr
President
Hutchinson/Reno County Chamber of Commerce

Senate Commerce Committee
February 8, 2008
Attachment 8-1

KANSAS LIVESTOCK ASSOCIATION

Since 1894

TESTIMONY

To: Joint Committee of the Senate Committee on Assessment and Taxation and the Senate Committee on Commerce
Senator Barbara Allen and Senator Karin Brownlee, Chairpersons

From: Allie Devine, Vice President and General Counsel
Kansas Livestock Association

Date: February 8, 2008

Subject: Written testimony regarding SB 497

The Kansas Livestock Association (KLA), formed in 1894, is a trade association representing approximately 6,000 members on legislative and regulatory issues. KLA members are involved in many aspects of the livestock industry, including seed stock, cow-calf and stocker production, cattle feeding, grazing land management and diversified farming operations.

Thank you for the opportunity to offer comments on SB 497. Please recall Kansas ranks 2nd in the nation in the value of cattle and calves at $5.7 billion. It is not a "given" that cattle feeding will always be strong in Kansas. As corn prices rise, and growth in ethanol production produces byproducts that are costly to transport, cattle feeding may shift to locations where there are large supplies of ethanol byproducts. We applaud efforts to retain and encourage Kansas business and in particular those related to agriculture and beef in particular.

We are pleased with the addition of NAICS 112112 beef cattle feedlots to the bill. We are also pleased that the definition of "opportunity zone" will make many entities in rural areas eligible for the benefits of the bill.

However, we are concerned that some aspects of livestock production may be excluded from the bill by the definition of "opportunity zone" or exclusion of key NAICS numbers.

The term "opportunity zone" does not include a "micropolitan statistical area" (See page 2 line 36). It is our understanding that the counties of Barton, Finney, Seward, and Ford would be considered "micropolitan statistical areas". These

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are the same areas that contain major cattle feeding operations wherein growth may occur yet because of location, these businesses would be excluded from the benefits of SB 297. We recommend that the term "micropolitan statistical area" be deleted from the definition of "opportunity zone" throughout the bill or modifications made to allow the benefits to apply to beef and dairy related industries. We understand KDOR's reluctance to strike this term and offer alternative language that would allow the Secretary to "waive the restrictions of section 11(e)(3) to encourage the building, or expansion of agriculturally related industries within a micropolitan statistical area." (See attached suggested amendments.)

In the last few years we have seen a number of dairies relocate to Kansas from other states. Economic development groups have courted these businesses. We understand that there are dairy related facilities being built in Gray, Haskell, and Hamilton counties. An average dairy will invest over 25 million dollars and will employ 10 people per 1,000 cows milked. A 25 million dollar facility will employ at least 10 people. We encourage the committee to include these facilities in the bill by adding NAICS 112120.

A major part of sustaining the dairy industry in Kansas is the development of dairy herd replacement operations. We know of two such facilities under construction. Unfortunately, the NAICS system includes operations that raise cattle for dairy herd replacements with "beef cattle ranching and farming" NAICS 112111. Last year in discussions with the Secretary we understood KDOR's concern that this term may be overly broad. Given the limitations of the NAICS system, we encourage the committee to add 112111 to assure that Kansas remains competitive in retaining beef and dairy operations.

KLA and our partners within the industry have been working to perfect new uses of composted cattle manure. Through research at KSU we have discovered that composted cattle manure when pelletized results in a valuable soil stabilization product. Last year, with funding from the legislature, a soil remediation field trial was conducted. We do not have the complete results of the field trial but are encouraged by early reports. If successful, this could open the door to a new "green" company in Kansas. The NAICS codes do not adequately capture this type of operation. ANAICS number which would be close but not precise is 325314. Again, we ask that the committee include these numbers or provide the Secretary with authority to add NAICS numbers by regulation to encourage the growth of a particular segment in Kansas. (See attached suggested amendments.)

Thank you for your time and consideration.

<u>KLA List of Suggested Amendments</u>:

Issue of limitations on counties within micropolitan statistical areas:

Suggested changes:

Option 1: On page 2 line 36 strike "or micropolitan statistical area".

Or

Option 2: On page 2 line 37 after the word "regulations." Add the following:

"The Secretary may waive the provisions of Section 11(e) (3) to encourage the building, or expansion of agriculturally related industries within counties designated as a micropolitan *statistical area."*

Please note: conforming amendments may need to be made in other sections of the bill including the following:

On page 10 lines 14 or 15.

Issue of limitations to industries not included in the NAICS numbers:

Suggested changes:

1. To incorporate "dairy cattle and milk production" into the bill:

On page 4 line 15 after "112112" add "*112120*":

2. To incorporate dairy herd replacement operations classified as "beef cattle ranching and farming" by NAICS:

On page 4 line 15 after "112112" add "*112111*"

3. To incorporate compost manufacturing

On page 4 line 15 after "112112" add "325314".

Please note: conforming amendments will need to be made throughout the bill including the following sections:

On page 5 line 34:
On page 9 line 27;

As of 2/8/08

Potential Amendments to SB 497

- Retain current training tax credit, but do not tie to eligibility for the investment tax credit
- Lower the proposed investment tax credit eligibility threshold in non-opportunity zones to accommodate smaller businesses
    - Currently the threshold is $50,000; new proposed threshold is $300,000
    - Consider $150,000 threshold and/or $50,000 threshold for businesses with fixed assets of less than $3 million
- Remove current requirement that 50% of revenues be from out of state in order to make the investment tax credit program more accessible to smaller businesses
- Review NAICS codes to ensure any additions and deletions make sense
- Review impact of elimination of the Enterprise Zone Act on micropolitan communities, such as Hutchinson, that would not qualify as opportunity zones
- Set forth some framework around the proposed refundability program, including perhaps an annual cap per company
- Consider option of allowing tax credits to be sold on the open market, rather than making them refundable
- Consider whether further simplification of the tax credit process is possible
- Look at the net fiscal note of SB 497 without the disaster relief provisions that are currently included
- Page 6, line 43-public utilities have been omitted
- Micropolitan statistical area definition
- Amendment to the NAICS numbers