

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Richard Carlson at 9:10 a.m. on March 10, 2010, in Room 783 of the Docking State Office Building.

All members were present.

Committee staff present:

Gordon Self, Office of the Revisor of Statutes  
Scott Wells, Office of the Revisor of Statutes  
Chris Courtwright, Kansas Legislative Research Department  
Brandon Riffel, Kansas Legislative Research Department  
Marla Morris, Committee Assistant

Conferees appearing before the Committee:

Others attending:

See attached list.

Chairman Carlson reported the request to reconsider **HB 2519 - Amendments to sales tax law to provide conformity with streamlined sales and use tax agreement act**, has been withdrawn and will be sent to the House.

The chair opened discussion and possible action on:

**HB 2593 - Alcoholic liquor, cereal malt beverage and malt products gallonage tax rate increase to fund developmental disability supplemental programs and community mental health centers supplemental programs**

Staff Chris Courtwright, Kansas Legislative Research Department summarized **HB 2593**. Passage of the bill would basically double the current liquor gallonage tax rates from \$.18 to \$.36 on beer and cereal malt beverages; \$.30 to \$.60 on light wine; \$.75 to \$1.50 on fortified wine; and from \$2.50 to \$5.00 per gallon on alcohol and spirits. The Kansas Department of Revenue believes, given the inventory and other provisions of the bill, the fiscal note for FY 2011 would be approximately \$21.8 million of new revenue. The bill earmarks the new money for developmental disabilities funding and mental health program funding, and not the state general fund. He stood for questions.

Representative Wolf circulated a document from the February 26 testimony by the Community Mental Health Centers of Kansas, on **HB 2593**. The handout displayed locations of Community Health Centers throughout the state of Kansas. Also available to the Committee was a chart displaying the economic impact to Kansas communities with funding proposed by passage of **HB 2593** (Attachment 1).

Representative Wolf moved to pass out **HB 2593** without recommendation. The motion was seconded by Representative Schwartz.

Representative Frownfelter made a substitute motion to table **HB 2593** indefinitely. The motion was seconded by Representative Peck. The motion carried.

Representative Hawk moved to re-consider **HB 2630 - Requiring adjustments to property tax levies relative to revenues produced by property taxes**. Representative Frownfelter seconded the motion. Division was requested. The motion Carried.

Representative Goico moved a conceptional motion to go back to a vote of the people if it goes above the rate of inflation, not a vote of 5 percent of the people that voted for the Secretary of State.

Chairman Carlson ruled the motion out of order, and should be presented during reconsideration of **HB 2630**.

Discussion and action on:

CONTINUATION SHEET

Minutes of the House Taxation Committee at 9:00 a.m. on March 10, 2010, in Room 783 of the Docking State Office Building.

**of certain historic structures for fiscal year 2011.**

Staff Gordon Self, Office of the Revisor of Statutes, briefed the Committee on **HB 2496**. The proposal in **HB 2496** keeps the hard cap, as it was passed in 2009, in place for fiscal year 2010 but eliminates the cap in fiscal year 2011.

Representative Siegfroid requested the Chair to consider **SB 430** which is the Senate version of **HB 2496** for the purpose of working the bill and adding a balloon amendment that would make **SB 430** an exact duplicate of **HB 2496**.

Chairman Carlson allowed action on **SB 430** without objection, stating the bill had passed the Senate and is under the jurisdiction of the Taxation Committee.

Discussion and action on:

**SB 430 - Limitations on certain income tax credits**

Representative Siegfroid moved to pass out favorably SB 430. Representative George seconded the motion.

Representative Siegfroid circulated a copy of **SB 430** with the proposed balloon amendment that would duplicate **HB 2496** (Attachment 2).

Revisor Self briefed the Committee on the differences between the two bills.

Representative Siegfroid stated **SB 430** retains the 10 percent haircut without the cap and **HB 2496** takes away the 10 percent haircut and allows the full 25 percent tax credit to take place in fiscal year 2011.

Representative Siegfroid moved to amend SB 430 to change certain provisions of SB 430 into HB 2496. The motion was seconded by Representative George. The motion carried.

Representative McCray -Miller moved to amend SB 430, to replace the haircut provision with a dollar amount that will be capped but will be inclusive of a 10% dollar amount reduction for the Kansas Center for Entrepreneurship Tax Credit. The amount that is currently set is \$2 million, the 10 percent reduction would take it down to \$1.8 million. The motion was seconded by Representative Goico. The motion carried.

Representative Schwartz distributed information from Kansas Technology Enterprise Corporation and a handout of a proposed amendment (Attachment 3).

Representative Schwartz moved the amendment dealing with the Angel Tax Credit and restoring the investors ability to carry forward any unused credits to future tax years. The motion was seconded by Representative Powell. The motion carried.

Representative Siegfroid closed and moved to pass out SB 430 favorable as amended. The motion carried.

Chairman Carlson informed the Committee that **HB 2682** will be worked on Thursday, March 11.

The next meeting is scheduled for March 11, 2010.

The meeting was adjourned at 10:21 a.m.

# HOUSE TAXATION COMMITTEE

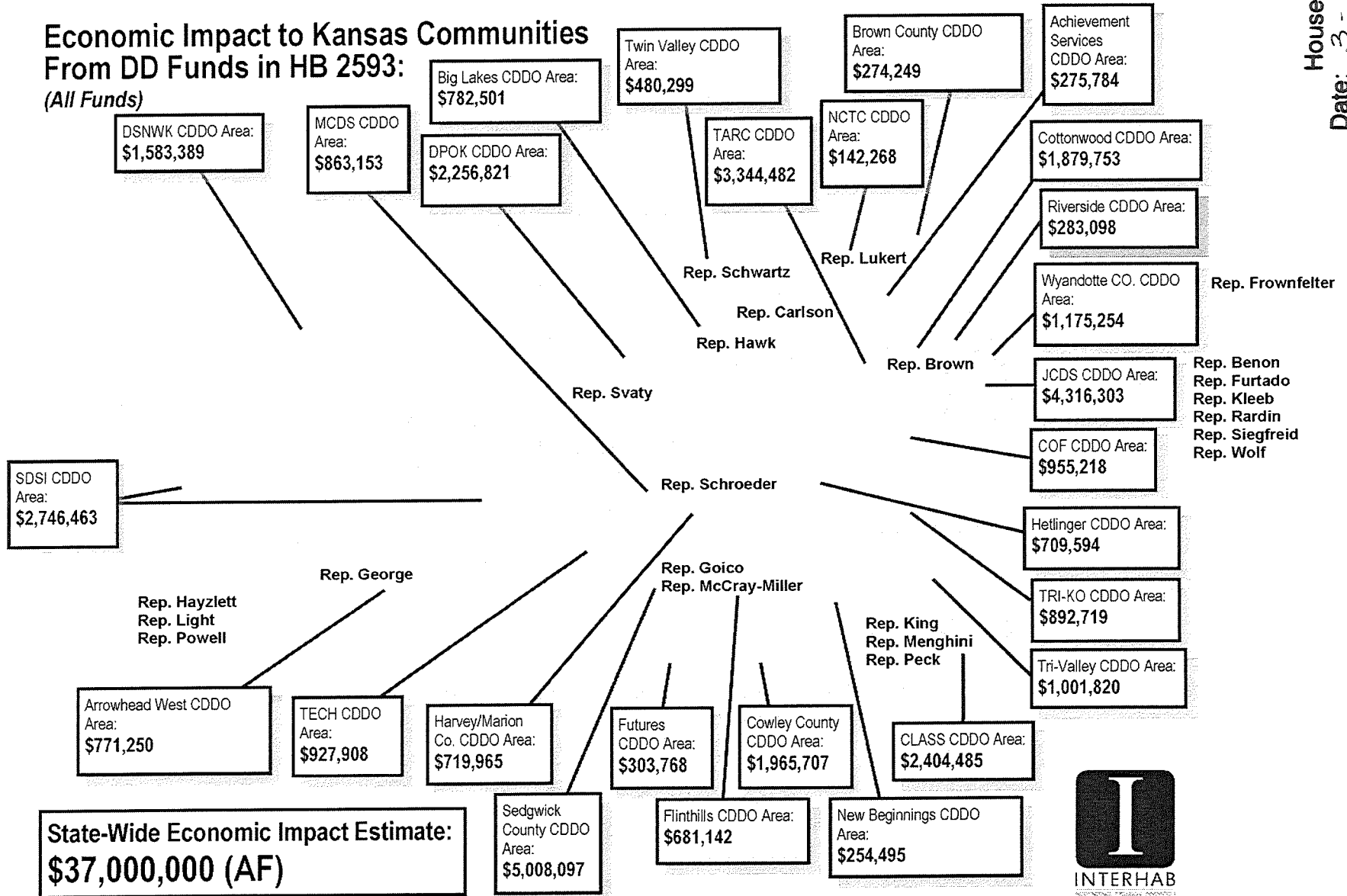
DATE: March 10, 2010

NAME	REPRESENTING
<del>Jack Duncan</del>	<del>KS wine &amp; spirits wholesalers</del>
Linda Funk	KACES
John C. BOTTENBERG	MillerCoors
Jennie China	KSHS
Patrick Zollner	KSHS
Scott Cooney	GBA
Michelle Butler	Cap. Strategies
DICK CARTER	CITY OF MANHATTAN
Kendra Hanson	Hein Law Firm
LARRY R BAER	LKM
Mark Talbot	
Kevin Borne	CLG
Travis Love	Little Lost Religion
Joe Moimann	Panora
N. Bright	KSCPA
LARRY BEEB	KACCT
Jurena Meay	JCPA
Jayne Fugell	Strategic Comms of KS.
Chry Campbell	KABE

KS wine & spirits wholesalers  
AFSSA



# Economic Impact to Kansas Communities From DD Funds in HB 2593: (All Funds)



SENATE BILL No. 430

By Committee on Assessment and Taxation

1-22

Proposed Amendment

Eliminates 10% haircut for historic preservation tax credit and reinstates hard cap for fiscal year 2010 only

10 AN ACT concerning income taxation; relating to credits, limitations;  
11 amending K.S.A. 2009 Supp. 74-50,154, 79-32,211 and 79-32,264  
12 and repealing the existing section sections.  
13

14 *Be it enacted by the Legislature of the State of Kansas:*

15 **Section 1.** *K.S.A. 2009 Supp. 74-50,154 is hereby amended to*  
16 *read as follows: 74-50,154. (a) As used in this act: (1) "Business*  
17 *support services" means business counseling, technical assistance*  
18 *and business planning services provided to existing or prospective*  
19 *small businesses or entrepreneurs;*

20 (2) *"contributions" means and includes the donation of cash or*  
21 *property other than used clothing in an amount or value of \$250 or*  
22 *more. Contributions shall be valued as follows:*

23 (A) *Stocks and bonds contributed shall be valued at the stock*  
24 *market price on the date of transfer;*

25 (B) *personal property items contributed shall be valued at the*  
26 *lesser of the item's fair market value or cost to the donor and may*  
27 *be inclusive of costs incurred in making the contribution. Such*  
28 *value shall not include sales tax;*

29 (C) *contributions of real estate are allowable for credit only*  
30 *when title of such real estate is in fee simple absolute and is clear*  
31 *of any encumbrances; and*

32 (D) *the amount of credit allowable shall be based upon the*  
33 *lesser of two current independent appraisals conducted by state*  
34 *licensed appraisers;*

35 (3) *"department" means the department of commerce;*

36 (4) *"entrepreneur" means an individual creating a new busi-*  
37 *ness, service or product;*

38 (5) *"region" means multi-county areas as defined by the secre-*  
39 *tary of commerce;*

40 (6) *"regional business development fund" means an authorized*  
41 *and audited fund that is created by taxpayer contributions, interest*  
42 *income and investment income and is managed by the regional foun-*  
43 *dition board of directors for the purposes of economic and lead-*

1 *ership development in the region;*

2 (7) *“regional foundation” means any organization in Kansas*  
3 *that demonstrates capacity to provide economic development serv-*  
4 *ices to regions as defined by this act, and: (A) Has obtained a ruling*  
5 *from the internal revenue service of the United States department*  
6 *of treasury that such organization is exempt from income taxation*  
7 *under the provisions of section 501(c)(3) or 501(c)(6) of the federal*  
8 *internal revenue code;*

9 (B) *has been designated as a certified development company by*  
10 *the United States small business administration;*

11 (C) *has been designated as an economic development district by*  
12 *the United States department of commerce’s economic development*  
13 *administration;*

14 (D) *has been organized as a regional planning commission un-*  
15 *der K.S.A. 12-744 et seq., and amendments thereto, or its predeces-*  
16 *sor, K.S.A. 12-716 et seq., and amendments thereto; or*

17 (E) *is incorporated in the state of Kansas as a nonstock, non-*  
18 *profit corporation;*

19 (8) *“regional leadership development” means training and ed-*  
20 *ucation that enable a region to develop community leadership that*  
21 *strengthens the economic and social environment in that region;*

22 (9) *“rural community” means any city having a population of*  
23 *fewer than 50,000 or except as otherwise provided, any unincor-*  
24 *porated area. Unincorporated areas within any county having a*  
25 *population of more than 100,000 are not eligible;*

26 (10) *“secretary” means the secretary of the department of*  
27 *commerce;*

28 (11) *“small business” means an independently owned and op-*  
29 *erated business having fewer than 100 full-time equivalent*  
30 *employees;*

31 (12) *“taxpayer” means: (A) Any business entity authorized to*  
32 *do business in the state of Kansas which is subject to the state in-*  
33 *come tax imposed by the provisions of the Kansas income tax act;*

34 (B) *any individual subject to the state income tax imposed by*  
35 *the provisions of the Kansas income tax act;*

36 (C) *any national banking association, state bank, trust company*  
37 *or savings and loan association paying an annual tax on its net in-*  
38 *come pursuant to article 11 of chapter 79 of the Kansas Statutes*  
39 *Annotated; or*

40 (D) *any insurance company paying the premium tax and priv-*  
41 *ilege fees imposed pursuant to K.S.A. 40-252, and amendments*  
42 *thereto; and*

43 (13) *“technology improvements” means a project that results in*

1 the ability of the region to enhance service in areas, including  
2 broadband access, web site creation, wireless internet services,  
3 computer programming, computer servers, computer networks,  
4 computer databases, electronic training modules, electronic media  
5 and any other technological areas deemed eligible by the secretary.

6 (b) For taxable years commencing after December 31, 2004,  
7 any taxpayer contributing to a regional foundation designated by  
8 the secretary of commerce, shall be allowed a credit, as provided in  
9 this act, against the tax imposed by the Kansas income tax act, the  
10 tax on net income of national banking associations, state banks,  
11 trust companies or savings and loan associations imposed under  
12 article 11 of chapter 79 of the Kansas Statutes Annotated, or the  
13 premium tax or privilege fees imposed pursuant to K.S.A. 40-252,  
14 and amendments thereto, if the proposal of the regional foundation  
15 is approved pursuant to this act.

16 (c) (1) On December 31, 2007, June 30, 2008, and each June  
17 30 thereafter, each regional foundation shall transfer 5% of funds  
18 raised in the previous fiscal year from the marketing of the rural  
19 business tax credits to be credited to the enterprise facilitation fund  
20 created in K.S.A. 2009 Supp. 74-50,155, and amendments thereto.

21 (2) The secretary of commerce may adopt rules and regulations  
22 for the disbursement of regional foundation funds to the enterprise  
23 facilitation fund.

24 (d) (1) The secretary of commerce is hereby authorized to  
25 adopt rules and regulations for establishing criteria for evaluating  
26 proposals to designate regional foundations as defined by this act  
27 with the assistance of the secretary of revenue.

28 (2) The proposal shall set forth the program to be conducted,  
29 why the program is needed, the estimated amount to be invested in  
30 the program, composition of the board that shall be making invest-  
31 ment decisions, policies stating the organization shall offer services  
32 to all counties in that region and the plans for implementing the  
33 program.

34 (3) The secretary of commerce shall select regional foundations  
35 pursuant to rules and regulations adopted pursuant to subsection  
36 (d)(1) to use the sale of credits to establish regional business devel-  
37 opment funds.

38 (4) The total amount of credits allowed under this act shall not  
39 exceed \$2,500,000 for fiscal year 2005; \$2,500,000 for fiscal year  
40 2006; ~~and~~ \$2,000,000 per year for fiscal years 2007 through, and  
41 including, 2010, and fiscal year 2012, and \$1,800,000 for fiscal year  
42 2011. Each region as defined by this act shall receive an equal share  
43 of this allocation.



1 (5) Any credits not sold by such regional foundations shall be  
2 reclaimed by the secretary from such region and redistributed to  
3 other regions that sold all credits previously issued.

4 (6) The secretary shall annually review and approve or disap-  
5 prove the proposal of each designated regional foundation for con-  
6 tinued eligibility for tax credits. The department of commerce re-  
7 tains that right to reclaim credits in such cases the regional  
8 foundation closes or there is demonstrated violation of the organi-  
9 zation's policies. Changes to the investment policies of each regional  
10 foundation are subject to approval of the secretary.

11 (e) Each regional foundation shall administer a regional busi-  
12 ness development fund. The sums generated by contributions to  
13 each regional business development fund are intended to be dis-  
14 tributed to qualified entrepreneurs for the purposes of economic  
15 and leadership development in the region. Such sums shall be al-  
16 located by each regional foundation as follows:

17 (1) Not less than 60% of such funds may be allocated for job  
18 creation or retention;

19 (2) not more than 10% of such funds shall be allocated for ad-  
20 ministrative costs in overseeing particular projects; and

21 (3) the remaining funds may be allocated towards other eligible  
22 activities as provided in subsection (f) in a manner that fits the  
23 region's priorities and needs.

24 (f) Funds in the regional business development funds may be  
25 utilized by the regional foundation for one or more of the following  
26 eligible activities:

27 (1) Business start-ups;

28 (2) business expansion;

29 (3) business retention;

30 (4) business support services;

31 (5) regional leadership development;

32 (6) technology improvements; and

33 (7) administrative services.

34 (g) All interest generated on idle funds administered by the re-  
35 gional foundation shall be used by the foundation's board in ac-  
36 cordance with subsections (e) and (f).

37 (h) Any regional foundation may increase or decrease the allo-  
38 cation percentages set forth in subsection (e) only upon approval of  
39 such adjustments by the secretary.

40 (i) (1) The amount of credit allowed pursuant to this act, shall  
41 not exceed 75% of the total amount contributed during the taxable  
42 year by the taxpayer to a regional foundation approved pursuant  
43 to this act.

1 (2) If the amount of the credit allowed by this act, exceeds the  
2 taxpayer's income tax liability imposed under the Kansas income  
3 tax act, such excess amount shall be refunded to the taxpayer.

4 (j) The provisions of this act shall be applicable to all taxable  
5 years beginning after December 31, 2004.

6 Sec. 2. K.S.A. 2009 Supp. 79-32,211 is hereby amended to read  
7 as follows: 79-32,211. (a) For all taxable years commencing after  
8 December 31, 2006, there shall be allowed a tax credit against the  
9 income, privilege or premium tax liability imposed upon a taxpayer  
10 pursuant to the Kansas income tax act, the privilege tax imposed  
11 upon any national banking association, state bank, trust company  
12 or savings and loan association pursuant to article 11 of chapter 79  
13 of the Kansas Statutes Annotated, or the premiums tax and privilege  
14 fees imposed upon an insurance company pursuant to K.S.A. 40-  
15 252, and amendments thereto, in an amount equal to 25% of qual-  
16 ified expenditures incurred in the restoration and preservation of a  
17 qualified historic structure pursuant to a qualified rehabilitation  
18 plan by a qualified taxpayer if the total amount of such expenditures  
19 equal \$5,000 or more; or in an amount equal to 30% of qualified  
20 expenditures incurred in the restoration and preservation of a qual-  
21 ified historic structure which is exempt from federal income taxa-  
22 tion pursuant to section 501(c)(3) of the federal internal revenue  
23 code and which is not income producing pursuant to a qualified  
24 rehabilitation plan by a qualified taxpayer if the total amount of  
25 such expenditures equals \$5,000 or more. ~~In no event shall the total~~  
26 ~~amount of credits allowed under this section exceed \$3,750,000 for fiscal~~  
27 ~~years 2010 and 2011.~~ If the amount of such tax credit exceeds the  
28 qualified taxpayer's income, privilege or premium tax liability for  
29 the year in which the qualified rehabilitation plan was placed in  
30 service, as defined by section 47(b)(1) of the federal internal reve-  
31 nue code and federal regulation section 1.48-12(f)(2), such excess  
32 amount may be carried over for deduction from such taxpayer's  
33 income, privilege or premium tax liability in the next succeeding  
34 year or years until the total amount of the credit has been deducted  
35 from tax liability, except that no such credit shall be carried over  
36 for deduction after the 10th taxable year succeeding the taxable  
37 year in which the qualified rehabilitation plan was placed in  
38 service.

39 (b) As used in this section, unless the context clearly indicates  
40 otherwise:

41 (1) "Qualified expenditures" means the costs and expenses in-  
42 curred by a qualified taxpayer in the restoration and preservation  
43 of a qualified historic structure pursuant to a qualified rehabilita-

In no event shall the total amount of credits allowed under this section exceed \$3,750,000 for fiscal year 2010.

tion plan which are defined as a qualified rehabilitation expenditure by section 47(c)(2) of the federal internal revenue code;

(2) "qualified historic structure" means any building, whether or not income producing, which is defined as a certified historic structure by section 47(c)(3) of the federal internal revenue code, is individually listed on the register of Kansas historic places, or is located and contributes to a district listed on the register of Kansas historic places;

(3) "qualified rehabilitation plan" means a project which is approved by the cultural resources division of the state historical society, or by a local government certified by the division to so approve, as being consistent with the standards for rehabilitation and guidelines for rehabilitation of historic buildings as adopted by the federal secretary of interior and in effect on the effective date of this act. The society shall adopt rules and regulations providing application and approval procedures necessary to effectively and efficiently provide compliance with this act, and may collect fees in order to defray its approval costs in accordance with rules and regulations adopted therefor; and

(4) "qualified taxpayer" means the owner of the qualified historic structure or any other person who may qualify for the federal rehabilitation credit allowed by section 47 of the federal internal revenue code.

If the taxpayer is a corporation having an election in effect under subchapter S of the federal internal revenue code, a partnership or a limited liability company, the credit provided by this section shall be claimed by the shareholders of such corporation, the partners of such partnership or the members of such limited liability company in the same manner as such shareholders, partners or members account for their proportionate shares of the income or loss of the corporation, partnership or limited liability company, or as the corporation, partnership or limited liability company mutually agree as provided in the bylaws or other executed agreement. Credits granted to a partnership, a limited liability company taxed as a partnership or other multiple owners of property shall be passed through to the partners, members or owners respectively pro rata or pursuant to an executed agreement among the partners, members or owners documenting any alternate distribution method.

(c) Any person, hereinafter designated the assignor, may sell, assign, convey or otherwise transfer tax credits allowed and earned pursuant to subsection (a). The taxpayer acquiring credits, hereinafter designated the assignee, may use the amount of the acquired credits to offset up to 100% of its income, privilege or premiums tax

1 liability for either the taxable year in which the qualified rehabil-  
 2 itation plan was first placed into service or the taxable year in which  
 3 such acquisition was made. Unused credit amounts claimed by the  
 4 assignee may be carried forward for up to five years, except that all  
 5 such amounts shall be claimed within 10 years following the tax  
 6 year in which the qualified rehabilitation plan was first placed into  
 7 service. The assignor shall enter into a written agreement with the  
 8 assignee establishing the terms and conditions of the agreement and  
 9 shall perfect such transfer by notifying the cultural resources di-  
 10 vision of the state historical society in writing within 90 calendar  
 11 days following the effective date of the transfer and shall provide  
 12 any information as may be required by such division to administer  
 13 and carry out the provisions of this section. The amount received  
 14 by the assignor of such tax credit shall be taxable as income of the  
 15 assignor, and the excess of the value of such credit over the amount  
 16 paid by the assignee for such credit shall be taxable as income of  
 17 the assignee

18 Section ~~Sec. 3.~~ K.S.A. 2009 Supp. 79-32,264 is hereby amended  
 19 to read as follows: 79-32,264. (a) For tax years 2009 and 2010, for any tax  
 20 credit provided under the following: K.S.A. 65-7107, 79-1117, 79-32,176,  
 21 79-32,177, ~~79-32,190~~ and 79-32,200 and K.S.A. 2009 Supp. ~~40-2246, 74-~~  
 22 ~~50,154, 74-50,173, 74-50,208, 74-8133, 74-8205, 74-99c09, 79-32,153, 79-~~  
 23 ~~32,160a, 79-32,181a, 79-32,182b, 79-32,196, 79-32,197, 79-32,201, 79-~~  
 24 ~~32,202, 79-32,204, 79-32,207, 79-32,211a, 79-32,211, 79-32,212,~~  
 25 ~~79-32,213, 79-32,215, 79-32,218, 79-32,222, 79-32,224, 79-32,229, 79-~~  
 26 ~~32,234, 79-32,239, 79-32,242, 79-32,244, 79-32,246, and 79-32,252, 79-~~  
 27 ~~32,261 and 79-32,262,~~ and amendments thereto, *and if nonrefundable,*  
 28 *K.S.A. 79-32,261 and 79-32,262, and amendments thereto,* the total of  
 29 any such credit or credits allowed against the tax imposed by the Kansas  
 30 income tax act, the premium tax or privilege fees imposed pursuant to  
 31 K.S.A. 40-252, and amendments thereto, or the privilege tax as measured  
 32 by net income of financial institutions imposed pursuant to chapter 79,  
 33 article 11 of the Kansas Statutes Annotated, shall not exceed the lesser  
 34 of 90% of the total amount of such credit or credits earned in a current  
 35 tax year or claimed in a current tax year as a carry forward from a prior  
 36 tax year, or 90% of the tax as computed prior to the allowance of any such  
 37 credit or credits. Except as otherwise provided by subsections (c) and (d),  
 38 the amount of such credit or credits that may be carried forward in any  
 39 succeeding taxable year shall be reduced by an amount equal to the lesser  
 40 of 10% of the total amount of such credit or credits earned in a current  
 41 tax year or claimed in a current tax year as a carry forward from a prior  
 42 tax year, or 10% of the tax as computed prior to the allowance of any such  
 43 credits.

1 (b) For tax years 2009 and 2010, for any tax credit provided under  
 2 K.S.A. 40-2246 and 79-32,190 and K.S.A. 2009 Supp. ~~79-32,206 and 79-~~  
 3 ~~32,210 74-50,154, 74-50,208, 79-32,206, 79-32,210 and 79-32,211a, and~~  
 4 ~~amendments thereto, and if refundable, K.S.A. 79-32,261 and 79-32,262,~~  
 5 and amendments thereto, **and for tax year 2009, for the tax credit**  
 6 **provided under K.S.A. 2009 Supp. 74-50,154, and amendments**  
 7 **thereto**, the total amount of any credits refunded or allowed against the  
 8 tax imposed by the Kansas income tax act, the premium tax or privilege  
 9 fees imposed pursuant to K.S.A. 40-252, and amendments thereto, or the  
 10 privilege tax as measured by net income of financial institutions imposed  
 11 pursuant to chapter 79, article 11 of the Kansas Statutes Annotated, shall  
 12 not exceed 90% of the total amount of tax credit or credits earned, and  
 13 the remaining portion of such tax credit or credits shall be lost.

14 (c) For any tax credit or credits earned pursuant to K.S.A. 79-32,160a,  
 15 and amendments thereto, other than tax credits earned pursuant to sub-  
 16 section (e) of K.S.A. 79-32,160a, and amendments thereto, in a tax year  
 17 prior to 2009 and carried forward from such prior tax year and claimed  
 18 in tax years 2009 or 2010, any reduction in the amount of credit or credits  
 19 that may be carried forward to any succeeding tax year determined pur-  
 20 suant to subsection (a), may be carried forward to any tax year after 2010,  
 21 pursuant to the applicable carry-forward period provided in K.S.A. 79-  
 22 32,160a, and amendments thereto.

23 (d) For any tax credit earned pursuant to subsection (e) of K.S.A. 79-  
 24 32,160a, and amendments thereto, by a taxpayer qualified and certified  
 25 under the provisions of K.S.A. 74-50,131, and amendments thereto, who  
 26 has received prior to June 1, 2009, written approval from the secretary  
 27 of commerce of a certificate of intent to invest in a qualified business  
 28 facility, any reduction in the amount of credit or credits that may be  
 29 carried forward to any succeeding tax year determined pursuant to sub-  
 30 section (a), may be carried forward to any tax year after 2010, pursuant  
 31 to the applicable carry-forward period provided in K.S.A. 79-32,160a, and  
 32 amendments thereto.

33 ~~Sec. 2. K.S.A. 2009 Supp. 79-32,264 is hereby repealed.~~

34 **Sec. 4. K.S.A. 2009 Supp. 74-50,154, 79-32,211 and 79-32,264**  
 35 **are hereby repealed.**

36 ~~Sec. 5.~~ This act shall take effect and be in force from and after its  
 37 publication in the Kansas register.



KANSAS TECHNOLOGY  
ENTERPRISE CORPORATION

**Written Testimony Proponent of the Amendment to House Bill 2496**

**Submitted by Kevin Carr, Interim CEO of KTEC**

**House Taxation Committee  
Tuesday, March 9, 2010**

Chairman Carlson and Committee Members:

I am Kevin Carr, Interim CEO of KTEC, and am writing today on behalf of the 74 companies who have benefited from the Angel Tax Credit program since 2005.

**Angel Tax Credit – Adjustment to 79-32, 264, Amendment to HB2496**

- HB 2365 in 2009 had the unintended effect of reducing tax credits already issued by the State.
- Investor's confidence in the Angel Tax Credit program has been shaken by the state revoking tax credits previously earned and issued.
- The amendment will not reduce the amount of taxes collected by the state in 2009 and 2010.
- The amendment will restore investor's ability to carry forward any unused credits to future tax years.
- The amendment will be revenue neutral. The cost of restoring the individual investor carry forward will be off-set by a \$1MM reduction in the entire program in tax year 2011.

**About the Angel Tax Credits:**

From 2005 through 2009

- Raised **\$168MM** in capital for small companies since 2005
- **\$9.3 of capital for every \$1 of tax credit issued**
- **578 jobs** added or saved (1,445 jobs with a 2.5 multiplier effect)
- **\$175MM** in revenue over the last 4 years

**House Taxation**

**Date:** 3-10-10  
**Attachment:** 3

## HB 2496 Balloon Amendment re angel investor credit carryforwards

### **New Section \_\_. K.S.A. 2009 Supp. 79-32,264 is hereby amended as follows:**

(a) For tax years 2009 and 2010, for any tax credit provided under the following: K.S.A. 65-7107, 79-1117, 79-32,176, 79-32,177, 79-32,190 and 79-32,200 and K.S.A. 2009 Supp. 40-2246, 74-50,154, 74-50,173, 74-50,208, 74-8133, 74-8205, 74-99c09, 79-32,153, 79-32,160a, 79-32,181a, 79-32,182b, 79-32,196, 79-32,197, 79-32,201, 79-32,202, 79-32,204, 79-32,207, 79-32,211a, 79-32,212, 79-32,213, 79-32,215, 79-32,218, 79-32,222, 79-32,224, 79-32,229, 79-32,234, 79-32,239, 79-32,242, 79-32,244, 79-32,246, 79-32,252, 79-32,261 and 79-32,262, and amendments thereto, the total of any such credit or credits allowed against the tax imposed by the Kansas income tax act, the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, or the privilege tax as measured by net income of financial institutions imposed pursuant to chapter 79, article 11 of the Kansas Statutes Annotated, shall not exceed the lesser of 90% of the total amount of such credit or credits earned in a current tax year or claimed in a current tax year as a carry forward from a prior tax year, or 90% of the tax as computed prior to the allowance of any such credit or credits. Except as otherwise provided by subsections (c) and (d), the amount of such credit or credits that may be carried forward in any succeeding taxable year shall be reduced by an amount equal to the lesser of 10% of the total amount of such credit or credits earned in a current tax year or claimed in a current tax year as a carry forward from a prior tax year, or 10% of the tax as computed prior to the allowance of any such credits.

(b) For tax years 2009 and 2010, for any tax credit provided under K.S.A. 2009 Supp. 79-32,206 and 79-32,210, and amendments thereto, the total amount of any credits refunded or allowed against the tax imposed by the Kansas income tax act, the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, or the privilege tax as measured by net income of financial institutions imposed pursuant to chapter 79, article 11 of the Kansas Statutes Annotated, shall not exceed 90% of the total amount of tax credit or credits earned, and the remaining portion of such tax credit or credits shall be lost.

(c) For any tax credit or credits earned pursuant to K.S.A. 79-32,160a, and amendments thereto, other than tax credits earned pursuant to subsection (e) of K.S.A. 79-32,160a, and amendments thereto, in a tax year prior to 2009 and carried forward from such prior tax year and claimed in tax years 2009 or 2010, any reduction in the amount of credit or credits that may be carried forward to any succeeding tax year determined pursuant to subsection (a), may be carried forward to any tax year after 2010, pursuant to the applicable carry-forward period provided in K.S.A. 79-32,160a, and amendments thereto.

(d) For any tax credit earned pursuant to subsection (e) of K.S.A. 79-32,160a, and amendments thereto, by a taxpayer qualified and certified under the provisions of K.S.A. 74-50,131, and amendments thereto, who has received prior to June 1, 2009, written approval from the secretary of commerce of a certificate of intent to invest in a qualified business facility, any reduction in the amount of credit or credits that may be carried forward to any succeeding tax year determined pursuant to subsection (a), may be carried forward to any tax year after 2010, pursuant to the applicable carry-forward period provided in K.S.A. 79-32,160a, and amendments thereto.

- (e) For any tax credit or credits earned pursuant to K.S.A. 74-8133, and amendments thereto, any reduction in the amount of credit or credits that may be carried forward to any succeeding tax year determined pursuant to subsection (a) from tax years 2009 or 2010, may be carried forward to any tax year after 2010, pursuant to the applicable carry-forward period provided in K.S.A. 74-8133, and amendments thereto.

New Section \_\_.

**74-8133. Tax credits for investment in qualified securities of qualified Kansas business; claims; limitations; transfer of credits; reimbursement of administrative costs.** (a) A credit against the tax imposed by article 32 of chapter 79 of the Kansas Statutes Annotated on the Kansas taxable income of an angel investor and against the tax imposed by K.S.A. 40-252, and amendments thereto, shall be allowed for a cash investment in the qualified securities of a qualified Kansas business. The credit shall be in a total amount equal to 50% of such investors' cash investment in any qualified Kansas business, subject to the limitations set forth in subsection (b). This tax credit may be used in its entirety in the taxable year in which the cash investment is made except that no tax credit shall be allowed in a year prior to January 1, 2005. If the amount by which that portion of the credit allowed by this section exceeds the investors' liability in any one taxable year, beginning in the year 2005, the remaining portion of the credit may be carried forward until the total amount of the credit is used. If the investor is a permitted entity investor, the credit provided by this section shall be claimed by the owners of the permitted entity investor in proportion to their ownership share of the permitted entity investor.

(b) The secretary of revenue shall not allow tax credits of more than \$50,000 for a single Kansas business or a total of \$250,000 in tax credits for a single year per investor who is a natural person or owner of a permitted entity investor. No tax credits authorized by this act shall be allowed for any cash investments in qualified securities for any year after the year 2016. The total amount of tax credits which may be allowed under this section shall not exceed \$4,000,000 during the tax year 2007 and \$6,000,000 for tax year 2008 and each tax year thereafter, **except that for tax year 2011 the total amount of tax credits which may be allowed under this section shall not exceed \$5,000,000.** The balance of unissued tax credits may be carried over for issuance in future years until 2016.

(c) A cash investment in a qualified security shall be deemed to have been made on the date of acquisition of the qualified security, as such date is determined in accordance with the provisions of the internal revenue code.

(d) No investor shall claim a credit under this section for cash investments in Kansas venture capital, inc. No Kansas venture capital company shall qualify for the tax credit for an investment in a fund created by articles 81, 82, 83 or 84 of chapter 74 of the Kansas Statutes Annotated.

(e) Any investor who has not owed any Kansas income tax under the provisions of article 32, chapter 79 of the Kansas Statutes Annotated for the immediate past three taxable years, who does not reasonably believe that it will owe any such tax for the current taxable year and who makes a cash investment in a qualified security of a qualified Kansas business shall be deemed to acquire an interest in the nature of a transferable credit limited to an amount equal to 50% of this cash investment. This interest may be transferred to any natural person of net worth, as defined in 17 C.F.R. 230.501(a) as in effect on the effective date of this act whether or not such person is then an investor and be claimed by the transferee as a credit against the transferee's Kansas income tax liability beginning in the year provided in subsection (a). No



person shall be entitled to a refund for the interest created under this section. Only the full credit for any one investment may be transferred and this interest may only be transferred one time. A credit acquired by transfer shall be subject to the limitations prescribed in this section. Documentation of any credit acquired by transfer shall be provided by the investor in the manner required by the director of taxation.

(f) The reasonable costs of the administration of this act, the review of applications for certification as qualified Kansas businesses and the issuance of tax credits authorized by this act shall be reimbursed through fees paid by the qualified Kansas businesses and the investors or the transferees of investors, according to a reasonable fee schedule adopted by the corporation.