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:
See attached list.

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 l. (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.