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To: Senate Committee on Commerce

From: Kathie Sparks, Principal Analyst

Re: SB 342 — The Kansas Investment Credit Act; the Kansas Jobs Credit Act; and Elimination of Certain Credits

The following is a brief outline of the changes proposed in SB 342.

Kansas Investment Credit Act (Sections 1 through 8 – new law)

Section 1: Naming the Act

Section 2: Definitions

Please note that the definition of "opportunity zone" will be established by the Secretary of Commerce through rules and regulations. In addition, an "opportunity zone" must be comprised of at least one county, and would be economically disadvantaged, and would not include any counties in a metropolitan statistical area or micropolitan statistical area. (A US Census Bureau definition of a micropolitan statistical area is a Core Based Statistical Area (CBSA) associated with at least one urban cluster with a population of at least 10,000. The central county plus adjacent counties with a high degree of integration comprise the area. This definition is not in the bill.)

Section 3: An eligible taxpayer for the investment credit must meet all of the following criteria:

- Identified under the North American Industry Classification System (NAICS).
- Identified as a headquarters or ancillary support operation by the Secretary of Commerce for purposes of this act, regardless of NAICS classification:
  - The qualified investment for the project must equal or exceed $100,000 for those Kansas business facilities that are located in an opportunity zone and $1.0 million for those Kansas business facilities that are not located in an opportunity zone.
- The taxpayer would be required to pay employees higher-than-average wages within a wage region at the Kansas business facility as follows:
  - The taxpayer's Kansas business facility with 500 or fewer full-time equivalent employees will provide an average wage that is above the average wage paid by all Kansas business facilities that share the same assigned NAICS category

forward for the appropriate time frame. Any taxpayer who filed an application prior to July 1, 2007, may claim credits under the High Performance Incentive Act, but not under the Kansas Investment Credit Act for 2007 and 2008 to accommodate the 2007 transition period.

Section 8: The Act would expire on January 1, 2012.

Kansas Job Credit Act (Sections 9 through 14 – new law)

Section 9: Naming the Act.

Section 10: Definitions

The same NAICS codes would apply to the Kansas Job Credit Act as the Kansas Investment Credit Act.

Section 11: For taxable years after December 31, 2006, the bill would provide the following tax credits:

- Opportunity zone business: 5 new employees a credit of $3,500 per new employee against the Kansas Income Tax Act, the Premium Tax, Privilege Fees, or the Privilege Tax.

- Business outside of an opportunity zone: 20 new employees a credit of $1,500 per new employee against the Kansas Income Tax Act, the Premium Tax, Privilege Fees, or the Privilege Tax.

- The bill would require a new employee to perform the majority of the services in either an opportunity zone or in the State of Kansas.

- The credits may be carried forward until the total amount of the tax credits is used. In the event the taxpayer does not continue to employ the required minimum number of employees, any credit remaining would be forfeited. A taxpayer could only apply for either an opportunity zone or a Kansas Job Credit; but not both for the same employee.

- The credits would apply to subchapter S corporations, partnerships, or limited liability companies.

Section 12: The bill would require the taxpayer to provide documentation as a condition for claiming the credits. The Secretary of Revenue would be required to submit an annual report to the Legislature regarding utilization of the credits beginning with the 2009 Legislative Session.

Section 13: The bill would allow the Secretary of Revenue to adopt rules and regulations for administering this Act.

Section 14: The Act would expire on January 1, 2012.

Professional Employer Associations (Note: they will be eligible for the new investment and jobs credit programs) 79-3269.

The bill does **not** repeal the Plugging Abandoned Oil/Gas Wells; Swine Facility Improvement Credit; Temporary Assistance to Families Contribution Credit; Ag Loan Interest Reduction Credit; nor the Habitat Management Credit statutes.

Section 21: The Act would take effect after its publication in the statute book.

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