Approved: March 23, 2011

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Richard Carlson at 3:37 p.m. on February 17, 2011, in Room 783 of the Docking State Office Building.

All members were present except:
- Representative Calloway-excused
- Representative Denning-excused
- Representative Frownfelter-excused
- Representative Schwab-excused

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
- Michael Wales, Kansas Legislative Research Department
- Marla Morris, Committee Assistant
- Allen Jeffus, Office Assistant

Conferees appearing before the Committee:
- Secretary Nick Jordan, Kansas Department of Revenue
- Kent Eckles, The Kansas Chamber
- Christy Caldwell, Greater Topeka Chamber of Commerce
- Dan Murray, National Federation of Independent Business (NFIB)
- Jennifer Bruning, Overland Park Chamber
- Lavern Squier, Kansas Economic Development Alliance (KEDA)
- Denise Walsh, Hills Pet Nutrition, Inc. and Subsidiaries
- Bernie Koch, Kansas Economic Progress Council
- D. Shawn Sullivan, Allen, Gibbs & Houlik, L.C., CPA's and Advisors

Conferees presenting written-only testimonies:
- Blake Schreck, President, Lenexa Chamber of Commerce
- Angela Pitale, Next Era Energy Resources, LLC.
- Tim Witsman, Wichita Independent Business Association
- Robert Vancrum, The Greater Kansas City Chamber of Commerce
- Ron Seeber, Kansas Association of Ethanol Processors
- Eli Bowman, Codero
- Chris Vering, Knit-Rite, Inc.
- Manolis Alatziniotakis, Karatzis, USA, LLC
- Thomas Reed, Popstar Networks, Inc.
- Tim Hutteger, Marathon Solutions, Inc.
- Richard Mills, III, CBIZ
- Rick Katz, Katz Law Firm
- Monica Greer, Grundfos Pumps Corporation

Others attending:
- See attached list.

Bill Introductions:

<u>Representative Kleeb moved introduction of a committee bill on a civil air patrol sales tax exemption. The motion was seconded by Representative Goico and the motion carried.</u>

Chairman Carlson opened the continued hearing on **<u>HB 2317- Authorizing expensing of investment expenditures as a deduction in calculating Kansas income tax liability and IMPACT program changes</u>.**

Chairman Carlson opened the floor to questions held over from the February 16, 2011, suspended hearing on <u>HB 2317</u>. Committee members addressed questions to Richard Cram, Kansas Department of Revenue, and Secretary Nick Jordan, Kansas Department of Commerce.

CONTINUATION SHEET

The minutes of the House Taxation Committee at 3:37 p.m. on February 17, 2011, in Room 783 of the Docking State Office Building.

Kent Eckles, The Kansas Chamber, testified in support of **HB 2317** and addressed portions of the bill that created concern among members of The Kansas Chamber (Attachment 1). He urged the Committee to pass **HB 2317**.

Christy Caldwell, Greater Topeka Chamber of Commerce, spoke in support of **HB 2317** and addressed four of the many elements within the bill (Attachment 2):

- Expensing
- High Performance Incentive Program (HPIP)
- Job Creation Program Fund
- Machinery and Equipment (M&E) Property Tax Credit

The Greater Topeka Chamber of Commerce suggests considering allowing businesses an option of continuation of the Machinery and Equipment Tax Credit or the use of Expensing.

Dan Murray, National Federation of Independent Business (NFIB), testified in support of **HB 2317** because the business investment expensing proposal is a pro-growth policy that recognizes and values the impact of small business (Attachment 3).

Jennifer Bruning, Overland Park Chamber, spoke in support of **HB 2317**, and urged the Committee to consider some of the amendments suggested in her testimony (Attachment 4).

Lavern Squier, Kansas Economic Development Alliance (KEDA), supports **HB 2317**. He stated HPIP, PEAK, and the Impact/Deal Closing Fund are powerful programs which are co-dependent as it relates to working to close deals, and inter-dependent in their particular functions (Attachment 5).

Denise Walsh, Hills Pet Nutrition, Inc. and Subsidiaries, testified in support of **HB 2317**, asking the Committee to incorporate the provisions in **HB 2051 - Business and job development carryforward credits under Kansas income tax act** into **HB 2317** (Attachment 6).

Chairman Carlson opened the floor to Committee questions addressed to the conferees.

Representative Goico requested information from Secretary Jordan on the fiscal impact of lowering the threshold from $5 million.

Bernie Koch, Kansas Economic Progress Council, presented neutral testimony on **HB 2317**, because there are things the Council likes, and things that concern them (Attachment 7). The Kansas Economic Progress Council strongly supports the "deal closer" fund, but has concerns with the elimination of the machinery and equipment tax credits for equipment acquired before July 1, 2006.

D. Shawn Sullivan, Allen, Gibbs & Houlik, L.C., CPA's & Advisors, spoke in opposition to **HB 2317**. The firm, Allen Gibbs & Houlik, L.C., and a number of their clients believe that adopting **HB 2317**, when the state's economy is finally starting to show signs of recovering, could effectively redirect the flow of capital, jobs and business from Kansas into other states or countries with a more business-friendly tax environment (Attachment 8).

Chairman Carlson directed the Committee to the written-only testimonies for **HB 2317**:

Proponents:	Blake Schreck, President, Lenexa Chamber of Commerce (Attachment 9) Angela Pitale, Next Era Energy Resources, LLC.(Attachment 10) Tim Witsman, Wichita Independent Business Association(Attachment 11)
Neutral:	Robert Vancrum, The Greater Kansas City Chamber of Commerce (Attachment 12)
Opponents:	Ron Seeber, Kansas Association of Ethanol Processors(Attachment 13) Eli Bowman, Codero(Attachment 14) Chris Vering, Knit-Rite, Inc.(Attachment 15) Manolis Alatziniotakis, Karatzis, USA, LLC(Attachment 16) Thomas Reed, Popstar Networks, Inc.(Attachment 17)

The minutes of the House Taxation Committee at 3:37 p.m. on February 17, 2011, in Room 783 of the Docking State Office Building.

Tim Hutteger, Marathon Solutions, Inc.(Attachment 18)
Richard Mills, III, CBIZ(Attachment 19)
Rick Katz, Katz Law Firm (Attachment 20)
Monica Greer, Grundfos Pumps Corporation(Attachment 21)

Chairman Carlson closed the hearing on **HB 2317**.

The next meeting is scheduled for February 18, 2011, in Room 783 of the Docking State Office Building for the purpose of discussion and action on **HB 2331-Creating rural opportunity zones**.

The meeting was adjourned at 4:53 p.m.

HOUSE TAXATION COMMITTEE

Date: February 17, 2011

Name	Representing
Bernie Koch	KEPC
Myl Minor	Capitol Advantage
Kent Eckles	KS Chamber
Larry R Baer	LKM
Shawn Sullivan	Allen Gibbs & Houlik
Jim Maag	Spirit AeroSystems
Michelle Butler	Cap. Strategies
Jim Sreeber	KAFA
Leslie Kaufman	Ks Co-op Council
David Rauer	Kearney & Assoc.
Greg Noll	Propane Marketers Assoc.
Sandy Braden	GBA
Derek Hein	Hein Law Firm
Colin Curtis	Sandstone Group
Dan Murray	NFIB
Mike Murray	Next Era Energy
Jen Bruning	OP Chamber

Testimony before the House Taxation Committee
HB 2317 – High Performance Incentive Program & Expensing
Presented by J. Kent Eckles, Vice President of Government Affairs

achieve more

Wednesday, February 16th, 2011

The Kansas Chamber of Commerce appreciates the opportunity to present testimony in favor of House Bill 2317, which would make modifications to the High Performance Incentive Program (HPIP), allow for expensing of capital investments and establish an up-front "deal closing" cash incentives fund.

The Kansas Chamber and its members have spent many hours with the administration working to revise their original proposal and are appreciative they listened to our concerns to produce the workable compromise for which we are here today.

The Chamber has long been in favor of simplifying and adding flexibility to HPIP and has supported allowing expensing of capital investments as a way to spur investment and job creation in Kansas. It is important to note that our members have not advocated for an "either or" approach to both incentives, rather they would like to have both coexist, thus allowing companies to choose the option that best suits their business model and investment schedule.

With regard to HPIP, many of our members and economic development partners believe this is one of the State's most valuable incentives. The program represents a 10% investment tax credit to be claimed against a company's tax liability and until we can eliminate the corporate income tax in Kansas, maintaining this program is essential. It is precisely because our corporate tax rates are too high that we have to have such incentives in the first place. Finally, we believe the 5-year sunset for HPIP contained in HB 2317 is a reasonable provision so this committee and the legislature can determine the program's return on investment in 2017.

Expensing of capital investments is a pro-growth policy that promotes capital spending and is a relatively inexpensive option for the State because the only cost to the government is the time value of money. Economists have rated expensing of capital investment as one of the most economically productive of economic stimulus initiatives. University of Connecticut Economics Professor Arthur Wright has recommended the Obama Administration allow firms to expense all investment outlays, saying there is "substantial empirical evidence that accelerated depreciation.....boost[s] corporate investment" in new business assets. During the past 60 years, the correlation between employment and capital-spending growth has averaged 0.86 (with 1.0 being perfect correlation). Since 1949 there have only been five quarters that experienced year-on-year private sector employment gains without growth in business investment.

While some of our members have expressed concerns with the bill's provision to eliminate the business machinery & property tax credit to make the expensing provisions revenue neutral, it's important to note that this bill does away with a program that provides a property tax credit for investment decisions made seven or more years ago in favor expensing, which rewards future investment and job creation on a permanent basis.

Another very important provision to this bill is the elimination of the Investments in Major Projects & Comprehensive Training (IMPACT) Fund and replacement of it with an up-front, cash-based "deal closing" fund. For many years, the legislature and this very committee have heard the Kansas Chamber talk about the need to move towards up-front cash incentives and away from the "credit card" approach to economic development. This measure does exactly that by sliding the

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state of a bond funded program (IMPACT) that in any given year has over half of its funds committed to debt service as opposed to actual projects. Moving away from IMPACT and to a deal closing fund will also enable the legislature to avoid doing company-specific legislation on an annual basis, which is obviously not good public policy.

Finally, as we mentioned to the committee when you heard House Bill 2051, we urge the committee to include in this bill the provisions of HB 2051 when you work it in committee, specifically; allowing a corporation with multiple unitary groups to apply existing HPIP credits against the tax liability of any member or members of its unitary group in their combined tax report; extending from 10 to 20 years the deadline for corporations to claim existing HPIP investment tax credits; eliminating the requirement that a company attains recertification before utilizing the tax credits.

Allowing HPIP to be claimed against a company's unitary groups is consistent with the underlying bill since the measure proposes to allow expensing for a company's various unitary groups on their combined tax report apportioned to Kansas.

We urge the Committee to pass HB 2317.

The Kansas Chamber, with headquarters in Topeka, Kansas, is the leading statewide pro-business advocacy group moving Kansas towards becoming the best state in America to live and work. The Chamber represents small, medium, and large employers all across Kansas. Please contact me directly if you have any questions regarding this testimony.

THE KANSAS CHAMBER

835 SW Topeka Blvd. Topeka, KS 66612 785.357.6321

Greater Topeka
CHAMBER & GO TOPEKA

Testimony: HB 2317 – Expensing, HPIP and other tax credits
House Taxation Committee
February 16, 2011
By: Christy Caldwell, Vice President Government Relations
Greater Topeka Chamber of Commerce
ccaldwell@topekachamber.org

Chairman Carlson and members of the committee:

The Topeka Chamber would like to take this opportunity to express our appreciation to Governor Brownback and Secretaries George and Jordan. Together they are working to place a high priority on economic recovery in our state. Our chamber continues to work to attract expansions of local companies and attract new investment and jobs in our community. We benefit from the partnership the administration and legislature provides.

HB 2317 has a number of elements; I would like to address four of them:

- First, the Governor in his economic strategic plan has proposed the concept of **Expensing** capital investment by Kansas companies. This is an idea which has garnered favor from companies in the state who are considering purchases of new equipment. Such investments are good for our economy; they demonstrate a strengthening of business which sometimes will lead to growth in the number of jobs companies are able to create. This method of calculating taxes may be a tool that will encourage growth. Our chamber accepts this recommendation as one that companies can elect to participate in to improve their cash flow. The state will not lose tax dollars over time, allowing the immediate benefit expensing provides during the time the business places the investment in service.

- Originally the administration's proposed strategy included the elimination of the **High Performance Incentive Program (HPIP)**. There were numerous concerns raised by the removal of one of the state's premier incentives that has been quite effective in drawing investment and jobs to Kansas. In this bill, the administration altered its proposal to continue access to HPIP for five years, when at that time it will be re-evaluated. The Topeka Chamber appreciates the importance the Governor and both Secretaries have been in assuring Kansas remains vigilant in responding to the economic development front line. In Topeka/Shawnee County we have been very fortunate during this recession to have companies such as Frito Lay, Goodyear, Jostens, Hills, Payless Shoes, Del Monte, PTMW and the new Bimbo Bakeries plant, that is currently under construction, bring new capital investment and jobs here in our community through partnering with Kansas and the Topeka/Shawnee County community. HPIP has been a tool that has helped attract such investment; we do not want to jeopardize this effective state incentive. We would suggest making HPIP stronger by adding language from HB 2051 regarding the length of time credits, companies earned with prior investments, can be utilized and allowing credits to be used by a unitary group.

  Although we support the provisions regarding HPIP in this bill, we do want to share our concerns that the increase in the threshold may be problematic for small business who would also like to access HPIP when considering investing dollars and creating jobs in Kansas.

120 SE Sixth Avenue, Suite 110 Topeka, Kansas 66603-3515
P 785.234.2644 TopekaChamber.org GoTopeka.com

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Approximately 64% of HPIP users have been businesses with 100 employees or less. With the threshold changing in 2012 from $50,000 to $5 million it is unlikely most small businesses will be able to meet that level of investment. Currently, according to the Department of Commerce, about 80% of the investments are below the $5 million threshold.

- The proposal also includes adding a new **Job Creation Program Fund** which will eventually replace the IMPACT program now available. We like the idea of having a fund that can be utilized when there needs to be just a little more push to convince a company to expand or locate in Kansas. This is a tool that is used in many states with success. Here in Topeka/Shawnee County the citizens decided that was an effective tool as well; they voted a sales tax on themselves, several years ago, to provide funds to assist in drawing new investment and jobs to our community and it has been quite successful in our economic development efforts. We agree Kansas would benefit from such a fund.

- However we do have reservations with one of the tax credits that stands to be eliminated with the adoption of this bill, the refundable **Machinery and Equipment (M&E) Property Tax Credit**. Prior to action taken in 2006, the M&E property tax was excessive and resulted companies making little investment in upgrading their equipment. Governor Graves and the Legislature phased in the 25% M&E property tax credit to offset the high property taxes. That tax credit has remained in effect and given relief to all businesses for the amount of property tax they pay on M&E purchased prior to 2006.

  By eliminating this tax credit, businesses in Kansas will see a $37 million tax increase that will continue from year to year, although growing smaller each year as new equipment is placed in service. The impact of this tax will hit small businesses the hardest. We are very concerned for those businesses that cannot afford to buy new equipment and are still hanging on in a tough economy. These companies will lose out with the elimination of this tax credit. <u>We would suggest consideration be given to, allowing businesses an option of continuation of the M&E tax credit or the use of Expensing.</u> Thereby, allowing businesses to make decisions considering what will help them the most.

We can agree with the remainder of the bill as it deals with IMPACT and other tax credit programs.

Thank you for your time and focus on moving our state out of the recession by providing the tools necessary to encourage capital investments and jobs in Kansas.

NFIB
The Voice of Small Business®

Testimony in Support of HB2317 by Mr. Daniel Murray
Kansas State Director, National Federation of Independent Business
House Taxation Committee
Wednesday, February 16, 2011

Good afternoon Chairman Carlson and members of the Committee. My name is Dan Murray and I am the State Director of the National Federation of Independent Business/Kansas. NFIB/Kansas supports HB2317.

Before I discuss why NFIB/Kansas is in support of HB2317, I wanted to give you a snapshot of the impact small business has in our economy. Small business is not small. Collectively, small business represents over 97% of all employer firms and provides employment to over 54% of the non-farm private work force in Kansas. Small business pays 44% of total U.S. private payroll, and in the past fifteen years, it has annually generated 64% of net new jobs.

Further, about 1,800 public corporations have employees in Kansas, even though some of them have only a small number of employees in Kansas. In contrast, Kansas has over 60,000 small businesses with employees and another 183,000 non-employer firms. Further, if you consider the 63,000 farms, the total number of small businesses and farms in Kansas is over 304,000. Again, small business is not small. [1]

NFIB/Kansas supports HB2317 because the business investment expensing proposal is pro-growth policy that recognizes and values the impact of small business. The policy benefits all Kansas businesses—large & small, short & tall. It is refreshing to see a proposal that directs economic development incentives to all Kansas businesses, not just our larger corporate brethren. Small businesses typically do not qualify for the complex, high-bar economic incentives that Kansas currently offers. We applaud the Governor and his administration for taking bold steps to help all Kansas businesses regardless of size.

- Expensing provides an incentive to immediately invest in the business and puts money back into the business, via the income tax deduction, for future investment. It's simple: when small businesses can keep more of their money, they are able to invest in jobs and additional capital investments. Further, small businesses can use the expensing proposal contained in HB2317 in conjunction with expensing benefits set forth in Section 179 of the Internal Revenue Code. The coupling of a state and federal expensing deduction will be a benefit for small employers.

- Unlike a larger business, the small business does not have a finance department or a staff of accountants and lawyers to focus on the nuances and changes in the tax laws. The complicated and, in many ways unpredictable tax code, places a heavy burden on

[1] U.S. Small Business Administration, Office of Advocacy, 2009 Small Business Profile: Kansas. http://www.sba.gov/advocacy

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small business owners. In the end this leads to additional costs and takes money away from the day-to-day business operations or investing in and expanding their business.

Expensing is a relatively uncomplicated investment incentive that the small business sector can take advantage of with the help of their CPA. And in contrast to some credits, it does not require complicated depreciation schedules and paperwork associated with the investment—the business owner can simply claim the deduction in the year the item is purchased.

HB2317 does contain some provisions on which NFIB/Kansas has not taken a position on the proposed changes to HPIP, IMPACT or eliminatin of the machinery and equipment property credit. However, I will say that HPIP & IMPACT have little, if any direct impact on the majority of small businesses. And, while some small businesses may have concerns that the elimination of the machinery and equipment property tax credit will result in a tax increase for some, I believe expensing will help the vast majority of small businesses. It is a pro-growth, pro-jobs policy that establishes a permanent incentive which immediately rewards capital investment.

In closing, taxes matter by diverting resources from and reducing incentives for productive, private-sector risk taking that generates innovation, growth and jobs. The expensing provision in HB2317 entices small businesses to invest in capital today and will pay dividends when the business owners can keep more of their money to invest in jobs. Please support HB2317.

NFIB/KS is the leading small business organization representing small and independent businesses. A nonprofit, nonpartisan organization founded in 1943, NFIB/KS represents the consensus views of its over 4,100 members in Kansas.

Overland Park
Chamber of Commerce

Written Testimony in Support of House Bill 2317

Submitted by Jennifer Bruning
On behalf of the Overland Park Chamber of Commerce

House Taxation Committee
Wednesday, February 16, 2011

Chairman Carlson and Committee Members:

My name is Jennifer Bruning, and I am Vice President of Government Affairs with the Overland Park Chamber of Commerce. I am here today on behalf of our Board of Directors and our nearly 1,000 member companies. I appreciate the opportunity to testify as a proponent of House Bill 2317, which contains several key components of Governor Brownback's strategic economic development plan.

HPIP

Historically the HPIP program has been an important part of Kansas' economic development toolbox, offering employers that pay above-average wages and demonstrate strong commitment to skills development for their workers a 10 percent income tax credit for eligible capital investment in their facility exceeding a certain threshold. We commend Governor Brownback and Secretaries Jordan and George for listening to the business community when we expressed our concern over the proposed immediate elimination of the HPIP program, and we further appreciate their willingness to modify their plan to allow companies with active HPIP certified projects to be grandfathered under the program's current rules and regulations.

While the HPIP program has been characterized as catering only to large businesses, a review of HPIP certifications over the last two years shows that approximately 64 percent of companies utilizing the credit have fewer than 100 employees. Interestingly, the proposed changes to raise the investment threshold from $50,000 to $5 million would likely make the program even more exclusive to large business, which would presumably conflict with the Governor's stated goal to provide incentives that assist a broad spectrum of businesses. An analysis of HPIP project applications received since January 1, 2009 shows that only 150 (18%) of the proposed projects out of 856 applications would have qualified for HPIP under the $5 million threshold.

We have reservation about the proposed five-year sunset provision. We hope the Legislature understands that companies seeking to relocate to a new state or make a large capital investment require certainty and longevity in the incentive proposals being offered to them, and any ambiguity in an offer will lead to Kansas losing out on job creation opportunities. This does not mean we do not think incentives such as HPIP should be consistently reviewed to ensure the programs are working effectively

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and projects are materializing as projected. We suggest inserting a five-year HPIP review process and potential renewal provision in lieu of the sunset stipulation.

Furthermore, we ask the Legislature to consider adding the provisions of House Bill 2051 to this bill, which would extend the carry-forward period of HPIP credits previously awarded to certified companies from ten years to twenty years and allow for unitary groups to claim the credits. Several Overland Park Chamber members and area businesses have been awarded HPIP tax credits in the last 10 years and have cited access to these credits as one of the key positive factors in their decision-making process to locate their facility in Kansas or expand their current facility. Because of our current economic climate, these companies have been unable to utilize the credit before the 10-year expiration date, meaning that under current law they will lose the benefits of the program. Should the carry-forward period be extended to 20 years and should unitary groups be allowed to use the credits, it would allow these Kansas companies to come out of this dark economic period with a stronger and more competitive fiscal outlook, thus encouraging these employers to hire more private sector employees and gradually lead to more capital investment in facilities, technology and employee training and education.

Expensing

The expensing proposal in HB 2317, a form of depreciation deduction, allows Kansas businesses who make a capital investment to take a deduction against state income tax for the depreciation of the investment and allows for an immediate deduction of the full investment amount instead of requiring a prescribed schedule of smaller deductions over multiple years.

Because of the limited time period between receiving a copy of the full bill and today's hearing, we were unable to get substantive feedback from our member companies as to how this expensing proposal would affect their businesses. However, we deem additional tax options for businesses to be desirable, but whether these options are actually an incentive to create jobs is unclear.

Machinery & Equipment Property Tax Credit

In 2006, the Legislature exempted property taxes on all newly acquired machinery and equipment purchased after July 1, 2006. The 25 percent refundable machinery & equipment tax credit, which HB 2317 proposes to eliminate, was instituted at that time to be used by those businesses with older equipment (purchased before 2006) still on the tax rolls. The companies utilizing this credit are the companies who with the current state of the economy cannot afford new business equipment, especially since the recession has limited their ability to acquire small business loans. If in fact the company does not have enough tax liability to utilize the credit, the State issues the company a check for the difference between the tax liability amount and the credit amount (refundability). Should this tax credit be eliminated, it will mean higher tax bills for many businesses at a time where they are already stretched to their limits.

Job Creation Fund

We have testified numerous times in the past about the need in our state for a "deal closer" fund which allows the Department of Commerce and the economic developers in communities across Kansas the flexibility to provide upfront cash to help close economic development deals. We do believe this contingency fund will strengthen our economic development arsenal, but subjecting a fund such as this to the yearly appropriations process – where targeted funds routinely get swept into the state general fund - is worrisome. We urge the Legislature to recognize the need for the certainty of the fund to create jobs.

HB 2317 includes many good provisions that will enhance business-sector productivity and help grow the Kansas economy. We urge the Committee to consider some of our suggestions that we feel will even further boost the potential for economic prosperity in our state including the elimination of the HPIP sunset provision and the inclusion of the contents of HB 2051. Thank you for your consideration.

KEDA
Kansas Economic Development Alliance

Testimony in support of HB 2317

Submitted by Lavern Squier
On behalf of the Kansas Economic Development Alliance (KEDA)

House Taxation Committee
Thursday, February 17, 2011

Chairman Carlson and Committee Members:

My name is Lavern Squier - I am chair of the KEDA Competitiveness Task Force and also lead the Overland Park Economic Development Council. Today, I am submitting written testimony in support of House Bill HB 2317 on behalf of KEDA and its 180 economic development members across the state.

We must have adequate economic development tools at the state level to join with the communities' abilities and assets to achieve our expected (and sorely needed) outcomes of creating jobs and prosperity across our state.

Today, our group met in the Dillon House and discussed this bill and others. Partaking in our discussion was Governor Brownback and Cabinet Secretary's Jordan, George, and Brownlee. We appreciate the opportunity to impart the following thoughts/observations:

- HPIP - This is a powerful tool that should be left in place. The threshold needs to be adjusted downward to be useful and competitive. It can, in fact, co-exist with expensing.
- IMPACT/DEAL CLOSING FUND – Make sure there is sufficient cash in the fund to run the program and close deals. KEDA is in support of establishing a deal closing fund.
- PEAK – We urge you to support the bill (HB 2220) as written.

These three powerful programs are ***co-dependent*** as it relates to working to close deals. They are ***inter-dependent*** in their particular functions. Together they are very effective in achieving results.

Ultimately, we need strong dynamic tools that will produce results in large and small communities alike. We should strive to have flexibility in meeting our economic development goals/needs.

Thank you for your consideration of this information.

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Hill's Pet Nutrition, Inc. and Subsidiaries
P. O. Box 148
Topeka, Kansas 66601-0148
(785) 354-8523

Testimony of Denise Walsh, Hill's Pet Nutrition, Inc.
House Committee on Taxation
Support for HB 2317
February 16, 2011

Mr. Chairman and members of the House Taxation Committee:

My name is Denise Walsh. I am the Director of Corporate Taxes for Hill's Pet Nutrition here in Topeka. I appreciate the opportunity to testify today and provide comments in support of HB 2317.

In the past few years the world has been going through a significant economic down turn which has negatively impacted all sectors of the economy, including pet food. Yet Hill's Pet Nutrition in December celebrated the grand opening of a $220 Million state-of-the-art pet food manufacturing plant employing over 150 individuals in Emporia, Kansas. The average wage of this new facility is over $45,000/year (plus benefits). Hill's considered several US states, as well as other countries, when deciding where to locate this investment. HPIP in Kansas was a major positive factor in our decision to locate the plant here. We are pleased to see that the Governors initiative preserves the HPIP program, as this is a very important program for economic development in the state.

I also presented testimony on January 26 in support of HB 2051 and I would ask the committee to incorporate the provisions of HB 2051 into HB 2317. This would be consistent with the language in the governor's bill allowing unused expensing deductions to be carried forward until used and to be utilized by the unitary business group, to the extent that the unitary business group has Kansas taxable income. Together with expensing, these changes would have an immediate and positive impact in driving investments that create new private sector jobs in Kansas. It is important for investors to have certainty on what to expect when making investments in a particular location. All other things being equal, most investors would choose to invest in locations where the most favorable tax infrastructure is already in place. We encourage Kansas to act now on these issues for the benefit of all.

Thank you for your consideration and I would be pleased to answer any questions you may have.

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Kansas Economic Progress Council
Suite 200
212 West 8th
Topeka, Kansas 66603

Testimony on SB 196
Senate Assessment and Taxation Committee
Testimony on HB 2317
House Taxation Committee
February 16, 2011

Mr. Chairman and members of the committee, thank you for the opportunity to appear on this legislation. I'm Bernie Koch with the Kansas Economic Progress Council, a statewide not for profit organization of businesses, trade associations, and chambers of commerce. We support pro-growth policies for communities and the state.

We decided to testify as neutral because there are things we like in this bill, and things that concern us. It is a very wide-ranging bill. Normally, with so many adjustments in major economic development programs, we would urge you to move slowly and carefully, so that we get any changes right. However, we recognize that we need to do whatever we can as soon as we can to get Kansas back to work.

The Governor has proposed allowing businesses to deduct their full investment in equipment or structure in one year instead of a prescribed schedule of smaller deductions over several years. We believe this is a positive because it gives business some options.

We are pleased that the administration has modified its position about the High Performance Incentive Program. This is clearly an important program for many businesses who want to expand. Like other conferees, we are concerned that limiting who qualifies for this program cuts out small businesses from its use. We urge you to continue to explore this area.

We strongly support a "deal closer" fund. I understand the amount currently available for this in Kansas is about $1.4 million. The State of Texas has a $295 million deal closing fund, the largest in the country. Governor Mary Fallin in Oklahoma has said she wants to create an Oklahoma fund similar to what Texas has. We need this tool.

The machinery and equipment property tax credit is a program I am very familiar with. In my 21 years lobbying the Kansas Legislature, I have spent more time testifying about the importance of machinery and equipment that any other topic. Please understand that eliminating this tax credit will affect businesses with equipment that was acquired before July 1 of 2006.

Business personal property purchased after that date is exempt from all property tax in Kansas.

But those with the older equipment still pay property tax on that business personal property, and get 25% of that property tax back in a fully refundable tax credit.

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Technically, you can't say that eliminating this credit increases their tax liability. It certainly increases their expenses.

These would tend to be small businesses and businesses that cannot afford to purchase new equipment, particularly with the tight credit brought on by the recession. My feeling is that many companies are unaware of this proposal and will be very upset if it passes.

The HPIP program and the machinery and equipment property tax credit were put together with considerable thought. Please give considerable thought to what you do to them in this legislation.

Thank you again for the opportunity to testify.

The Kansas Economic Progress Council is a not for profit designed to draw together organizations and businesses interested in advancing sound public policy in Kansas to enhance our state's quality of life.

Kansas Economic Progress Council
www.ksepc.org
212 SW 8th Avenue, Suite 200
Topeka KS 66612

DCI
DATACENTERINC.COM

February 14, 2011

Governor Sam Brownback
Attn: Dave Kensinger, Chief of Staff
Office of the Governor
301 W. 10th Avenue, #241S
Topeka, KS 66612

Dear Governor Brownback:

It appears that the few large Kansas-based businesses were able to get your attention regarding the importance of the HPIP and other tax credits currently available from the State of Kansas. We want to make sure you also hear the voice of those who make up the majority of businesses in Kansas...small businesses, or as we like to think of ourselves, "community businesses."

Data Center, Inc. (DCI) was founded in 1963 in Hutchinson, Kansas, where its national headquarter still resides today. DCI is a technology, software and service provider to the "community banking industry." DCI employs 265 people throughout the country with approximately 210 of those residing in Kansas. We provide an annual payroll of $12M, of which $9.5M stays right here in Kansas.

DCI pays wages well above the state averages and invests approximately $1.5M to $3.0M each year in our equipment, software, and facilities. Obviously, some of the investment is required to operate a sound business; however, we go above and beyond because of the current incentives in place. The current proposal with a minimum investment at $5M (and to exclude the minimum from the credit calculation) would completely eliminate DCI, as well as most Kansas companies.

Existing businesses like DCI don't have many options for economic development benefits. The HPIP tax credit, Business and Job Development tax credit, and the Machinery and Equipment refundable tax credits are the only incentives available to us. The proposed "expensing incentive" is nothing more than the savings on the time value of money since it is only advancing the deductions we would be taking anyway under current depreciation laws.

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Additionally, our industry is continually evolving as the financial system's transaction volume moves more and more to an electronic form. This continually lessons the "physical" presence that was once necessary in our industry. Other states realize this and continually work to "incent" us to move our operations. While we have no intentions to move, we don't want Kansas' lack of business-friendly incentives to give us reason to consider it.

We love our state, our community and the communities across the state that we do business in. Please don't underestimate the impact that small businesses..."community businesses" have on the economy of Kansas. We urge you to retain the incentives currently in place in support of Kansas' small businesses.

Sincerely,

Dennis A Queal

Dennis A. Queal
Chief Financial Officer

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Allen, Gibbs & Houlik, L.C.
CPAs & Advisors

Testimony of D. Shawn Sullivan, CPA, on House Bill 2317
Before the Kansas House Committee on Taxation, February 16, 2011

My name is Shawn Sullivan. I am a certified public accountant and vice president of tax services for Allen, Gibbs & Houlik, L.C., (AGH) in Wichita, Kansas. AGH is one of the largest CPA and advisory firms in the Midwest, employing more than 115 people. I am here today on behalf of my firm and a number of my firm's corporate clients to express our opposition to several provisions of HB 2317. These clients, identified on Attachment 1, collectively represent more than $1.5 billion of the state's economy and almost 5,000 Kansas employees. They are primarily home-grown Kansas companies who regard themselves as "community businesses."

AGH and our identified clients believe that these bills' intended purpose – to stimulate economic development by creating a tax break on state income for a larger group of businesses – will instead create the opposite effect. We believe that if legislators and businesses understood the real impact of this legislation behind all the technical details -- as we hope to share with you today – that they would recognize the problems associated with the bill's consequences:

- A de facto tax INCREASE for almost all but the smallest and largest of Kansas businesses
- A crippling effect on the state's economic development efforts to recruit new businesses and retain our existing businesses in Kansas...resulting in the likely loss of capital, jobs and businesses in Kansas

Here's why. HB 2317 proposes to give all businesses an "extra" income-tax expense deduction for business machinery and equipment investments – meaning that you would be allowed to deduct an additional small portion of the cost of machinery and equipment from your taxable income the same year you spend the money. By itself, that's positive. However, because the deduction is a small percentage of the actual investment, it alone is not sufficient to stimulate investment.

But HB 2317 also proposes to eliminate a number of tax credits and exemptions currently available to businesses which have been critical to helping Kansas attract and retain capital, jobs and companies in our state. The bill proposes eliminating or radically changing FIVE important tax incentives which companies rely on to help them offset the capital investment required for new facilities and equipment – these are the Business & Jobs Development income tax credit, Business Machinery & Equipment property tax income tax credit, sales tax exemption on new projects under $5,000,000, and the Kansas Economic Opportunity Initiatives Fund. The bill also proposes raising the minimum investment to benefit from the Kansas High Performance Incentive Program or HPIP, from $50,000 to $5,000,000 before tax benefits are realized – limiting likely potential beneficiaries to less than a handful of Kansas companies.

HPIP, in particular, is a powerful economic development tool that often serves as the tipping point to convince a company to invest in Kansas versus other potential sites. As an example, within our firm alone, we are currently working three client engagements in which companies are making decisions whether to invest in facilities and equipment in Kansas, or in other states or even other

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countries. For one client, the HPIP tax advantage alone was the key to their decision to invest in Kansas instead of expanding elsewhere. By comparison, surrounding and competitor states can offer the following tax credits.

- Oklahoma (Quality Jobs Program, Investment Tax Credit)
- Colorado (Investment Tax Credit, Job Training Tax Credit, Wage Subsidy Program)
- Nebraska (Nebraska Advantage Program)
- Missouri (Enhanced Enterprise Zone Act, Quality Jobs Program)
- Texas (Investment Tax Credit, Job Creation Credit)
- California (New Jobs Credit, Investment Tax Credit)

By eliminating or radically changing some of these tax incentives, we eliminate many of the tools economic development agencies and organizations such as the Kansas Department of Commerce and the Greater Wichita Economic Development Commission use to help create new jobs and bring new businesses to Kansas.

As a CPA firm which has a deep understanding of all of these tax issues, we have created sample illustrations showing the projected tax liability of a company investing in a capital project of $3,000,000 in today's tax environment versus the company's tax liability if the proposed bill becomes law. This sample Kansas company has taxable income of $6.5 million, and invests $2 million in a new facility, and $1 million in machinery and equipment.

In the current environment, the company would benefit from tax incentives for both the facility and equipment investment through HPIP tax credits. The bill would limit tax benefits to just the expensing benefits attributable to the $1 million in machinery purchased, and eliminate the HPIP benefit altogether because the total project cost is less than $5,000,000.

The current Kansas tax liability for this hypothetical company would be $160,000 versus $442,890 under SB 196. That's a tax increase of $282,890 -- enough to potentially cause a company to relocate the capital investment or forget it altogether. By way of comparison, the reduction in Kansas income taxes the company would see from the proposed expensing provision is a total of $12,000 on a $1,000,000 investment – a decent benefit if a company has already invested, but not enough to cause new spending on machinery and equipment. In addition, the $12,000 is a tax benefit in timing of the taxes only, not a tax credit like that available through programs such as HPIP.

To be clear about our concerns, AGH and our identified clients are not opposing tax benefits for large companies who are capable of investing $5,000,000 or more at a time – that's good news for Kansas. But we believe that these tax benefits should be extended to small and medium-sized businesses as well – those businesses which make up the majority of our state's economic growth and which are the businesses currently adding jobs and considering expansion.

We believe that adopting HB 2317, especially when our state's economy is finally starting to show signs of recovering, could effectively redirect the flow of capital, jobs and business from our own state into other states or countries with a more business-friendly tax environment.

Company	City	County
Kan Pak, LLC	Arkansas City	Cowley
Harper Industries, Inc.	Harper	Harper
Cereal Ingredients, Inc.	Leavenworth	Leavenworth
Bradbury Company, Inc.	Moundridge	McPherson
Moridge Manufacturing, Inc.	Moundridge	McPherson
Shield Industries, Inc.	South Hutchinson	Reno
Aero Mach Labs, Inc.	Wichita	Sedgwick
Buckley Industries, Inc.	Wichita	Sedgwick
IMA Financial Group, Inc.	Wichita	Sedgwick
Lubrication Engineers, Inc.	Wichita	Sedgwick
McCormick Armstrong Co., Inc.	Wichita	Sedgwick
Rand Graphics Inc.	Wichita	Sedgwick
Rose America Corporation	Wichita	Sedgwick
Westland Corporation, U.S.A.	Wichita	Sedgwick
Youngers & Sons Manufacturing Co., Inc.	Viola	Sedgwick
Cobalt Boats, LLC	Neodesha	Wilson

ATTACHMENT 1

SB 196 HB 2317
TAX INCREASE

Current Scenario		Proposal	
Kansas Capital Investment	$3,000,000	Kansas Capital Investment**	$1,000,000
Kansas HPIP Credit Rate	10.00%	Expensing Factor 7 yr property	17.30%
Kansas HPIP Credit Rate	$295,000	Expensing Deduction	$173,000
Kansas Taxable Income	$6,500,000	Kansas Taxable Income	$6,500,000
Estimate Tax Rate	7.00%	Less Kansas Expensing Deduction	($173,000)
Tax Liability before HPIP	$455,000	Kansas Taxable Income	$6,327,000
Less Kansas HPIP Credit	($295,000)	Estimated Tax Rate	7.00%
Kansas Tax Liability	$160,000	Kansas Tax Liability	$442,890
Tax Increase	**$282,890**	Expensing Benefit	$12,110

**Equipment only--real estate excluded

ATTACHMENT 2

D·C·I
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February 14, 2011

Governor Sam Brownback
Attn: Dave Kensinger, Chief of Staff
Office of the Governor
301 W. 10th Avenue, #241S
Topeka, KS 66612

Dear Governor Brownback:

It appears that the few large Kansas-based businesses were able to get your attention regarding the importance of the HPIP and other tax credits currently available from the State of Kansas. We want to make sure you also hear the voice of those who make up the majority of businesses in Kansas...small businesses, or as we like to think of ourselves, "community businesses."

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Sincerely,

Dennis A Queal

Dennis A. Queal
Chief Financial Officer

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Lenexa
Chamber of Commerce

The Historic Lackman-Thompson Estate
11180 Lackman Road
Lenexa, KS 66219-1236
913.888.1414
Fax 913.888.3770

TO: Representative Richard Carlson, Chair
Members, House Taxation Committee

FROM: Blake Schreck, President
Lenexa Chamber of Commerce

DATE: February 16, 2011

RE: **Testimony on Behalf of HB 2317**

The Lenexa Chamber of Commerce appreciates the opportunity to express its views on House Bill 2317, which is intended to promote statewide economic growth and provide economic development tools that are more efficient, flexible, and competitive.

Incentives and tax policy that allow Kansas to compete across the country and around the world are crucial to our ability to grow the state's economy. The advantages the state has provided have attracted and retained significant jobs, capital investment, and tax base in Kansas. Economic development is dynamic, however, and competition for projects is increasingly aggressive. Unless a state continues to evolve its efforts, it will rapidly lose ground in its ability to attract and retain projects.

For that reason, we are pleased the state is continuing to explore how it can improve its tax policy and economic development framework, and we support a number of the goals represented in HB 2317 including seeding a more competitive "deal-closing" fund and looking for additional means to assist and encourage all of our existing companies. While the bill's specific proposals must be carefully and comprehensively considered to ensure they will achieve their intended purpose, we believe at its heart this legislation opens a critical discussion into new and creative ways the state may better foster a healthy and growing statewide economy.

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Thank you very much for your time and consideration of these important business issues.

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NEXTera ENERGY RESOURCES

Before the House Taxation Committee
HB 2317
Angela Pitale, Director of Tax
NextEra Energy Resources LLC
February 15, 2011

Mr. Chairman and Members of the Committee:

My name is Angela Pitale, the Director of Tax for NextEra Energy Resources, LLC. I appreciate this opportunity to express our support of HB 2317 which preserves the High Performance Incentive Program ("HPIP"). It is very encouraging to see an Administration receptive to industry input and willing to incorporate such industry feedback. We believe this is a move in the right direction for future investment in Kansas. As such, we urge the Administration to include certain provisions which have already been introduced in HB 2051; specifically, (i) allow the HPIP credits earned to offset taxable income of the unitary group; (ii) extend the carry forward period for HPIP credits; (iii) eliminate the recertification requirement. The proposed modifications to HPIP provide much needed flexibility for tax credits already earned and will have a positive impact on the valuation of new opportunities for investment in Kansas.

Introduction: NextEra Energy Resources

NextEra Energy Resources, LLC ("NextEra") is a leading clean energy provider with natural gas, wind, solar, hydroelectric and nuclear power plants in operation in 26 states and Canada. We develop, construct and operate generation facilities to produce electricity and develop the critical infrastructure for power delivery. NextEra has made substantial capital investment in Kansas with the development and construction of Gray County Wind Energy Center, located in Gray County. Gray County is a 112.2 megawatt wind generation plant capable of generating enough electricity to

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power about 35,000 homes. NextEra continues to search for additional development opportunities in Kansas and other states.

Kansas requires consolidated companies doing business in Kansas and other jurisdictions to calculate and pay corporate income tax on a portion of the income of the entire group. However, the utilization of HPIP tax credits is limited by separate company income restrictions. This inconsistency yields an inequitable result for taxpayers and in many cases renders the tax credits worthless. This would be eliminated by enacting the proposal to allow the credits to offset taxable income of the unitary group.

Additionally, the increase in the carry forward period for tax credits earned under HPIP would factor into future investment. The HPIP credits were factored into the economic analysis that drove the decision to invest in our Gray County facility. However, due to factors largely beyond NextEra's control, i.e., an economic downturn followed by increased federal tax incentives that apply for Kansas income tax purposes, it is faced with the possibility of expiring HPIP tax credits relating to our capital commitment to Kansas. We understand that other taxpayers face a similar situation. The extension of the carry forward period for HPIP tax credits would provide greater opportunity for utilization and could make investment in Kansas more attractive in the future.

Conclusion: Support Modification to HB 2317

Tax incentives that cannot be utilized have no value, and do not provide the intended incentive to invest and create jobs. In order to allow the credits to serve their intended purpose, NextEra urges the incorporation of the certain provisions of HB 2051 into HB 2317.

Thank you for your consideration.

Wichita Independent Business Association

THE VOICE OF INDEPENDENT BUSINESS

House Committee on Taxation
Written Testimony in Favor of HB 2317
By Tim Witsman

February 17, 2011

Honorable Committee members,

Thank you for the opportunity to appear before you today in support of HB 2317. On behalf of our members, I would like to applaud the Governor and this committee for beginning discussions on business tax incentive reform in Kansas. For many years, the members of WIBA have encouraged and worked with policymakers to implement broad based tax incentives that all businesses may take advantage in their business planning. We believe the provisions set out in HB 2317 are a step in the right direction.

In past legislative sessions, WIBA has testified in favor of expensing because of its broad based application to all business and rather simple methodology to receive and administer the tax incentive. One of the biggest concerns our members have about the current tax incentives available is that they are too cumbersome to administer for a small business. In addition, they often have threshold limits too high for small businesses to qualify.

Recently, we were given some data from the KDOR which broke down the number of businesses utilizing the existing incentives outlined in HB 2317. Particularly telling to our membership is the limited number of businesses actually taking advantage of these existing business credits. For example, of the 221,000 business tax filers in Kansas, only 162 claimed HPIP, 635 claimed business and job development credits and 13, 510 claimed the business and machinery tax credit. We believe these numbers reflect what our members have known for a long time--our current programs serve, in the scheme of things, a small percentage of the businesses in Kansas.

While the members of WIBA recognize there are concerns from some current beneficiaries of existing incentives, we believe if we are going to advance tax policy in Kansas, policymakers must look to benefit more than just a hand-full of business in Kansas. With that said, we also recognize all restructuring must be done within current budget constraints.

Again, on behalf of the members of WIBA, thank you for beginning discussions on broadening the Kansas tax incentives. Our members look forward to working with you to make Kansas the best state to conduct business.

445 N. Waco / Wichita, KS 67202-1160
316-267-8987 / 1-800-279-9422 / FAX 316-267-8964 / E-mail: info@wiba.org / Web Site: www.wiba.org

THE CHAMBER
Greater Kansas City Chamber of Commerce

Testimony to House Taxation Committee
Robert Vancrum, Government Affairs Consultant
The Greater Kansas City Chamber of Commerce

Partial opposition to HB2317 as to HPIP provisions

February 17, 2011

Chairman Carlson and Other Honorable Representatives:

First let me say that we greatly respect the tremendous amount of work that went into the drafting of this program. In a relatively short period of time the administration has put together most of the recent Kansas Inc. recommendations about how to make economic development programs produce quicker results in a revenue neutral fashion – no small task even if they had taken a great deal more time.. They have also satisfied many businesses that have existing tax credits granted and many we know of who have applied or are about to apply. So it saddens us that we of must rise today in opposition to one change proposed by SB 196. We believe both long term economic growth and prosperity make it essential that you reconsider the changes proposed in the High Performance Incentive Program ("HPIP")

The Greater Kansas City Chamber of Commerce has about 3,000 members who own businesses in Kansas and most are small businesses. Further, we have invested a considerable amount of time and support for such innovative programs as the Kansas Bioscience Authority, the Animal Health Corridor and the Kansas Technology Enterprise Corporation, including the Pipeline mentoring program and angel tax credits. The proposed package needs omits:

- The needs of entrepreneurial start ups and cutting edge innovative projects. Expensing of investments against income is of little benefit to some of them because they don't make money and in some cases may not for years. Some of these people need much less than $5 million in tax credits to attract investors.

- The next big job creating capital intensive project such as the Kansas Speedway and the BNSF corridor. The cash grant program is not nearly as attractive a program to such entrepreneurs as tax credits- why? Because they are more effective in raising capital. 12

The administration has done a very good job of taking care of the criticisms of needs for credits by large companies that we knew about. Certainly five more years of the credits before they sunset and a 10 fold increase in the minimum investment that qualifies- to $5 million appears to satisfy many of the large Kansas City employers that we've heard from. But the small capital intensive manufacturer or innovative entrepreneur doesn't follow the legislature or employ lobbyists. The problem is that with a sunset on HPIP credits ou may never know what you missed out on - how many future deals you'll never hear of, just because the HPIP tax credit program appears to be about dead. Many people seeking to expand or relocate may never even come calling.

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We appreciate the opportunity to speak to this one aspect of this bill. We would answer questions at such time as you direct.

Kansas AEP
Ethanol - *Made In Kansas*

Association Of Ethanol Processors

House Taxation Committee
Written Testimony in Opposition to HB 2317
HPIP Threshold Changes
Submitted by Ron Seeber
on behalf of the
Kansas Association of Ethanol Processors
February 16, 2011

Good afternoon Chairman Carlson and members of the House Tax Committee. I am Ron Seeber and I am the Vice President of Government Affairs for the Kansas Association of Ethanol Processors (KAEP), which represents the ethanol industry in Kansas. We represent the 11 ethanol plants in Kansas that produce fuel grade ethanol. These plants produce an estimated 500 million gallons of ethanol annually.

KAEP opposes certain provisions in HB 2317. Specifically, the proposed changes to the High Performance Incentives Program. By changing the investment threshold from \$50,000 to \$5,000,000, our ethanol plants would find it very difficult to invest the adequate amount in land, buildings and equipment during a year – as would be required by the legislation. The proposed change in HPIP would dramatically reduce the ability of small to mid-sized Kansas companies to benefit from the program. The small to mid-sized companies, such as ethanol processors, are the backbone of employers in Kansas and they need the same incentives available to them as larger companies.

We urge that you allow keep the current threshold so that small to mid-size companies are eligible to apply for HPIP. This will greatly assist the ethanol industry in Kansas to continue to grow and prosper.

Thank you for your consideration.

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816 SW Tyler, Ste. 100 Topeka, KS 66612 (785) 234-0461 Fax (785) 234-2930 www.KAEP.org

TESTIMONY OF CORDERO
HOUSE COMMITTEE ON TAXATION
OPPOSITION TO HB #2317
FEBRUARY 16, 2011

Mr. Chairman and members of the Committee on Assessment and Taxation. My name is Eli Bowman, representing Codero. Codero is a dedicated server web hosting service provider. We submit this written testimony to you in opposition to House Bill #2317 because it would phase out the High Performance Incentive Program (HPIP), which includes the 10% investment credit and sales tax exemption, over 5-years while raising the investment threshold to $5,000,000. By raising the investment threshold to 100 times its current level, the Governor is fundamentally preventing small to mid-sized companies, such as ours, from participating in the phase out period of the HPIP program. Currently 322 companies in 54 counties, which is over half of Kansas counties, participate in the HPIP program and with the proposed legislation, only 10% of these companies will be able to qualify for the investment tax credit during the 5-year phase out period.

Our company sincerely believes in the value and importance of HPIP and considers the decision to phase out this program over 5-years while imposing a $5,000,000 investment threshold to be detrimental to our business. We are a small to mid-sized company with over 50% of our revenues generated outside of the state of Kansas. We employ 57 employees who earn above-average wages and each year we make a significant investment in the training of these employees. We have been HPIP certified since December 30, 2008. However with the Governor's decision to require investments in excess of $5,000,000, we will be precluded from earning an investment credit during the 5-year phase out since annually we typically only make $15,000 in eligible capital investments. I would suggest that if HPIP must be phased out, allow existing companies to retain the $50,000 threshold during the phase out period.

As a Kansas business committed to economic growth and development within the state, we believe the proposed plan will have an adverse impact on our ability to continue to contribute to that effort. We propose that the current programs be retained, specifically HPIP with sales tax exemptions. If expensing is a fair equivalent to the current programs as the Governor suggests that it is, then allow high performing companies to choose between the current programs or expensing. Our company will choose the current program. The expensing program merely accelerates the timing of an existing deduction. There is no parallel in replacing a tax credit with a tax deduction.

We would strongly urge you to defeat this legislation.

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KNIT-RITE INCORPORATED

core spun THERAFIRM SmartKnit

TESTIMONY OF KNIT-RITE, INC.
HOUSE COMMITTEE ON TAXATION
OPPOSITION TO HB #2317
FEBRUARY 16, 2011

February 15, 2011

Mr. and Ms. Chairman, member of the Committee on Assessment and Taxation. My name is Chris Vering, an owner and officer representing Knit-Rite, Inc. We are a growing medical textile manufacturer in Kansas City, KS, who has been serving the prosthetic, orthotic, diabetic, compression and several other medical markets for over 88 years. We submit this written testimony to you in opposition to House Bill #2317 because it would phase out the High Performance Incentive Program (HPIP), which includes the 10% investment credit and sales tax exemption, over 5-years while raising the investment threshold to $5,000,000. By raising the investment threshold to 100 times its current level, the Governor is fundamentally preventing small to mid-sized companies, such as ours, from participating in the phase out period of the HPIP program. Currently 322 companies in 54 counties, which is over half of Kansas counties, participate in the HPIP program and with the proposed legislation, only 10% of these companies will be able to qualify for the investment tax credit during the 5-year phase out period.

Our company sincerely believes in the value and importance of HPIP and considers the decision to phase out this program over 5-years while imposing a $5,000,000 investment threshold to be detrimental to our business. We are a mid-sized company with over 50% of our revenues generated outside of the state of Kansas. We employ 77 employees who earn above-average wages and each year we make a significant investment in the training of these employees. We have been HPIP certified since moving to Kansas in the late 1990's from Missouri. The programs offered by Kansas were the reason we moved here to begin with. However with the Governor's decision to require investments in excess of $5,000,000, we will be precluded from earning an investment credit during the 5-year phase out since annually we typically only make $300,000 to $500,000 in eligible capital investments. I would suggest that if HPIP must be phased out, allow existing companies to retain the $50,000 threshold during the phase out period.

In addition to our operations in the state of Kansas, we currently own and operate a factory in Ellerbe, NC, where we employ approximately 65 employees. Through programs offered by the state of North Carolina, we have invested more funds in that facility the last 2 years. We currently receive tax incentives and/or direct funds for training, job growth and capital investments that exceed the programs offered by the state of Kansas. The proposals being offered to reduce the benefits in Kansas will only make Kansas even less competitive with North Carolina and

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Fax 913.281.5455 | Toll Free Fax 1.800.462.4707 | www.knitrite.com

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KNIT-RITE
INCORPORATED

CORE SPUN THERAFIRM SmartKnit

other states. For example, I continuously receive calls from Iowa Economic Development officials. I am sure the state would not want to lose companies to other states, including Iowa and North Carolina.

As a Kansas business committed to economic growth and development within the state, we believe the proposed plan will have an adverse impact on our ability to continue to contribute to that effort. We propose that the current programs be retained, specifically HPIP with sales tax exemptions. If expensing is a fair equivalent to the current programs as the Governor suggests that it is, then allow high performing companies to choose between the current programs or expensing. Our company will choose the current program. The expensing program merely accelerates the timing of an existing deduction. There is no parallel in replacing a tax credit with a tax deduction. What would you choose?

We would strongly urge you to defeat this legislation.

Best Regards,

Christopher H. Vering
Executive V.P., CFO, COO
Knit-Rite, Inc.

120 Osage Avenue | Kansas City, Kansas 66105 | Phone 913.281.4600 | Toll Free 1.800.821.3094

Fax 913 281.5455 | Toll Free Fax 1.800.462.4707 | www.knitrite.com

TESTIMONY OF KARATZIS USA LLC
HOUSE COMMITTEE ON TAXATION
OPPOSITION TO HB #2317
FEBRUARY 16, 2011

Mr. Chairman and members of the Committee on Assessment and Taxation:

My name is Manolis Alatziniotakis, representing Karatzis USA LLC. KARATZIS USA LLC is an affiliated company of Karatzis SA Group, a Greek public listed company dedicated to the manufacture of premium quality netting materials. Our USA products are widely used in the agricultural sector and our annual revenue is $10,000,000. The decision to move production from overseas to Kingman KS was based partly on the current incentives and any alterations in these will have a negative impact on our financials and competitiveness in the market. To offset this difference, we will have to lay off employees or cut benefits to reduce our operational cost.

We submit this written testimony to you in opposition to House Bill #2317 because it would phase out the High Performance Incentive Program (HPIP), which includes the 10% investment credit and sales tax exemption, over 5-years while raising the investment threshold to $5,000,000. By raising the investment threshold to 100 times its current level, the Governor is fundamentally preventing small to mid-sized companies, such as ours, from participating in the phase out period of the HPIP program. Currently 322 companies in 54 counties, which is over half of Kansas counties, participate in the HPIP program and with the proposed legislation, only 10% of these companies will be able to qualify for the investment tax credit during the 5-year phase out period.

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As a Kansas business committed to economic growth and development within the state, we believe the proposed plan will have an adverse impact on our ability to continue to contribute to that effort. We propose that the current programs be retained, specifically HPIP with sales tax

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exemptions. If expensing is a fair equivalent to the current programs as the Governor suggests that it is, then allow high performing companies to choose between the current programs or expensing. Our company will choose the current program. The expensing program merely accelerates the timing of an existing deduction. There is no parallel in replacing a tax credit with a tax deduction. What would you choose?

We would strongly urge you to defeat this legislation.

TESTIMONY OF POPSTAR NETWORKS, INC.
HOUSE COMMITTEE ON TAXATION
OPPOSITION TO HB #2317
FEBRUARY 16, 2011

Mr. Chairman and members of the Committee. My name is Thomas Reed representing Popstar Networks, Inc. Popstar is a software development, licensing and managed services company. We submit this written testimony to you in opposition to House Bill #2317 because it would eliminate the High Performance Incentive Program (HPIP); Sales Tax Exemption under HPIP and Business & Job Development Programs; Machinery & Equipment Property Tax Credits; Business & Job Development Tax Credits; Kansas Economic Opportunity Initiative Funds (KEOIF); and convert the IMPACT program to a "deal closer" fund with a $10 million cap on the available resources.

Our company sincerely believes in the value and importance of the current tax credit programs, and considers the decision to replace these programs with an expensing plan to be detrimental to our business. Unlike the current tax credit programs, the proposed expensing plan does not offer a means by which the actual tax liability will be removed, but merely accelerates the timing of an existing deduction. The expensing plan is based solely on capital investments and offers **no sales tax savings**. The plan also does not include an alternative to the current benefit tax credit programs provide on the **lease or purchase of a building**.

The critical need to provide continuing training for existing and **new** employees is mandatory for any company, let alone a technology company, to stay competitive and to grow. The need for assistance with this paradigm shift in the skills and skill levels of the American employee is one of the most important areas that the state government can assist a growing company. Without this assistance a company will likely have to go out of state to find qualified workers. Without a plan to train and "up-skill" new employees the ability to find and employ quality employees becomes a negative with recruiting and retention. A change in the current program will only encourage employers to relocate or force them to downsize their business.

We would strongly urge you to defeat this legislation if the state is truly dedicated to providing the best business environment possible to promote a robust and innovative environment for its small and medium sized business constituents. A change at this time will only tend to exacerbate an already challenging economy and send the wrong message to employers. It will also open the door to other states that can point to the "anti-business" environment Kansas is moving towards.

With the state's assistance in this important area, companies will be encouraged to move more aggressively in re-training their employee's and make them a more productive and valued resource. This will help provide a more competitive resource and a differentiation that Kansas can point to compared to a lot of other states. This is **NOT** the area that should be cut or redefined.

Respectfully submitted,

Thomas L. Reed

President & CEO

Popstar Networks, Inc.

TESTIMONY OF MARATHON SOLUTIONS, INC.
HOUSE COMMITTEE ON TAXATION
OPPOSITION TO HB #2317
FEBRUARY 16, 2011

Mr. Chairman and members of the Committee on Taxation. My name is Tim Hutteger, representing Marathon Solutions, Inc. Marathon Solutions, Inc. is a premier credit card processor located in Mission, KS. We submit this written testimony to you in opposition to House Bill #2317 because it would phase out the High Performance Incentive Program (HPIP), which includes the 10% investment credit and sales tax exemption, over 5-years while raising the investment threshold to $5,000,000. By raising the investment threshold to 100 times its current level, the Governor is fundamentally preventing small to mid-sized companies, such as ours, from participating in the phase out period of the HPIP program. Currently 322 companies in 54 counties, which is over half of Kansas counties, participate in the HPIP program and with the proposed legislation, only 10% of these companies will be able to qualify for the investment tax credit during the 5-year phase out period.

Our company sincerely believes in the value and importance of HPIP and considers the decision to phase out this program over 5-years while imposing a $5,000,000 investment threshold to be detrimental to our business. We are a small to mid-sized company with over 50% of our revenues generated outside of the state of Kansas. We employ 12 employees who earn above-average wages and each year we make a significant investment in the training of these employees. We are in the process of becoming HPIP certified. However with the Governor's decision to require investments in excess of $5,000,000, we will be precluded from earning an investment credit during the 5-year phase out since annually we typically only make $100,000 in eligible capital investments. I would suggest that if HPIP must be phased out, allow existing companies to retain the $50,000 threshold during the phase out period.

As a Kansas business committed to economic growth and development within the state, we believe the proposed plan will have an adverse impact on our ability to continue to contribute to that effort. We propose that the current programs be retained, specifically HPIP with sales tax exemptions. If expensing is a fair equivalent to the current programs as the Governor suggests that it is, then allow high performing companies to choose between the current programs or expensing. Our company will choose the current program. The expensing program merely accelerates the timing of an existing deduction. There is no parallel in replacing a tax credit with a tax deduction.

We would strongly urge you to defeat this legislation.

Sincerely,

Tim Hutteger
Chief Executive Officer
Marathon Solutions, Inc.

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TESTIMONY OF CBIZ
HOUSE COMMITTEE ON TAXATION
OPPOSITION TO HB #2317
FEBRUARY 16, 2011

Mr. Chairman and members of the Committee. My name is Richard Mills, III representing CBIZ. CBIZ is a professional services company, providing a comprehensive range of business services, products, and solutions that help our clients succeed by better managing their finances and employees. We are one of the nation's leading Accounting Providers; Employee Benefits Specialists; Property & Casualty Agencies; Valuation firms; Medical Management practice firms; and Retirement Plan service providers. We submit this written testimony to you in opposition to House Bill #2317 because it would phase out the High Performance Incentive Program (HPIP), which includes the 10% investment credit and sales tax exemption, over 5-years while raising the investment threshold to $5,000,000. By raising the investment threshold from $50,000 to $5,000,000, the Governor is preventing 90% of the companies currently HPIP certified from qualifying for the investment tax credit during the phase out period.

In July 2003, CBIZ made the pragmatic economic decision to move one of our largest regional operations and approximately 540 employees to Kansas from out of state. The sole and decisive factor in relocating to Kansas was the tax incentives that the state offered, which included HPIP, the Business and Job Credit, sales tax exemption, and the IMPACT program. Since 2003, CBIZ which includes the entities of CBIZ MHM, CBIZ Benefits & Insurance, and M&S Consulting, has been HPIP certified.

As a service-oriented company with highly-paid employees, we analyzed the impact the expensing plan will have on our business and the consequences are unfavorable. The proposed expensing program merely accelerates the timing of an existing deduction and is structured solely around capital investments while offering **no sales tax savings** on these purchases. Also, the expensing plan **does not provide an alternative to the benefit the current tax credit programs provide on the lease or purchase of a building**.

We propose that the current programs be retained, specifically HPIP with sales tax exemptions. However if there is no alternative to phasing out HPIP, then I would suggest that currently participating companies be allowed to retain the $50,000 threshold during the phase out period and be allowed to choose between participating in the current programs or the proposed expensing program.

We would strongly urge you to defeat this legislation.

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TESTIMONY OF THE KATZ LAW FIRM
HOUSE COMMITTEE ON TAXATION
OPPOSITION TO HB #2317
FEBRUARY 16, 2011

Mr. Chairman and members of the Committee. My name is Rick Katz, representing The Katz Law Firm. We are a real estate law firm specializing in real estate development and leasing. We submit this written testimony to you in opposition to House Bill #2317 because it would phase out the High Performance Incentive Program (HPIP), which includes the 10% investment credit and sales tax exemption, over 5-years while raising the investment threshold to $5,000,000. By raising the investment threshold, the Governor is fundamentally preventing small to mid-sized companies, such as ours, from participating in the phase out period of the HPIP program. Currently 322 companies in 54 counties, which is over half of Kansas counties, participate in the HPIP program and with the proposed legislation, only 10% of these companies will be able to qualify for the investment tax credit during the 5-year phase out period.

Our company sincerely believes in the value and importance of HPIP and considers the decision to phase out this program over 5-years while imposing a $5,000,000 investment threshold to be detrimental to our business. We are a small to mid-sized company with over 50% of our revenues generated outside of the state of Kansas. We employ 10 employees who earn above-average wages and each year we make a significant investment in the training of these employees. We have been HPIP certified since 2008. However with the Governor's decision to require investments in excess of $5,000,000, we will be precluded from earning an investment credit during the 5-year phase out since annually we typically only make approximately 3 million dollars in eligible capital investments. I would suggest that if HPIP must be phased out, then existing HPIP companies should be allowed to retain the current $50,000 threshold during the phase out period.

As a Kansas business committed to economic growth and development within the state, we believe the proposed plan will have an adverse impact on our ability to continue to contribute to that effort. We propose that the current programs be retained, specifically HPIP with sales tax exemptions. If expensing is a fair equivalent to the current programs as the Governor suggests that it is, then allow high performing companies to choose between the current programs or expensing. Our company will choose the current program. The expensing program merely accelerates the timing of an existing deduction. There is no parallel in replacing a tax credit with a tax deduction.

We would strongly urge you to defeat this legislation.

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TESTIMONY OF GRUNDFOS PUMPS CORPORATION

HOUSE COMMITTEE ON TAXATION
OPPOSITION TO HB #2317
FEBRUARY 16, 2011

Mr. and Ms. Chairman, member of the Committee on Taxation. My name is Monica Greer, representing Grundfos Pumps Corporation, a wholesaler of pumps in Olathe, KS. We submit this written testimony to you in opposition to House Bill #2317. It is our understanding that this bill would phase out the High Performance Incentive Program (HPIP), which includes the 10% investment credit and sales tax exemption, over five years while raising the investment threshold to $5,000,000. This would prevent our company from participating in the phase out period of the HPIP program.

Our company sincerely believes in the value and importance of HPIP and considers the decision to phase out this program over 5-years while imposing a $5,000,000 investment threshold to be detrimental to our business. We are a small to mid-sized company with over 50% of our revenues generated outside of the state of Kansas. We employ 127 employees in Kansas who earn above-average wages and each year we make a significant investment in the training of these employees. We have been HPIP certified in the past, but this bill puts future certification at risk. With the Governor's decision to require investments in excess of $5,000,000, we will be precluded from earning an investment credit during the 5-year phase out. I would suggest that if HPIP must be phased out, please allow existing companies to retain the $50,000 threshold during the phase out period.

As a Kansas business committed to economic growth and development within the state, we believe the proposed plan will have an adverse impact on our ability to continue to contribute to that effort. We propose that the current programs be retained, specifically HPIP with sales tax exemptions. We would strongly urge you to defeat this legislation.

Monica Greer

Monica Greer

Controller

House Taxation
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