Approved: April 27, 2011
Date

MINUTES OF THE SENATE ASSESSMENT & TAXATION COMMITTEE

The meeting was called to order by Vice Chairman Pat Apple at 12:00 p.m. on March 30, 2011, in Room 152-S of the Capitol.

All members were present except:
Chairman Les Donovan – 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
Mary Jane Brueck, Committee Assistant

Conferees appearing before the Committee:
Kent Eckles, Vice President of Public Affairs, The Kansas Chamber
Jennifer Bruning, Overland Park Chamber of Commerce
Ron Gaches, on behalf of Sprint
John Idoux, Century Link
Denise Walsh, Hills Pet Food

Others attending:
See attached list.

Vice-Chairman Apple opened the meeting explaining the reason of this meeting is to discuss bills passed out of the House last Thursday and Friday. He began with a hearing on **HB 2392 concerning setoff against certain debtors; relating to federal department of the treasury, agreements, procedure and fees; amending K.S.A. 75-6204 and K.S.A. 2010 Supp. 75-6202 and repealing the existing section.** Scott Wells, Office of the Revisor of Statutes, explained what this bill does. Richard Cram, Director, Kansas Department of Revenue told the committee this bill allows for cooperation between federal and state governments in regard to collection of state or federal delinquent debts. The federal treasury department and the Kansas Department of Administration will check identifying information against various databases of payments that are scheduled to be made When a match is found between a person or entity that is to receive a payment and a person or entity that owes debt, the creditor agency will receive those payments instead of the delinquent party. This setoff will be used only in cases where other collection efforts have proven ineffective. (Attachment 1) Seeing no further questions on this bill,Vice-Chairman Apple closed the hearing. He then asked if the committee was ready to take action on this bill. Sen. Kelsey made a motion to move **HB 2392** favorably out of committee. Sen. Lynn seconded. The motion carried.

The next order of business was **HB 2157 Concerning the disclosure of tax information to the state treasurer for the purpose of locating unclaimed property owners**. This bill is much the same language as **SB 116 Unclaimed property; disclosure of tax information to the state treasurer**. Vice-Chairman Apple asked the committee what they wished to do with this bill. Sen Lynn moved that the bill be move out of committee favorably. Sen. Kelsey seconded the motion. The motion carried.

Vice-Chairman Apple moved on to an informational hearing on **SB 61 Increasing income tax credit for contributions made by program contributors under the individual development account program**. The bill has been amended by the House. Ken Eckles, Vice President of Public Affairs, The Kansas Chamber, told the committee this bill provides three changes needed. This bill allows a corporation with multiple unitary groups to apply existing HPIP credits against the tax liability of any member of its group in their combined tax report. This bill also extends the deadline for corporations to claim existing HPIP credits from ten to sixteen years. And lastly, this bill will simplify the re-certification process a company must undergo before utilizing the tax credits. (Attachment 2)

Jennifer Bruning, Overland Park Chamber of Commerce spoke on behalf of their board of directors and nearly 1,000 member companies. She spoke to the committee giving much the same message as Mr. Eckels. She said passage of this bill would show Kansans everything in the Legislature's power is being done to encourage job creation by bringing more capital investment into the State. (Attachment 3)

The next proponent of this bill was Ron Gaches who spoke on behalf of Sprint. He explained the tax credits through HPIP are given to taxpayers that make a significant investment in Kansas and meet some relatively stringent criteria, such as higher wages to the employees. Now, if the credits are not used within ten years, they expire, and the credits are lost. This bill will extend the time to use the tax credits from ten years to sixteen years. (Attachment 4) John Idoux with CenturyLink's Kansas Government Affairs team, was next to speak. He told the committee that modifying the HPIP to allow greater flexibility and workability for tax credits previously earned will allow CenturyLink and other Kansas companies to continue to invest in Kansas. (Attachment 5) Denise Walsh represented Hill's Pet Nutrition, Inc. She is the Director of Corporate Taxes. She said this bill, as it stands in this committee today, will strengthen the current HPIP program and accelerate availability of funds for companies to reinvest in Kansas. She asked the committee, and the entire Senate, to concur with the House amendments. (Attachment 6)

Secretary of Revenue, Nick Jordan, sent written testimony to the committee. He said this bill is intended to keep companies moving forward in Kansas during a time of economic challenge. (Attachment 7)

Others who provided written testimony urging passage of this bill were Christy Caldwell, Vice President Government Relations for the Greater Topeka Chamber of Commerce (Attachment 8); Angela Pitale, Director of Tax for NextEra Energy Resources, LLC (Attachment 9); John Woodfill, Senior Vice President of Ash Grove Cement Company (Attachment 10); Bill Boisture, Chairman and CEO of Hawker Beechcraft (Attachment 11); and Mark Schreiber, Director of Public Affairs for Westar Energy (Attachment 12). Vice Chairman Apple closed the hearing on **SB 61**.

The committee moved on to discussion on **House Sub SB 1 Concerning taxation; relating to income tax rates, adjustment, procedure and requirements and replacing the existing section.** Chris Courtwright, Kansas Legislative Research Department, spoke to changes made to the Senate bill in the House. He said this bill was not materially altered. Sen. Bruce distributed a brief summary of the information he had requested about this bill from the Department of Revenue earlier today. (Attachment 13)

Vice Chairman Apple thanked the committee for their patience, and closed this meeting of the committee.

The next meeting will be on the call of Vice Chairman Apple if needed.

The meeting was adjourned at 1:04 p.m.

SENATE
Assessment & Taxation Committee
GUEST LIST

DATE: 3/30/11

NAME	REPRESENTING
Rita Mohr	State Treasurer
Shelley King	Dept. of Admin, Legal Office
Pam Hall	Dept of Admin, Accts & Reports
Kent Olson	Dept of Admin, Accts & Reports
Denise Walsh	Hill's Pet Nutrition, Inc.
Ed Bryan	Dept. of Commerce
Larry R Baer	LKM
Richard Cram	KDOR
Bob Challquist	KDOR
Randy Wharton	KDOR
David Clauser	KDOR
Jennifer Bruning	OP Chamber
Christy A Caldwell	Topeka Chamber
John Idoux	Centurylink
Judith Gadd	Capitol Advantage
Mike Murray	" "
Ron Gaches	Sprint
[illegible]	Bright & Carpenter
Paje Routhier	Hein Law Firm

Kent Eckles — Ks Chamber

SENATE
Assessment & Taxation Committee
GUEST LIST

DATE: 3/30/11

NAME	REPRESENTING
Mike Reecht	Sprint
Ron Seeber	RAGR
Bernie Koch	KEPC
Jim Maag	Spirit AeroSystems
Mark Schreiber	Westar Energy
Patrick Fucik	Sprint
George Stafford	Cerner
Ashley Sherard	Lenexa Chamber
Marcy Carpenter	KSCPA
Mandy [illegible]	SCORS
Michelle [illegible]	Cap. Strategies
Gae Meyer	Kansas Republican
Whitney Damron	KS Bar Assn.
Derrick Sontag	AFP

Policy & Research
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Topeka KS 66612-1588
Nick Jordan, Secretary
Richard Cram, Director

Kansas
Department of Revenue

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FAX: 785-296-7928
www.ksrevenue.org
Sam Brownback, Governor

March 30, 2011

Senate Committee on Assessment and Taxation

Testimony in Support of House Bill 2392

Presented by Richard Cram

Senator Pat Apple and Members of the Committee:

House Bill 2392 will allow the State of Kansas to enter into an agreement with the federal government in order to facilitate cooperation between the two entities to increase the collection of delinquent debts. Such an agreement has already been authorized under federal law and some other states have already entered into similar arrangements.

The program will be administered by state and federal collection authorities in the following manner:

1. The state side of the program will be administered by the Kansas Department of Administration. The Department of Administration will be allowed to collect an administrative fee as determined by K.S.A. 75-6210(b) to offset the costs of implementing and running the program.

2. The department of administration and the federal treasury department will exchange data identifying those persons or entities that owe state and federal debts.

    a. The program will allow Kansas to submit any delinquent debts that are owed to the State, except state debts that are already being collected through other federal offset programs such as child support, food stamps, unemployment insurance and Medicaid.

3. The federal treasury department and the Kansas Department of Administration will check the identifying information against various databases of payments that are scheduled to be made. When a match is found between a person/entity that is to receive a payment and a person/entity that owes debt, the program will allow for a setoff of those debts: the creditor agency will receive those payments instead of the delinquent party.

Sn. Assmnt & Tax
3-30-11

Attachment # 1

4. An offset of federal debts under this program will happen after those offsets authorized by K.S.A. 75-6201 *et seq.*, which allows for offsets of state and local debts against state payments through the Department of Administration's debtor setoff program.

5. Due process will be satisfied per the terms of the agreement:

    a. The delinquent debtor will receive a 60-day notice of the intent to offset, thus providing ample opportunity to enter into acceptable pay arrangements, thereby avoiding the use of the offset program; and

    b. The setoff will only be used to collect debts that are not being disputed; and

    c. The setoff will be used only in cases where other collection efforts have proven ineffective.

The State of Kansas, through the Department of Administration, currently administers a similar setoff program with the State of Missouri Department of Revenue. Additionally, the State of Kansas Department of Revenue currently participates in an income tax offset program with the Internal Revenue Service that allows federal income tax refunds to be offset against state income and withholding tax debts.

We are estimating this bill would have a positive fiscal impact of $1.7 million in FY 2012, and $3.5 million in FY 2013, going forward.

Testimony before the Senate Assessment & Taxation Committee
SB 61 – HPIP Carry-forward Extension and Unitary Phase-In
Presented by J. Kent Eckles, Vice President of Government Affairs

achieve more

Wednesday, March 30th, 2011

The Kansas Chamber of Commerce appreciates the opportunity to present testimony in favor of Senate Bill 61, which would make three simple and much needed modifications to the High Performance Incentive Program (HPIP).

Firstly, the bill would allow 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. For background purposes, when a group of corporations conducts a "unitary" business both within and without Kansas, the income to be included in the Kansas corporate tax return must be determined by combined reporting. This means that all companies in the unitary group have their income taxed in Kansas; regardless of whether the individual company has any Nexus or presence in Kansas. In contrast a "separate company state" means that only the legal entity with Nexus in that state has to pay taxes in that state, not the entire consolidated group. Missouri, Oklahoma, Indiana and Kentucky are all separate company states. Colorado and Nebraska have a modified unitary which excludes part of the group. Kansas does not and is clearly at a competitive disadvantage to other states at present. This provision would be phased in over five years beginning in FY13 and is consistent with the provisions of SB 196, which allows for unitary treatment of expensing of capital investments. This very committee and the full Senate passed SB 196 overwhelmingly this session.

Secondly, the measure would extend from 10 to 16 years the deadline for corporations to claim existing HPIP investment tax credits. Due to the state of the economy, many companies who have already made significant investment in Kansas and hired thousands of employees at high-wages have been unable to utilize their HPIP credits against their Kansas income tax liability, hence the ~$300m in unclaimed HPIP credits on the books. Economic Developers in competing states use that against us by saying to companies considering locating here: "Yes, Kansas has a 10% investment tax credit, but you won't be able to use it."

Finally, the legislation will simplify the recertification process a company must undergo before utilizing the tax credits. Taxpayers would be required to certify under oath they continue to meet the eligibility requirements for the High Performance Incentive Program.

The Chamber has long supported simplifying and adding flexibility to HPIP and this legislation achieves those stated goals. We urge the Senate to Concur with SB 61 as amended by the House.

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 do business. 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

Sn. Assmnt & Tax
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Attachment # 2

Overland Park
Chamber of Commerce

Written Testimony in Support of Senate Bill 61
Senate Assessment & Taxation Committee
Wednesday, March 30, 2011

Mr. Vice-Chairman Apple 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 writing today on behalf of our board of directors and our nearly 1,000 member companies. I appreciate the opportunity to share written testimony in support of Senate Bill 61, which makes several key amendments to the High Performance Incentive Program (HPIP) tax credits and expands the individual development account tax credit.

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. SB 61 would modernize and streamline the program and make it more accessible. It should be noted that the HPIP provisions included in SB 61 reflect a compromise agreement between the Administration and the business community that occurred after weeks of careful negotiation.

Current law restricts the carry forward period of these credits to 10 years. We ask that you support extending the carry forward period of these credits to 16 years for the following reasons:

- 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 their credit before the 10-year expiration date, meaning that under current law they will lose the benefits of the program. This loss in credits rightfully earned is occurring at the same time that many of these companies will also potentially be losing hundreds of thousands to millions of dollars in machinery and equipment tax credits once the Governor's economic growth bill (SB 196) is passed and goes into effect.
- Should the carry forward period be extended to 16 years it would allow these member 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 even more capital investment in facilities, technology and employee training and education.

The Overland Park Chamber also supports the two other provisional changes within this bill to the HPIP program – 1) allowing the phase-in of credits to be claimed against the tax liability of any member of a unitary group of corporations (much like the Governor's expensing proposal which allows members of unitary groups filing a combined report to take the expense deduction for an investment made by another member of the group) and 2) changing the requirement for annual recertification (which is administratively burdensome) to self-certification under oath.

Passage of SB 61 provides an opportunity for you as Kansas' legislators to show your constituents you are doing everything in your power to expand the Kansas economy by encouraging job creation and by driving more capital investment in the State. For the many reasons listed above, we encourage you to support all the provisions within Senate Bill 61. Thank you for your consideration.

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Overland
t: 913.491.3600 • www.

Sn. Assmnt & Tax
3-30-11
Attachment # 3

GACHES, BRADEN & ASSOCIATES
PUBLIC AFFAIRS & ASSOCIATION MANAGEMENT
825 S. Kansas Avenue, Suite 500 • Topeka, Kansas 66612 • Phone: (785) 233-4512 • Fax: (785) 233-2206

Testimony of Sprint
In Support of Senate Bill 61 – HPIP Tax Credit Changes
Before the Senate Taxation Committee
Presented by Ron Gaches
Wednesday, March 30, 2011

Thank you Chairman Apple for the opportunity to submit testimony in support of SB 61. The bill makes several much needed changes to the provisions authorizing High Performance Incentive Program ("HPIP") credits. This program is one of the most meaningful tools for inducing capital investment in Kansas.

Extension of HIPIP Carryforward Period

The High Performance Incentive Program ("HPIP"), currently allows a 10% investment tax credit to taxpayers that make a significant investment in Kansas and meet some relatively stringent criteria, including paying higher than average wages to employees. If the credits are not able to be utilized by a taxpayer to offset Kansas income tax, the credits may be carried forward for a period of 10 years. SB 61 would extend the credit carryforward period from 10 to 16 years. Any tax credits that may have previously expired would not be revived under this proposal. The extended carryforward period is warranted at this time for the following reasons:

1. Taxpayers utilizing the credits have invested billions of dollars in Kansas and paid higher than average wages to their employees and have originally taken the HPIP credit into account when determining whether the Kansas projects would be viable.

2. The current economic conditions prevent many of these taxpayers from completely utilizing the credits before the 10 year carryforward period expires.

3. Currently any credits not used in 10 years are lost and taxpayers are effectively denied the benefits which may have originally prompted the Kansas investment.

4. Taxpayers who strive to maintain an ongoing business presence in Kansas in these difficult economic times should be allowed to utilize the credits when economic conditions improve.

5. Other tax credit programs in Kansas and at the federal level provide for much longer carryforward periods:

Sn. Assmnt & Tax
3-30-11
Attachment # 4

a. Enterprise Zone Credit – unlimited carryforward period under K.S.A. 79-32,160a; and

b. Federal Business Credit – 20-year carryforward period under IRC § 39

<u>Other Provisions of SB 61</u>

Sprint also supports the provisions of SB 61 which clarify how HPIP credits are utilized in a unitary group and eliminate the requirement for annual recertification once the HPIP project has been completed.

Thank you for your continuing efforts to make Kansas an attractive place for business to locate and expand. I would be happy to provide any additional information the Committee may require as it deliberates this very important bill.

John Idoux
Kansas Governmental Affairs
john.idoux@centurylink.com

CenturyLink

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Testimony in Support of Senate Bill 61

Testimony by CenturyLink
John Idoux, Kansas Governmental Affairs
Before the Senate Assessment and Taxation Committee
March 30, 2011

Thank you Chairman Apple and members of the Committee. My name is John Idoux with CenturyLink's Governmental Affairs team and I appreciate this opportunity to express CenturyLink's support of Senate Bill 61. As a leading national rural telecommunications provider with significant operations and employees in Kansas, CenturyLink has made substantial investments in Kansas. Modifying the High Performance Incentive Program (HPIP) to allow greater flexibility and workability for tax credits previously earned will allow CenturyLink and other Kansas companies to continue to invest in Kansas.

CenturyLink Introduction

CenturyLink has provided communications services in Kansas for over 110 years under various names and is the leading rural broadband and communications company serving predominantly rural markets in 33 states. CenturyLink serves over 84,000 rural Kansans in 119 communities including Junction City/Fort Riley, Gardner, Spring Hill, and 111 communities with less than 1000 residents. High speed Internet facilities have been deployed to all 119 Kansas communities and nearly 85% of CenturyLink's customers have access to high speed broadband with additional deployment planned. CenturyLink also provides wholesale transport services with more than 750 route miles of fiber optics in Kansas. CenturyLink announced plans to acquire Qwest and the transaction is scheduled to close Friday, April 1, 2011.

Needed Flexibility

The combined CenturyLink-Qwest will operate in 37 states. The Kansas HPIP initiative truly differentiates Kansas from other states as CenturyLink maintains a significant Kansas workforce with nearly 2100 employees. Approximately 95% of these jobs support national or regional functions and the remaining 5% support Kansas-specific network operations. Over the past two years, CenturyLink subsidiaries have provided $613,500,000 in taxable wages and $28,400,000 in withholding taxes for the state of Kansas. As of December 31, 2009, CenturyLink has $877 million in total investment in Kansas (year end 2010 data available April 1).

CenturyLink's investment in Kansas over the past years has allowed CenturyLink to take advantage of the Kansas HPIP initiative through the generation of credits and sales tax exemptions. However, due to the current rules, CenturyLink has not been able to utilize all credits generated. It is a reasonable expectation for companies like CenturyLink that invest in Kansas, follow the HPIP rules, and earn the tax credits to be able to use the credits. Senate Bill 61 allows for utilization of credits that have already been earned by companies operating and investing in Kansas. While the Kansas companies involved with the HPIP initiative vary greatly and span all industries, the unprecedented recession has impacted every company and the business cases surrounding the investments made.

Modifying the HPIP initiative by (1) allowing the unitary group to claim the credits, (2) extending the carry forward period to 16 years and (3) eliminating the requirement of recertification provides CenturyLink and other Kansas companies with much needed flexibility and workability as each company weathers the economic downturn and nascent recovery. CenturyLink, like other Kansas companies, may now not be able to use the earned credits within the first 10 years as initially envisioned. Also, the requirement to recertify annually to use credits already earned is not only administratively burdensome but an inefficient use of limited resources by the companies and the State.

Benefitting Kansans

CenturyLink continues to invest in Kansas. Modifying the HPIP initiative not only provides CenturyLink with needed flexibility but in turn allows CenturyLink to bring additional benefits to rural Kansans. The availability of high speed Internet is a priority not only for CenturyLink but for its rural customers. The ability to use the HPIP credits already earned provides CenturyLink with additional financial resources to invest in Kansas and better address this high priority need.

As mentioned above, CenturyLink has deployed high speed Internet facilities to all 119 Kansas communities and nearly 85% of customers have access to this critical service. CenturyLink has made its high speed Internet investment in Kansas without any federal or state subsidies and without any of the $7.2 billion available from the federal stimulus program to advance broadband. CenturyLink plans additional deployment as well although the business case to expand broadband services becomes more and more difficult to fiscally justify. With broadband service starting at $15/month, or $180/year, the payback period for this investment is measured in years, given our costs to build, maintain and operate the network.

Having access to the additional resources the HPIP credits provide allows CenturyLink to make infrastructure investments in Kansas that benefit rural Kansans.

Conclusion

CenturyLink urges the Senate to concur with the House amendments to Senate Bill 61. It is likely that CenturyLink would continue to qualify for HPIP, provided of course that CenturyLink continues to maintain jobs, investment and participate in training grants. The proposed HPIP modifications provides needed flexibility and reduced administrative burdens for Kansas companies which allows these companies to better serve their Kansas customers.

Thank you for your consideration.

Hill's Pet Nutrition, Inc. and Subsidiaries
P. O. Box 148
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Testimony of Denise Walsh, Hill's Pet Nutrition, Inc.
Senate Committee on Taxation
Support for SB 61
March 30, 2011

Mr. Vice-Chairman and members of the Senate Taxation Committee:

My name is Denise Walsh. I am the Director of Corporate Taxes for Hill's Pet Nutrition here in Topeka. I am here today to ask for your support of SB 61, as it stands in the Conference Committee.

SB 61 will strengthen the current HPIP program, and will accelerate the availability of funds for companies to reinvest in Kansas. This bill will allow companies which are part of a "unitary" group to use, on a phase-in basis beginning in 2013, HPIP credits against their unitary Kansas tax liability. This will be consistent with the language on SB 196 which allows unused expensing deductions to be utilized by the entire unitary group.
SB 61 will also allow companies an additional 6 years to utilize such credits.

When a group of corporations (as in Hill's case) conducts a unitary business both within and without Kansas, under Kansas law the income of the entire family of companies must be reported and apportioned to Kansas. However, the use of any tax credits or incentives is only allowed on a separate company basis. While revoking the combined unitary concept would be too costly for the state at this time, leveling the field so that tax credits can be used to offset the combined tax liability of the entire unitary group is a necessary step towards making Kansas more competitive in attracting and retaining companies with multinational operations and generating private sector jobs.

SB 61 will make the Kansas subsidiary within these unitary groups very attractive for new investments as these unused credits could be used to offset future tax costs associated with expansions and job creation into the state for non-capital intensive "back office" functions such as accounting, legal, HR , order management and IT services.

Hill's and pet nutrition continues to be a core category for our parent company, Colgate Palmolive. Hill's has manufacturing facilities in Topeka and a brand new $220 Million facility in Emporia, KS. In addition our research and development center and our corporate headquarters are located in Topeka. SB 61 is a key initiative in ensuring that Kansas continues to be the center of investments for the company in the US, while maintaining our ability to be competitive in a global marketplace.

I urge the Senate to concur with the House Amendment to SB 61.

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

Sn. Assmnt & Tax
3-30-11
Attachment # 6

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Senate Assessment and Taxation Committee

TESTIMONY
March 30, 2011
Senate Bill 61
Secretary of Revenue Nick Jordan

Mr. Chairman and members of the committee, thank you for the opportunity to provide written testimony regarding SB 61, particularly the section relating to the extension of High Performance Incentive Program (HPIP) credits and unitary use.

While this bill is not a part of the Governor's economic growth agenda, Secretary George and I met with a number of people from corporations and organizations interested in extending the HPIP credits and unitary use. These discussions focused on the proposed changes to HPIP contained in the Governor's agenda, the current economic climate, and the desire to provide flexibility to use HPIP credits previously approved.

Certainly, the corporate citizens advocating for the HPIP extension and unitary use of the credits are important to the Kansas economy. They pay above-average wages and have a strong commitment to skills development for their Kansas employees. And HPIP encourages them to make capital investments in facilities and technology in Kansas.

SB 61 is intended to keep these companies moving forward in Kansas during a time of economic challenge, and the bill before you reflects the elements we agreed upon in our meetings with companies currently holding HPIP credits. Importantly, another goal was to keep the fiscal note reasonable; this compromise does that.

Greater Topeka
CHAMBER & GO TOPEKA

Written Testimony
SB 61 High Performance Incentive Program Credit Extensions
Senate Assessment and Taxation Committee
Wednesday, March 30, 2011
By: Christy Caldwell, Vice President Government Relations
Greater Topeka Chamber of Commerce

Chairman Apple and Committee:

The Greater Topeka Chamber of Commerce would like to express our strong support for SB 61, regarding the extension of time for utilizing tax credits from the High Performance Incentive Program (HPIP) and allowing the use of such credits by unitary groups of corporations.

HPIP remains an important economic development incentive in efforts to pursue growth of investment and quality jobs in Topeka/Shawnee County. It is a tool the state has used to successfully attract a number of quality, high-paying jobs and major investments in multiple corporations over the last few years. Without this economic tool, we may not have been able to see such strong expansions from companies in our community such as Goodyear, Del Monte, Jostens, Payless ShoeSource, Hills, PTMW and Frito-Lay. All these companies are quality corporate citizens who continue to invest in their facilities here and add to their employment. Additionally we will be soon welcoming a new corporation, Bimbo Bakeries-Allen Foods that is opening a new plant here this spring. They produce bakery products, Thomas Muffins, Entenmanns, Boboli products, and others; they will soon be making Oraweat Breads here in Topeka. One of the key incentives to locate them here was the HPIP program.

SB 61 will provide companies such as these, time to utilize the incentive they were awarded for their investment and quality jobs. They have fulfilled their promise and this bill gives them an opportunity to utilize in full the incentive they were granted. In some cases, more time is needed to utilize the tax credits, during a trying economic time. In other cases, as Kansas determines tax liability by reviewing the entire unitary corporation's impact within the state, it is only fair that those unitary corporations can utilize the tax credits within the entire unitary group. SB 61 makes these modifications to the HPIP program.

We appreciate the support HPIP has received from the Senate in other instances; it is a valuable tool to attract growth to our state. We will appreciate the Senate Assessment and Taxation Committee favorably supporting SB 61, assuring companies investing in communities across the state can make use of their reward for choosing Kansas as the best place to grow or locate their business.

Thank you.

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NEXTera ENERGY RESOURCES

Before the Senate Assessment and Taxation Committee
SB 61
Angela Pitale, Director of Tax
NextEra Energy Resources LLC
March 30, 2011

WRITTEN ONLY

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 SB 61 which modifies the High Performance Incentive Program ("HPIP"). 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 power about 35,000 homes. NextEra continues to search for additional development opportunities in Kansas and other states.

Sn. Assmnt & Tax
3-30-11
Attachment # 9

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 SB 61

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 Senate concurrence with the House amendments to SB 61.

Thank you for your consideration.

Before the Senate Assessment and Taxation Committee
Senate Bill 61
John Woodfill, Senior Vice President
Ash Grove Cement Company
March 30, 2011

Mr. Chairman and members of the House Assessment & Taxation Committee, we encourage you to favorably consider Senate Bill 61, a bill that modifies the High Performance Incentive Program (HPIP). HPIP has been an important incentive for Kansas businesses growing and expanding in this state, and a few minor adjustments will enhance the program.

In 1999, the Ash Grove Cement Company began a modernization project totaling nearly \$200 million at its Chanute cement manufacturing plant. Ash Grove is a 129-year-old, family-owned cement manufacturer, and it is the largest U.S.-owned cement company. Headquartered in Kansas, Ash Grove remains at the cutting-edge of adopting technology that incorporates the latest environmental controls and enhances energy efficiency.

The Ash Grove Chanute plant has been in operation for 103 years, and it is the oldest plant of the company's eight active cement plants west of the Mississippi. The plant employs 137 employees, with both a union and non-union workforce. The company is a solid supporter of local education, charitable and civic organizations, often the "first call" for assistance in emergencies.

The modernization project qualified under the HPIP statute, and we fulfilled our commitment to the state, which included the \$200 million investment in Chanute, paying higher than average wages to the employees and engaged employees in ongoing training. In the intervening years, the U.S. economy deteriorated significantly, and our company was not immune to the effects of the downturn. As a result of the downturn, Ash Grove would not be able to utilize the credits it earned from this significant investment in Kansas.

We agree with the approach in SB 61, which would extend to 16 years from 10 years the life of the HPIP credits we earned with the state's approval. We believe that adopting this extension would benefit a cross-section of businesses committed to Kansas and provide ongoing high-quality, high-paying jobs.

Section 2 of SB 61 merely clarifies existing law. The current allocation of Kansas income within a unitary group of companies differs from the way the Department of Revenue allocates credits to be utilized by the unitary group. This section, which is phased in over several years, brings clarity to the allocation of credits, consistent with the allocation of income.

We appreciate your consideration of Ash Grove's perspective on SB 61. We encourage you to support its passage, and urge the full Senate to concur with the House amendments to Senate Bill 61.

Thank you.

Sn. Assmnt & Tax
3-30-11

Attachment # 10

Hawker Beechcraft

W.W. (Bill) Boisture Jr.
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March 30, 2011

Senator Pat Apple
Vice Chair, Senate Assessment and Taxation Committee
State Capitol
300 SW 10th Avenue
Topeka, KS 66612-1590

Mr. Vice Chair and Senators:

SB 61, as it passed the House, contains three important changes that would modify K.S.A. 79-32.141 and K.S.A. 2010 Supp. 79-32,160a related to the High Performance Incentive Program. One change I would like to highlight is removing the requirement for recertification in subsequent years when a company intends to utilize the credits.

This change is important because companies go through a complicated and time-consuming certification process to earn the credits. Years later, when they want to utilize the credits, they have to repeat the onerous certification process again. Removing this requirement would simplify the High Performance Incentive Program by eliminating bureaucracy and expense for companies, allowing them to easily utilize the credits as needed by the business. As a result, this change will help companies expand facilities, create jobs and drive economic growth.

The purpose of this letter is to make you aware of our strong support of this provision, as well as the other changes included in SB 61, and ask for your support in passing this legislation.

Sincerely,

Bill Boisture
Chairman & CEO

Sn. Assmnt & Tax
3-30-11

Attachment # 11

Westar Energy.

MARK A. SCHREIBER
Director, Public Affairs

Testimony of Mark Schreiber
Before the Senate Assessment and Taxation Committee
On SB 61
March 30, 2011

Westar Energy believes the HPIP program has been a significant development tool for the state. We are a very capital-intensive industry. Our projects typically require very large capital expenditures. Through the HPIP program we have accumulated a substantial number of tax credits over the last decade.

Some of these earned credits will begin to expire in a few years. Westar has invested well over a billion dollars in Kansas during the last decade. We have annually received the certification necessary to use the existing credits and primarily, due to a unique set of economic circumstances, Westar has been unable to utilize the credits which we have earned. SB 61 would extend by six years the period during which we could utilize these earned credits.

Our customers pay for these new facilities through rates approved by the Kansas Corporation Commission (KCC). Currently, the majority of these credits will be used to the benefit of our customers. Expiration of these credits prevents our customers, who are paying for the facilities through rates, from using a benefit that has accumulated over the years but which we could lose due to the unique economic conditions referenced above.

SB 61 would allow the benefit earned by our company's investment to be realized by our customers. Westar Energy urges your support of SB 61.

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Sn. Assmnt & Tax
3-30-11
Attachment # 12

KANSAS LEGISLATIVE RESEARCH DEPARTMENT

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March 21, 2011

To: Senator Pat Apple

From: Chris W. Courtwright, Principal Economist

Re: Requested Changes to H Sub SB 1

This memo briefly summarizes some of the information you requested the Department of Revenue provide by 1:15 today. The understanding we had when we left the room this morning was to proceed with the following proposal:

Remove the formulaic automatic adjustments to income tax rates;

Remove corporation income tax relief from the proposal altogether;

Reinsert the provision freezing the sales tax rate at 6.3 percent in FY 2014;

Use the additional money from removing the 0.6 percent sales/use sunset to provide individual income tax relief in a revenue-neutral fashion with a one-time reduction in rates beginning in tax year 2013.

The fiscal note indicates that under such a scenario, the current individual brackets of 3.5, 6.25 and 6.45 percent could be reduced to 3.2, 5.8, and 6.0 percent, respectively.

As we discussed this morning, there would be a one-time fiscal impact in FY 2013 associated with withholding tax reductions that would not be offset by the additional sales tax revenue, which would not arrive until FY 2014.

The following table summarizes the fiscal impact:

($ in millions)

	sales/use	income	both
FY 2012	$ -	$ -	$ -
FY 2013	0.0	(75.1)	(75.1)
FY 2014	251.3	(254.2)	(2.8)
FY 2015	283.8	(266.8)	17.0
FY 2016	293.7	(280.2)	13.5
FY 2017	304.0	(294.2)	9.8
6-yr total	1,132.8	(1,170.5)	(37.7)

Sn. Assmnt & Tax
3-30-11

Attachment # 13

13-2

Kansas Department of Revenue
Individual Income Tax Proposals

(dollars are in millions)

Proposal: new rates

Simulation 017

Standard Deduction:

	Current Law	Proposed
Married	$ 6,000	$ -
Single	$ 3,000	$ -
Head of Household	$ 4,500	$ -
Married Filing Separate	$ 3,000	$ -

Additional Standard Deduction:

Married	$ 700
Single	$ 850

Personal Exemption:	$ 2,250
Personal Exemption: Dependent	$ 2,250

Tax Year Impacts:

	Tax Liability
2011	$ -
2012	$ -
2013	$ (250.4)
2014	$ (262.9)
2015	$ (276.0)
2016	$ (289.8)
2017	$ (304.3)

Fiscal Year Impacts:

	SGF	Sales Tax	Net Impact
2012	$ -		
2013	$ (75.1)		$ (75.1)
2014	$ (254.2)	$ 251.3	$ (2.8)
2015	$ (266.8)	$ 283.8	$ 17.0
2016	$ (280.2)	$ 293.7	$ 13.5
2017	$ (294.2)	$ 304.0	$ 9.8

Proposed Change: **Tax Year 2013**

Taxable Income Brackets

Single

$ -	$ 15,000		3.20%
$ 15,000	$ 30,000	$ 480.00	5.80%
$ 30,000	Over	$ 1,350.00	6.00%

Married

$ -	$ 30,000		3.20%
$ 30,000	$ 60,000	$ 960.00	5.80%
$ 60,000	Over	$ 2,700.00	6.00%

Current Law

Taxable Income Brackets

Single

$ -	$ 15,000		3.50%	8.7%
$ 15,000	$ 30,000	$ 525	6.25%	7.2%
$ 30,000	Over	1,462.50	6.45%	7.0%

DECREASES

Married

$ -	$ 30,000		3.50%
$ 30,000	$ 60,000	$ 1,050	6.25%
$ 60,000	Over	2,925	6.45%