SESSION OF 2005

CONFERENCE COMMITTEE REPORT BRIEF
HOUSE BILL NO. 2448

As Agreed to March 30, 2005

Brief *

HB 2448, as amended, would make changes to the Angel Investor Tax Credit Act and the Impact Program.

Angel Investor Tax Credit Act

HB 2448 would amend the Angel Investor Tax Credit Act to clarify that persons serving as executives, officers, employees, vendors, or independent contractors of the business in which an otherwise qualified cash investment is made could not be deemed to be an "angel investor" under the provisions of the act and could not, therefore, as individuals, qualify for the issuance of tax credits associated with the investment.

Additional language which limits the cumulative amount of tax credits issued to $20 million and the amount authorized for any given tax year to $2 million would be amended to provide that the balance of unissued credits could be carried forward for issuance in future years until tax year 2016.

The bill also would prohibit businesses from being designated as "qualified" for purposes of the act when they have ownership interests (such as stock) that can be traded by the public on or before the date when otherwise qualifying investments are made.

The Kansas Technology Enterprise Corporation (KTEC) would be required to renew a business's designation as being "qualified" for purposes of the act annually.

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Additional language would provide that the tax credits are a limited resource of the state, and KTEC would be designated as the administrator of the credits and directed to award the credits based on achieving the greatest economic benefit for the state.

Impact Program

The bill would make the following changes to the Department of Commerce Impact Program.

- Expand the qualifying business factors to include job retention.

- Allow for 95 percent of the withholding taxes generated by a retention or expansion project to be reinvested into the company over a 10-year period. Under current law, a maximum of 90 percent is allowed.

- Expand the eligibility requirement to allow for projects located outside metro areas and must retain 100 jobs, and remove the requirement that projects must spend $50.0 million in capital investments. Under current law, all projects within a metro area must retain 250 jobs.

- Eliminate the approval of the Governor's Council on Work Force Training and Investment for a project to obtain financing by the Kansas Development Finance Authority.

- Remove until July 1, 2006, the restriction on the Secretary of Commerce to offer incentives for major project investments, which are defined as business costs, including, but not limited to, relocation expenses, building and equipment purchases, labor recruitment, and job retention. Under current law, 20 percent of the total program revenue is available for such investments.

Conference Committee Action

In Conference Committee, the House conferees agreed to the Senate amendments to the bill, with the exception of making technical clean up amendments suggested by the revisor to remedy conflicts.

Background

KTEC, whose representatives appeared as proponents, said that the legislation was a necessary followup to 2004 legislation authorizing the investor tax credits.

The Senate Committee on Commerce amended the bill by adding the Impact Program amendments, which were requested by the Department of Commerce.

A fiscal note provided by the Division of the Budget indicated that the bill would not be expected to have a significant impact on receipts.