

KANSAS OFFICE of  
**REVISOR of STATUTES**

LEGISLATURE of THE STATE of KANSAS

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**MEMORANDUM**

To: Chairman Waymaster and members of the House Appropriations Committee  
From: Jill A. Wolters, First Assistant Revisor, and Charles Reimer, Assistant Revisor  
Date: 3/19/2017  
Subject: **HB 2403** Reinstating the enterprise zone program as an option in lieu of participation in the rural opportunity zone program for counties designated as rural opportunity zones.

The enterprise zone act was first enacted in 1992, modified over the years and terminated by the legislature in 2011, at the time the rural opportunity zone program was started. (Some provisions were amended and continued on as part of the high-performance incentive program (HPIP)). HB 2403 seeks to achieve economic growth in rural areas of this state by reviving the enterprise zone act as an option for counties that are designated as rural opportunity zones. A county must elect to participate in lieu of the rural opportunity zone program, must be approved by the secretary of commerce, be designated as a “nonmetropolitan region” and must remain in the enterprise zone program for a period of five years. The status of a county as a nonmetropolitan region makes certain enterprise zone act tax credits and a sales tax exemption available to businesses that locate or expand within the county and meet job creation or investment and other requirements. These incentives are available starting January 1, 2018.

Section 1.

This section addresses the requirements for a business to be eligible for the sales tax exemption of K.S.A. 79-3606(cc) under the enterprise zone provisions. This provision exempts sales of tangible personal property and services for construction, expansion or remodeling as well as new machinery and equipment. The location and job creation requirements specified in the section for manufacturing, nonmanufacturing and retail businesses remain the same as under the prior enterprise zone act provisions, except that businesses must be located in a county that has been designated a rural enterprise zone and approved by the secretary as a nonmetropolitan region. The sales tax exemption statute has been amended in section 7 to make the exemption available again beginning January 1, 2018.

Section 2.

This section sets out the requirements for a county or counties to meet to be approved and designated as a nonmetropolitan region by the secretary of commerce. As in the past, any city within the county with a population of 2,000 or more must enter into an agreement to participate with the county. The county must establish a regional economic development organization, adopt a regional strategic plan and demonstrate commitment to offering regional economic development incentives that have local support. In addition to these requirements, the statute has been amended to require that a county must be designated as a rural

opportunity zone to be eligible, a vote by the county commission is necessary and the election to participate in the enterprise zone program is binding for five years.

### Section 3.

This section, requiring certain reports to the legislature by the secretary of commerce, has been amended to require an additional annual report to the house committee on appropriations and senate committee on ways and means on the effectiveness of the enterprise zone act and the rural opportunity zone program.

### Section 4.

This section amends the statute that sets out the rural opportunity zone program. The current requirement that a decision to join the rural opportunity zone program is binding for five years is amended to permit election by a county to participate in the enterprise zone program as provided by the bill instead. Counties that choose to do so, however, must continue to pay off the student loans of persons who qualified for student loan assistance under the rural opportunity zone program as a condition of the county joining the enterprise zone program.

### Section 5.

This section sets out the tax credits available and the eligibility requirements for those tax credits under the enterprise zone act. Subsections (a) and (b) pertain to the reestablished enterprise zone program and have been amended to make the credits available for tax years after December 31, 2017 for businesses that meet the requirements. Insurance companies or financial institutions may receive a credit against the specific taxes imposed against them if they locate a headquarters in the nonmetropolitan zone and add 20 new jobs. Manufacturing businesses must add two new jobs; nonmanufacturing businesses must add five. The amount of the one-time credit is \$2,500 for each new employee and \$1,000 for each \$100,000 of investment or major fraction thereof. The credit may be carried over in succeeding tax years until used completely, however the business must recertify annually that it has maintained the job creation requirements.

### Section 6.

This section is a provision that terminated the enterprise zone program in 2011. The section is amended to provide tax credits may be earned through the enterprise zone act starting January 1, 2018.

### Section 7.

Section 7 at subsection (cc) is the enterprise zone sales tax exemption that exempts all sales of tangible personal property or services purchased for the purpose of constructing, reconstructing, enlarging or remodeling a business which meets the requirements established in section 1, and the sale and installation of machinery and equipment purchased for installation at the business. The amendment revives this incentive for purposes of the enterprise zone program starting January 1, 2018.

74-50,222.(b) "Rural opportunity zone" means Allen, Anderson, Barber, Bourbon, Brown, Chase, Chautauqua, Cherokee, Cheyenne, Clark, Clay, Cloud, Coffey, Comanche, Decatur, Doniphan, Edwards, Elk, Ellsworth, Gove, Graham, Grant, Gray, Greeley, Greenwood, Hamilton, Harper, Haskell, Hodgeman, Jackson, Jewell, Kearny, Kingman, Kiowa, Labette, Lane, Lincoln, Linn, Logan, Marion, Marshall, Meade, Mitchell, Montgomery, Morris, Morton, Nemaha, Neosho, Ness, Norton, Osborne, Ottawa, Pawnee, Phillips, Pratt, Rawlins, Republic, Rice, Rooks, Rush, Russell, Scott, Sheridan, Sherman, Smith, Stafford, Stanton, Stevens, Sumner, Trego, Thomas, Wabaunsee, Wallace, Washington, Wichita, Wilson or Woodson counties.