



Amy Loudenbeck

REPRESENTING WISCONSIN'S 31ST ASSEMBLY DISTRICT

Senate Committee on Economic Development and Local Government

Public Hearing on Senate Bill 449

December 18, 2013

Good Afternoon, Senators. Please allow me to extend my most sincere appreciation for your consideration of Senate Bill 449 relating to authorizing the transfer of certain tax credits earned in connection with economic development in this state.

Senator Gudex has already provided excellent testimony on the importance of economic development tax credits (ETCs) and the need to expand the utility of existing non-refundable tax credits.

The idea of tax credit transferability is not new. Many states already allow for the transfer of tax credits. Some even allow for the discounted resale of tax credits for cash.

Over the course of the past several months, I have had the privilege of working with the Wisconsin Economic Development Corporation (WEDC), the Wisconsin Department of Revenue (DOR), the Wisconsin Economic Development Association, and other stakeholders to craft a limited ETC transferability bill that is unique to Wisconsin.

Simply put, Senate Bill 449 would give WEDC the authority to approve the limited re-assignment or transfer of an earned ETC between entities involved in a WEDC approved economic development project. By leveraging an earned ETC within the limitations of the existing vendor/supplier network of the project, certain types of projects will be able to take advantage of the missing value/benefit that is unavailable under current law.

Under the bill, up to \$15 million of existing economic development tax credits may be re-assigned over a three year period using a mechanism of pre-approvals and notifications that would be conducted by WEDC and DOR. The elements of the bill that relate to application, approval, reporting, and revocation have been drafted with the assistance of WEDC and DOR to ensure that the integrity and intent of the existing ETC program is maintained and that sufficient recovery measures are in place.

Senate Bill 449 bill does not allow for the exchange of tax credits for cash. The bill does not create a refundable tax credit. It does not provide an additional ETC allocation, and ETC eligibility requirements under current law are not changed under the bill.

Thank you for your kind attention and I would be happy to answer any questions.



State Senator
Rick Gudex

District 18

December 18, 2013

To: The Senate Committee on Economic Development and Local Government
From: Sen. Rick Gudex
Re: **Senate Bill 449**

Tax credits are Wisconsin's main tool for economic development. Over the past several years, we have tried to expand and strengthen the credits we offer to give job-creating businesses the best possible chance for success in our state.

But some companies, particularly new companies, have a problem: not enough tax liability. I know, that's a strange thing to say. How can a lack of tax liability be a problem?

One of the reasons we try to make our tax environment more friendly is to make Wisconsin a destination for businesses and entrepreneurs. Tax credits are better for those companies, established companies, looking for a new home or which have already been creating jobs and income in Wisconsin.

But for an entrepreneur looking to start something new, they may not have that effect. Startups are likely to go several years without profits, and without guarantees. So even when we create tax credits with 15-year carry forwards, we're not creating an incentive for the new companies that we all want to support.

That is where the portability idea comes in. Award the tax credits, but allow companies with no tax liability to use those credits in some other way.

This bill does just that. Under the bill, a company that is eligible for a tax credit can exchange that credit for some other consideration that adds value to that company.

They will not be able to sell the credit for cash: only for some other consideration like leasing or rental costs. So while this bill doesn't provide immediate equity and cash flow, it does reduce the company's overhead, freeing up capital they may have had to spend otherwise, or even making something possible that would not have been before.

Other aspects of this bill were put in to keep it as simple as possible. The credits can't be split up: they can only be transferred in their entirety, and only one time, up front. WEDC must approve all such transfers at the time that they approve the original credit. WEDC will be able to approve up to \$15 million of these transfers over 3 years, with the possibility of another \$15 million over the following three years if it works.

The sale of tax credits can be a powerful tool for businesses that Wisconsin needs to explore. Between this bill and the recently enacted historic tax credit legislation, we have an opportunity to find out a great deal about how powerful this legislation can be.

This is a simple, but important and bipartisan bill, which should have little if any fiscal impact. I urge your support.



Scott Walker
Governor

Richard G. Chandler
Secretary of Revenue

December 18, 2013

DOR Testimony on Senate Bill 449
Senate Committee on Economic Development and Local Government

Chairman Gudex and members of the Senate Committee on Economic Development and Local Government, thank you for the opportunity to provide comment on Senate Bill 449.

Senate Bill 449 enables an applicant who is applying to the Wisconsin Economic Development Corporation (WEDC) to receive economic development tax credits to indicate in their initial application that they desire to transfer those credits to another person. If WEDC certifies the eligibility for the transfer of the credits, the applicant must transfer the amount of the credits in accordance with the terms of the application.

WEDC may only approve applications if the applicant meets one of the following criteria:

- The applicant is headquartered in Wisconsin and employs at least 51 percent of its employees in Wisconsin.
- The applicant intends to relocate its headquarters to Wisconsin and employ at least 51 percent of its employees in Wisconsin.
- The applicant intends to expand its operations in Wisconsin, increasing their number of full-time employees in Wisconsin by at least 10 percent of the person's full-time employees.
- The applicant intends to expand its operations in Wisconsin, and the applicant will make a significant capital investment in property in Wisconsin as a result of that expansion.

When an applicant is certified for the transfer of tax credits, WEDC would notify DOR of all relevant information concerning the transfer. This allows DOR to have a record of the transfer of these tax credits, and the amount of credits that a person to whom tax credits were transferred may claim. A 15-year carryforward would apply to unused tax benefits from the date that the notice of eligibility to transfer the credits was provided.

It is important to note that in the case of a transfer, the amount of consideration received by the applicant is subject to federal and state income tax as a capital gain from the sale of an asset. Likewise, the person to whom tax credits are transferred will owe federal and state income tax on the capital gain that results when the transferee uses the full amount of the credit to offset tax liability over the lesser amount of tax basis obtained from purchasing the credit.

If WEDC would revoke an applicant's certification for economic development tax credits, then WEDC would notify DOR of this revocation. DOR would then be authorized to assess and collect the value of the tax credits from the original applicant. In the case of revocation, the person to whom any tax credits were transferred would not be able to claim unused tax credits.

The bill authorizes WEDC to approve the transfer of up to \$15 million in economic development tax credits within a three-year period. WEDC would be able to request extending this authority for an additional \$15 million and for an additional three-year period, if WEDC determines doing so would promote significant economic development, and such request is approved under a passive Joint Committee on Finance review process.

Thank you again for the opportunity to discuss SB 449.



Wisconsin Economic Development Association

TO: Members, Senate Committee on Economic Development and Local Government
FROM: Kristen Fish, Wisconsin Economic Development Association
DATE: December 18, 2013
RE: **Support for Senate Bill 449, authorizing the transfer of certain tax credits earned in connection with economic development in this state.**

The Wisconsin Economic Development Association (WEDA) is a statewide association consisting of over 450 economic development practitioners. WEDA supports state policies that strengthen our economy and create jobs. WEDA supports Senate Bill 449, as this is the type of catalytic and innovative policy that has the opportunity to generate increased economic development activities throughout Wisconsin. We appreciate the early endorsement of this bill by Sen. Gudex and Rep. Loudenbeck, as well as the strong bipartisan support shown by members of this Committee.

On a daily basis, in urban and rural corridors alike, WEDA members are reconciling project needs with antiquated economic development tools. While certainly well intentioned, the vast majority of the tools in Wisconsin's economic development toolbox are simply insufficient or not helpful at advancing investment and employment opportunities. Income tax credits are a prime example. Even though past legislative fixes have been implemented, practical and structural challenges still exist.

Under current law, economic development tax credits can only be used if the original tax credit recipient has a corresponding state income tax liability. If an original tax credit recipient has no income tax liability, the credits essentially have no value. It's not uncommon for a business's first three to five years to be very lean with regards to profitability. The firm's income tax obligations will be equally lean; thus diminishing the value of any credit awarded.

Other tax credit utilization issues persist with certain business structures (e.g. S-Corps, LLCs or LLPs) and types (namely those engaged in warehouse and distribution, where the income generation nexus of the business is often linked to another location). In these instances, tax credits provide very limited, if any, benefits to the original recipients.

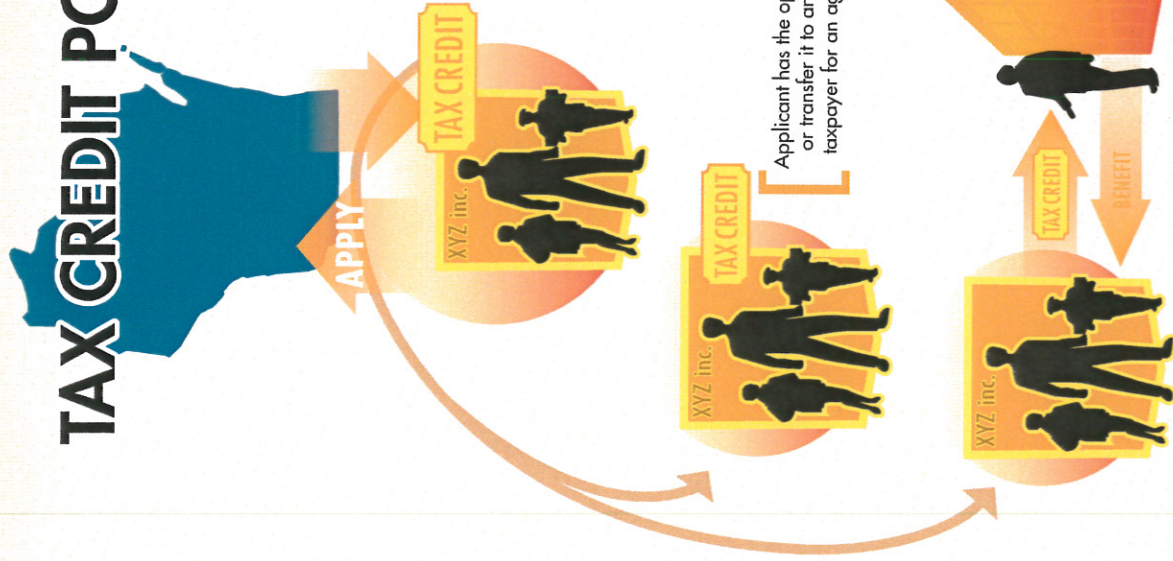
Allowing the transfer of credits, within a contractually controlled environment, and with oversight from the Wisconsin Economic Development Corporation (WEDC), will enhance the usefulness of Wisconsin's income tax credit incentives. For example, in exchange for a firm's approved tax credit award, a landlord could provide the original credit recipient with reduced rental rates; finance tenant improvements; cover relocation costs; or assist with underwriting a tenant's talent and training needs; etc.

By enabling this type of exchange mechanism, WEDA members and their partners will have a value-added economic development tool that can help spur additional investment and employment opportunities throughout Wisconsin. Your favorable consideration of Senate Bill 449 is greatly appreciated. Thank You.

TAX CREDIT PORTABILITY

[connecting capital & development]

- Enhance the use of an existing WI ED tool
- Reduce the financial gap between a tax credit's paper and net present value
- Create a stream of affordable, flexible cash
- Accelerate ED projects and create jobs



POTENTIAL TAX CREDIT TRANSFER BENEFITS:

- Reduced Lease Rates
- Property Improvements
- Equipment Purchases
- Relocation Costs
- Talent Recruitment

OVERSIGHT



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experience the power of community

**Testimony of Daniel Cunningham (Forward Janesville, Inc.) before the Wisconsin
Senate Committee on Economic Development and Local Government
December 18, 2013**

Good morning Mr. Chairman and committee members. My name is Dan Cunningham, and I am the Vice President of Forward Janesville, a 500-member chamber of commerce and economic development organization representing businesses of all sizes in Janesville, Rock County and throughout south central Wisconsin.

Our story in Rock County has been well told. The 2008 closing of Janesville's General Motors Plant hit our economy hard. And while we're not all the way back yet, we are proud of our progress over the last five years. When the plant closure was announced, a group of community leaders developed a proactive agenda that contained steps that the legislature could take to help Rock County and the state of Wisconsin. Tax credit transferability was at the top of that list. Therefore, I am here to speak enthusiastically in support of Senate Bill 449.

Tax credits are one of the primary tools in Wisconsin's economic development toolbox, and are frequently the primary state incentive offered to relocating and expanding businesses. Often, these tax credits are offered to (A.) start-up companies that have yet to generate a profit, or (B.) distribution center-type facilities that do not actually sell anything. Operations of this nature often not have any state income tax liability, making the granting of tax credits largely ineffective. Offering tax credits to companies who (1) do not currently need them, or (2) can't utilize them over does not provide the desired economic incentive.

Senate Bill 449 would allow for the limited re-assignment/transfer of tax credits between entities involved in a WEDC-approved economic development project. It is important to note that the tax credit exchange would occur between the qualified applicant and another business connected with the project for goods or services with a defined value. The bill allows the transfer of up to \$15 million in economic development tax credits over three years. If this concept works as well as we hope it will, the program may be extended for an additional three years.

Senate Bill 449 also contains important taxpayer protections, and protects the integrity and intent of the economic development tax credit program. Under the bill, if WEDC revokes a person's certification for economic development tax credits and that person has already transferred the tax credits, that person is liable for the full amount of the tax credits. The bill does not allow for the exchange of tax credits for cash, it does not create a refundable tax credit, nor does it provide an additional tax credit allocation. It provides is a limited, common-sense approach to an issue that has vexed Wisconsin's economic development community for years. I urge you to support this reasonable bipartisan bill. Thank you.



HENDRICKS
COMMERCIAL
PROPERTIES

December 18, 2013

Re: SB 449

Members of the Senate Committee on Economic Development:

In response to today's Senate Committee public hearing on SB 449, which is cosponsored by several members of Rock County's State Delegation, I wanted to quickly highlight the importance of this legislation to Hendricks Commercial Properties (HCP), as well as the County's / State's economic development efforts. As you know, job creation is one of the key initiatives for HCP and its holding company - Hendricks Holding Co., which is a diverse investment and business development group anchored in Beloit, WI.

At HCP, I am responsible for securing and maintaining tenants for our 15 Million + SF real estate portfolio. While this portfolio stretches across the United States, approximately 50% of this real estate is anchored within the Midwest. With sizable portions of this property in Rock County, as well as other WI counties too, you can appreciate the important roles that this real estate plays in our local communities. Suffice to say: matching-up available real estate for emerging entrepreneurs, expanding firms and relocating companies is an extremely complicated and competitive business proposition.

I can attest to this competition standpoint first hand, as I am constantly dealing with an increasingly diverse range of prospective and existing tenants. In the past, as well as today, our tenants generally find more advantageous deals elsewhere. Tax breaks, easier / less costly permitting and more generous incentives are generally the factors that must be overcome as we attempt to match-up tenant expectations and their related needs. While HCP prides itself on being more creative and responsive than other developers, our hands are somewhat tied too.

As such, any assistance that we can leverage from the local and/or state government enables us to level the playing field and SB 449 is a step in the right direction. This bill creates a simple system to maximize the value of tax credits; which in turn, provides property owners and developers like HCP with a value-added tool to help create jobs through tenant leases and/or property sales.

Since HCP and Hendricks Holding Co. pay taxes too, we have a vested interest to ensure that the appropriate accountability standards exist with respect to the use of public incentives. In my opinion, SB 449 meets this test.

Thank you for your initiative and foresight in proposing this important bill.

Sincerely,

Robert Gerbitz

President & Chief Operating Officer

Hendricks Commercial Properties, LLC

655 Third St., Suite 301 ■ Beloit, WI 53511 ■ 608-362-8981 ■ Fax 608-364-0172
www.hendricksgroup.net



December 18, 2013

PLEASE SUPPORT SB 449

Members of the Senate Committee on Economic Development & Local Government:

I am the President of Helgesen Development Corporation (HDC), a Wisconsin family owned business that has been in existence for more than 50 years. We currently have seven properties in the State, totaling approximately 2.3 Million SF. At HDC, our mission is to provide the best real estate solutions to our customers without compromising timelines or budgets. In doing so, we facilitate a synergy with many team members to deliver real estate management, site planning, financing and construction services to our existing – as well as prospective – customers.

Unfortunately, the impacts of the Great Recession have been particularly challenging for companies like HDC. Having lived most of my life in Janesville, it's agonizing to watch the challenges that this region continues to face each and every day. Although HDC has become much more creative than ever before, it remains an arduous task to secure, long-term, value-added tenants. Even though we are grateful for the unwavering support from our State, County and City partners throughout many HDC projects, there's more work to be done.

That's why I'm reaching out to you, your Senate / Assembly colleagues and Governor Walker urging passage of bills such as SB 449. This proposed legislation, which is being cosponsored by several members of Rock County's State Delegation, is a vital tool to boost our economic development efforts and it creates win-win benefits for everyone involved. More importantly, this bill represents the type of forward thinking that is needed from our legislature to create that competitive edge to help boost our entire economic development efforts – from the State to the local level.

Thank you very much for this input opportunity. I believe that passage of this bill represents a marquee step in the right direction toward achieving the collective goals of an improved economy; encouraging more investment; and adding more jobs for our family, friends and neighbors.

Sincerely,

Jeffrey W. Helgesen

Jeffrey W. Helgesen
President



OSHKOSH CHAMBER OF COMMERCE

ADVOCACY COMMUNITY DEVELOPMENT LEADERSHIP

MEMORANDUM

TO: Senate Committee on Economic Development and Local Government

FROM: Rob Kleman, Sr. Vice President, Economic Development, Oshkosh Chamber of Commerce

DATE: December 18, 2013

RE: Senate Bill 449

The Oshkosh Chamber of Commerce is in support of Senate Bill 449. By offering the transferability of tax credits, the State of Wisconsin will greatly enhance the usefulness of tax credits and their value to job creating economic development projects. Allowing the transferability of tax credits will immediately create a matchmaking environment and facilitate real estate transactions between businesses with limited income tax obligations and those with existing income tax obligations. This could be the difference in a making a potential job creating project a reality or not. Tax Credit transferability will also help to support entrepreneurial start-up companies that may not have a Wisconsin Income Tax Liability and provide a mechanism to give them much needed resources during a critical time in their business development and growth effort. These are typical scenarios that could and do play out in our economic development landscape on a daily basis around the State of Wisconsin. Allowing these transfers will greatly enhance our ability in the State of Wisconsin to be more competitive and offer programs that are beneficial and useful to job creating businesses and entrepreneurs. The Oshkosh Chamber strongly urges your support of Senate Bill 449.

Thank you,

Rob Kleman
Senior Vice President, Economic Development
Oshkosh Chamber of Commerce
920-303-2265, ext. 14
rob@oshkoshchamber.com

A Five Star Accredited Chamber of Commerce