

**Statement of Senator Craig Thomas, Chairman
Subcommittee on International Trade**

**Hearing on *Cuno* and Competitiveness: Where to Draw the Line
March 16, 2006**

Thank you for being here today. I appreciate you appearing before the Senate Finance International Trade Subcommittee to share your thoughts regarding the *Cuno* case and its impact on domestic and international competitiveness. I look forward to your comments.

The actions that gave rise to the issues to be discussed today began in 1998, when DaimlerChrysler entered into an agreement with Toledo, Ohio, and two school districts to construct a new vehicle assembly plant in exchange for approximately \$280 million in tax incentives.

Under two separate provisions of Ohio law, DaimlerChrysler was to receive a 10-year 100 percent property tax exemption and an investment tax credit of 13.5 percent against the state corporate franchise tax for building the new facility in an economically-depressed area of Ohio.

A group of Ohio and Michigan taxpayers sued, alleging that these tax benefits discriminated against deciding to do business outside Ohio, in violation of the commerce clause of the U.S. Constitution and equal protection clause of the Ohio Constitution. The federal court agreed on the issue of the investment tax credit, and the Supreme Court heard arguments on the constitutionality of the investment tax credit on March 1.

While I am hesitant to intervene in an issue that is still in the process of being litigated, I understand there is widespread interest in the issues presented. Additionally, there is a strong possibility that the issue of standing may prevent the court from reaching a substantive decision at this time, and the Supreme Court itself acknowledged that the issue of investment tax credits is one that may be best dealt with in the political arena.

The issues raised by the *Cuno* case are far-reaching – from encouraging healthy competition for investment between various domestic and international jurisdictions, to ensuring that states do not engage in activity that discriminates against interstate business. As a country that values its federalist system, we must take care to guard a state's ability to establish its own laws and exercise appropriate taxing jurisdiction, while at the same time ensuring that there is a clear line delineating where competition ends and discrimination begins.