

HOUSE BILL No. 2010

By Joint Committee on Economic Development

12-17

9 AN ACT concerning economic development; relating to an annual report
10 evaluating the cost effectiveness of income tax credits and sales tax
11 exemptions; production responsibility moved from Kansas, Inc. to the
12 department of revenue; amending K.S.A. 79-1119 and 79-3614 and
13 K.S.A. 2004 Supp. 79-3234 and repealing the existing sections; also
14 repealing K.S.A. 2004 Supp. 74-8017 and 74-99b35.
15

16 *Be it enacted by the Legislature of the State of Kansas:*

17 New Section 1. The secretary of revenue shall prepare an annual
18 report evaluating the cost effectiveness of the various income tax credits
19 and sales tax exemptions enacted to encourage economic development
20 within this state and submit the same to the standing committees on
21 taxation and economic development of the house and assessment and
22 taxation and commerce of the senate at the beginning of each regular
23 session of the legislature. The secretary of revenue, in consultation with
24 the president of Kansas, Inc., shall develop a questionnaire on the utili-
25 zation of state income tax credits and sales tax exemptions that shall be
26 completed by all corporate taxpayers that:(1) Are subject to state income
27 tax and (2) utilize any of the state income tax credits and exemptions
28 described in subsections (a) through (j) below that shall be submitted to
29 the department concurrently with the filing of an annual corporate in-
30 come tax return. The completed questionnaires shall be used in the prep-
31 aration of such annual report. The questionnaire shall require respon-
32 dents to indicate utilization of the following credits, exemptions and bond
33 financing:

34 (a) Income tax credits authorized under the provisions of the job ex-
35 pansion and investment credit act of 1976 and amendments thereto;

36 (b) income tax credits for expenditures in research and development
37 activities authorized by K.S.A. 79-32,182, and amendments thereto;

38 (c) income and financial institutions privilege tax credits for cash in-
39 vestment in stock of Kansas Venture Capital, Inc. authorized by K.S.A.
40 74-8205 and 74-8206, and amendments thereto;

41 (d) income tax credits for cash investment in certified Kansas venture
42 capital companies authorized by K.S.A. 74-8304, and amendments
43 thereto;

- 1 (e) income tax credits for cash investment in certified local seed cap-
2 ital pools authorized by K.S.A. 74-8401, and amendments thereto;
- 3 (f) income tax credits for investment in the training and education of
4 qualified firms' employees authorized by K.S.A. 74-50,132, and amend-
5 ments thereto;
- 6 (g) sales tax exemptions for property or services purchased for the
7 purpose of and in conjunction with constructing, reconstructing, enlarg-
8 ing or remodeling a business, or retail business meeting the requirements
9 of K.S.A. 74-50,115, and amendments thereto, and machinery and equip-
10 ment for installation at such business or retail business authorized by
11 subsection (cc) of K.S.A. 79-3606, and amendments thereto;
- 12 (h) sales tax exemptions for machinery and equipment used directly
13 and primarily for the purposes of manufacturing, assembling, processing,
14 finishing, storing, warehousing or distributing articles of tangible personal
15 property in this state intended for resale by a manufacturing or processing
16 plant or facility or a storage, warehousing or distribution facility;
- 17 (i) distribution from the special economic revitalization fund pursuant
18 to the provisions of the economic revitalization reinvestment act, K.S.A.
19 2004 Supp. 74-50,136, and amendments thereto; and
- 20 (j) special obligation bonds authorized by K.S.A. 12-1774, and
21 amendments thereto.
- 22 Sec. 2. K.S.A. 79-1119 is hereby amended to read as follows:79-
23 1119 (a) All reports, statements, lists and returns required under the
24 provisions of article 11 of chapter 79 of the Kansas Statutes Annotated
25 shall be preserved for three (3) years and thereafter until the director of
26 taxation orders them to be destroyed.
- 27 (b) Except in accordance with proper judicial order, or as provided
28 in subsection (c) of this section, subsection (g) of K.S.A. 17-7511 or 46-
29 1106, it shall be unlawful for the director of taxation, or any deputy, agent,
30 clerk or other officer, employee or former employee of the department
31 of revenue or any other state officer or employee or former state officer
32 or employee to divulge, or to make known in any way, the amount of
33 income or any particulars set forth or disclosed in any report, statement,
34 list, return, federal return or federal return information required under
35 the provisions of article 11 of chapter 79 of the Kansas Statutes Anno-
36 tated; and it shall be unlawful for the director of taxation, or any deputy,
37 agent, clerk or other officer or employee of the department of revenue
38 engaged in the administration of the tax imposed under the provisions of
39 article 11 of chapter 79 of the Kansas Statutes Annotated to engage in
40 the business or profession of tax accounting or to accept employment,
41 with or without consideration, for any person, firm or corporation for the
42 purpose, directly or indirectly, or preparing tax returns or reports re-
43 quired by the laws of the state of Kansas, by any other state or by the

1 United States government, or to accept any employment for the purpose
2 of advising, preparing material or data, or the auditing of books or records
3 to be used in an effort to defeat or cancel any tax or part thereof that has
4 been assessed by the state of Kansas, any other state or by the United
5 States government.

6 (c) Nothing herein shall be construed to prohibit the publication of
7 statistics, so classified as to prevent the identification of particular reports
8 or returns and the items thereof, or the inspection of returns by the
9 attorney general or other legal representatives of the state. Nothing in
10 this section shall prohibit the post auditor from access to all statements,
11 lists, reports or returns in accordance with and subject to the provisions
12 of subsection (g) of K.S.A. 46-1106. Any person receiving information
13 under the provisions of this subsection shall be subject to the confidential-
14 tiality provisions of subsection (b) of this section and to the penalty pro-
15 visions of subsection (d) of this section.

16 (d) Any violation of subsections (b) or (c) of this section shall be a
17 class B misdemeanor; and if the offender be an officer or employee of
18 the state, ~~he or she~~ the offender shall be dismissed from office.

19 (e) Notwithstanding the provisions of this section, the secretary of
20 revenue may, in ~~his or her~~ the secretary's discretion, permit the commis-
21 sioner of internal revenue of the United States, or the proper official of
22 any state imposing an income tax or privilege tax on financial institutions,
23 or the authorized representative of either, to inspect the reports, state-
24 ments, lists or returns made under the provisions of article 11 of chapter
25 79 of the Kansas Statutes Annotated and the secretary of revenue may
26 make available or furnish to the taxing officials of any other state or the
27 commissioner of internal revenue of the United States or other taxing
28 officials of the federal government, or their authorized representatives,
29 information contained in statements, lists, reports, or returns or any audit
30 thereof or the report of any investigation made with respect thereto, filed
31 pursuant to any of the provisions of article 11 of chapter 79 of the Kansas
32 Statutes Annotated, as the secretary may consider proper, but such in-
33 formation shall not be used for any other purpose than that of the ad-
34 ministration of tax laws of such state or of the United States.

35 ~~(f) Notwithstanding the provisions of this section, the secretary of~~
36 ~~revenue may provide such information to the president of Kansas, Inc.~~
37 ~~as required by K.S.A. 1997 Supp. 74-8017, and amendments thereto. The~~
38 ~~president and any employees or former employees of Kansas, Inc. re-~~
39 ~~ceiving any such information shall be subject to the confidentiality pro-~~
40 ~~visions of subsection (b) and to the penalty provisions of subsection (d).~~

41 Sec. 3. K.S.A. 2004 Supp. 79-3234 is hereby amended to read as
42 follows: 79-3234. (a) All reports and returns required by this act shall be
43 preserved for three years and thereafter until the director orders them

1 to be destroyed.

2 (b) Except in accordance with proper judicial order, or as provided
3 in subsection (c) or in K.S.A. 17-7511, subsection (g) of K.S.A. 46-1106,
4 K.S.A. 46-1114, or K.S.A. 79-32,153a, and amendments thereto, it shall
5 be unlawful for the director, any deputy, agent, clerk or other officer,
6 employee or former employee of the department of revenue or any other
7 state officer or employee or former state officer or employee to divulge,
8 or to make known in any way, the amount of income or any particulars
9 set forth or disclosed in any report, return, federal return or federal return
10 information required under this act; and it shall be unlawful for the di-
11 rector, any deputy, agent, clerk or other officer or employee engaged in
12 the administration of this act to engage in the business or profession of
13 tax accounting or to accept employment, with or without consideration,
14 from any person, firm or corporation for the purpose, directly or indi-
15 rectly, of preparing tax returns or reports required by the laws of the state
16 of Kansas, by any other state or by the United States government, or to
17 accept any employment for the purpose of advising, preparing material
18 or data, or the auditing of books or records to be used in an effort to
19 defeat or cancel any tax or part thereof that has been assessed by the
20 state of Kansas, any other state or by the United States government.

21 (c) Nothing in this section shall be construed to prohibit the publi-
22 cation of statistics, so classified as to prevent the identification of partic-
23 ular reports or returns and the items thereof, or the inspection of returns
24 by the attorney general or other legal representatives of the state. Nothing
25 in this section shall prohibit the post auditor from access to all income
26 tax reports or returns in accordance with and subject to the provisions of
27 subsection (g) of K.S.A. 46-1106 or K.S.A. 46-1114, and amendments
28 thereto. Nothing in this section shall be construed to prohibit the disclo-
29 sure of taxpayer information from income tax returns to persons or enti-
30 tities contracting with the secretary of revenue where the secretary has
31 determined disclosure of such information is essential for completion of
32 the contract and has taken appropriate steps to preserve confidentiality.
33 Nothing in this section shall be construed to prohibit the disclosure of
34 job creation and investment information derived from tax schedules re-
35 quired to be filed under the Kansas income tax act to the secretary of
36 commerce. Nothing in this section shall be construed to prohibit the
37 disclosure of income tax returns to the state gaming agency to be used
38 solely for the purpose of determining qualifications of licensees of and
39 applicants for licensure in tribal gaming. Any information received by the
40 state gaming agency shall be confidential and shall not be disclosed except
41 to the executive director, employees of the state gaming agency and mem-
42 bers and employees of the tribal gaming commission. Nothing in this
43 section shall be construed to prohibit the disclosure of the taxpayer's

1 name, last known address and residency status to the department of wild-
2 life and parks to be used solely in its license fraud investigations. Nothing
3 in this section shall prohibit the disclosure of the name, residence address,
4 employer or Kansas adjusted gross income of a taxpayer who may have a
5 duty of support in a title IV-D case to the secretary of the Kansas de-
6 partment of social and rehabilitation services for use solely in administra-
7 tive or judicial proceedings to establish, modify or enforce such support
8 obligation in a title IV-D case. In addition to any other limits on use, such
9 use shall be allowed only where subject to a protective order which pro-
10 hibits disclosure outside of the title IV-D proceeding. As used in this
11 section, "title IV-D case" means a case being administered pursuant to
12 part D of title IV of the federal social security act (42 U.S.C. § 651 *et*
13 *seq.*) and amendments thereto. Any person receiving any information un-
14 der the provisions of this subsection shall be subject to the confidentiality
15 provisions of subsection (b) and to the penalty provisions of subsection
16 (d).

17 (d) Any violation of subsection (b) or (c) is a class B nonperson mis-
18 demeanor and, if the offender is an officer or employee of the state, such
19 officer or employee shall be dismissed from office.

20 (e) Notwithstanding the provisions of this section, the secretary of
21 revenue may permit the commissioner of internal revenue of the United
22 States, or the proper official of any state imposing an income tax, or the
23 authorized representative of either, to inspect the income tax returns
24 made under this act and the secretary of revenue may make available or
25 furnish to the taxing officials of any other state or the commissioner of
26 internal revenue of the United States or other taxing officials of the fed-
27 eral government, or their authorized representatives, information con-
28 tained in income tax reports or returns or any audit thereof or the report
29 of any investigation made with respect thereto, filed pursuant to the in-
30 come tax laws, as the secretary may consider proper, but such information
31 shall not be used for any other purpose than that of the administration
32 of tax laws of such state, the state of Kansas or of the United States.

33 (f) Notwithstanding the provisions of this section, the secretary of
34 revenue may:

35 (1) Communicate to the executive director of the Kansas lottery in-
36 formation as to whether a person, partnership or corporation is current
37 in the filing of all applicable tax returns and in the payment of all taxes,
38 interest and penalties to the state of Kansas, excluding items under formal
39 appeal, for the purpose of determining whether such person, partnership
40 or corporation is eligible to be selected as a lottery retailer; *and*

41 (2) communicate to the executive director of the Kansas racing com-
42 mission as to whether a person, partnership or corporation has failed to
43 meet any tax obligation to the state of Kansas for the purpose of deter-

1 mining whether such person, partnership or corporation is eligible for a
2 facility owner license or facility manager license pursuant to the Kansas
3 parimutuel racing act, and

4 ~~—(3) provide such information to the president of Kansas, Inc. as re-~~
5 ~~quired by K.S.A. 74-8017, and amendments thereto. The president and~~
6 ~~any employees or former employees of Kansas, Inc. receiving any such~~
7 ~~information shall be subject to the confidentiality provisions of subsection~~
8 ~~(b) and to the penalty provisions of subsection (d).~~

9 (g) Nothing in this section shall be construed to allow disclosure of
10 the amount of income or any particulars set forth or disclosed in any
11 report, return, federal return or federal return information, where such
12 disclosure is prohibited by the federal internal revenue code as in effect
13 on September 1, 1996, and amendments thereto, related federal internal
14 revenue rules or regulations, or other federal law.

15 Sec. 4. K.S.A. 79-3614 is hereby amended to read as follows: 79-
16 3614. All information received by the director from returns filed under
17 this act, or from any investigations conducted under the provisions of this
18 act, shall be confidential, except for official purposes, and it shall be un-
19 lawful for any officer or employee of such director to divulge any such
20 information in any manner, except in accordance with a proper judicial
21 order, or as provided in K.S.A. 74-2424, and amendments thereto. The
22 post auditor shall have access to all such information in accordance with
23 and subject to the provisions of subsection (g) of K.S.A. 46-1106, and
24 amendments thereto. Nothing in this section shall be construed to pro-
25 hibit the disclosure of taxpayer information from sales tax returns to per-
26 sons or entities contracting with the secretary of revenue where the sec-
27 retary has determined disclosure of such information is essential for
28 completion of the contract and has taken appropriate steps to preserve
29 confidentiality. ~~Notwithstanding the provisions of this section, the sec-~~
30 ~~retary of revenue may provide such information to the president of Kan-~~
31 ~~sas, Inc. as required by K.S.A. 1997 Supp. 74-8017, and amendments~~
32 ~~thereto.~~ Any person receiving any such information pursuant to this sec-
33 tion shall be subject to the same duty of confidentiality imposed on of-
34 ficers and employees of the department of revenue by this section and
35 shall be subject to any civil or criminal penalties imposed by law for
36 violations of such duty of confidentiality.

37 Sec. 5. K.S.A. 79-1119 and 79-3614 and K.S.A. 2004 Supp. 74-8017,
38 74-99b35 and 79-3234 are hereby repealed.

39 Sec. 6. This act shall take effect and be in force from and after its
40 publication in the statute book.