

Approved: February 3, 1999
Date

MINUTES OF THE SENATE COMMERCE COMMITTEE.

The meeting was called to order by Chairperson Alicia Salisbury at 8:00 a.m. on February 2, 1999 in Room 123-S of the Capitol.

All members were present except:

Committee staff present: Jerry Donaldson, Legislative Research Department
Lynne Holt, Legislative Research Department
Bob Nugent, Revisor of Statutes
Betty Bomar, Committee Secretary

Conferees appearing before the committee:

Mikel Miller, Kansas, Inc.
Shirley Sicilian, Kansas Department of Revenue
Jonathan Small, Koch, Industries
Charles Ranson, President, Kansas, Inc.

Others attending: See attached list

Jonathan Small, Koch Industries, appeared on behalf of a Wichita employers group to request Committee introduction of a bill to amend three sections of the Workers Compensation Act.

Senator Gooch moved, seconded by Senator Steineger, that a bill be introduced to amend certain sections of the Workers Compensation Act. The voice vote was in favor of the motion.

Charles Ranson, President, Kansas, Inc., requested a bill be introduced to implement a new Seed Venture Capital Program which would reflect best practices of state sponsored programs.

Senator Steffes moved, seconded by Senator Barone, that a bill be introduced to implement a new Seed and Venture Capital Program. The voice vote was in favor of the motion.

Upon motion by Senator Steineger, seconded by Senator Brownlee, the Minutes of the January 29, 1999 Meeting were approved.

SB 69 - Disclosure of taxpayer information by Department of Revenue to Kansas, Inc.

Mikel Miller, Research Analyst, Kansas, inc., testified in support of **SB 69**, which repeals the filing of the questionnaire on the utilization of state income tax credits and sales tax exemptions completed by all corporate taxpayers as provided in KSA 74-8017(a); adds a requirement that the Department of Revenue shall provide Kansas, Inc. with the name, address and telephone number of any taxpayer claiming an economic development credit; and continues the requirement that the Department of Revenue provide Kansas, Inc. with copies of Requests for Project Exemption Certificates. **SB 69** also authorizes the Department of Revenue to provide the information to Kansas, Inc. and imposes strict confidentiality requirements and penalties on Kansas, Inc. to insure that taxpayer confidentiality is protected. (Attachment 1)

Ms. Miller stated the questionnaire was developed and became part of the Corporate Tax Booklet beginning in 1994. The Department of Revenue harvests the completed questionnaires from the corporate tax return and provides them to Kansas, Inc. Kansas, Inc. intended to use the information from the questionnaires to contact those firms regarding the impact of incentives on their company's decision-making process. The questionnaire system has been very disappointing and cannot be used as intended because too few filers are identified to allow for reliable survey results. Kansas, Inc., is, therefore, unable to produce an analysis of the effectiveness of the economic development tax credits as required by Kansas law.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMERCE COMMITTEE, Room 123-S of the Statehouse, at 8:00 a.m. on February 2, 1999.

Ms. Miller stated the proposed amendments in **SB 69** will provide adequate information to allow Kansas, Inc. to complete an analysis of the effectiveness of the economic development tax credits.

Ms. Shirley Sicilian, Director of Policy and Research, Department of Revenue, testified **SB 69** will have an administrative impact on the Department, as the information will be retrieved manually until November 1999 when the automation process is in place. Ms. Sicilian stated **SB 69** extends privacy prohibition to excise tax taxpayers.

Hal Hudson, Kansas State Director, National Federation of Independent Business (NFIB), submitted a written statement in which the NFIB takes no position on **SB 69**. (Attachment 2)

There being no further conferees to testify on this bill, the Chair concluded the hearing on **SB 69**.

Bob Nugent, Revisor of Statutes, stated that **SB 69 on Page 2**, amends the KSA 74-8017 to include the name, telephone number and address; strikes the requirement of the questionnaire; and on **Page 3** extends to Kansas, Inc., the confidentiality exemption to include excise taxes.

Senator Barone moved, seconded by Senator Brownlee, that SB 69 be amended to strike the questionnaire requirement immediately, and further be amended in Section 4, by striking "its publication in the statute book" and insert in lieu thereof, "January 1, 2000". The voice vote was in favor of the motion.

Senator Ranson moved, seconded by Senator Brownlee, that SB 69 as amended, be recommended favorable for passage. The recorded vote was unanimous in favor of the motion.

The meeting adjourned at 8:45 a.m.

The next meeting is scheduled for February 3, 1999.

**Kansas, Inc. Testimony
in support of
S.B. 69**

**Presented to Senate Commerce Committee
February 2, 1999**

In 1994, the Kansas Legislature passed H.B. 2556 (K.S.A. 74-8017) which assigned to Kansas, Inc. the responsibility to prepare an annual report evaluating the cost effectiveness of state and local sales tax exemptions granted under the Kansas Enterprise Zone Act and state economic development income tax credits.

With this mandate, Kansas, Inc. determined (and the Legislature agreed) that an evaluation such as this would require identifying taxpayers who claimed income tax credits and contacting or surveying those identified. To that end, the original version of H.B. 2556 gave Kansas, Inc. access to corporate tax returns to identify filers. The bill passed both tax committees, but the Senate Committee of the Whole did not support Kansas, Inc.'s access to corporate tax returns.

H.B. 2556 was amended on the Senate floor to provide what was envisioned to be an effective method to identify firms claiming state income tax credits without revealing information from the corporate tax return. The amendment required **all corporations subject to state income tax** to file a completed questionnaire along with their corporate income tax returns stating whether the corporation had claimed any of the economic development tax credits listed. A copy of the questionnaire is attached to this testimony.

The Secretary of Revenue, with the cooperation of Kansas, Inc., developed a questionnaire which became part of the Corporate Tax Booklet beginning in 1994. Upon receipt of the tax filing, the Department of Revenue harvests the completed questionnaires from the corporate tax return and provides them to Kansas, Inc. It was Kansas, Inc.'s intention to use the information from the questionnaires to contact those firms regarding the impact of incentives on their company's decision-making process.

Effectiveness: Despite the best efforts of all involved, results from the questionnaire system have been very disappointing and cannot be used as intended because the too few filers are identified to allow for reliable survey results. Kansas, Inc. is, therefore, unable to confidently produce analysis of the effectiveness of the economic development tax credits as required by K.S.A. 74-8017.

Table 1 compares the number of completed questionnaires received by Kansas, Inc. as of September 30, 1998 with the actual number of corporate claims filed for tax credits during that same period. As reported in Table 1, less than one-third are being captured through the questionnaire process.

Tax Credit	Questionnaires Received* (1994 to 9/30/98)	Actual Corp. Claims Reported by Revenue** (1994 to 9/30/98)	Percent of Actual Claims
Venture & Seed Capital	0	4	0.0%
Research and Development	22	251	8.8%
HPIP	8	25	32.0%
Job Creation or Investment Tax Credit	269	698	38.5%
Totals	299	978	30.6%

*45 additional questionnaires were received but were missing the second page and were therefore unusable.

**Kansas Department of Revenue Credit Summary Report as of September 30, 1998

Senate Commerce Committee

Date *2-02-99*

Attachment # *1-1 thru 1-3*

Other Limitations of the Questionnaire System:

- 1) The questionnaire attempts only to capture corporate taxpayers and does nothing to identify individual taxpayers who claim a tax credit on their personal returns (i.e. sole proprietor, partners in a company, or a pass-through from a corporation.) According to the Department of Revenue, nearly 40% of filers are individual taxpayers.
- 2) The questionnaire is an expensive proposition for both the corporate taxpayer and the Department of Revenue which must harvest the questionnaires from the thousands of corporate returns processed. Many Kansas corporations, whether they are claiming credits or not, incur additional accounting fees associated with completing and filing the questionnaire. Nine out of ten questionnaires received by this office are completed by taxpayers that have not claimed a credit. Last week I received a total of 28 questionnaires completed by Kansas corporations. None of those 28 had received tax credits.

After extensive discussions between Kansas, Inc. and the Corporate Tax Section of the Department of Revenue, Kansas, Inc. recommends that K.S.A. 74-8017 be amended.

Senate Bill 69 would amend K.S.A. 74-8017 to:

- 1) repeal that portion of the law requiring the questionnaire;
- 2) add a requirement that the Department of Revenue provide Kansas, Inc. with the name, address and telephone number (if available) of any taxpayer claiming an economic development credit; and
- 3) continue the requirement that the Department of Revenue provide Kansas, Inc. with copies of Requests for Project Exemption Certificates as has been the practice since FY 1993.

Senate Bill 69 would further amend K.S.A. 75-5133 to authorize the Department of Revenue to provide this information to Kansas, Inc.. It would impose strict confidentiality requirements and penalties on Kansas, Inc. to insure that taxpayer confidentiality is protected.

Kansas, Inc. respectfully urges your passage of S.B. 69. I will now stand for questions.

State of Kansas Economic Development Incentive Questionnaire

All Kansas corporate income taxpayers and/or their tax preparers are **required, pursuant to K.S.A. 74-8017, to complete the following questionnaire** regarding claims for income tax credits and sales tax exemptions. The information requested by the questionnaire is required to evaluate the utilization and effectiveness of these economic development and business tax credits and incentives provided by the state of Kansas.

The questionnaires will be collected by the Kansas Department of Revenue and submitted to Kansas, Inc, the economic development policy and planning agency created by the Kansas Legislature in 1986. Kansas Inc, will conduct surveys of Kansas companies using the data provided on this form. It reports its findings annually to the Kansas Legislature.

If you have any questions regarding the questionnaire, call Kansas, Inc, at (785) 296-1460. If you have questions regarding the tax credits and their definitions, call the Department of Revenue at (785) 296-0222.

Note: The name and employer identification number of the corporate taxpayer will remain confidential. Results of this questionnaire will be reported to the legislature only in aggregate.

1	Company Name _____	
2	Federal Employer Identification Number _____	3 _____ SIC Code
4	Mailing Address (P.O. box or street) _____	
5	City _____	State _____ ZIP Code _____
6	Name of Company Officer Filing this Questionnaire _____	Telephone Number _____

Job Expansion and Investment Credit Act, K.S.A. 79-32, 153, K.S.A. 79-32,160a

7 Will your tax year 1997 Kansas corporate income tax return include a 'new' claim for this credit?..... Yes No
If yes, please provide the information and answer the questions on lines 8 and 9.

8 Number of full-time employees (FTE) in tax year 1996 _____ Number of FTE during tax year 1997 _____
Total amount of expansion investment in tax year 1997..... \$ _____

9 If this credit had not been available, which is the most likely? Your company would have
 proceeded with the expansion/hiring as you did, proceeded on a smaller scale, canceled the project, or don't know.

Research and Development Credit, K.S.A. 79-32, 182

10 Will your tax year 1997 Kansas corporate income tax return include a 'new' claim for this credit?..... Yes No
If yes, please answer the questions on line 11.

11 If this credit had not been available, which is the most likely? Your company would have proceeded to conduct research and development as you did, proceeded on a smaller scale, not proceeded at all, or don't know.

Kansas Venture Capital and Seed Capital Credits, K.S.A. 74-8205, 74-8206, 74-8304, 74-8304a, 74-8401

12 Will your tax year 1997 Kansas corporate income tax return include a claim for these credits?..... Yes No
If yes, please answer the questions on line 13.

13 Please indicate the credit(s) your company is claiming. Credit for investment in stock of Kansas Venture Capital, Inc.
 Credit for investment in a certified Kansas venture capital company Credit for investment in certified local seed capital pools

Workforce Training and Facility Investment Credit (High Performance Firms Incentive Program HPIP), K.S.A. 74-50, 132, 79-32, 160a(e)

14 Will your tax year 1997 Kansas corporate income tax return include a claim for these credits?..... Yes No
If yes, please provide the information and answer the questions on lines 15, 16 and 17.

15 Please indicate the credit(s) your company is claiming. Credit for investment in training and education of employees
 Credit for investment in facilities and/or equipment

16 Number of employees receiving training and education..... _____
Amount invested in facilities and equipment during the last tax year..... \$ _____

17 If this credit had not been available, which is the most likely? Your company would have
 proceeded with the investment/training as you did, proceeded on a smaller scale, canceled the project, or don't know.

Enterprise Zone Act Sales Tax Exemption, K.S.A. 74-50, 115

18 Did your company receive or use an enterprise zone exemption certificate during the state's fiscal year 1997 (7/96 - 6/97)? Yes No
If yes, please provide the information and answer the questions on lines 19 and 20.

19 Please provide the total amount of tax exempt purchases made under the exemption certificate \$ _____
Of total exempt purchases, indicate the amount paid for labor services and the amount paid for tangible personal property.
Labor Services \$ _____ Tangible Personal Property \$ _____

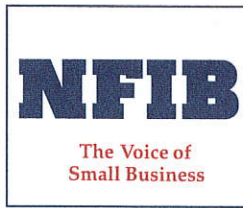
20 If sales tax exemption had not been available, which is the most likely? Your company would have
 proceeded with the investment as you did, proceeded on a smaller scale, not made the investment at all, or don't know.

Manufacturing Machinery and Equipment Sales Tax Exemption, K.S.A. 79-3606(kk)

21 Did your company purchase any manufacturing machinery and equipment during the state's fiscal year 1997 (7/96 - 6/97)? Yes No
If yes, please provide the information and answer the questions on lines 22 and 23.

22 Please provide the amount paid for machinery and equipment purchased under this exemption..... \$ _____

23 If sales tax exemption had not been available, which is the most likely? Your company would have
 proceeded with the investment as you did, proceeded on a smaller scale, not made the investment at all, or don't know.



NFIB Kansas

MEMORANDUM

TO: Senator Alicia Salisbury, Chairperson
 Kansas Senate Commerce Committee

FROM: Hal Hudson, Kansas State Director
 National Federation of Independent Business *Hal Hudson*

DATE: February 1, 1999

SUBJECT: Senate Bill 69 – Disclosure of taxpayer information
 by the Department of Revenue to Kansas, Inc.

CC: Members of the Kansas Senate Commerce Committee

This memo is offered in lieu of taking time from the Committee for a personal appearance by me during which no position would be taken on Senate Bill 69. I beg your leave to explain.

The subject of S.B. 69 has never been an issue put to a vote of our members on any NFIB Ballot. Nor has any member ever raised the issue of confidentiality of Department of Revenue information to me.

I have reviewed S.B. 69, and discussed the intent of this legislation with the staff of Kansas, Inc. I believe the following to be statements of fact:

- 1) Kansas, Inc. is required to gather information available through the Department of Revenue in order to prepare certain reports required by law.
- 2) The current method of gathering this information is inefficient, and causes the generation of excess paperwork.
- 3) The confidentiality of information provided by Kansas businesses would be at least as secure under the provisions of S.B. 69 as under current law, if not more so.

Therefore, I can think of no reason why small business owners – those represented by membership in NFIB – should have any objection to enactment of S.B. 69, as originally introduced by the committee. (We reserve the right to review this opinion if the bill is amended in any form prior to enactment.)

Senate Commerce Committee