

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 9:00 A.M. on March 3, 2005 in Room 519-S of the Capitol.

All members were present except:

Representative Kasha Kelley- excused

Committee staff present:

Chris Courtwright, Legislative Research Department

Martha Dorsey, Legislative Research Department

Gordon Self, Revisor of Statutes

Richard Cram, Department of Revenue

Rose Marie Glatt, Committee Secretary

Conferees appearing before the committee:

Tracy Taylor, President/CEO, KTEC

Clay Blair, Chairman, KS Bioscience Authority

Dan Schmisser - Vice President of Policy and Strategy, KTEC

Mike Peck - KTEC

Others attending:

See attached list.

Representative Huff made the motion to introduce a bill regarding the license and regulation of certain amusement machines. The motion was seconded by Representative Wilk. The motion carried.

HB 2505 - Emerging Industry Investment Act

An act concerning the Emerging Industry Investment Act that was included in the Kansas Economic Growth Act legislative package from a year ago.

The Chairman opened the public hearing on **HB 2505**.

Tracy Taylor, President and CEO, KTEC, spoke in support of **HB 2505 (Attachment 1)**. He introduced Dan Schmisser, KTEC Vice President of Policy and Strategy and Clay Blair, Chairman of the KS Bioscience Authority. He stated that KTEC in partnership with the Secretary of Revenue and her staff at KDOR, are proposing modification to the Emerging Industry Investment Act language to 1) simplify the administrative burden on KDOR to measure and calculate the revenues that should accrue to the Bioscience Authority and, 2) clarify that the Authority and the Secretary of Revenue jointly share the ability to identify companies that are clearly doing bioscience in Kansas and include them in the revenue calculation regardless of the NAICS code they use for reporting purposes.

The proposed changes to **HB 2505** present the modifications advocated by the Chairman and the Board of the Bioscience Authority. With the inclusion of the balloon amendment, the Secretary of Revenue has agreed to these modifications after numerous discussions and joint evaluations between the KDOR and KTEC staffs.

Clay Blair, Chairman, KS Bioscience Authority rose in support of **HB 2505 (no written testimony)**. He spoke of the formation of the Board of Directors, selected from a national class group of individuals and described recent activities since their inception. They have been contacted by many organization that had expressed interest in becoming biosciences companies. The bill is a collaborative effort and presents an opportunity to accomplish the goals that were intended when the legislation was past last year.

The Chairman called attention to a memo from the office of the governor, which contained a balloon that clarified the intent of the original piece of legislation and addressed the Department of Revenue's concerns (**Attachment 2**). It has been reviewed by all parties and agreed upon. Secretary Wagnon described the fiscal impact of the bill.

The Chairman closed the hearing on **HB 2505**.

CONTINUATION SHEET

MINUTES OF THE House Taxation Committee at 9:00 A.M. on March 3, 2005 in Room 519-S of the Capitol.

HB 2448 - Angel Investor Credit Act This is the third segment of the Kansas Economic Growth Act that was designed to facilitate the availability of equity investment in businesses in the early stage of commercial development and to assist in the creation and expansion of Kansas businesses which are job and wealth creating enterprises, by granting tax credits for investors against Kansas income tax liability.

The Chairman opened the public hearing on **HB 2448**.

Tracy Taylor, President and CEO, KTEC, appeared to speak on behalf of **HB 2448** and act concerning the Angel Investor Tax Credit Act (Attachment 3). He introduced Mike Peck, Vice President of Investment. Demand for the tax credits has far exceeded the supply available for allocation and in 42 days, one year's worth of budgeted fiscal impact was absorbed. **HB 2448** proposes that a change be made to last year's legislation that would grant KTEC greater discretion to allocate this limited resource of the state to investors in the companies most likely to yield the greatest economic returns to the state.

At the Chairman's request Mr. Taylor explained who would qualify as an angel investor and the process of selection. The Chairman stated that the KTEC Investment Committee meetings are public and suggested anyone interested in observing those investment process to attend those meetings. After discussions that clarified specific issues regarding the bill the Chairman closed the public hearing on **HB 2448**.

HB 2131- Delay of destination sourcing rules for sales tax purposed until action of Congress.

The Chairman directed the Committee's attention to **HB 2131**, and requested Secretary Wagnon return to the podium for questions. Written testimony from Ken Daniel, Midway Wholesale was distributed to Committee members (Attachment 4).

Discussions followed regarding local use tax and resulting income figures, hardships on small businesses imposed by SSTP conversion, restricting factor of the commerce clause, philosophical differences in governance, rationale behind changing to destination sourcing or SSTP and the pros and cons of delay until Congress acts.

The Secretary stated that she was very sympathetic to the difficulties encountered by many small business, and the Department has spent countless hours to make that conversion easier. She suggested that perhaps the legislature should consider some sort of compensation or a tax credit to those businesses to facilitate compliance to SSTP, however she added that changing again or backing away from the progress, just as the new system is almost in place, is not the right choice. SSTP is the future and would provide the sales tax base needed to fund Kansas education, health care as well as other future needs.

Representative Siegfried will represent the Legislature and accompany KDOR staff to participate in the SSTP Implementing States Meeting on April 16. The Secretary outlined the time line for implementation of the national program. Due to additional questions, the Chairman requested the Secretary return tomorrow, Friday, March 4th for further discussion.

The Chairman asked the Secretary to explain the core of SSTP, setting aside the fundamental shifts occurring. She responded the policy is to make sure that the broadest sales tax base possible is used, so rates do not continually climb due to the erosion of consumers purchasing on the internet. Various scenarios were given to reflect the differences between before and after implementation of SSTP.

Documents regarding **HB 2023** were distributed from Mayor Mike Boehm, City of Lenexa and Douglas J. Patterson, Property Law Firm, P.C. that was heard on February 18, 2005 (Attachment 5).

The Chairman adjourned the meeting at 10:30 a.m. The next meeting is March 4, 2005.

HOUSE TAXATION COMMITTEE GUEST LIST

DATE: March 3, 2005

NAME	REPRESENTING
Mike Reecht	Gaches Braden
LARRY R BAEK	LKM
KEN DANIEL	MIDWAY WINE
Randall Allen	Ks. Assoc. of Counties
David Corbin	KDOR
GARY CENTIVRE	KDOR
Steve Skotts	"
Kathleen Smith	"
Susan Paxson	Capitol Consulting Group
Wendy Maxam	KAPA - KRMCA
Jake Heen	Hein Law Firm
MARK MCKIBBEN	P.I.L.R.
Jenny Davis	Conker Consulting
Mike Pepson	Sedgwick Co.
Andy Schlegel	Sedgwick Co.

KANSAS Bioscience Authority

Mr. Chair, Members of the committee:

My name is Tracy Taylor, President and CEO of the Kansas Technology Enterprise Corporation (KTEC), and I am here today with Dan Schmisser, Vice President of Policy and Strategy, to speak in support of HB 2505, an act concerning the Emerging Industry Investment Act that was included in the Kansas Economic Growth Act legislative package from a year ago. KTEC is working on behalf of the Kansas Bioscience Authority on this matter, at the request of its Chairman, Clay Blair, until the Authority has its own resources with which to retain management and administrative staff.

As many of you will recall, KEGA was a multi-faceted initiative intended to 1) boost the biosciences industry in Kansas, 2) support entrepreneurship throughout the state and 3) encourage equity investments in startup technology businesses. This legislation passed with overwhelming support from the House, Senate and Administration, has been enthusiastically received in local communities throughout Kansas, and is widely acclaimed by economic development practitioners throughout the U.S.

KEGA was innovative in part because of the unique funding mechanism that was employed. Without raising taxes or producing a current fiscal impact, a funding mechanism was conceived that would capture the incremental tax revenue growth from the biosciences industry in Kansas and use those incremental finances to accelerate the industry growth rate. With this funding mechanism, economists from Ernst & Young forecasted that the act could produce revenues for the Kansas Bioscience Authority of \$500-\$600 million over the first 10-11 years of the 15-year act.

Today, we are here to discuss certain implementation issues, and proposed solutions to resolve them, that we discovered and have worked to resolve with the Kansas Department of Revenue (KDOR) during this first year since the passing of KEGA.

First and foremost, we have learned that certain taxes contemplated by the act would be extraordinarily difficult for KDOR to measure and, in some cases, would require companies doing bioscience in Kansas to provide supplemental tax information beyond what they are currently required to measure. Specifically, KDOR identified sales, property and license taxes as problematic. We agreed that requiring Kansas companies to produce supplemental tax schedules simply to calculate the Bioscience Authority's revenues, and where benefits accruing to the companies would only come from indirect, long-term outcomes of having a healthy and prosperous bioscience industry, would be highly unpopular and contradict the stated mission of the Authority to "make Kansas the most desirable state" to do the business of bioscience.

Additionally, we have learned that certain aspects of the legislation are unintentionally ambiguous, and that it is possible for reasonable persons to disagree on their interpretation. For example, a reasonable person could infer from the legislation that a NAICS code – which stands for North American Industry Classification System (NAICS)

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Attachment 1

– is a precise measure of whether a company is engaged in the business of bioscience. On this premise, a reasonable person would conclude that company without one of the 20 NAICS codes specifically listed in the KEGA legislation is not engaged in the business of bioscience in Kansas.

In fact, a NAICS code is not precise, for a number of reasons. For one, the NAICS code is self-reported by companies and may be subject to error in interpretation. Second, and more significantly, the NAICS code may only capture one aspect of a company's core activities where, in fact, multiple NAICS codes could apply. This circumstance is more likely to occur with large, multi-faceted companies that occupy several points on the value chain. Consider, for example, one of the largest and most important bioscience companies in our state – Hill's Pet Nutrition, creators of the Science Diet line of pet foods and a significant player in animal health research. Most likely, Hill's Pet Nutrition uses the NAICS code 31111, for "Animal Food Manufacturing," a code that is not listed in the KEGA legislation. One could argue that Hill's could use 325414, for "Biological Product Manufacturing," which is among the 20 codes identified in KEGA.

In partnership with the Secretary of Revenue and her staff at KDOR, we are proposing modifications to the Emerging Industry Investment Act language to 1) simplify the administrative burden on KDOR to measure and calculate the revenues that should accrue to the Bioscience Authority, and 2) clarify that the Authority and the Secretary of Revenue jointly share the ability to identify companies that are clearly doing bioscience in Kansas and include them in the revenue calculation regardless of the NAICS code they use for reporting purposes.

The solution we have devised is comprised of three key elements:

1. Only state withholding taxes from bioscience company employees (and, in fact, only 95% of those withholding taxes) will be included in the revised mechanism for determining the Bioscience Authority's revenues. To make up for the foregone income from sales, property and license taxes, the NAICS code of 622110, "General Medical and Surgical Hospitals," will be added to the list of NAICS codes in the legislation. Although the amount of withholding taxes from hospital employees is greater than the estimated non-withholding state taxes from the bioscience industry, the historical growth rate for hospital wages is much lower than what has been forecast from bioscience industry growth. Therefore, a larger "base year taxation" is necessary to maintain the integrity of revenue expectations for the Bioscience Authority.
2. The process for determining if a company is a bioscience company is clarified. If a company has one of the NAICS codes listed in the legislation, that company would be presumed to be doing bioscience in Kansas unless verifiable evidence is produced showing that it is not. Additionally, a company that does not have one of the listed NAICS codes, such as Hill's Pet Nutrition, would be considered a bioscience company if verifiable evidence is

produced showing that it is doing bioscience in Kansas and that those activities are significant to its business. A company that does not have one of the listed NAICS codes would not be added without the Bioscience Authority and the Secretary of Revenue agreeing to do so.

3. To alleviate concerns that these changes in the funding mechanism could result in revenues for the Bioscience Authority that are greater than what the 2004 Legislature had intended when it overwhelmingly voted for KEGA, an annual "cap" will be placed on the cumulative revenues paid by the state treasurer to the Bioscience Authority. The numbers used in this cap correspond to the revenue projections provided to the 2004 Legislature when they were presented with testimony and deliberated on KEGA.

The proposed changes to the Emerging Industry Investment Act included in HB 2505 present the modifications advocated by the Chairman and the Board of the Bioscience Authority. With the inclusion of the balloon amendment, the Secretary of Revenue has agreed to these modifications after numerous discussions and joint evaluations between the staff of KDOR and KTEC.



OFFICE OF THE GOVERNOR

KATHLEEN SEBELIUS, GOVERNOR

**Testimony on House Bill 2505
House Committee on Taxation
March 3, 2005**

TO: Chairman Kenny Wilk and Members of the House Committee on Taxation

FROM: Troy Findley, Legislative Liaison
Governor Kathleen Sebelius

Chairman Wilk and Members of the Committee:

I appreciate this opportunity to submit written testimony regarding House Bill 2505, the emerging industry investment act, which proposes changes to the Kansas bioscience authority statutes.

The Department of Revenue has expressed concerns to the Governor's office with language in Section 1 (d) of the bill that adds "sales, services and distribution," to the definition of a "Bioscience company" or "biosciences companies."

The committee's consideration and inclusion of the attached balloon amendment would help clarify the intent of this piece of legislation and address the Department of Revenue's concerns. Thank you for your attention and consideration of this balloon amendment.

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March 3, 2005
Attachment 2

HOUSE BILL No. 2505

By Committee on Taxation

2-25

9 AN ACT concerning the emerging industry investment act; amending
10 K.S.A. 2004 Supp. 74-99b33 and 74-99b34 and repealing the existing
11 sections.
12

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

14 Section 1. K.S.A. 2004 Supp. 74-99b33 is hereby amended to read
15 as follows: 74-99b33. As used in the emerging industry investment act,
16 and amendments thereto, the following words and phrases shall have the
17 following meanings unless a different meaning clearly appears from the
18 content:

19 (a) "Authority" means the Kansas bioscience authority as created by
20 K.S.A. 2004 Supp. 74-99b04, and amendments thereto.

21 (b) "Base year taxation" means ~~the 2003 state taxes payable by all~~
22 ~~bioscience companies, state universities and~~ 95% of the 2003 state with-
23 holding taxes of bioscience employees *working for bioscience companies*
24 *and state universities* currently located in or operating in the state. *The*
25 *base year taxation may be adjusted in future years to account for the*
26 *addition of new bioscience companies and the identification of existing*
27 *bioscience companies inadvertently omitted from prior determinations.*
28 *When a bioscience company is added, the base year taxation shall be*
29 *amended by 95% of the company's 2003 state withholding taxes, if any.*

30 (c) "Bioscience" means the use of compositions, methods and organ-
31 isms in cellular and molecular research, development and manufacturing
32 processes for such diverse areas as pharmaceuticals, medical therapeutics,
33 medical diagnostics, medical devices, medical instruments, biochemistry,
34 microbiology, veterinary medicine, plant biology, agriculture, industrial,
35 environmental, and homeland security applications of bioscience and fu-
36 ture developments in the biosciences. Bioscience includes biotechnology
37 and life sciences.

38 (d) "Bioscience company" or "bioscience companies" means a cor-
39 poration, limited liability company, S corporation, partnership, registered
40 limited liability partnership, foundation, association, nonprofit entity, sole
41 proprietorship, business trust, person, group or other entity that is en-
42 gaged in the business of bioscience in the state and has business opera-
43 tions in the state, including, without limitation, research, development,

but shall not include entities engaged in the distribution or retail sale of pharmaceuticals or other bioscience products.

HB 2505

2

→ 1 sales, services, distribution or production directed towards developing or
2 providing bioscience products or processes for specific commercial or
3 public purposes and are identified. The authority and the secretary of
4 revenue shall jointly determine whether an entity qualifies as a "bioscience
5 company" based on verifiable evidence. One of the factors that shall be
6 considered is whether a company has been identified by the department
7 of labor by one of the following NAICS codes: 325411, 325412, 325413,
8 325414, 325193, 325199, 325311, 325320, 334516, 339111, 339112,
9 339113, 334510, 334517, 339115, 621511, 621512, ~~54171~~ 541710, ~~54138~~
10 541380, ~~54194~~ 541940 and 622110. Such company shall be presumed to
11 be a bioscience company unless the authority and the secretary of revenue
12 agree, based on verifiable evidence, that the company is not engaged in
13 the business of bioscience in the state. A company identified by another
14 NAICS code may be determined to be a bioscience company by the au-
15 thority and the secretary of revenue based on verifiable evidence that the
16 company is engaged in the business of bioscience in the state.

17 (e) "Bioscience development and investment fund" means the fund
18 created by K.S.A. 2004 Supp. 74-99b34 and amendments thereto.

19 (f) "Bioscience employee" means any employee, officer or director
20 of a bioscience company who is employed in the 2003 tax year or after
21 December 31, 2003 and who is also a state taxpayer and any employee
22 of state universities who is associated with bioscience research in the 2003
23 tax year or after December 31, 2003 and who is also a state taxpayer.

24 (g) "Bioscience research" means any original investigation for the ad-
25 vancement of scientific or technological knowledge of bioscience and any
26 activity that seeks to utilize, synthesize, or apply existing knowledge, in-
27 formation or resources to the resolution of a specific problem, question
28 or issue of bioscience.

29 (h) "Biotechnology" means those fields focusing on technological de-
30 velopments in such areas as molecular biology, genetic engineering, gen-
31 omics, proteomics, physiomics, nanotechnology, biodefense, biocomput-
32 ing and bioinformatics and future developments associated with
33 biotechnology.

34 (i) "Board" means the board of directors of the authority.

35 (j) "Eminent scholar" means world-class, distinguished and estab-
36 lished investigators recognized nationally for their research, achievements
37 and ability to garner significant federal funding on an annual basis. Em-
38 inent scholars are recognized for their scientific knowledge and entre-
39 preneurial spirit to enhance the innovative research that leads to eco-
40 nomic gains. Eminent scholars are either members of or likely candidates
41 for the national academy of sciences or other prominent national aca-
42 demic science organizations.

43 (k) "Life sciences" means, without limitation, the areas of medical

1 sciences, pharmaceutical sciences, biological sciences, zoology, botany,
 2 horticulture, ecology, toxicology, organic chemistry, physical chemistry
 3 and physiology and any future advances associated with the life sciences.

4 (l) "NAICS" means the north American industry classification
 5 system.

6 (m) "Rising star scholar" means up-and-coming distinguished inves-
 7 tigators growing in their national reputations in their fields, who are active
 8 and demonstrate leadership in their associated professional societies, and
 9 who attract significant federal research grant support. Rising star scholars
 10 would be likely candidates for the national academy of science or other
 11 prominent national academic science organizations in the future.

12 (n) "State" means the state of Kansas.

delete lines
 13 and 14 →

13 ~~(o) "State income taxes" means all of the taxes levied pursuant to
 14 K.S.A. 79-3201 et seq. and amendments thereto.~~

15 (p) "State taxes" means all taxes on property, sales and use, license,
 16 individual income tax and corporate net income tax pursuant to law except
 17 for property taxes levied for schools.

18 ~~(q)~~ "State universities" includes state educational institutions as de-
 19 fined in K.S.A. 76-711, and amendments thereto, and the municipal uni-
 20 versity as defined in K.S.A. 74-3201b, and amendments thereto.

21 ~~(r)~~ (q) "Subsequent year taxation" means 95% of all state *withholding*
 22 taxes payable by bioscience companies that commence operating in the
 23 state after December 31, 2003, and 95% of withholding associated with
 24 new bioscience employees added to bioscience companies and state uni-
 25 versities and associated with growth of the existing bioscience employee
 26 withholding base after December 31, 2003.

27 ~~(s)~~ (r) "Taxpayer" means a person, corporation, limited liability com-
 28 pany, S corporation, partnership, registered limited liability partnership,
 29 foundation, association, nonprofit entity, sole proprietorship, business
 30 trust, group or other entity that is subject to the Kansas income tax act,
 31 K.S.A. 79-3201 et seq. and amendments thereto.

32 ~~(t)~~ (s) "This act" means the emerging industry investment act.

33 Sec. 2. K.S.A. 2004 Supp. 74-99b34 is hereby amended to read as
 34 follows: 74-99b34. (a) The bioscience development and investment fund
 35 is hereby created. The bioscience development and investment fund shall
 36 not be a part of the state treasury and the funds in the bioscience devel-
 37 opment and investment fund shall belong exclusively to the authority.

38 (b) Distributions from the bioscience development and investment
 39 fund shall be for the exclusive benefit of the authority, under the control
 40 of the board and used to fulfill the purpose, powers and duties of the
 41 authority pursuant to the provisions of K.S.A. 2004 Supp. 74-99b01 et
 42 seq., and amendments thereto.

43 (c) The secretary of revenue and the authority shall establish the base

1 year taxation for all bioscience companies and state universities. The sec-
2 retary of revenue, the authority and the board of regents shall establish
3 the number of bioscience employees associated with state universities and
4 report annually and determine the increase from the taxation base an-
5 nually. *The secretary of revenue and the authority may consider any ver-*
6 *ifiable evidence, including, but not limited to, the NAICS code assigned*
7 *or recorded by the department of labor for companies with employees in*
8 *Kansas, when determining which companies should be classified as bio-*
9 *science companies.*

10 (d) For a period of 15 years from the effective date of this act, the
11 state treasurer shall pay to the bioscience development and investment
12 fund the state taxes in excess of the base year taxation from all bioscience
13 companies as certified by the secretary of revenue.

14 (e) In addition, the state treasurer shall pay annually, 95% of with-
15 holding above the base, as certified by the secretary of revenue, upon
16 Kansas wages paid by bioscience employees to the bioscience develop-
17 ment and investment fund. On or before the 10th day of each month, the
18 director of accounts and reports shall transfer from the state general fund
19 to the bioscience development and investment fund interest earnings
20 based on:

21 (1) The average daily balance of moneys in the bioscience develop-
22 ment and investment fund for the preceding month; and

23 (2) the net earnings rate of the pooled money investment portfolio
24 for the preceding month.

25 (e) *The cumulative amounts of funds paid by the state treasurer to*
26 *the bioscience development and investment fund shall not exceed the fol-*
27 *lowing benchmarks: End of fiscal year 2005 - \$5.0 million; end of fiscal*
28 *year 2006 - \$15.8 million; end of fiscal year 2007 - \$33.3 million; end of*
29 *fiscal year 2008 - \$58.5 million; end of fiscal year 2009 - \$92.6 million;*
30 *end of fiscal year 2010 - \$137.0 million; end of fiscal year 2011 - \$193.3*
31 *million; end of fiscal year 2012 - \$263.5 million; end of fiscal year 2013 -*
32 *\$349.8 million; end of fiscal year 2014 - \$454.9 million; end of fiscal year*
33 *2015 - \$581.8 million. When the cumulative amount of funds due to be*
34 *paid by the state treasurer to the bioscience development and investment*
35 *fund exceed the above benchmarks, the excess amounts above the bench-*
36 *marks shall be paid by the state treasurer to the bioscience development*
37 *and investment fund at the beginning of the following fiscal year. Beyond*
38 *2015, there shall be no restrictions on the amounts paid by the state trea-*
39 *surer to the bioscience development and investment fund.*

40 (f) The division of post audit is hereby authorized to conduct a post
41 audit in accordance with the provisions of the state post audit act to K.S.A.
42 46-1106 et seq. and amendments thereto.

43 (g) At the direction of the authority, the fund may be held in the

1 custody of and invested by the state treasurer, provided that the biosci-
2 ence development and investment fund shall at all times be accounted
3 for in a separate report from all other funds of the authority and the state.
4 Sec. 3. K.S.A. 2004 Supp. 74-99b33 and 74-99b34 are hereby
5 repealed.
6 Sec. 4. This act shall take effect and be in force from and after its
7 publication in the statute book.



KTEC

KANSAS
TECHNOLOGY
ENTERPRISE
CORPORATION

Mr. Chair, Members of the committee:

My name is Tracy Taylor, President and CEO of the Kansas Technology Enterprise Corporation, and I am here today with Mike Peck, Vice President of Investments, and Dan Schmisser, Vice President of Policy and Strategy, to speak in support of HB 2448, an act concerning the Angel Investor Tax Credit Act that was included in the Kansas Economic Growth Act legislative package from a year ago.

As many of you will recall, KEGA was a multi-faceted initiative intended to 1) boost the biosciences industry in Kansas, 2) support entrepreneurship throughout the state and 3) encourage equity investments in startup technology businesses. This legislation passed with overwhelming support from the House, Senate and Administration, has been enthusiastically received in local communities throughout Kansas, and is widely acclaimed by economic development practitioners throughout the U.S.

As often happens with seminal legislation, the first year of implementation yields new perspectives about the legislation based on how the market has received it. Today, we are here to discuss how the market has embraced the Angel Investor Tax Credit Act, the third segment of KEGA that was designed “to facilitate the availability of equity investment in businesses in the early stages of commercial development and to assist in the creation and expansion of Kansas businesses, which are job and wealth creating enterprises, by granting tax credits against the Kansas income tax liability of investors investing in these businesses.”¹

Simply put, demand for the tax credits has far exceeded the supply available for allocation. The response has been so overwhelming that the entire \$2 million of tax credits allowed for tax year 2005 has been allocated to investments in qualified businesses that have been made since January 1 of this year. In just 42 days, one year’s worth of budgeted fiscal impact was absorbed:

- 20 companies were qualified by KTEC as having met the criteria provided by the Act to be eligible to receive an angel investment for which the angel investor could receive a tax credit.
- 110 angel investors have registered with KTEC through our website, www.kansasangels.com.
- 13 companies have benefited from the program because one or more of their angel investors will receive a tax credit related to their investment. \$4.1 million has been raised by these companies from 97 angel investors in investments made on account of this Act.

¹ New Sec. 74 (a) of the Kansas Economic Growth Act, HB 2647.

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Attachment 3

With such a positive response, our first inclination was to ask the Legislature to remove the \$2 million annual limit and see how quickly angel investors in qualified Kansas businesses would utilize the total amount of \$20 million provided for in the legislation. From our perspective, each dollar of tax credit allocated is a positive stimulus to the Kansas economy. However, we understand that expanding the fiscal impact in the current year would widen the budget gap that must be closed in other important areas.

Instead, we are proposing changes to last year's legislation that would grant KTEC greater discretion to allocate this limited resource of the state to investors in the companies most likely to yield the greatest economic returns to the state.

Proposed Changes in HB 2448

The principle change to the Angel Investor Tax Credit Act is articulated in Sec. 6 of HB 2448, which reads as follows:

“Tax credits for investments in qualified Kansas businesses are a limited resource of the state for which KTEC is designated as the administrator. The purpose of such tax credits is to facilitate the availability of equity investment in businesses in the early stages of commercial development and to assist in the creation and expansion of Kansas businesses which are job and wealth creating enterprises. To achieve this purpose and to optimize the use of the limited resources of the state, KTEC is authorized to issue tax credits to qualified investors in qualified Kansas businesses. Such tax credits shall be awarded to those qualified Kansas businesses which, as determined by KTEC, are most likely to provide the greatest economic benefit to the state. KTEC may consider numerous factors in its assessment, including, but not limited to, the quality and experience of the management team, the size of the estimated market opportunity, the risk from current or future competition, the ability to defend intellectual property, the quality and utility of the business model, and the quality and reasonableness of financial projections for the business.”

This change to the existing Act removes the implicit understanding that these tax credits will be allocated on a ‘first-come, first-served’ basis which, given the scarcity of these tax credits relative to the apparent market demand, does not lead to an optimal result for the state.

We believe that KTEC, applying processes and judgments similar to those applied when we make direct equity investments in early-stage technology companies in Kansas, could ensure far better results for the state by allocating the tax credits to investors in the companies most likely to be successful.

In addition, KTEC could also allow for other considerations in making tax credit allocations that are not available today. For example, we could reserve a certain percentage of tax credits for investors in qualified companies that participate in emerging or strategic industries, such as bioscience, aviation, or agribusiness.

HB 2448 also includes the following minor improvements from the existing legislation:

- In Sec 2, we recommend stipulating that an angel investor is NOT an executive, officer, employee, vendor or independent contractor in the qualified business in which the investment is made. We believe that investments by individuals with other contractual or business relationships with the company may not be “arms-length” and do not comply with the intent of the legislation to create new stimulus.
- Though this is not anticipated to be an issue, we recommend stipulating in New Sec 3, par. B, that any unused tax credits from a given year can be carried over and allocated in the subsequent years until 2016.
- In Sec 4, par. c (3), we recommend adding a stipulation that publicly-traded companies are not “qualified companies” for purposes of this act. Public companies presumably have access to capital that private early-stage companies do not, and therefore they do not comply with the intent of the legislation as we understand it.
- In Sec 5, we recommend clarifying that the designation of a business as a qualified Kansas business under the Act must be renewed annually.

I will now be happy to address any of your questions or comments on HB 2448.

Published Monday, July 19, 2004

Topeka economy -- Real money

MORE ▾

The city's sales tax revenue is running 10 percent higher than last year's

See? We told you the economy was getting better.

One of the strongest pieces of evidence that Topeka is participating in the improved U.S. economy was the report last week that the city of Topeka's sales tax revenue has been 10 percent greater during the first five months of 2004 than for the same period in 2003.

However, not all the increase can be attributed just to the improved economy. City finance director Randy Bailes noted that some of the increase can be attributed to the state's new compensating use tax law that went into effect in September. That law requires that Kansas sales tax be collected on items purchased from out-of-state sources by Kansas businesses.

Bailes said there is no way of knowing how much of the increase is because of the new law, but felt confident the numbers suggest strong, real improvement in spending in Topeka.

Either way, the report is good news for city government. Every dollar raised from the city's 1 percent city sales tax is a dollar that doesn't need to be collected through property tax.

kdaniel

From: "Ken Daniel" <kdaniel@midwaywholesale.com>
To: "Mike Hall" <mike.hall@cjonline.com>
Sent: Monday, July 19, 2004 3:00 PM
Attach: Topeka Sales & Use Taxes.xls
Subject: Sales Tax Statistics

Mike: I saw the editorial on the sales tax good news in today's paper. The problem is, there is no increase in sales tax revenue unless you pick your months carefully. Even then it is very small.

If you look at the last 12 months, Topeka sales tax collections are down 1.66%. Statewide is up 3.4% for the same period.

If you look at the last 6 months (the first six months of 2004), Topeka is down .56%. Statewide is up 4.7% for the same period.

If you look at only the last 5 months, which were the figures in your article of last week, Topeka is up 1.54% compared to the same period last year, but that is about the only comparison that shows them up any percentage at all. I didn't add up statewide for that period.

What is up are use tax collections. The local consumer's use tax began in July of 2003. Close to 100% is paid by businesses. Through the first 6 months of this year, Topeka use tax collections increased by \$963,000, nearly sevenfold, which made up for the loss of sales taxes then accounted for all of the "increase".

Attached is a spreadsheet showing the figures. All of these were taken from the Kansas Department of Revenue "Statistics" area.

Ken Daniel

Hs Taxation Committee
March 3, 2005
Attachment 4

FROM K D O R 2004 ANNUAL REPORT
(SEE LAST PAGE)

Local Sales Tax Rates, Effective Dates and Collections Issued for FY 2003 and FY 2004

Beginning in FY 1999, the revised reports reflect the amount that was issued to the taxing entity during the fiscal year versus the amount distributed based on receipt month.

County/City	Tax Rate	Effective Date	Fiscal Year 2003	Fiscal Year 2004	Percent Change
Allen County	1.00%	10/01/94	\$1,226,446	\$1,133,591	-7.6%
Gas	1.00%	01/01/91	\$50,643	\$67,036	32.4%
Humboldt	1.00%	10/01/03	\$49,478	\$82,337	N/A
Iola	1.00%	01/01/90	\$859,422	\$764,968	-11.0%
Moran	0.50%	07/01/84	\$17,458	\$18,204	4.3%
Anderson County	1.00%	01/01/83	\$598,033	\$618,701	3.5%
Gamett	0.50%	01/01/99	\$230,726	\$230,991	0.1%
Kincaid	1.00%	07/01/99	\$4,274	\$5,904	38.2%
Atchison County	1.50%	07/01/98	\$1,926,651	\$2,147,364	11.5%
Atchison	1.00%	08/01/83	\$1,115,895	\$1,223,924	9.7%
Effingham	1.00%	11/01/83	\$27,964	\$27,539	-1.5%
Barber County	1.00%	02/01/83	\$472,780	\$548,695	16.1%
Hardtner	0.00%	01/01/02	\$0	\$5	N/A
Kiowa	1.00%	01/01/01	\$80,939	\$99,006	22.3%
Medicine Lodge	0.50%	07/01/91	\$153,627	\$147,244	-4.2%
Barton County	1.25%	04/01/03 ✓	\$3,697,523	\$4,412,571	N/A
Great Bend	0.50%	04/01/00	\$1,322,093	\$1,321,027	-0.1%
Bourbon County	1.00%	07/01/01	\$1,251,576	\$1,277,914	2.1%
Bronson	1.00%	01/01/97	\$11,920	\$11,560	-3.0%
Fort Scott	1.00%	01/01/84	\$1,082,635	\$1,092,263	0.9%
Brown County	1.00%	11/01/82	\$763,220	\$788,049	3.3%
Hiawatha	0.50%	04/01/03 ✓	\$433,312	\$225,435	N/A
Horton	1.00%	07/01/87	\$104,015	\$106,120	2.0%
Butler County					
Andover	1.00%	01/01/01	\$862,257	\$901,451	4.5%
Augusta	0.50%	10/01/91	\$412,323	\$408,931	-0.8%
Benton	1.00%	10/01/99	\$35,696	\$41,411	16.0%
Douglass	1.00%	01/01/95	\$84,886	\$80,229	-5.5%
El Dorado	1.00%	10/01/89	\$1,672,212	\$1,721,836	3.0%
Rosc Hill	1.00%	10/01/00	\$123,139	\$141,886	15.2%
Towanda	1.00%	07/01/95	\$67,954	\$55,279	-18.7%
Chase County	0.00%	01/01/04 →	\$147,180	\$116,786	N/A
Cottonwood Falls	1.00%	01/01/91	\$52,216	\$56,961	9.1%
Strong City	1.50%	01/01/99	\$50,021	\$55,436	10.8%
Chautauqua County	1.00%	02/01/83	\$182,107	\$208,744	14.6%
Cedar Vale	1.00%	10/01/97	\$20,073	\$28,860	43.8%
Sedan	0.50%	11/01/81	\$43,823	\$49,809	13.7%
Cherokee County	1.50%	01/01/03 →	\$1,272,916	\$1,702,988	N/A
Baxter Springs	1.00%	07/01/85	\$317,242	\$321,822	1.4%
Columbus	1.00%	07/01/97	\$401,579	\$391,459	-2.5%
Galena	1.00%	07/01/84	\$128,487	\$126,982	-1.2%
Scammon	1.00%	04/01/88	\$15,748	\$16,437	4.4%
Weir	1.00%	11/01/84	\$28,915	\$30,002	3.8%
Cheyenne County	2.00%	07/01/96	\$436,916	\$421,519	-3.5%
Clark County					
Minncola	1.00%	07/01/99	\$27,643	\$31,575	14.2%
Clay County	1.00%	01/01/01	\$692,541	\$714,470	3.2%
Clay Center	1.00%	11/01/84	\$566,810	\$583,386	2.9%
Longford	1.00%	01/01/89	\$6,218	\$4,930	-20.7%
Wakefield	1.00%	11/01/82	\$25,314	\$28,850	14.0%
Cloud County	1.00%	01/01/01	\$1,036,835	\$1,056,395	1.9%
Concordia	1.00%	02/01/83	\$870,561	\$864,770	-0.7%
Glasco	1.00%	07/01/83	\$19,620	\$18,390	-6.3%
Miltonvale	1.00%	07/01/87	\$27,066	\$29,711	9.8%
Comanche County					
Coldwater	1.00%	07/01/98	\$79,675	\$83,973	5.4%
Protection	1.00%	01/01/99	\$36,516	\$36,718	0.6%
Cowley County					
Arkansas City	1.00%	04/01/85	\$1,300,839	\$1,329,361	2.2%
Burden	1.00%	01/01/96	\$23,274	\$22,604	-2.9%
Winfield	1.00%	11/01/84	\$1,336,772	\$1,398,763	4.6%

Local Sales Tax Rates, Effective Dates and Collections Issued for FY 2003 and FY 2004

Beginning in FY 1999, the revised reports reflect the amount that was issued to the taxing entity during the fiscal year versus the amount distributed based on receipt month.

County/City	Tax Rate	Effective Date	Fiscal Year		Percent Change
			2003	2004	
Crawford County	1.00%	07/01/01	\$3,734,430	\$3,800,199	1.8%
Arma	0.50%	11/01/82	\$43,678	\$42,062	-3.7%
Frontenac	1.00%	01/01/95	\$350,883	\$340,806	-2.9%
Girard	1.00%	01/01/01	\$215,744	\$269,167	24.8%
Pittsburg	0.50%	10/01/99	\$1,307,060	\$1,319,130	0.9%
Decatur County	1.00%	11/01/84	\$189,763	\$193,739	2.1%
Dickinson County	1.00%	07/01/97	\$1,604,371	\$1,694,250	5.6%
Abilene	0.75%	10/01/00	\$726,513	\$787,286	8.4%
Herington	1.00%	10/01/00	\$169,279	\$178,328	5.3%
Doniphan County	1.00%	10/01/94	\$358,704	\$362,818	1.1%
Elwood	1.00%	11/01/84	\$93,167	\$99,386	6.7%
Douglas County	1.00%	01/01/95	\$11,886,158	\$12,254,052	3.1%
Baldwin City	1.00%	07/01/91	\$250,805	\$280,837	12.0%
Eudora	0.50%	11/01/82	\$87,067	\$104,926	20.5%
Lawrence	1.00%	10/01/90	\$10,876,300	\$11,153,509	2.5%
Edwards County	1.00%	11/01/83	\$171,900	\$200,713	16.8%
Elk County	1.00%	11/01/82	\$165,656	\$181,567	9.6%
Ellis County					
Ellis	1.00%	11/01/83	\$109,350	\$113,193	3.5%
Hays	1.00%	04/01/03	\$5,875,624	\$4,027,247	N/A
Ellsworth County	0.50%	01/01/97	\$199,836	\$207,220	3.7%
Ellsworth	1.25%	07/01/00	\$312,293	\$300,235	-3.9%
Kanopolis	1.00%	07/01/85	\$19,506	\$21,986	12.7%
Wilson	1.00%	09/01/83	\$43,132	\$47,637	10.4%
Finney County	0.75%	07/01/95	\$3,711,413	\$3,760,310	1.3%
Garden City	1.00%	07/01/94	\$4,130,921	\$4,169,504	0.9%
Ford County	1.00%	10/01/97	\$4,054,800	\$3,948,019	-2.6%
Dodge City	1.00%	10/01/97	\$3,695,598	\$3,642,777	-1.4%
Franklin County	1.50%	01/01/93	\$3,553,543	\$3,807,354	7.1%
Ottawa	0.60%	07/01/01	\$1,098,783	\$1,194,464	8.7%
Pomona	1.00%	07/01/99	\$37,547	\$40,241	7.2%
Princeton	0.50%	07/01/95	\$5,556	\$5,803	4.4%
Wellsville	0.50%	01/01/93	\$50,132	\$55,463	10.6%
Williamsburg	1.00%	10/01/96	\$15,227	\$15,238	0.1%
Geary County	1.00%	07/01/03	\$3,078,964	\$2,788,035	N/A
Grandview Plaza	1.00%	04/01/99	\$40,104	\$42,435	5.8%
Junction City	1.00%	11/01/82	\$2,239,717	\$2,406,207	7.4%
Graham County	0.25%	10/01/03		\$135,885	N/A
Grinnell	0.50%	01/01/03	\$2,769	\$6,994	N/A
Gove County	1.00%	11/01/84	\$273,622	\$168,866	-38.3%
Hill City	1.00%	07/01/85	\$187,036	\$185,209	-1.0%
Morland	1.00%	10/01/96	\$10,068	\$9,263	-8.0%
Grant County					
Ulysses	1.00%	11/01/83	\$666,200	\$682,882	2.5%
Gray County	1.00%	02/01/83	\$422,841	\$395,253	-6.5%
Greeley County	1.00%	11/01/82	\$101,871	\$115,697	13.6%
Greenwood County	1.00%	07/01/95	\$447,833	\$451,719	0.9%
Hamilton County	0.50%	01/01/93	\$94,472	\$100,342	6.2%
Syracuse	1.00%	06/01/84	\$141,967	\$149,534	5.3%
Harper County					
Harper	1.00%	01/01/01	\$221,439	\$232,138	4.8%
Anthony	1.50%	01/01/01	\$335,810	\$352,343	4.9%
Harvey County	1.00%	07/01/86	\$3,300,208	\$3,393,781	2.8%
Haskell County	0.50%	01/01/83	\$143,158	\$154,828	8.2%
Satanta	0.50%	01/01/87	\$46,816	\$38,562	-17.6%
Sublette	0.50%	01/01/83	\$55,959	\$54,236	-3.1%
Jackson County	1.00%	07/01/94	\$1,011,506	\$1,050,462	3.9%
Holton	0.25%	01/01/95	\$191,662	\$190,896	-0.4%

Local Sales Tax Rates, Effective Dates and Collections Issued for FY 2003 and FY 2004

Beginning in FY 1999, the revised reports reflect the amount that was issued to the taxing entity during the fiscal year versus the amount distributed based on receipt month.

County/City	Tax	Effective	Fiscal Year		Percent Change
	Rate	Date	2003	2004	
Jefferson County	1.00%	01/01/94	\$801,130	\$839,472	4.8%
Perry	0.50%	07/01/81	\$38,077	\$37,207	-2.3%
Jewell County	1.00%	02/01/83	\$157,354	\$163,266	3.8%
Johnson County	1.10%	01/01/03 ↗	\$80,722,922	\$95,295,466	N/A
De Soto	1.75%	07/01/02	\$407,823	\$14,924	N/A
Edgerton	1.00%	07/01/85	\$38,117	\$48,337	26.8%
Fairway	1.00%	07/01/86	\$292,685	\$299,921	2.5%
Gardner	1.00%	01/01/89	\$851,542	\$1,027,033	20.6%
Leawood	1.125%	07/01/00	\$4,399,142	\$4,932,204	12.1%
Lcnexa	1.125%	10/01/00	\$11,106,968	\$9,685,194	-12.8%
Merriam	1.25%	01/01/01	\$5,827,251	\$6,091,277	4.5%
Mission	1.25%	10/01/02 ↗	\$2,615,704	\$2,954,119	N/A
Olathe	1.125%	04/01/00	\$21,094,858	\$20,274,014	-3.9%
Overland Park	1.125%	04/01/99	\$36,875,784	\$37,482,106	1.6%
Prairie Village	1.00%	02/01/84	\$1,833,595	\$1,929,777	5.2%
Roland Park	1.25%	04/01/03 ↗	\$1,022,365	\$1,223,795	N/A
Shawnee	1.125%	07/01/85	\$8,222,260	\$8,624,177	4.9%
Spring Hill	1.00%	02/01/84	\$288,616	\$387,524	34.3%
Westwood	1.00%	02/01/84	\$196,040	\$198,470	1.2%
Westwood Hills	1.00%	02/01/84	\$17,913	\$15,253	-14.8%
Kearny County					
Decrfeld	1.00%	10/01/94	\$20,179	\$15,681	3.3%
Lakin	1.00%	07/01/83	\$130,126	\$122,506	-5.9%
Kingman County					
Spivey	0.50%	01/01/79	\$22,197	\$21,240	-4.3%
Kiowa County	1.00%	11/01/82	\$244,587	\$262,578	7.4%
Labette County	1.25%	07/01/01	\$2,255,728	\$2,270,420	0.7%
Altamont	1.00%	07/01/99	\$45,503	\$47,541	4.5%
Chetopa	1.50%	01/01/02	\$119,162	\$110,652	-7.1%
Edna	1.00%	01/01/89	\$27,211	\$22,735	-16.4%
Oswego	1.00%	07/01/95	\$118,728	\$119,978	1.1%
Parsons	1.00%	01/01/97	\$1,316,807	\$1,345,351	2.2%
Lane County					
Dighton	1.00%	07/01/83	\$90,627	\$90,475	-0.2%
Leavenworth County	1.00%	01/01/97	\$4,835,236	\$5,134,456	6.2%
Basehor	1.00%	10/01/95	\$91,946	\$148,954	62.0%
Easton	1.00%	07/01/85	\$10,722	\$15,273	42.4%
Lansing	1.00%	01/01/89	\$620,584	\$665,043	7.2%
Leavenworth	1.00%	03/01/85	\$3,341,271	\$3,397,642	1.7%
Linwood	1.00%	04/01/03 ↗	\$494	\$17,681	N/A
Tonganoxie	1.00%	07/01/89	\$311,800	\$363,927	16.7%
Lincoln County	1.00%	02/01/83	\$172,410	\$194,171	12.6%
Linn County					
La Cygne	1.00%	10/01/88	\$104,837	\$90,245	-13.9%
Mound City	1.00%	07/01/93	\$92,642	\$94,487	2.0%
Parkcr	1.00%	10/01/03 ↗		\$7,886	N/A
Pleasanton	1.00%	10/01/95	\$133,427	\$135,817	1.8%
Logan County	1.00%	11/01/82	\$255,658	\$280,224	9.6%
Lyon County	0.50%	07/01/99	\$1,927,945	\$1,930,928	0.2%
Americus	0.50%	04/01/87	\$12,921	\$13,739	6.3%
Emporia	1.00%	01/01/95	\$3,635,602	\$3,613,733	-0.6%
McPherson County	1.00%	07/01/82	\$2,957,139	\$829,981	4.2%
Lindsborg	1.00%	07/01/00	\$218,709	\$223,414	2.2%
McPherson	0.50%	10/01/02	\$500,828	\$960,031	N/A
Marion County	1.00%	07/01/87	\$796,761	\$3,161,078	6.9%
Hillsboro	0.50%	05/01/85	\$164,120	\$177,726	8.3%
Marion	0.75%	07/01/01	\$130,442	\$120,485	-7.6%
Marshall County					
Frankfort	1.00%	04/01/03 ↗	\$5,085	\$73,585	N/A
Marysville	1.00%	10/01/99	\$576,881	\$604,572	4.8%
Meade County	1.00%	11/01/84	\$285,063	\$300,087	5.3%
Miami County	1.25%	01/01/01	\$3,010,015	\$3,353,300	11.4%
Fontana	0.50%	07/01/97	\$2,104	\$2,707	28.7%
Louisburg	1.00%	01/01/97	\$476,144	\$558,112	17.2%
Osawatomic	0.50%	07/01/81	\$118,203	\$116,809	-1.2%
Paola	1.00%	10/01/96	\$1,042,270	\$1,115,807	7.1%
Mitchell County	1.00%	11/01/82	\$731,500	\$765,055	4.6%
Beloit	0.50%	07/01/01	\$270,952	\$288,360	6.4%
Montgomery County	0.00%	10/01/02 ↗	\$1,595,094	\$11,130	N/A
Caney	2.75%	04/01/03 ↗	\$225,939	\$374,293	N/A

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County/City	Tax Rate	Effective Date	Fiscal Year		Percent Change
			2003	2004	
Cherryvale	1.75%	07/01/01	\$243,841	\$264,413	8.4%
Coffeyville	2.50%	10/01/02 ✓	\$2,702,008	\$3,184,490	N/A
Dearing	1.00%	04/01/03 ✓	\$2,041	\$18,704	-7.3%
Independence	2.25%	10/01/02 ✓	\$3,313,595	\$3,709,733	N/A
Morris County	1.00%	11/01/82	\$438,455	\$454,317	3.6%
Council Grove	1.00%	10/01/03		\$180,900	N/A
Morton County					
Elkhart	1.00%	01/01/95	\$213,846	\$222,121	3.9%
Rolla	1.00%	01/01/97	\$23,842	\$22,210	-6.8%
Nemaha County	1.00%	11/01/82	\$816,886	\$824,139	0.9%
Sabetha	0.50%	07/01/91	\$164,230	\$164,095	-0.1%
Neosho County	1.00%	10/01/00	\$1,896,041	\$1,959,340	3.3%
Chanute	1.00%	11/01/87	\$1,555,209	\$1,588,733	2.2%
Eric	1.00%	01/01/88	\$104,126	\$94,956	-8.8%
Saint Paul	1.00%	04/01/98	\$34,268	\$53,162	55.1%
Thayer	1.00%	07/01/95	\$29,502	\$32,731	10.9%
Ness County					
Ness City	1.00%	10/01/02 ✓	\$85,436	\$168,640	N/A
Ransom	0.50%	10/01/93	\$14,023	\$12,363	-11.8%
Norton County	0.75%	10/01/03 ✓		\$197,521	N/A
Almena	0.50%	04/01/03 →	\$698	\$8,900	N/A
Norton	0.50%	04/01/93	\$178,003	\$177,883	-0.1%
Osage County	1.00%	11/01/82	\$861,572	\$887,653	3.0%
Lyndon	1.00%	01/01/99	\$78,690	\$79,283	0.8%
Osage City	1.00%	10/01/03 →		\$191,804	N/A
Overbrook	1.00%	01/01/99	\$77,575	\$79,370	2.3%
Osborne County	0.50%	01/01/83	\$172,406	\$175,302	1.7%
Ottawa County	1.00%	06/01/01	\$284,393	\$299,514	5.3%
Delphos	1.00%	11/01/84	\$15,187	\$1,202,885	N/A
Minneapolis	0.50%	07/01/01	\$82,893	\$89,836	8.4%
Pawnee County	1.00%	07/01/83	\$512,642	\$507,615	-1.0%
Phillips County					
Glade	1.00%	01/01/01	\$9,645	\$13,636	41.4%
Phillipsburg	1.00%	07/01/01	\$335,904	\$352,496	4.9%
Pottawatomie County					
Onaga	1.00%	11/01/82	\$44,847	\$55,609	24.0%
Saint Marys	1.00%	11/01/84	\$247,168	\$256,360	3.7%
Wamego	1.75%	01/01/93	\$724,177	\$759,974	4.9%
Westmoreland	1.00%	01/01/93	\$28,535	\$37,869	32.7%
Pratt County	1.00%	07/01/82	\$1,311,386	\$1,382,357	5.4%
Pratt	1.00%	04/01/04 →	\$431,942	\$638,265	N/A
Rawlins County	1.00%	02/01/83	\$165,311	\$165,319	0.0%
Reno County	1.00%	07/01/86	\$8,219,242	\$8,064,298	-1.9%
Hutchinson	0.75%	04/01/94	\$5,120,937	\$5,071,145	-1.0%
South Hutchinson	0.50%	01/01/93	\$171,014	\$163,154	-4.6%
Republic County	2.00%	07/01/03 →	\$404,557	\$706,958	N/A
Rice County	1.00%	11/01/82	\$665,121	\$669,706	0.7%
Lyons	0.50%	07/01/01	\$158,458	\$160,771	1.5%
Riley County	1.00%	01/01/99	\$5,282,782	\$5,651,417	7.0%
Manhattan	1.00%	01/01/99	\$6,341,630	\$6,744,037	6.3%
Ogden	1.00%	11/01/82	\$45,774	\$47,060	2.8%
Riley	1.00%	07/01/92	\$46,310	\$38,144	-17.6%
Plainville	1.00%	04/01/97	\$223,117	\$206,191	-7.6%
Stockton	1.50%	01/01/99	\$187,522	\$188,033	0.3%
Rooks County	0.00%	10/01/00	\$1,917	\$1,344	N/A
Rush County					
La Crosse	1.00%	01/01/96	\$88,119	\$94,621	7.4%
Russell County	1.50%	04/01/88	\$932,171	\$1,008,751	8.2%
Saline County	1.00%	06/01/95	\$8,874,035	\$8,754,995	-1.3%
Salina	0.75%	01/01/99	\$6,278,944	\$6,215,446	-1.0%
Scott County	1.00%	05/01/82	\$509,477	\$509,065	-0.1%
Sedgwick County	1.00%	10/01/85	\$67,731,322	\$65,336,259	-3.5%
Derby	0.50%	04/01/03 ✓	\$91,986	\$454,725	N/A
Seward County	1.25%	01/01/04	\$3,257,731	\$3,510,403	N/A
Liberal	1.00%	10/01/94	\$3,074,004	\$3,069,729	-0.1%
Shawnee County	0.90%	07/01/99	\$22,899,469	\$23,150,699	1.1%
Auburn	1.00%	07/01/84	\$72,287	\$83,269	15.2%
Rossville	1.00%	10/01/86	\$81,444	\$83,093	2.0%
Topeka	1.00%	11/01/82	\$23,263,248	\$22,877,590	-1.7%
Sheridan County	1.00%	01/01/99	\$190,626	\$195,784	2.7%

4-5

Local Sales Tax Rates, Effective Dates and Collections Issued for FY 2003 and FY 2004

Beginning in FY 1999, the revised reports reflect the amount that was issued to the taxing entity during the fiscal year versus the amount distributed based on receipt month.

County/City	Tax Rate	Effective Date	Fiscal Year		Percent Change
			2003	2004	
Sherman County	1.25%	10/01/98	\$1,108,980	\$1,116,014	0.6%
Smith County					
Smith Center	0.50%	01/01/01	\$95,546	\$94,358	-1.2%
Stafford County	1.00%	11/01/84	\$244,632	\$301,901	23.4%
Stanton County	1.00%	11/01/84	\$123,623	\$146,802	18.7%
Stevens County					
Hugoton	1.00%	01/01/94	\$302,600	\$304,095	0.5%
Moscow	1.00%	10/01/03		\$9,962	N/A
Sumner County					
Argonia	1.00%	01/01/91	\$20,886	\$27,152	30.0%
Belle Plaine	1.00%	10/01/89	\$84,356	\$102,909	22.0%
Caldwell	1.00%	11/01/82	\$78,213	\$80,502	2.9%
Conway Springs	1.00%	10/01/89	\$51,217	\$59,221	15.6%
Mayfield	0.50%	11/01/82	\$3,416	\$3,199	-6.4%
Oxford	1.00%	11/01/84	\$58,026	\$60,178	3.7%
Wellington	1.25%	01/01/94	\$1,125,701	\$1,135,688	0.9%
Thomas County	1.00%	11/01/82	\$1,127,937	\$1,148,197	1.8%
Colby	0.00%	01/01/99	\$2,929	\$1,084	N/A
Trego County					
Collyer	1.00%	01/01/01	\$3,495	\$4,609	31.9%
Wakeceny	1.00%	02/01/83	\$234,696	\$220,716	-6.0%
Wabaunsee County	1.25%	01/01/01	\$338,722	\$349,059	3.1%
Maple Hill	0.75%	01/01/03	\$324,904	\$20,855	N/A
Paxico	1.00%	10/01/96	\$9,717	\$10,109	4.0%
Washington County	1.00%	02/01/83	\$355,964	\$341,226	-4.1%
Wichita County	2.00%	01/01/96	\$286,372	\$300,878	5.1%
Wilson County	1.00%	10/01/00	\$593,394	\$624,566	5.3%
Fredonia	1.00%	01/01/86	\$259,590	\$274,528	5.8%
Neodesha	2.00%	10/01/92	\$337,017	\$336,535	-0.1%
Woodson County					
Yates Center	1.75%	01/01/02	\$207,459	\$208,350	0.4%
Toronto	0.50%	11/01/82	\$6,939	\$7,476	7.7%
Wyandotte County	1.00%	01/01/84	\$15,514,829	\$16,405,650	5.7%
Bonner Springs	1.25%	10/01/03	\$1,506,539	\$1,833,578	N/A
Edwardsville	1.00%	01/01/86	\$133,772	\$147,600	10.3%
Kansas City	1.00%	01/01/84	\$13,733,107	\$14,346,786	4.5%
Grand Total			\$529,588,661	\$549,846,600	3.8%

Amounts Co/Cty

All Counties	\$298,080,310	\$314,251,556	5.4%
All Cities	\$231,508,351	\$235,595,044	1.8%
Total Locals	\$529,588,661	\$549,846,600	3.8%

Numbers Co/Cty

All Counties	76	77	1.3%
All Cities	187	191	2.1%
Total Locals	263	268	1.9%

*ALL cities within counties with a local tax are subject to the countywide tax as well as to any city tax
 *NC indicates Not Comparable because of a new, increased, decreased or repealed tax rate.
 *Totals may not add due to rounding

LESS: THOSE WITH CHANGED RATES DURING 7/1/02 THRU 6/30/04

	FY 2003	FY 2004
	-103,603,973	-120,480,705

TOTAL FOR THOSE WITH CONSTANT RATES

	425,904,688	429,365,815	+0.8%
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Annual Report

STATE SALES TAXES

\$1.568 BILLION

\$1.612 BILL.

+2.83%

NAT'L RETAIL SALES
 (CENSUS BUREAU 2/24/2005)

CY 2003

CY 2004

+7.00%



Memorandum

TO: House Taxation Committee
FROM: Mayor Mike Boehm, City of Lenexa
SUBJECT: HB 2023
DATE: March 2, 2005

Testimony was given by the City of Lenexa on February 29, 2005, regarding House Bill 2023.

In addition to that testimony, I am forwarding for your information a document entitled: "City of Lenexa Excise Tax Information."

If you have any questions or concerns, please do not hesitate to contact me.

Thank you.

City of Lenexa
12350 W. 87th Street Parkway
Lenexa, Kansas 66215

House Taxation Committee
March 3, 2005
Attachment 5

City of Lenexa Excise Tax Information

1. For each Fiscal Year during which the municipality has maintained an excise tax, identify:

- a. Each real estate development for which the excise tax was collected;

See City of Lenexa Attachment 1.

- b. The sum of excise tax collected from each such real estate development on a year by year basis;

See City of Lenexa Attachment 1.

- c. The public works project(s) identified as eligible for funding by excise taxes collected;

City of Lenexa Code Section 4-7A-1 provides that excise taxes are pledged for transportation improvements in the City.

- d. Public works project(s) identified as necessary to serve the infrastructure demands of new development and the degree excise tax proceeds were pledged or earmarked for such public works project(s);

All proceeds from the excise tax are earmarked for transportation improvements. See City of Lenexa Attachment 2 for public works project information.

- e. The portion of the municipality's capital improvement budget/plan describing public works projects necessary due to new development with excise taxes collected from such new development;

See City of Lenexa Attachment 2.

- f. That revenue portion of the municipality's annual budget describing excise taxes collected from new development and any specific proposed appropriation of such excise taxes toward public works projects.

See summary table on the following page.

City of Lenexa Excise Tax Information

FY 1998 – FY 2004 Information

	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004
Excise Tax Revenue	\$25,452	\$1,463,244	\$985,446	\$570,295	\$1,477,115	\$1,017,873	\$1,814,781
Appropriations:							
Prairie Star Parkway (Lone Elm to K-7)			\$1,273,098				
Prairie Star Parkway (Renner to Ridgeview)			\$701,044				
Renner Blvd (116 th St. South)			\$500,000				
101 st St. (Lone Elm to Monticello)				\$570,295			
Prairie Star Parkway (Ridgeview to Woodland)					\$402,115		\$402,115
Mize Rd. (K-10 to 2800')					\$1,075,000		
83 rd St. (Gleason to City Limits)						\$300,000	
Mize Road (2800' to Old 95 th)							\$690,903
Totals			\$2,474,142	\$570,295	\$1,477,115	\$300,000	\$1,093,018

FY 2005 – FY 2009 Information

Future projects to be funded with excise tax revenue include:

- *Prairie Star Parkway Construction (K-7 to Mize Blvd.) – Phase 2*
Total cost = \$8,856,700
- *Monticello Road (83rd Street to 91st Street)*
Total cost = \$2,521,853

City of Lenexa Excise Tax Information

2. Identify the extent to which the municipality identifies as eligible for funding through excise taxes infrastructure needs created by development.

City Resolution 2000-74 reflects that the City intends to utilize excise tax funds to construct eligible arterial and collector roadways as reflected on a map adopted by the Governing Body and included as City of Lenexa Attachment 3.

3. Identify the extent to which the municipality links infrastructure needs and projects created by development with excise taxes collected from that development.

Excise taxes are spent in areas that are rapidly growing, and are used for transportation improvements. The eligible projects are approved through the City's Capital Improvement Program (CIP) process. This process determines how capital funding sources, including excise taxes, will be allocated to capital improvement projects. Overall, excise tax revenue allows the City to complete transportation improvement projects more quickly than if funding sources were earmarked for specific projects.

4. Identify the total amount of money raised, by year, by the excise tax.

FY 1998	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004
\$25,452	\$1,463,244	\$985,446	\$570,295	\$1,477,115	\$1,017,873	\$1,814,781

5. Identify the formula used to determine the rate to be charged for the excise tax.

The Road Funding Task Force Summary Report which outlines the basis upon which the excise tax was developed is attached (Attachment 4). The City's current excise tax rate is \$0.18 per square foot.

6. Identify how the money collected was expended to support development projects.

Excise taxes are spent in areas that are rapidly growing, and are used for transportation improvements. The eligible projects are approved through the City's Capital Improvement Program (CIP) process. This process is completed on an annual basis, and begins with a set of staff recommendations for the program. These recommendations are reviewed and adjusted by the City's Planning Commission. The Planning Commission's recommendations are submitted to the City Council for review and discussion. During its review process, the City Council holds a public hearing to receive public input on proposed CIP. After review and discussion, the City Council adopts the CIP.

7. Identify how often the rate for the excise tax is reviewed.

City of Lenexa Code Section 4-7A-8 provides that the Governing Body shall periodically review the tax rate at such time as it deems necessary or appropriate; provided, however that a formal review shall take place in January 1999, and not less frequently than in January of every second year thereafter.

**City of Lenexa
Excise Tax Information
Attachment 1**

Date	Real Estate Development	Excise Tax Collected
9/15/1998	Willowbrooke Farms	25,452.00
	Total excise tax collected - 1998	<u>25,452.00</u>
3/12/1999	Bourgade Center	8,753.60
3/25/1999	Falcon Ridge	162,828.58
5/4/1999	Highland Crest	10,234.86
5/13/1999	College Crossover	12,688.04
5/17/1999	Park Edge Apartments	133,664.53
6/2/1999	Highpointe of Parkhurst	95,633.92
6/2/1999	Stonecreek 1st plat	95,928.53
6/2/1999	Crossroad Plat 5	90,155.41
6/2/1999	Weber Carpet	22,742.25
6/11/1999	Lincoln Plat 2	16,627.80
7/22/1999	Estates of Parkhurst 1st Plat	127,589.48
7/22/1999	Stonecreek	76,361.65
9/20/1999	Lenexa Baptist Church	65,342.00
10/4/1999	Falcon Ridge Plat 7	58,000.36
10/8/1999	Highland Crest 2/Brittany	127,759.44
10/26/1999	Falcon Ridge Meadows	150,467.61
11/2/1999	Dorset Village	89,815.64
11/2/1999	Kingston at Manchester	116,398.46
11/16/1999	Estate at Somerset Park	2,252.25
	Total excise tax collected - 1999	<u>1,463,244.41</u>
1/7/2000	Estates Plat 2	101,355.14
2/10/2000	Interstate Center II	74,253.14
5/18/2000	Security Self Storage	36,366.30
6/1/2000	DHW Builders, LLC/Residential	12,386.34
6/14/2000	Hamilton Hollow	14,340.60
7/27/2000	Villas at Rosehill	13,223.20
8/15/2000	Falcon Ridge Villas	50,699.50
9/11/2000	Fire Stables	144,210.36
10/4/2000	Stonecreek Plat 3	112,664.06
10/4/2000	Estates of Parkhurst	111,888.99
10/31/2000	Sonic 87th Street & Loiret	9,306.34
11/14/2000	Falcon Ridge Plat 8	262,355.43
11/14/2000	Falcon Ridge Plat 9	15,535.24
11/16/2000	Crossroad Industrial Park	1,607.55
11/29/2000	OSCO	11,446.05
12/19/2000	Aldi	13,807.30
	Total excise tax collected - 2000	<u>985,445.54</u>

**City of Lenexa
Excise Tax Information
Attachment 1**

1/5/2001	Parkway Development	27,220.00
3/2/2001	Travel Concepts/9412 Pflumm Road	1,896.00
3/2/2001	Kingston @ Manchester Park	82,487.42
3/2/2001	Dorset Village @ Manchester Park	94,393.09
3/29/2001	Woodland Reserve	182,974.20
3/30/2001	Verizon Switch Center	23,065.02
5/24/2001	Crossroads at Lenexa	115,945.70
8/21/2001	Legler Park	8,737.20
9/18/2001	Falcon Pointe	33,575.90
	Total excise tax collected - 2001	<u><u>570,294.53</u></u>
1/3/2002	Maplewood by the Lake	73,692.36
1/3/2002	Woodland View	14,274.96
3/1/2002	Canyon Creek	1,075,000.00
4/4/2002	Gleason Glen Plat 1	96,471.64
6/28/2002	Falcon Valley Commercial 2	10,800.77
9/13/2002	Falcon Ridge Plat 10	23,193.08
9/27/2002	Kingston at Manchester	108,073.14
10/2/2002	Marybelle Business Park	9,072.36
10/2/2002	Noland Woods Plat 2	12,592.32
11/13/2002	Olathe Elementary	53,944.70
	Total excise tax collected - 2002	<u><u>1,477,115.33</u></u>
3/3/2003	Pointe West	3,881.20
6/6/2003	Falcon Ridge Plat 11	113,288.89
6/23/2003	Falcon Ridge Plat 12	144,670.14
6/27/2003	Woodland Reserve Plat 2	263,096.10
8/14/2003	Village of Loiret	47,044.80
11/4/2003	Bridenstine Medical	12,240.27
11/13/2003	Gleason Glen Plat 2	87,892.96
11/28/2003	St. James Academy	345,758.90
	Total excise tax collected - 2003	<u><u>1,017,873.26</u></u>
2/11/2004	83rd Street Equities/Retail Center	24,698.70
3/10/2004	Falcon Ridge Plat 13	202,962.24
4/22/2004	83rd Street Equities/Retail Center	658.80
5/5/2004	Timbers at Clear Creek 1	313,579.80
5/5/2004	Timbers at Clear Creek 2	87,564.42
5/6/2004	Bristol Ridge Plat 5	18,036.32
5/6/2004	Plantation Plat 4	12,187.42
5/6/2004	Plantation Plat 3	18,321.32
6/25/2004	Brittany Development/Crest 3	137,875.68
7/29/2004	Pinnacle Pointe Storage	9,705.96
8/6/2004	Gleason Glen Plat 3	7,985.34

**City of Lenexa
Excise Tax Information
Attachment 1**

8/31/2004	Arbor Lake Plat 1	690,903.36
9/3/2004	Sunrise Retirement	15,142.68
10/27/2004	Rosewood	92,456.46
11/9/2004	Lenexa Christian	32,124.78
11/9/2004	Lenexa Christian	22,761.36
11/12/2004	Cedar Crest Plat 1	121,212.90
12/10/2004	Taco Bell	6,603.12
	Total excise tax collected - 2004	<u>1,814,780.66</u>
	Grand Total	<u>7,354,205.73</u>

City of Lenexa Excise Tax Information

1998-2004

Attachment 2

80
5

Excise Tax Eligible projects	Total Cost to date	City \$ GO Bonds Cash	Public Improvement Street Development	Excise	Intergovern- mental	Transportation Improvement Program
93rd/Marshall/Bradshaw	248,967	248,967	0	0	0	0
Prairie Star Parkway (K-7 to Mize) [Ductbank]	3,425,995	3,425,995	0	0	0	0
Prairie Star Parkway (Woodland West 2300')	942,525	183,925	758,600	0	0	0
87th/135/69 Hwy Interchange	9,701,579	4,628,543	0	0	5,073,036	0
Lackman & 99th Intersection	268,263	168,263	0	0	0	100,000
Pflumm & Santa Fe Trail Drive Intersection Improvements	284,209	284,209	0	0	0	0
79th & Quivira Intersection Improvements	296,445	0	0	0	0	296,445
Prairie Star Parkway (Lone Elm - K-7)	7,890,219	4,795,437	0	1,273,098	1,499,000	322,684
91st St (1900' West of Woodland - Sunset)	958,130	854,398	103,732	0	0	0
Marshall Drive Bridge	379,935	379,935	0	0	0	0
101st Terrace & Lackman	1,299,398	999,398	0	0	0	300,000
101st Woodland - Lone Elm	2,014,025	2,014,025	0	0	0	0
College & Greenwood Signalization	188,126	0	0	0	94,063	94,063
95th & I-435 Signalization	129,482	17,975	0	0	0	111,507
87th & Rosehill Improvement	519,583	419,583	0	0	0	100,000
Renner Blvd 116th South	556,904	56,904	0	500,000	0	0
Loiret Boulevard	639,933	639,933	0	0	0	0
87th/Allman Intersection Improvements	929,348	929,348	0	0	0	0
Prairie Star Parkway (Renner to Ridgeview)	4,001,237	1,816,850	0	701,044	1,483,342	0
Prairie Star Parkway (Ridgeview to Woodland)	20,183,685	14,194,592	0	804,230	5,184,863	0
85th & Quivira Intersection Improvements	322,675	287,489	0	0	0	35,186
Mize Rd (K-10 to 2800')	2,685,824	1,185,824	425,000	1,075,000	0	0
Mize Rd (2800' to Old 95th)	4,693,583	4,002,680	0	690,903	0	0
Streetscape (Prairie Star Parkway-Lone Elm -1700' East of Woodland)	713,682	713,682	0	0	0	0
101st Lone Elm-Monticello	570,295	0	0	570,295	0	0
Lab One Signalization	123,895	108,415	0	0	0	15,480
84th Terrace/Lenexa Drive Signal	97,583	0	0	0	0	97,583
79th St Bridge - Clearcreek	266,001	266,001	0	0	0	0
83rd Street (Gleason to City limit)	300,000	0	0	300,000	0	0
83rd St. (K-7 Interchange Ramps to Gleason)	319,664	319,664	0	0	0	0
Prairie Star Parkway Irrigation System	869,401	869,401	0	0	0	0
Total	65,820,589	43,811,436	1,287,332	5,914,570	13,334,304	1,472,947

Information as of November 2004)

RESOLUTION NO. 2000-174

A RESOLUTION APPROVING AND ADOPTING AN EXCISE TAX TRANSPORTATION MAP

WHEREAS, on February 17, 1998, the City of Lenexa ("City") adopted an ordinance establishing an excise tax on the act of platting real property in the City for the purpose of raising general revenues pledged to transportation improvements in the City; and

WHEREAS, that ordinance required the adoption of an Excise Tax Transportation Map ("Map") reflecting all excise tax eligible arterial and collector roads; and

WHEREAS, since that time the Map has been updated to reflect the addition of certain new roadways and to more accurately reflect the City's intention with regard to excise tax eligible roadways; and

WHEREAS, it is, therefore, necessary and appropriate to adopt such updated Map.

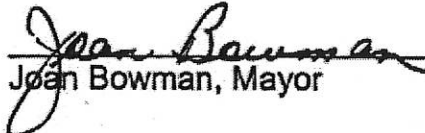
NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LENEXA, KANSAS:

SECTION ONE: That the Governing Body of the City of Lenexa does hereby approve and adopt the Excise Tax Transportation Map, attached hereto as Exhibit "A," and incorporated herein by reference.

SECTION TWO: This resolution shall become effective upon passage by the Governing Body.

PASSED by the Governing Body this 20th day of June, 2000.

APPROVED by the Mayor this 20th day of June, 2000.

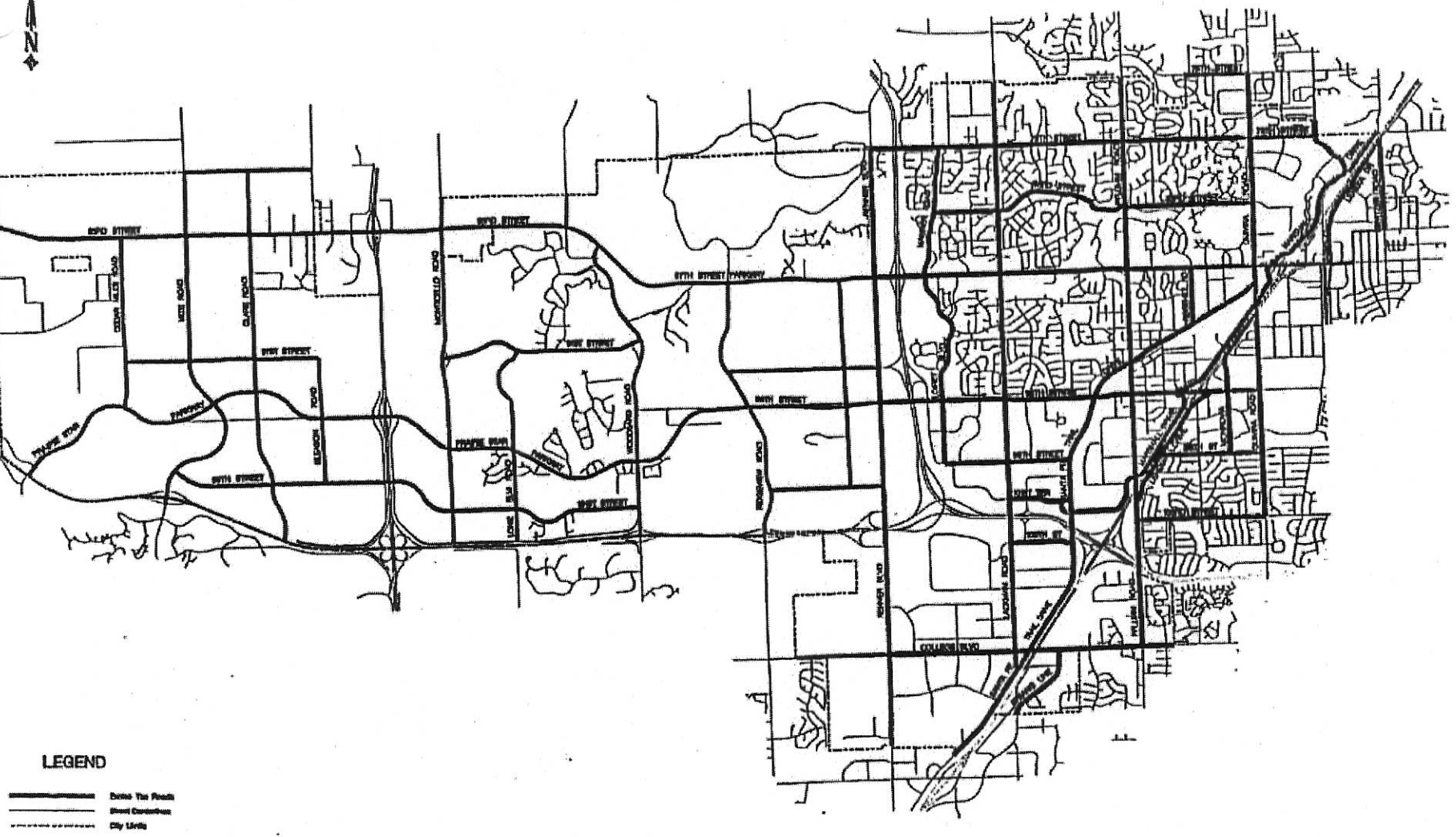

Joan Bowman, Mayor







Sandra Howell, Administration Director/City Clerk

APPROVED AS TO FORM:

Rebecca Swanwick
Rebecca A. Swanwick, Assistant City Attorney



LEGEND

-  District The Roads
-  Street Centerlines
-  City Limits

EXCISE TAX TRANSPORTATION MAP



Road Funding in Lenexa

A Summary of the Report of the Mayor's Road Funding Task
Force
and Staff Recommendations for Adoption by the Lenexa
City Council

December 1997

Road Funding in Lenexa

History

Over the past few years, it has become apparent to the City of Lenexa that the funding mechanisms in place to provide for developer contributions to new road construction are not working. The City has a front footage based contribution to arterial and collector roads from platted lands that has yielded little revenue. We were using a system common in neighboring cities that was based on initiating development off of existing section line farm roads, while western Lenexa has few of these types of facilities in place.

In addition, the City has another fee, the Transportation Improvement Program or "TIP Fee", which is yielding little revenue as well. That fee was designed to cover future enhancements of the road network such as traffic signals and extra turn lanes at intersections, but in fact most commercial developers were relieved of most of the fee as credits for building turn lanes into their own development sites. Such improvements are a developer responsibility in most cities.

Approximately two years ago, the City of Lenexa hired the land use law firm of Freilich, Leitner and Carlisle to help the City draft an impact fee to replace the existing funding programs. Initially, an impact fee, being exclusively based on traffic generation, was thought to be the best way to eliminate inequities in the process and generate the necessary revenue to build the significant road system necessary to develop western Lenexa. However, after review by the development community and Lenexa Economic Development Council, there was concern about the competitiveness of that mechanism with other cities in the Metro, especially given the current economic development environment.

Last spring, Mayor Joan Bowman appointed a Road Funding Task Force to consider and evaluate other funding alternatives. This task force included the Mayor and another Councilmember, three City staff members, and four members of the business and development community. The recommendations described below are the product of that committee's work, further refined by the City staff based on legal research and current economic factors.

The Challenge

With the completion of the Mill Creek Sewer Plant and the increasing formation of sewer districts in the area, western Lenexa should be primed for the development wave that seems to be expanding from southern to western Johnson County. However, with almost no paved roads in much of this growth area, development has not proceeded as quickly as in some neighboring communities. The challenge facing Lenexa is to develop a program that can build roads to support development, while maintaining competitiveness in the metropolitan economic environment and assuring a fair sharing of these costs between the benefited development parcels and the City-at-large.

Using our Comprehensive Plan and Traffic Model, the City staff has identified approximately \$200 million of new roads and transportation improvements necessary to support the buildout of the City. These improvements are broken down in four general types:

- A "Spine" of major arterials necessary to open up the majority of the western portion of the City. These include about 13 miles of roads reflected in red on the attached map, with an estimated cost of approximately \$50 million.
- A network of major collector roads that open up additional areas and necessary to support ultimate development traffic. These include about 19 miles of roads reflected in blue on the attached map, with an estimated cost of approximately \$40 million.
- Approximately \$25 million of additional improvements to the above roads such as traffic signals and extra turn lanes as traffic increases over time.
- Approximately \$85 million of road and other improvements to the existing network to upgrade capacity as traffic counts grow.

The Road Funding Concept

After reviewing common mechanisms for sharing road costs with the development community, the Task Force settled on a recommendation that includes a blend of three funding sources:

City-at-Large Funding – Even in the existing programs, the majority of funds for road improvements are provided by City-at-large tax dollars. This type of funding is particularly appropriate for the spine arterials that need to be constructed prior to a revenue stream being generated by adjacent development. Moreover, arterials carry large amounts of traffic benefiting the public at large more than specific developments.

Excise Tax on Platted Land – This revenue mechanism appears to be accepted by the development community. The Kansas courts have upheld the legality of this funding mechanism. It has the appeal of reflecting the role of new roads in enhancing the value of all land for development not just those tracts with direct frontage. It also takes into account the cost of opening up lower density areas since it is based on land area rather than use.

TIP (Impact) Fee for Traffic Operational Improvements– This fee is currently in place and is calculated based on traffic generation. Since higher intensity development creates the greatest need for these types of traffic improvements, they pay a proportionate share. However, the current application of this fee has inequities based on past grandfathering, and credit provisions that allow the fees to pay for improvements that should be the direct responsibility of development.

The concept of this blended philosophy is appealing in that it spreads the costs of road development. The excise tax is classically paid by land owners or land developers, the TIP Fee by builders or "vertical" developers, and the City-at-Large funding is borne by tax payers as a whole, including future tax payers (including tenants and residents of new development) when projects are bonded.

This blended concept was presented to the Governing Body in September. At that time, the Governing Body instructed staff to prepare specific proposals to be considered for adoption. In addition, the staff has been working to create an accelerated Capital Improvement Program (CIP) for consideration early next year. This program would provide the initial roads necessary to open up the rest of the area from Renner west to K-7 and support the development that has already begun in western Lenexa.

The Specific Recommendations

The staff has spent the past couple of months finalizing the details of the proposed funding program for presentation to the Governing Body in January. At the same time, the staff has generated a proposed 1999 – 2003 Capital Improvement Program that is designed to meet the challenge of developing western Lenexa. The major points of these recommendations are summarized below:

Excise Tax for Road Development

- Collected at the time of recording of plats of land for new development, or replatting of land that increases development potential.
- Not collected for land area within arterial or collector right-of-way, or in permanently dedicated common open spaces.
- Credit shall be given previous payments toward the development of the arterial and collector network such as street development (front footage) fees, benefit district payments, and actual private construction of such roads.
- Credit to be based on applying excise tax to all existing phases of a subject development, and converting payments into square feet of excise tax paid.
- No imposition of additional collector road construction on typical single family subdivisions, as is common in some neighboring cities.
- Recommended tax rate: \$0.15 cents per square foot of land subject to tax, which equates to \$6534 per acre of taxable land. Based on provisions above, this rate would generate approximately \$46 million at full build-out of the City.

Transportation Improvement Program Fee

- Collected at time of building permit issuance.
- Eliminate current exemptions by applying to all land uses and new construction.
- Eliminate the current credits for construction of site access related improvements.
- Credit for construction of other operational improvements not providing direct access to the site.
- Reduce fee approximately 30% from \$36 per trip to \$25 per trip. Based on the current land use plan, this rate is estimated to generate approximately \$20 million at full build out of the City.

Examples: Single Family Home \$250
 Apartment Unit \$156

Accelerated Capital Improvement Program

- Increases major road construction in Western Lenexa by 2002 from 3.5 miles in the current CIP to 8 miles.
- Opens significant new areas for residential development, as well as providing access to future commercial areas.
- Provides the following 5.5 miles of key links by the year 2000:
 - ✓ Prairie Star Parkway completed west from Woodland to K-7 (at 95th Street)
 - ✓ Lone Elm built from K-10 to Prairie Star Parkway
 - ✓ 101st Street built from Woodland to Lone Elm
 - ✓ 91st St. completed west to Sunset (connecting Whispering Hills and Falcon Ridge)
 - ✓ Monticello Road improved from Prairie Star to 91st Street
 - ✓ Prairie Star improved from Renner to future Ridgeview Road
- Balance of CIP program to 2003 proposes:
 - ✓ Connection of Prairie Star across Mill Creek from Woodland to Ridgeview
 - ✓ Construction of Ridgeview from Prairie Star south to K-10
 - ✓ Improvement of Monticello north to 83rd Street
 - ✓ Initiation of Prairie Star construction west of K-7
 - ✓ Major improvements to the I-35, U.S. 69, 87th Street area

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March 2, 2005

The Honorable Kenny Wilk
Chairman and Members
House Taxation Committee
Room 519 South
State Capitol
300 SW Tenth Avenue
Topeka, KS 66210

Re: In Support of HB 2467; Homes Builders Association of Greater Kansas City

Dear Chairman Wilk and Members of the House Taxation Committee:

During the hearing on HB 2467 on February 22, we advised you that consistent with your admonition, we would take the leadership role in attempting to reach consensus on the issue of accountability in local government for the collection of excise taxes. We also told you of an upcoming meeting between builders, developers and cities of Johnson County to address the issues. That meeting occurred on February 24th among representatives of the building industry and city administrators for the larger communities within Johnson County, Kansas. As promised, this testimony is a report on that meeting.

Following a two hour discussion on the issues, we left the meeting with the clear understanding that cities are determined to collect any number of various excise taxes for any number of various public works purposes at varying levels which may be escalated from time to time to form a general fund pointed toward, generally, road construction having nothing to do with the development for which such excise taxes were paid. Obviously we were disappointed with the meeting.

In one way however, the cities have let their true intentions be known:

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1. They have made it clear that they resist the accountability of an impact fee;
2. They are seeking to avoid any sort of foundation upon which such development excise taxes would be predicated; and
3. They will resist any form of connectivity between the development being constructed and the roadway sought to be improved.

We therefore urge the House Committee on Taxation to take favorable action in support of HB 2467, and also to address our concerns and proposed balloon amendment with regards to HB 2023 as described in our testimony of February 14, 2005, copies of which are attached for your ready reference.

As always, it is a pleasure to appear before your House Committee on Taxation.

Respectfully submitted,



Douglas J. Patterson

DJP:lsm

cc: David Holtwick
Chris Wilson

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February 14, 2005

The Honorable Kenny Wilk
Chairman and Members
House Taxation Committee
Room 519 South
State Capitol
300 SW Tenth Avenue
Topeka, KS 66210

Re: In Support of HB 2023; Offer Amendments thereto

Dear Chairman Wilk and Members of the House Taxation Committee:

This letter is written on behalf of the Home Builders Association of Greater Kansas City on behalf of residential builders and developers throughout Kansas City. We support HB 2023 and offer an amendment.

The report of the Special Committee on Assessment and Taxation (the sponsors of HB 2023) appropriately identifies a significant and dangerous loophole in Kansas law which has become a temptation for abuse by municipalities. The Special Committee report cites the case of *Home Builders Ass'n v. City of Overland Park*, 22 Kan.App.2d 649 (1996). The *Home Builders Assn' v. City of Overland Park* construed K.S.A. 12-194, the prohibition on certain excise taxes, in light of the entire regulatory structure of the Kansas Retail Sales Tax Act. *Home Builders Ass'n v. City of Overland Park* construed that the Retail Sales Tax Act was nonuniform and that therefore a part thereof, namely K.S.A. 12-194, was subject to Home Rule jurisdiction.

We do not take lightly the constitutional privilege of Home Rule granted municipalities. Recently however, the unwitting nonuniformity of certain statutory structures has created a loophole for municipalities which were never intended by this legislature. Point in fact, the case of *Kansas City Renaissance Festival Corp. v. City of Bonner Springs*, 8 P.3d 701 (2000) affirms a municipality's ability to charter out of the otherwise restrictions contained within K.S.A. 12-194 (the excise tax prohibitions) in light of the nonuniform nature of the Retail Sales Tax Act.

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The court in *Kansas City Renaissance Festival Corp. v. City of Bonner Springs* quarried whether or not post 1996 but pre 2000 amendments to the Kansas Retail Sales Tax Act would have caused such Retail Sales Tax Act to become uniform thereby eliminating the opt-out loophole. We know that such is not the case and therefore your Special Committee on Assessment and Taxation properly has sponsored HB 2023.

It seems however that HB 2023 needs to complete the statutory repair of the nonuniformity declared in *Home Builders Ass'n v. City of Overland Park*, by also amending K.S.A. 12-194 to eliminate the abuses which was initially intended to be addressed.

In the name of "excise tax", cities are generating revenues never envisioned by this legislature. They are not just penalizing the home building industry, but also imposing "excise taxes" on practically every activity which can be taxed. If something seems to be a source of revenue, municipalities are seeking to impose an "excise tax" on it. Much like the loophole of nonuniformity sought to be repaired by HB 2023, the loophole of K.S.A. 12-194 likewise needs to be repaired.

You will find below a suggested amendment to HB 2023 which would be inserted as a new section. This would amend that portion of the Kansas Retail Sales Tax Act relative to excise tax and would be complementary with the other efforts being made by the building and development industry within the State of Kansas to pay its own way in the development process but not to be a revenue source for independent expenditures not connected in any way with the development sought to be taxed. The suggested amendment to HB 2023 appears as follows:

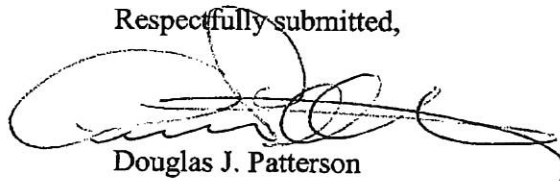
Sec. __. K.S.A.12-194 is hereby amended to read as follows: **12-194. Same; other city and county excise taxes prohibited; prohibition construed.** No city or county shall levy or impose an excise tax or a tax in the nature of an excise, other than a retailers' sales tax and a compensating use tax, upon the sale or transfer of personal or real property or the use thereof, *the zoning, platting, subdivision, resurveying or development of real estate, the issuance of a building or occupancy permit (s),* or the rendering of a service, but the provisions of this section shall not be construed as prohibiting any city from (a) contracting with a utility for a fixed charge based upon a percentage of gross receipts derived

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from the service permitted by grant, right, privilege or franchise to such utility; (b) imposing an occupation tax or license fee for the privilege of engaging in any business, trade, occupation or profession, or rendering or furnishing any service, but the determination of any such license fee shall not be based upon any amount the licensee has received from the sale or transfer of personal or real property, or for the rendering or furnishing of a service, or on the income of the licensee, *or on the size of or number of lots within a real estate development*; (c) levying any occupation tax or license fee imposed by such city prior to the effective date of this act; *or (d) continuing to levy an excise tax with respect to excise taxes imposed upon real estate building and development activities on the specific development until such development is completed.* No license fee described in subsection (b) of this section shall be imposed upon any utility contracting with and subject to a charge, described in subsection (a) of this section, by such city.

Thank you very much for your consideration and we stand for questions.

Respectfully submitted,



Douglas J. Patterson

DJP:ism