

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 9:00 A.M. on March 8, 2005 in Room 519-S of the Capitol.

All members were present except:

Representative Nancy Kirk- 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:

Secretary Wagon, Department of Revenue
Marlee Carpenter, Kansas Chamber of Commerce
Larry Baer, League of Kansas Municipalities

Others attending:

Representative Huff made a motion to introduce a bill regarding a high performance incentive program and redemption of those tax credits for qualifying companies in Kansas. Representative Owens seconded the motion. The motion carried.

SB 13 - Confidentiality and disclosure requirements of tax information

SB 13 generally would relax certain tax confidentiality provisions and allow the Department of Revenue to share additional taxpayer information with other state agencies and various local officials, and under certain limited circumstances, with retailers. One exception to the relaxation provisions would be language limiting the potential release of private financial information of liquor licensee, suppliers, distributors, farm wineries, and microbreweries.

Chairman Wilk opened the public hearing on **SB 13**.

Secretary Wagon, Department of Revenue stated that **SB 13** was recommended by the Special Committee on Assessment and Taxation and reflects the result of negotiation and compromise between the department and the business community (Attachment 1). KDOR supports the bill.

The proposed substantive changes would expand access to tax and/or license related information as follows:

- KDOR may disclose to the Secretary of Commerce copies of applications for enterprise zone project exemption certificate applications, and may further provide specific income, excise, or privilege taxpayer information related to financial information previously submitted by the taxpayer to the Secretary of Commerce concerning tax credit programs, for purposes of verifying such information or evaluating the effectiveness of tax credit programs administered by the Secretary of Commerce.
- KDOR may share information with the following state agencies for the purpose of administering a specific tax and/or fee: Secretaries of (1) Health and Environment (2) State Board of Agriculture, (3) Kansas Water Office, (4) Commerce and the Executive Director of KPERS.
- KDOR may provide city/county clerks/treasurers or finance officers with reports of the distributions made to their respective city or county from any excise tax type, not just retailer's sales and transient guest.

CONTINUATION SHEET

MINUTES OF THE House Taxation Committee at 9:00 A.M. on March 8, 2005 in Room 519-S of the Capitol.

- KDOR may publish limited information from liquor license applications, liquor brand registrations, and cigarette tobacco license applications.
- KDOR can verify to retailers the sales tax exemption numbers issued by the department to sales tax-exempt entities and used when such entities make exemption claims on their purchases.

There are also minor language changes for technical clean-up and protection for the confidential financial information.

Discussion followed regarding the following topics: rationale behind sharing confidential information with county/cities, penalties and prosecution for abuse of confidentiality, and potential scenarios for possible disclosure of confidential information.

Marlee Carpenter, Kansas Chamber of Commerce, testified in support of **SB 13**. She stated that the Kansas Chamber had worked with Revenue and Commerce, and after many meetings had reached the compromise language in **SB 13 (Attachment 2)**. The business community is supportive of **SB 13** at the time.

Larry Baer, League of Kansas Municipalities appeared in support of **SB 13 (Attachment 3)**. He stated that the receipt of additional, detailed tax payment information will be beneficial to cities and counties. It allows better information to verify tax distributions and to help with the preparation of revenue projections during the budget process. By receiving information identified to a specific retailer, a city or county can better track its sources of sales and use tax revenues and what effect, if any, destination sourcing and local use tax is having on its revenue stream. The more information that is available the easier it is to plan.

There being no other conferees the Chairman closed the hearing on **SB 13**.

HB 2448 - Angel Investor Credit Act

The purpose of the Kansas Angel Investor Tax Credit act 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 KS businesses.

The Chairman moved that they adopt a technical amendment to **HB 2448**, on page 7, line 8, that would add the word *commerce* behind Secretary and change the letter on line 22, subsection (b) to *c*. Representative Owens seconded the motion. The motion carried.

Representative Owens moved that the House Taxation Committee move **HB 2448**, favorably for passage. Representative Goico seconded the motion. 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 regarding the collection of tax revenue for Bioscience industry.

The Chairman called attention to a suggested balloon, submitted by Troy Findley, on behalf of the Governor (**Attachment 4**). On page 2, line 3, the words ~~and are identified~~ are struck, and the following added *but shall not include entities engaged in the distribution or retail sale of pharmaceuticals or other bioscience products*. On page 3, lines 13 through 17 and on page 4, line 26 through 39 were deleted.

Chairman Wilk moved that the balloon amendments to **HB 2505** be adopted. Representative Menghini seconded the motion. The motion carried.

Representative Goico made the motion that **HB 2505**, as amended, be moved favorably for passage. Representative Thull seconded the motion. The motion carried.

CONTINUATION SHEET

MINUTES OF THE House Taxation Committee at 9:00 A.M. on March 8, 2005 in Room 519-S of the Capitol.

SB 105 - Countywide retailers' sales tax in Miami county.

Mr. Courtwright stated that **SB 105** would amend a local sales tax statute to ratify the results of a November 2004, election in Miami County relative to extending an existing quarter percent sales tax earmarked for road construction and improvement for an additional five-year period. The law also would be amended to clarify that Miami County has authority to seek voter approval of additional five-year extensions.

Representative Owens made the motion that SB 105 be moved out favorably for passage. Representative Brunk seconded the motion. The motion carried.

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

The Chairman stated that they would resume the free-flow discussions on SSTP, while Secretary Wagon was available to answer questions. Discussions centered on the following topics: exception in the way florists submit their sales taxes, nexus laws - connection to multi-channeling, description of the Ohio amendment expected in Atlanta, and probable future date of sales tax implementation for internet sales.

In response to the Chairman's request the Secretary agreed to provide a diagram/explanation chart of how SSTP works in and out of state and provide updates on Congressional activities and the Atlanta Conference on March 9th.

The meeting was adjourned at 10:15 a.m. The next meeting is March 9, 2005.



K A N S A S

JOAN WAGNON, SECRETARY

DEPARTMENT OF REVENUE
OFFICE OF THE SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

January 27, 2005

Testimony to the House Taxation Committee
Joan Wagnon

Senate Bill 13

Representative Wilk, Chair, and Members of the Committee:

Senate Bill 13 was recommended by the Special Committee on Assessment and Taxation and reflects the result of negotiation and compromise between the department and the business community. It would amend the confidentiality laws to enhance the department's ability to share certain taxpayer information with local governments to improve collection efforts. It would expand the department's ability to share relevant information with other state agencies concerning taxes or fees those agencies have involvement with. It provides confidentiality protection for certain liquor license records that currently may be subject to the Open Records Act. It would also enable the department to share certain taxpayer information with the Department of Commerce, in order to facilitate that Department of Commerce's administration of certain tax credit programs.

Senate Bill 13 would amend several confidentiality provisions associated with tax returns, reports and investigations and licensing applications. This proposal will allow the department to uniformly apply the confidentiality provisions to all excise tax types while balancing the legitimate need for information derived from these records with the intent to keep such information confidential. The proposal will also relocate existing language concerning exceptions to the confidentiality requirements, making the exceptions easier to locate.

The proposed substantive changes would expand access to tax and/or license related information as follows:

- The department may disclose to the Secretary of Commerce copies of applications for enterprise zone project exemption certificate applications, and may further provide specific income, excise, or privilege taxpayer information related to financial information previously submitted by the taxpayer to the Secretary of Commerce concerning tax credit programs, for purposes of verifying such information or evaluating the effectiveness of tax credit programs administered by the Secretary of Commerce. The persons receiving the information would be subject to the same confidentiality restrictions and penalties as department of revenue employees.

Hs Taxation Committee
March 8, 2005
Attachment 1

- The department may share information with the following state agencies for the purpose of administering a specific tax and/or fee:
 - Secretary of Health and Environment: environmental surcharge or solvent fee
 - Secretary of the State Board of Agriculture: water protection fee
 - Secretary of the Kansas Water Office: water protection fee
 - Secretary of Commerce: enterprise zone exemptions and income tax credits
 - Executive Director of Kansas Public Employees Retirement System (KPERS): income tax information to determine whether an individual's reported compensation is in compliance with KPERS laws.

- The department may provide city/county clerks/treasurers or finance officers with reports of the distributions made to their respective city or county from any excise tax type, not just retailer's sales and transient guest.

- The department may publish limited information from liquor license applications, liquor brand registrations, and cigarette and tobacco license applications. Liquor license records (which contain financial information concerning the owners) will otherwise be subject to confidentiality protection, and can be provided to law enforcement personnel only with a subpoena. Under current law, liquor license records may be subject to the Open Records Act.

- The department can verify to retailers the sales tax exemption numbers issued by the department to sales tax-exempt entities and used when such entities make exemption claims on their purchases.

We encourage your support for this bill.

Legislative Testimony

SB 13

Tuesday, March 8, 2005

Testimony before the Kansas House Taxation Committee
By Marlee Carpenter, Vice President of Government Affairs

Chairman Wilk and members of the Committee;

The Kansas Chamber, during the summer and fall, has worked with the Kansas Department of Revenue and the Kansas Department of Commerce on the compromise language that you see is SB 13. This language was reached after many meetings with both Revenue and Commerce. The business community is supportive of SB 13 at this time.

Thank you for your time and I will be happy to answer any questions.



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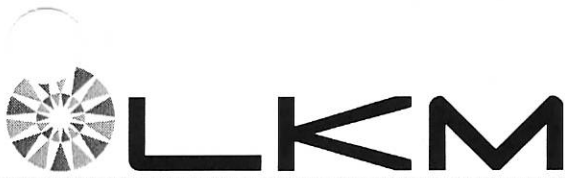
www.kansaschamber.org

The Kansas Chamber, with headquarters in Topeka, is the statewide business advocacy group moving Kansas towards becoming the best state in America to do business. The Kansas Chamber and its affiliate organization, The Kansas Chamber Federation, have more than 10,000 member businesses, including local and regional chambers of commerce and trade organizations. The Chamber represents small, medium and large employers all across Kansas.

His Taxation Committee

March 8, 2005

Attachment 2



League of Kansas Municipalities

Date: March 8, 2005
To: House Committee on Taxation
From: Larry R. Baer
Assistant General Counsel
Re: SB 13 - Testimony in Support

Thank you for allowing me to appear before you today on behalf of the League of Kansas Municipalities and its member cities to present testimony in support of SB 13.

SB 13 clarifies and broadens the scope of information that can be shared between state agencies and others relating to the collection, payment and enforcement of tax collections. This includes giving the Department of Revenue the authority to share much more detailed information on retailers doing business in the city or sourcing taxable sales to the city and confirming whether or not a retailer is registered with the state.

Receipt of additional, detailed tax payment information will be beneficial to cities and counties. It allows better information to verify tax distributions and to help with the preparation of revenue projections during the budget process. By receiving information identified to a specific retailer, a city or county can better track its sources of sales and use tax revenues and what effect, if any, destination sourcing and local use tax is having on its revenue stream. As with anything, the more information that is available the easier it is to plan.

There have been times when cities have had questions as to whether or not they were receiving the proper payments from the State. This should help to alleviate some of these concerns. A city could track revenue from specific sources and see whether or not collections from specific segments of their retailers were steady, climbing or declining.

Of course, the concepts presented in these bills also has the effect of strengthening the collection powers of KDOR. This is important not only to the State, but to local government as well.

It is noted that SB 13 has added "finance officer" to the list of local government officials that would have been permitted to receive information under 2004 HB 2744. This addition was necessary because many local governments do have budget or finance officers who are involved in the budgetary process with a need to access such information. The League supports this additional language and would encourage the broadening of it to include "finance, budget officers or other such officers or employees of cities or counties".

Admittedly, the concepts contained in SB 13 represent a change in policy. We believe it is a policy change for the betterment of the State of Kansas and cities and counties. In addition, it would create efficiencies at the State level. It will provide for more information being received at the local level which will assist in local planning. In general it would be strengthening the partnership between KDOR and local government. For these reasons the League of Kansas Municipalities supports the confidentiality and disclosure of tax information embodied in SB 13.

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. - Troy Findley, 3/3/05

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.

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 ~~defined 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) "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

delete lines

13 + 14 —

Troy Findlay,
3/3/05

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 ~~—(c) 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

Rep. Kenny Wilk
 - 3/8/05

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.