

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE

The meeting was called to order by Chairman Barbara Allen at 10:30 A.M. on January 20, 2005 in Room 519-S of the Capitol.

Committee members absent:

Committee staff present: Chris Courtwright, Kansas Legislative Research Department (KLRD)
Martha Dorsey, Kansas Legislative Research Department (KLRD)
Gordon Self, Revisor of Statutes Office
Nancy Kirkwood, Secretary

Conferees appearing before the committee: Joan Wagnon, Secretary, Kansas Department of Revenue (KDOR)
Jeff Scott, Compliance Manager KDOR
Cindy Lash, Legislative Post Audit
T. C. Anderson, Kansas Society of CPA's
Ron Waln, Exec. Board Member, Wichita Independent Business Association

Others attending: See attached list.

SB 15 - Delinquent taxes and returns; professional license issuance and renewal

Chairperson Allen recognized Martha Dorsey, Legislative Research, to give a review of the Interim Committee Report to Committee. **SB 15** is essentially the result of Interim Committee work this past fall. There were two Interim Committee reports that related to **SB 15**. The topics were divided into delinquent taxes-- liquor license renewal, and professional license renewal. Recommendation of the Interim Committee was legislation requiring a tax clearance process.

With respect to the liquor license conferees who testified before the Interim Committee, the questions and comments were as follows:

- 1) Whether to include or exclude liquor licensees in the tax clearance legislation
- 2) Which taxes to include in the legislation, ensuring the licensure actions apply only to nonpayment of business taxes and not to personal taxes.
- 3) Situations regarding minority stockholders or spouses.
- 4) Some conferees indicated opposition to legislation that would authorize the Department to reject or not renew licenses.

With respect to professional license conferees, the following comments were made:

Citing the lack of Due Process and other protection for licensees, some conferees indicated legislation proposed in the 2004 session did not allow input from licensees to defend themselves, for example, when KDOR makes an error regarding taxes owed. Some conferees noted that the penalty, loss of license, is out of proportion to the alleged offense. Perhaps the biggest issue during this Interim study was the issue of Separation of Powers for the attorneys.

KDOR testified it had conducted a voluntary study during the interim, during which several professional licensing agencies agreed to analyze how many of their licensees were either delinquent in taxes or had not filed taxes. Overall, among the 52,000 licensees who were examined, almost 28% or 14,500 had been delinquent in filing or paying their taxes. The Department noted a significant effect of taxpayer delinquency is an increased burden on those who are paying their taxes. These concerns were mentioned by the conferees during the Interim Committee process.

CONTINUATION SHEET

MINUTES OF THE Senate Assessment and Taxation Committee at 10:30 A.M. on January 20, 2005 in Room 519-S of the Capitol.

The Committee recommended introduction of a single bill that would require a Tax Clearance process for business and professional licensees. (Attachment 1) In response to testimony received, the Interim Committee recommended the legislation be modeled after KDOR's proposed revised language that came out of the Interim. It would contain those professional business licensees that were in the expanded list KDOR officials provided. The Committee also specified liquor licensees and attorneys be included among the professions and businesses that would be affected by the legislation (Attachment 2).

Secretary Wagon, KDOR, presented a summary of **SB 15**. The Secretary stated **SB 15** proposes a tax clearance process for the issuance or renewal of various types of business licenses, certificates and permits listed in subsection 1(c) and issued by the licensing bodies listed in subsection 1(b). The proposal gives KDOR the flexibility to work with the various licensing agencies to develop tax clearance implementation procedures that will integrate smoothly within the agencies' current license issuance or renewal processes (Attachment 3).

Secretary Wagon, KDOR, passed out to the Committee copies of the Tax Clearance Research Results as of December 20, 2004, for informational purposes (Attachment 4). She introduced Jeff Scott, Compliance Manager, KDOR, Bev Ries and Andrew Kapp, Compliance staff. Bev and Andrew had compiled the information from the agencies that voluntarily submitted their information for the study. KDOR's proposal last year was run past the regulatory agencies and professional associations that represent these groups of licensees. KDOR has modified the proposal to fit within what the regulatory agencies and professional associations do. KDOR has multiple ways that people can obtain Tax Clearance. Nurses renew online as they need an instant clearance. Beauty operators submit their list on excel spreadsheet, and that works. Some may need to come to the Department to get a Tax Clearance. The goal is to make sure people pay their taxes.

When KDOR started researching this, it was discovered there are a number of people that simply do not pay their taxes. The compliance rates go up dramatically in those states that have instituted this kind of process. KDOR stated it has continuously listened to every group affected by this bill.

The following states currently have a Tax Clearance procedure: California, Delaware, Hawaii, Illinois, Indiana, Maryland, Minnesota, Missouri and Vermont. KDOR has spoken to the Minnesota Revenue Department, who states Tax Clearance continues to be a valuable tool in collecting state revenues. People who are delinquent in sales, income, liquor taxes, etc., would not be able to renew their license until their tax liabilities are cleared up or some type of payment plan is entered into.

Senator Apple requested KDOR furnish the Committee a fiscal note on targeted trust taxes. Chairperson Allen requested the Department furnish the committee with a "Compliance Rates" chart of states before and after their Tax Clearance Program was implemented.

Cindy Lash, Legislative Post Audit, addressed the Interim Committee last October and released an audit that included the KDOR's collection of delinquent trust taxes. The Post Audit's conclusions and recommendations speak directly to the need to expand Tax Clearance as a tool for the Department to use to enhance its revenue collections. Ms. Lash stated Post Audit does not have a position on the mechanics that are in the bill. As noted in the report, businesses and individuals that don't pay the taxes they owe increase the tax burden on everyone else. One interesting item struck the Post Audit. When one looks at the non-remittance of trust taxes businesses collect from their customers, and withholding taxes businesses collect from their employees, they are in essence stealing money from both the state and its citizens. Expanding the use of Tax Clearance to virtually everybody and every business that is licensed, by passing **SB 15**, gives the KDOR a very efficient front-end tool for collecting delinquent taxes. This should result in greater fairness for taxpayers and also more revenue for the state. In the audit, Post Audit looked at accounts that were very much delinquent and concluded that the longer taxes are delinquent, the less ability KDOR has to collect the taxes (Attachment 5).

There being no others to testify before the Committee as a proponent to **SB 15**, the Chair called for neutral conferees.

T. C. Anderson, Executive Director, Kansas Society of Certified Public Accountants, presented testimony with concerns on **SB 15** (Attachment 6)

CONTINUATION SHEET

MINUTES OF THE Senate Assessment and Taxation Committee at 10:30 A.M. on January 20, 2005 in Room 519-S of the Capitol.

Ron Waln appeared before the Committee as a board member of the WIBA. Mr. Waln's testimony stated there is great amount of concern that **SB 15** targets only a select segment of Kansas' taxpayers, those who are required to seek a professional license in the State of Kansas (Attachment 7).

The Chair asked for any opponents to **SB 15**. There being none, the Chair closed the public hearing.

Introduction of Bills

Chairperson Allen called for bill introductions, there were none.

The meeting adjourned at 11:55 a.m. The next meeting is scheduled for January 24, 2005

**SENATE
ASSESSMENT & TAXATION COMMITTEE**

GUEST LIST

DATE: Jan 20, 05

NAME	REPRESENTING
Tom Groneman	KDOR - AISC
TC Amelsson	KSCPA
Rehuel Cna	KDOR
Jana Wegman	KDOR
James Bartle	Dept. of Revenue
Jeff Scott	KDOR
Andrew Kapp	KDOR
BEV REES	KDOR
Ann Dorken	Div of Budget
Cheri Fretschner	Div of Budget
Frank Cavella	Bank commissioner
Gary Reser	KVMA
Chip Wheelen	Asn of Osteopathic Med.
Amber Shwendt	PMCA
Tom PALACE	PMCA
Ed Kardner	Kansas Fed of Statistical Workers
John Callahan	KCC
Debra Duncan	KATHD

**SENATE
ASSESSMENT & TAXATION COMMITTEE**

GUEST LIST

DATE: Jan 20, 05

NAME	REPRESENTING
Rebecca Figg	KBWA & KCAA
Amy Campbell	KS State Ophthalmologists
Bibeca Bailey	KMS
Jerry Slaughter	KMS
DANIEL MAGUI	KALS
Sherry C. Diel	KS Real Estate Comm
Sky Westerlund	KS Chapter, NASW
Judy Gron	Am Inst of Architects-Ks
Pam Scott	K's Funeral Directors Assn
Kathy Olsen	KBA
April Haman	Kansas Action for Children
Kathy Damron	Kansas Assoc. Realtors
Duane Simpson	KGFA - KARA
Colleen Harrell	KCC
Ashley Sherard	Lenexa Chamber
Scott Heidner	ACEC Kansas
Elisa Rawls	KNASW intern
Savannah Meyer	KNASW Intern

Special Committee on Assessment and Taxation

DELINQUENT TAXES AND LIQUOR LICENSE RENEWAL

CONCLUSIONS AND RECOMMENDATIONS

The Committee recommends introduction of legislation to require tax clearance with respect to liquor licensees' withholding and sales taxes. This legislation is to be combined into a single bill that also would require tax clearance for professional licensees.

Proposed Legislation: The Committee recommends the introduction of one bill on this topic and the professional license tax clearance topic combined.

BACKGROUND

During the 2004 Legislative Session, the Kansas Department of Revenue (KDOR) requested consideration of several statutory changes designed to enhance collection of delinquent taxes. KDOR submitted these requests and considered the second stage of elevated tax collection efforts, after concluding a tax amnesty program that netted several tens of millions of dollars in past due taxes. Among those submitted were bills that would have authorized non-issuance of business and professional licenses for delinquent taxpayers. One such proposal, contained in Senate Substitute for House Bill 2375, was enacted in 2004. This provision requires the suspension or revocation of a vehicle dealer's license when the dealer is delinquent in sales or withholding taxes for three consecutive months.

Another such proposal was contained in House Bill 2680 and Senate Bill 414, relating to liquor licensees. Current law requires a liquor licensee to be current on all liquor taxes owed in order for the license to be granted. These identical bills would have added withholding and sales taxes to the mandate that outstanding taxes be paid before the liquor license would be issued. Had the legislation been enacted, liquor licensees would have had to be current in payment of withholding, sales, and liquor taxes relating to the liquor-licensed business

before their licenses would be issued or renewed. In addition to making other changes, the bill also would have created a sales tax and withholding tax clearance requirement for issuance or renewal of a club or drinking establishment license.

A fiscal note on the bill stated it would not affect revenues, because the amounts owed are accounted for in the Department's accounts receivables program. The fiscal note stated the bill's benefit would be to assist in obtaining more timely collection of the tax due from licensees.

KDOR officials testified during the 2004 Session that at least 16 states require some sort of tax clearance before issuing or renewing liquor licenses.

COMMITTEE ACTIVITIES

At the October meeting, the Committee held a public hearing. Representatives of the liquor business community generally indicated qualified support for the concept of the tax clearance requirement. The caveats were described by various conferees as follows:

- Whether to include or exclude liquor licensees in the legislation for other tax clearance requirements - Some conferees testified in favor of collapsing tax

clearance programs for professionals and liquor business owners into one bill. The concern was that all licensees be treated equally, "in the same bill, enacted at the same time and in the same manner." Others supported the legislation whether or not it was made contingent upon applicability to other licensees in the state.

- Which taxes to include in the legislation - Some conferees supported ensuring the licensure actions are applicable only to nonpayment of taxes on the business that operates a club or drinking establishment, and not applicable to personal taxes.
- Situations involving minority stockholders or spouses - Conferees indicated opposition to any legislation that would authorize KDOR to reject or not renew a license if, for example, a minority stockholder of a corporation seeking a license owed taxes for another business.

- Additional concerns - Some conferees asked for a 90-day notice, similar to that proposed in the legislation for professional licensees, to allow for verification of the debt and corrections of any inadvertent incorrect state reporting. Also requested were data on current tax compliance for all businesses and professions.

CONCLUSIONS AND RECOMMENDATIONS

The Committee recommends introduction of legislation that would require tax clearance for liquor licensees' withholding and sales taxes. This legislation is to be contained in a single bill that combines tax clearance for professional licensees as well. (Note: Please refer to the Conclusions and Recommendations section of the final report for the topic entitled "Delinquent Taxes and Professional License Renewal.")

Special Committee on Assessment and Taxation

DELINQUENT TAXES AND PROFESSIONAL LICENSE RENEWAL

CONCLUSIONS AND RECOMMENDATIONS

The Committee recommends introduction of legislation that would require tax clearance for business and professional licensees. This legislation is to include an expanded list of professions and businesses, among which are attorneys and liquor licensees.

Proposed Legislation: The Committee recommends the introduction of one bill on this topic and the liquor license tax clearance topic combined.

BACKGROUND

During the 2004 Legislative Session, the Kansas Department of Revenue (KDOR) requested consideration of several statutory changes, designed to enhance collection of delinquent taxes. KDOR submitted these requests and considered the second stage of elevated tax collection efforts, after concluding a tax amnesty program that netted several tens of millions of dollars in past due taxes. Among those submitted were bills that would have authorized non-issuance or non-renewal of business and professional licenses for delinquent taxpayers. One such proposal, contained in Senate Substitute for House Bill 2375, was enacted in 2004. This provision requires the suspension or revocation of a vehicle dealer's license when the dealer is delinquent in sales or withholding taxes for three consecutive months.

Another such proposal was contained in House Bill 2776 and Senate Bill 468, relating to professional licensees. This legislation would have required state licensing agencies to deny the renewal of several professional licenses if an applicant owed the state any taxes or had not properly filed returns. Licensing agencies would have been required to adopt carefully timed procedures that include providing KDOR with a list of all licensees. KDOR's notification to the licensing agency, regarding which of its

licensees were tax-delinquent, must also have been submitted within a specific time frame, so that each tax-delinquent licensee would receive timely notice of the impending non-issuance or non-renewal.

During the 2004 Session, KDOR estimated passage of the professional tax clearance legislation would result in approximately a \$7.0 million increase to the State General Fund (SGF) over the four fiscal years following enactment. If adopted in the 2005 Legislative Session, the measure would increase SGF revenues by an estimated \$1.0 million in FY 2006 and \$2.5 million in FY 2007.

COMMITTEE ACTIVITIES

The Committee heard testimony from KDOR officials regarding tax clearance efforts the Department currently undertakes. The Department examines tax compliance among such groups as vendors for the Department of Administration, the Department of Commerce and KDOR, the Governor's appointees, and newly hired state employees.

KDOR officials testified the Department recently conducted research on seven licensing agencies who voluntarily agreed to participate in KDOR's study of the level of noncompliance among the agencies' licensees. The Department report contained statistical

information on the number and percentage of licensees who were delinquent in filing or paying their taxes. KDOR reported that 14,536, or 27.9 percent of the total 52,173 licensees examined, were delinquent in filing or paying their taxes. The licensing agencies and the specific rates of noncompliance among their licensees are reported in the table below.

AGENCY	% NON-COMPLIANT
Board of Accountancy	20.8%
Board of Cosmetology	27.9%
Dental Board	29.4%
Board of Emergency Medical Services	23.9%
Board of Nursing	20.7%
Board of Optometry Examiners	33.3%
Board of Healing Arts	37.6%

The Department pointed out a significant effect of taxpayer delinquency is an increased tax burden on those who are compliant in paying taxes. KDOR officials also provided information regarding other individuals who receive nonprofessional licenses from the state, including motor vehicle drivers and those licensed by the Department of Wildlife and Parks.

Representatives of various professional licensure organizations testified regarding the legislation. Concerns were articulated as follows:

- Lack of “due process” and other protections for licensees - Conferees indicated the legislation as proposed in 2004 did not allow input from licensees to defend themselves, for example, when KDOR had made an error regarding the taxes owed. A conferee indicated one state’s notification of delinquent taxpayer licensees was sent to many invalid addresses. One solution was proposed that would have granted to the licensing agency, instead of KDOR, the authority to not renew the license of a delinquent

taxpayer. Another suggestion was to lengthen the amount of time between the initial notice of delinquency and the actual revocation of the license.

- Penalty is out of proportion to the offense - Some conferees noted that the penalty, loss of license, is out of proportion to the alleged offense. Also stated was a concern that the legislation would result in punishment of professional licensees when a corporation or individual would not be similarly punished. The Committee was urged to explore options.
- Added burden for licensing agencies - Some noted concern that licensing agencies might already be operating at full capacity. Conferees suggested (a) adding staff, (b) crafting the legislation to place as much as possible the added burden for tax clearance on the licensees as opposed to the agencies’ staff, or (c) both.
- The issue of separation of powers - Several conferees testified that attorneys present a different situation and hence should be dealt with differently in the legislation, if at all. The Kansas Constitution vests the Kansas Supreme Court with exclusive power over the regulation of the practice of law. A recommendation was offered to instead require the Secretary of Revenue to notify any tax-delinquent attorney and the Kansas Judicial Branch’s Office of Disciplinary Administrator by April 1 of each year.
- Refund of licensing fees - One conferee voiced objection to the provision in the legislation that the licensing fee would not be refunded when the license was not renewed.

During its November deliberations, the Committee was presented with a revised bill draft from KDOR. The Department also provided an expanded list of licenses to which the revised draft would apply.

CONCLUSIONS AND RECOMMENDATIONS

The Committee recommends introduction of legislation that would require tax clearance for business and professional licensees. In response to testimony received, the Committee recommends this legislation, modeled after the KDOR-proposed revised draft, contain those professional and business

licenses that were proposed in the expanded list the Department officials provided. The Committee also specifies that liquor licensees and attorneys be included among the professions and businesses that would be affected by the legislation.

(Note: See also Conclusions and Recommendations for Delinquent Taxes and Professional License Renewal.)



K A N S A S

JOAN WAGNON, SECRETARY

DEPARTMENT OF REVENUE
OFFICE OF THE SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

Testimony to Senate Committee on Assessment and Taxation
Joan Wagnon

January 20, 2005

Summary of Senate Bill 15

Senate Bill 15 proposes a tax clearance process for the issuance or renewal of various types of business licenses, certificates and permits listed in subsection 1(c) and issued by the licensing bodies listed in subsection 1(b). The proposal gives the Department the flexibility to work with the various licensing agencies to develop tax clearance implementation procedures that will integrate smoothly within the agencies' current license issuance or renewal processes. We envision developing either a batch tax clearance process (licensing agency periodically sends the Department its current list of licensees and the Department would check that list for tax compliance) or an on-line tax clearance process (licensee requests on-line a tax clearance certificate from the Department, to be submitted to the licensing agency at the time of license issuance or renewal as part of the package of documents required by the agency for license issuance or renewal) with each licensing agency.

The proposal provides each licensee or license applicant the right to request an informal conference at the Department, if the person has been notified by the Department that the person is delinquent in payment of taxes or filing returns. The Department will not notify the licensing agency that the licensee or applicant is in delinquent tax status until after the person has either exhausted or allowed to expire administrative appeal rights. Only after the licensing agency has received notice from the Department that the license/applicant is in delinquent tax status will the agency cease to process the issuance or renewal of the license. Once the delinquency has been cured and certified by the Department, the license issuance or renewal can then be processed. A person will not be considered in delinquent tax status if the tax liability is under audit, appeal, in bankruptcy, the subject of a court case, or if the person has entered into a payment plan with the Department and the payment plan is current.

Regarding the liquor licenses, the provisions of 2004 Senate Bill 414/House Bill 2680 (proposing a tax clearance process for liquor licenses for sales, income and withholding taxes) are included in this proposal at sections 8 and 9.

Section 10 amends K.S.A. 77-512 in the Kansas Administrative Procedures Act (KAPA), to make clear that a licensee's due process rights concerning tax delinquency status for license issuance or renewal purposes consists of the informal conference at the Department—not a KAPA proceeding at the licensing body.

Our fiscal note is attached. Also, please find attached balloon amendments to Senate Bill 15. Most of these were suggested by various licensing bodies to add missing licenses or delete inappropriate ones. On page 4, we have added a provision requiring the department to issue a provisional tax clearance certificate if the department takes longer than 30 days to respond to a request for a tax clearance certificate. On page 6, section 7, the "non-severability" clause, needs to be deleted, and in its place, a "severability" clause needs to be inserted. In addition, K.S.A. 77-511 in KAPA needs to be amended, to be consistent with the amendment to K.S.A. 77-512. The effective date of this legislation needs to be amended to January 1, 2005.

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2005 Senate Bill 015a Fiscal Note

Introduced as a Senate Bill

Brief of Bill

Senate Bill, as introduced, allows for the revocation or nonrenewal of certain professional licenses.

New Section 1 provides definitions for terms used in the act.

New Section 2 provides that all licensing bodies in this state shall not process the issuance, renewal or reinstatement of a license if the licensing body receives information that the applicant is not current in the payment of taxes or the filing of taxes.

New Section 3 provides that a tax liability shall be considered delinquent when payment in full has not been remitted on or before the date such payment is due. Delinquent taxes shall not include taxes which are under audit, administrative appeal, the subject of a pending court case or bankruptcy proceeding or for which an agreement for the payment of such taxes has been entered into by the licensee and the secretary and the licensee is current in the payments under such agreement.

New Section 4 provides that the secretary shall establish a tax clearance process where all license applications will be reviewed for tax delinquency prior to issuance, renewal or reinstatement in a manner consistent with each licensing body's procedures and timelines. The process shall provide options to process applications electronically or in paper form, individually or in batches. The secretary shall notify the licensing body if the licensee is delinquent after the appeal rights of the licensee have expired or are exhausted. The licensing body shall notify the secretary of revenue no later than 60 days prior to the renewal date for any such license, a list of all licenses subject to such renewal date, including the name, address, social security number or taxpayer identification number or federal employer identification number and date of renewal of each license. Such list shall be provided electronically in a format required by the secretary of revenue. Within 30 days of receipt of such list the secretary of revenue shall notify those licensees who are not current in the payment of taxes owed to the state or who have failed to file a tax return with the state, and shall notify the licensing body of such delinquent licensees and the reason for delinquency.

The secretary may require a licensing body to obtain a tax clearance certificate from the licensee to be submitted with the application for license issuance, renewal or reinstatement. Upon receipt of a request for a tax clearance certificate from any licensee, if such licensee is not delinquent in the payment of taxes or filing of returns, the secretary shall issue, by mail or electronically, such certificate of tax clearance within 30 days to the licensee.

If information from the secretary of revenue shows that the licensee is not current in the payment of taxes owed to the state or has failed to file a tax return with the state the secretary shall mail to such licensee a notice of tax delinquency and shall inform such licensee of the right to request an informal conference concerning such delinquent status.

If the licensee remains delinquent in the payment of taxes or the filing of returns following the exhaustion or expiration of appeal rights concerning the written final determination, the secretary shall provide to the licensing body a copy of the written final determination stating that the licensee is delinquent in the payment of taxes or the filing of returns. Upon receipt of such written final determination, such licensing body shall not process the issuance, renewal or reinstatement of any such license until the licensee provides to the licensing body a tax clearance certificate issued by the secretary indicating that the licensee is no longer delinquent in the payment of taxes or the filing of returns. The pendency of any administrative or judicial appeal concerning a licensee's tax delinquency shall not stay or otherwise affect the secretary's ability to take action to collect any taxes owed by the taxpayer.

New Section 5 provides that if the application for issuance, renewal or reinstatement of a license is not processed any funds paid by the licensee shall not be refunded by the licensing body.

New Section 6 provides that all information exchanged among or disclosed by the secretary, the licensing body and the licensee necessary to accomplish and effectuate the intent of sections 1 through 6, and amendments thereto, is lawful.

New Section 7 provides that the provisions of sections 1 through 6 are expressly declared to be nonseverable.

Section 8 amends K.S.A. 41-311 to include any license issued or imposed under K.S.A. 41-501, 79-3294, 79-3601, 79-4101 and 79-41a01.

Section 9 would amend KSA 41-2623 to include any licenses issued under K.S.A. 41-2623 and to remove the restriction that corporations organized in a state other than Kansas can't get a liquor drink license.

Section 10 would amend K.S.A. 77-512 to provide that a state agency may not revoke, suspend, modify, annul, withdraw, refuse to renew, or amend a license unless the state agency first gives notice and an opportunity for a hearing in accordance with this act, or unless a state agency receives notification from the secretary of revenue that a licensee is delinquent in the payment of taxes or the filing of a tax return, in which case the provisions of section 1, et seq., and amendments thereto, shall apply.

The effective date of this bill is on publication in the statute book.

Fiscal Impact

Passage of this bill is estimated to increase state general fund revenues fiscal year 2006 about \$2.5 million and by about \$8.0 million in fiscal year 2007.

Based on research conducted in other states, Kansas could expect an estimated 8% delinquency rate on the 350,000 individual/personal professional licensees issued in Kansas. This 8%, or 28,000 licensees, estimated delinquency rate would include licensees that are not current on their

tax payments or those who have failed to file tax returns. Assuming the average amount due would be approximately \$750, the estimated fiscal impact of a 3 year renewal cycle would be about \$21.0 million (28,000 x \$750). It is estimated that the \$21.0 million in additional revenue would be received over the next 4 fiscal years as follows:

Fiscal Year	Amount
2006	\$2.5 million
2007	\$8.0 million
2008	\$8.0 million
2009	\$2.5 million

Administrative Impact

Administrative costs for this bill will be absorbed within existing resources.

Administrative Problems and Comments

Taxpayer/Customer Impact

Legal Impact

None.

SENATE BILL No. 15

By Special Committee on Assessment and Taxation

1-4

9 AN ACT concerning taxation; relating to delinquent taxes; licenses;
10 amending K.S.A. 77-512 and K.S.A. 2004 Supp. 41-311 and 41-2623
11 and repealing the existing sections.

12 Be it enacted by the Legislature of the State of Kansas:

13 New Section 1. As used in sections 1 through 6, and amendments
14 thereto:

15 (a) "License" means a certificate, permit, registration or other doc-
16 ument issued or approved by a licensing body in this state, issued pursuant
17 to K.S.A. 1-301 et seq., K.S.A. 7-103 et seq., K.S.A. 9-2201 et seq., K.S.A.
18 15-1501 et seq., K.S.A. 17-1254 et seq., K.S.A. 36-501 et seq., K.S.A. 40-
19 201 et seq., K.S.A. 40-240 et seq., K.S.A. 40-3701 et seq., K.S.A. 40-3801
20 et seq., K.S.A. 40-5001 et seq., K.S.A. 47-814 et seq., K.S.A. 47-1001 et
21 seq., K.S.A. 47-1201 et seq., K.S.A. 47-1301 et seq., K.S.A. 47-1501 et seq.,
22 K.S.A. 47-1701 et seq., K.S.A. 47-1801 et seq., K.S.A. 55-155 et seq.,
23 K.S.A. 58-2801 et seq., K.S.A. 58-4121 et seq., K.S.A. 58-3034 et seq.,
24 K.S.A. 65-401 et seq., K.S.A. 65-502 et seq., K.S.A. 65-688 et seq., K.S.A.
25 65-1101 et seq., K.S.A. 65-1401 et seq., K.S.A. 65-1501 et seq., K.S.A.
26 1601 et seq., K.S.A. 65-1626 et seq., K.S.A. 65-1701 et seq., K.S.A. 65-
27 1808 et seq., K.S.A. 65-1901 et seq., K.S.A. 65-2001 et seq., K.S.A. 65-
28 2801 et seq., K.S.A. 65-28a01 et seq., K.S.A. 65-2901 et seq., K.S.A. 65-
29 3424b et seq., K.S.A. 65-34,145 et seq., K.S.A. 65-3501 et seq., K.S.A.
30 65-4001 et seq., K.S.A. 65-4101 et seq., K.S.A. 65-4201 et seq., K.S.A. 65-
31 4501 et seq., K.S.A. 65-5101 et seq., K.S.A. 65-5401 et seq., K.S.A. 65-
32 5501 et seq., K.S.A. 65-5801 et seq., K.S.A. 65-5901 et seq., K.S.A. 65-
33 6101 et seq., K.S.A. 65-6301 et seq., K.S.A. 65-6401 et seq., K.S.A. 65-6501
34 et seq., K.S.A. 65-6601 et seq., K.S.A. 65-6901 et seq., K.S.A. 65-7201 et
35 seq., K.S.A. 68-2205 et seq., K.S.A. 68-2236 et seq., K.S.A. 72-1371 et seq.,
36 K.S.A. 74-5301 et seq., K.S.A. 74-5801 et seq., K.S.A. 74-7001 et seq.,
37 K.S.A. 75-7601 et seq., and K.S.A. 82a-1201 et seq. and amendments
38 thereto;

K.S.A. 9-508 et seq.

K.S.A. 16a-2-302 et seq.

2

K.S.A. 65-7301 et seq.,
K.S.A. 66-1,112 et seq.

K.S.A. 75-7601 et seq.

39 (b) "licensing body" means the abstractor's board of examiners, board
40 of accountancy, board of adult care home administrators, animal health
41 board, attorney general, banking commission, board of barbering, behav-
42 ioral sciences regulatory board, department of commerce, corporation
43

1 commission, board of cosmetology, dental board, emergency medical
 2 services board, department of health and environment, board of healing
 3 arts, board of examiners in fitting and dispensing hearing aids, insurance
 4 department, board of mortuary arts, board of nursing, board of examiners
 5 in optometry, board of pharmacy, real estate appraisal board, real estate
 6 commission, securities commissioner, ~~speech-language pathology and au-~~ ← delete
 7 ~~diology board~~, state board of education, supreme court, board of technical
 8 professions, department of transportation and board of veterinary
 9 examiners;
 10 (c) "licensee" means any person who is applying for issuance of or
 11 has been issued a license. "Licensee" shall include, but not be limited to,
 12 an abstractor, adult care home administrator, barber school, barber col-
 13 lege, barber instructor, barber, noncompetitive boxing, karate, kick box-
 14 ing, competitive boxing, mixed martial arts, professional wrestling, school
 15 of cosmetology, school of nail technology, school of esthetics, school of
 16 electrology, cosmetology instructor, salon, clinic, tanning facility, cosme-
 17 tologist, cosmetology technician, ~~cosmetology apprentice~~, electrologist, ← delete
 18 ~~electrologist apprentice~~, manicurist, ~~manicurist apprentice~~, esthetician, ← delete
 19 ~~esthetician apprentice~~, tattoo artist, tattoo facility, permanent color tech-
 20 nician, permanent color facility, body piercer, body piercing facility, pub-
 21 lic livestock market operator, animal carcass disposal plant, garbage feed-
 22 ing operator, feedlot operator, animal distributor, animal breeder, hobby
 23 breeder, retail breeder, pet shop operator, pound or animal shelter, ken-
 24 nel operator, animal research facility, livestock dealer, private detective, ←
 25 private detective agency, mortgage business, clinical psychologist, master
 26 level psychologist, attorney, certified public accountant, municipal public
 27 accountant, professional counselor, clinical professional counselor, master
 28 social worker, specialist clinical social worker, social work associate, social
 29 worker, marriage and family therapist, clinical marriage and family ther-
 30 apist, ~~alcohol or drug abuse counselor~~, dentist, dental intern, dental hy-
 31 gienist, highway advertising, junkyard certificate of compliance, insurance
 32 company, viatical settlement provider or broker, insurer administrator,
 33 insurance broker, bail bondsman, emergency medical services attendant, ←
 34 emergency medical technician, emergency medical technician-defibril- ← ambulance service
 35 lator, emergency medical technician-intermediate, first responder, emer-
 36 gency medical instructor-coordinator, mobile intensive care technician,
 37 ambulance operator, emergency medical training officer, medical doctor,
 38 ~~surgeon~~, osteopathic physician, chiropractor, podiatrist, physician assist-
 39 ant, physical therapist, physical therapist assistant, occupational therapist,
 40 respiratory therapist, athletic trainer, naturopathic doctor, insurance
 41 agent, embalmer, funeral director, assistant funeral director, apprentice ← delete
 42 ~~funeral director~~, funeral establishment, branch funeral establishment,
 43 crematory, practical nurse, professional nurse, mental health technician,

office of the

nail technology instructor

electrology instructor

delete →
delete →

supervisory leader,
money transmitter

certified public
accounting firm,
licensed

delete →

occupational therapy
assistant, radiologic
technologist

delete →

esthetics instructor

← delete
← delete

private detective
firearms
trainer

psychotherapist,
PhD psychologist

ambulance service

1 oil and gas well operator or contractor, optometrist, diagnostic optome-
 2 trist, therapeutic optometrist, glaucoma optometrist, pharmacy, phar-
 3 macist, pharmacy technician, controlled substance manufacturer, con-
 4 trolled substance distributor, controlled substance dispenser, researcher
 5 with controlled substance, drug manufacturer, retail drug dealer, whole-
 6 sale drug distributor, drug sample distributor or dispenser, drug auction-
 7 eer, institutional drug room, pharmacy student, veterinary medical re-
 8 search hospital pharmacy, real estate appraiser, real estate salesperson,
 9 real estate broker, securities broker-dealer, securities investment advisor,
 10 speech-language pathologist, audiologist, hearing aid fitting and dispens-
 11 ing, teacher, engineer, architect, land surveyor, landscape architect, ge-
 12 ologist, veterinarian and veterinarian technician, water supply system op-
 13 erator, wastewater treatment facility operator, home health agency, home
 14 health aide, alcoholism and intoxication treatment facility, dietician, med-
 15 ical care facility, child care facility or maternity center, family day care
 16 home, retail food store, food processing plant, lodging establishment, food
 17 service establishment, food vending machine company, dry cleaning fa-
 18 cility, water well contractor, mobile waste tire processor, waste tire proc-
 19 essing facility, waste tire transporter and waste tire collection center;

20 (d) "person" means an individual, firm, partnership, limited partner-
 21 ship, association, corporation, limited liability partnership or limited li-
 22 ability company;

23 (e) "taxes" means income, employer withholding, privilege, estate,
 24 retailers' sales, compensating use, franchise, mineral, new tire, motor ve-
 25 hicle rental, transient guest, drug, drycleaning and laundering excise taxes
 26 owed by the licensee, including any associated penalties and interest;

27 (f) "secretary" means the secretary of revenue; and

28 (g) "tax clearance certificate" means notification from the secretary
 29 that an applicant for the issuance of a new license or renewal or rein-
 30 statement of an existing license is not delinquent in the payment of taxes
 31 or the filing of tax returns.

32 New Sec. 2. A licensing body shall not process for issuance, renewal
 33 or reinstatement a license issuance, renewal or reinstatement application
 34 if the licensing body receives notification from the secretary that the li-
 35 censee is delinquent in the payment of taxes or the filing of tax returns.
 36 Such license status shall not be considered a suspension, denial or revo-
 37 cation of license issuance, renewal or reinstatement and shall exist only
 38 while the licensee is delinquent in the payment of taxes or the filing of
 39 tax returns.

40 New Sec. 3. For purposes of sections 1 through 6, and amendments
 41 thereto, a tax liability shall be considered delinquent when payment in
 42 full has not been remitted on or before the due date for such payment
 43 as established by law. The filing of a tax return shall be considered delin-

professional

principal,
superintendent,
school specialist,
counselor,
substitute teacher,

professional
engineering
firm,

broker-dealer agent,

investment advisor
representative,

architectural firm,

land surveyor firm,

landscape
architect firm,

private motor
carrier, public
motor carrier,
private motor
carrier of property,
public motor
carrier of property,

1 quent when the return has not been filed on or before the due date for
2 such return as established by law. Delinquent taxes shall not include taxes
3 which are under audit, administrative appeal, the subject of a pending
4 court case or bankruptcy proceeding or for which an agreement for the
5 payment of such taxes has been entered into by the licensee and the
6 secretary and the licensee is current in the payments under such
7 agreement.

8 New Sec. 4. (a) The secretary shall establish a tax clearance process
9 whereby all license applications will be reviewed for tax delinquency prior
10 to issuance, renewal or reinstatement in a manner consistent with each
11 licensing body's procedures and timelines. Such process shall provide
12 options to process applications electronically or in paper form, individu-
13 ally or in batches, in a manner consistent with the licensing body's proc-
14 esses. The secretary shall notify the licensing body if the licensee is de-
15 linquent in the payment of taxes or the filing of returns after the appeal
16 rights set forth in subsection (d) have expired or are exhausted.

17 (b) The secretary may require a licensing body to provide a list of all
18 licensees including name, address, social security number or taxpayer
19 identification number or federal employer identification number, which-
20 ever is applicable, and the date of renewal for each licensee. Such list
21 shall be provided electronically in the format required by the secretary
22 not less than 60 days prior to the renewal date. Within 30 days of receipt
23 of such list from the licensing body, the secretary shall review the listed
24 licensees for tax delinquency and shall mail a notice of tax delinquency
25 to any licensee who is delinquent in the payment of taxes or the filing of
26 returns, and shall inform such licensee that the license may not be pro-
27 cessed for issuance, renewal or reinstatement so long as such delinquency
28 continues, and of the right to request an informal conference concerning
29 such delinquency, as set forth in subsection (d). The secretary shall notify
30 the licensing agency of the names of all listed licensees receiving tax
31 clearance.

32 (c) (1) The secretary may require a licensing body to obtain a tax
33 clearance certificate from the licensee to be submitted with the applica-
34 tion for license issuance, renewal or reinstatement. Upon receipt of a
35 request for a tax clearance certificate from any licensee, if such licensee
36 is not delinquent in the payment of taxes or the filing of returns, the
37 secretary shall issue, by mail or electronically, such certificate of tax clear-
38 ance within 30 days to the licensee.

first class postage pre-paid

39 (2) If the licensee is delinquent in the payment of taxes or the filing
40 of returns, the secretary shall mail to such licensee a notice of tax delin-
41 quency and shall inform such licensee of the right to request an informal
42 conference concerning such delinquent status.

first class postage prepaid

43 (d) (1) Within 30 days after the mailing of a notice of tax delinquency

(3) If the secretary fails to issue a tax clearance certificate or notice of tax delinquency to a licensee within 30 days of the licensee's request for a tax clearance certificate, the secretary shall issue a provisional tax clearance certificate to the licensee, which the licensee and licensing body may rely upon for purposes of the license issuance, renewal or reinstatement at issue.

1 by the secretary, the licensee may request an informal conference with
2 the secretary or the secretary's designee relating to the licensee's tax de-
3 linquency by filing a written request with the secretary or secretary's
4 designee setting forth all reasons why such delinquency is contended to
5 be incorrect. The purpose of such conference shall be to review and
6 reconsider the facts and issues concerning the licensee's tax delinquency,
7 but any final tax liability for which appeal rights have previously expired
8 or been exhausted shall not be reviewable. The secretary of revenue or
9 the secretary's designee shall hold an informal conference with the li-
10 censee and shall issue a written final determination thereon within 30
11 days after receipt of the request for an informal conference from the
12 taxpayer. The informal conference shall not constitute an adjudicative
13 proceeding under the Kansas administrative procedure act and shall be
14 conducted in accordance with the procedures set forth in K.S.A. 79-3226,
15 and amendments thereto.

16 (2) The written final determination shall be subject to appeal to the
17 board of tax appeals, pursuant to K.S.A. 74-2438, and amendments
18 thereto.

19 (3) Upon receipt of a request for informal conference from the li-
20 censee, the secretary shall issue to the licensee a provisional tax clearance
21 certificate, to be provided to the licensing body, which shall remain in
22 effect until the written final determination is issued and any appeal rights
23 concerning such written final determination are exhausted.

24 (4) If the licensee remains delinquent in the payment of taxes or the
25 filing of returns following the exhaustion or expiration of appeal rights
26 concerning the written final determination, the secretary shall provide to
27 the licensing body a copy of the written final determination stating that
28 the licensee is delinquent in the payment of taxes or the filing of returns.
29 Upon receipt of such written final determination, such licensing body
30 shall not process the issuance, renewal or reinstatement of any such li-
31 cense until the licensee provides to the licensing body a tax clearance
32 certificate issued by the secretary indicating that the licensee is no longer
33 delinquent in the payment of taxes or the filing of returns. The pendency
34 of any administrative or judicial appeal concerning a licensee's tax delin-
35 quency shall not stay or otherwise affect the secretary's ability to take
36 action to collect any taxes owed by the taxpayer.

37 New Sec. 5. If application for issuance, renewal or reinstatement of
38 a license is not processed pursuant to sections 1 through 6, and amend-
39 ments thereto, any funds paid by the licensee for such issuance, renewal
40 or reinstatement shall not be refunded by the licensing body.

41 New Sec. 6. (a) Notwithstanding any provision of law prohibiting dis-
42 closure by the secretary of the contents of taxpayer records or information
43 and notwithstanding any confidentiality statute of any state agency or

1 licensing body, all information exchanged among or disclosed by the sec-
2 retary, the licensing body and the licensee necessary to accomplish and
3 effectuate the intent of sections 1 through 6, and amendments thereto,
4 is lawful.

5 (b) The information obtained by a licensing body from the depart-
6 ment of revenue as authorized by subsection (a) shall be used only for
7 the purpose authorized by this act. Any person employed by, or formerly
8 employed by, a licensing body, and who receives such information shall
9 be subject to the provisions of K.S.A. 79-3234, and amendments thereto,
10 or K.S.A. 79-3614, and amendments thereto, as applicable, with respect
11 to any confidential taxpayer information, and shall be subject to the same
12 duty of confidentiality with respect to such confidential information im-
13 posed by law on officers and employees of the department of revenue
14 and shall be subject to any civil or criminal penalties imposed by law for
15 violations of such duty of confidentiality.

16 New Sec. 7. ~~The provisions of sections 1 through 6 are expressly~~
17 ~~declared to be nonseverable.~~

18 Sec. 8. K.S.A. 2004 Supp. 41-311 is hereby amended to read as fol-
19 lows: 41-311. (a) No license of any kind shall be issued pursuant to the
20 liquor control act to a person:

21 (1) Who has not been a citizen of the United States for at least 10
22 years, except that the spouse of a deceased retail licensee may receive
23 and renew a retail license notwithstanding the provisions of this subsec-
24 tion (a)(1) if such spouse is otherwise qualified to hold a retail license and
25 is a United States citizen or becomes a United States citizen within one
26 year after the deceased licensee's death;

27 (2) who has been convicted of a felony under the laws of this state,
28 any other state or the United States;

29 (3) who has had a license revoked for cause under the provisions of
30 the liquor control act, the beer and cereal malt beverage keg registration
31 act or who has had any license issued under the cereal malt beverage laws
32 of any state revoked for cause except that a license may be issued to a
33 person whose license was revoked for the conviction of a misdemeanor
34 at any time after the lapse of 10 years following the date of the revocation;

35 (4) who has been convicted of being the keeper or is keeping a house
36 of prostitution or has forfeited bond to appear in court to answer charges
37 of being a keeper of a house of prostitution;

38 (5) who has been convicted of being a proprietor of a gambling house,
39 pandering or any other crime opposed to decency and morality or has
40 forfeited bond to appear in court to answer charges for any of those
41 crimes;

42 (6) who is not at least 21 years of age;

43 (7) who, other than as a member of the governing body of a city or

If any portion of sections
1 through 6 is
held to be
unconstitutional,
such portion shall
be considered
severed from
the balance
of the provisions
not so held,
and such remaining
provisions shall
remain in
full force
and effect.

1 county, appoints or supervises any law enforcement officer, who is a law
2 enforcement official or who is an employee of the director;

3 (8) who intends to carry on the business authorized by the license as
4 agent of another;

5 (9) who at the time of application for renewal of any license issued
6 under this act would not be eligible for the license upon a first application,
7 except as provided by subsection (a)(12);

8 (10) who is the holder of a valid and existing license issued under
9 article 27 of chapter 41 of the Kansas Statutes Annotated unless the per-
10 son agrees to and does surrender the license to the officer issuing the
11 same upon the issuance to the person of a license under this act, except
12 that a retailer licensed pursuant to K.S.A. 41-2702, and amendments
13 thereto, shall be eligible to receive a retailer's license under the Kansas
14 liquor control act;

15 (11) who does not own the premises for which a license is sought, or
16 does not have a written lease thereon for at least $\frac{3}{4}$ of the period for
17 which the license is to be issued;

18 (12) whose spouse would be ineligible to receive a license under this
19 act for any reason other than citizenship, residence requirements or age,
20 except that this subsection (a)(12) shall not apply in determining eligibility
21 for a renewal license;

22 (13) whose spouse has been convicted of a felony or other crime
23 which would disqualify a person from licensure under this section and
24 such felony or other crime was committed during the time that the spouse
25 held a license under this act; ~~or~~

26 (14) who does not provide any data or information required by K.S.A.
27 2004 Supp. 41-311b, and amendments thereto; *or*

28 (15) *who is not current in the payment of all taxes related directly to*
29 *the business for which the license is issued and imposed pursuant to K.S.A.*
30 *41-501 et seq., 79-3294 et seq., 79-3601 et seq., 79-4101 et seq. and 79-*
31 *41a01 et seq., and amendments thereto, unless such taxes are under for-*
32 *mal appeal or for which an agreement for the payment of such taxes has*
33 *been entered into by the department of revenue and the person seeking*
34 *licensure and such person is current in the payments under such agree-*
35 *ment, and if the licensee is a corporation, partnership, trust or association,*
36 *the individual officers, directors, stockholders, partners, managers or*
37 *other individual members shall not be required to be current in the pay-*
38 *ment of their own individual taxes as a condition of license issuance or*
39 *renewal of any such entity's license.*

40 (b) No retailer's license shall be issued to:

41 (1) A person who is not a resident of this state;

42 (2) a person who has not been a resident of this state for at least four
43 years immediately preceding the date of application;

- 1 (3) a person who has beneficial interest in the manufacture, prepa-
2 ration or wholesaling of alcoholic beverages;
- 3 (4) a person who has beneficial interest in any other retail establish-
4 ment licensed under this act, except that the spouse of a licensee may
5 own and hold a retailer's license for another retail establishment;
- 6 (5) a copartnership, unless all of the copartners are qualified to obtain
7 a license;
- 8 (6) a corporation; or
- 9 (7) a trust, if any grantor, beneficiary or trustee would be ineligible
10 to receive a license under this act for any reason, except that the provi-
11 sions of subsection (a)(6) shall not apply in determining whether a ben-
12 efiticiary would be eligible for a license.
- 13 (c) No manufacturer's license shall be issued to:
- 14 (1) A corporation, if any officer or director thereof, or any stockholder
15 owning in the aggregate more than 25% of the stock of the corporation
16 would be ineligible to receive a manufacturer's license for any reason
17 other than citizenship and residence requirements;
- 18 (2) a copartnership, unless all of the copartners shall have been res-
19 idents of this state for at least five years immediately preceding the date
20 of application and unless all the members of the copartnership would be
21 eligible to receive a manufacturer's license under this act;
- 22 (3) a trust, if any grantor, beneficiary or trustee would be ineligible
23 to receive a license under this act for any reason, except that the provi-
24 sions of subsection (a)(6) shall not apply in determining whether a ben-
25 efiticiary would be eligible for a license;
- 26 (4) an individual who is not a resident of this state; or
- 27 (5) an individual who has not been a resident of this state for at least
28 five years immediately preceding the date of application.
- 29 (d) No distributor's license shall be issued to:
- 30 (1) A corporation, if any officer, director or stockholder of the cor-
31 poration would be ineligible to receive a distributor's license for any rea-
32 son. It shall be unlawful for any stockholder of a corporation licensed as
33 a distributor to transfer any stock in the corporation to any person who
34 would be ineligible to receive a distributor's license for any reason, and
35 any such transfer shall be null and void, except that: (A) If any stockholder
36 owning stock in the corporation dies and an heir or devisee to whom stock
37 of the corporation descends by descent and distribution or by will is in-
38 eligible to receive a distributor's license, the legal representatives of the
39 deceased stockholder's estate and the ineligible heir or devisee shall have
40 14 months from the date of the death of the stockholder within which to
41 sell the stock to a person eligible to receive a distributor's license, any
42 such sale by a legal representative to be made in accordance with the
43 provisions of the probate code; or (B) if the stock in any such corporation

1 is the subject of any trust and any trustee or beneficiary of the trust who
2 is 21 years of age or older is ineligible to receive a distributor's license,
3 the trustee, within 14 months after the effective date of the trust, shall
4 sell the stock to a person eligible to receive a distributor's license and
5 hold and disburse the proceeds in accordance with the terms of the trust.
6 If any legal representatives, heirs, devisees or trustees fail, refuse or ne-
7 glect to sell any stock as required by this subsection, the stock shall revert
8 to and become the property of the corporation, and the corporation shall
9 pay to the legal representatives, heirs, devisees or trustees the book value
10 of the stock. During the period of 14 months prescribed by this subsec-
11 tion, the corporation shall not be denied a distributor's license or have its
12 distributor's license revoked if the corporation meets all of the other
13 requirements necessary to have a distributor's license;

14 (2) a copartnership, unless all of the copartners are eligible to receive
15 a distributor's license; or

16 (3) a trust, if any grantor, beneficiary or trustee would be ineligible
17 to receive a license under this act for any reason, except that the provi-
18 sions of subsection (a)(6) shall not apply in determining whether a ben-
19 eficiary would be eligible for a license.

20 (e) No nonbeverage user's license shall be issued to a corporation, if
21 any officer, manager or director of the corporation or any stockholder
22 owning in the aggregate more than 25% of the stock of the corporation
23 would be ineligible to receive a nonbeverage user's license for any reason
24 other than citizenship and residence requirements.

25 (f) No microbrewery license or farm winery license shall be issued to
26 a:

27 (1) Person who is not a resident of this state;

28 (2) person who has not been a resident of this state for at least four
29 years immediately preceding the date of application;

30 (3) person who has beneficial interest in the manufacture, prepara-
31 tion or wholesaling of alcoholic beverages other than that produced by
32 such brewery or winery;

33 (4) person, copartnership or association which has beneficial interest
34 in any retailer licensed under this act or under K.S.A. 41-2702, and
35 amendments thereto;

36 (5) copartnership, unless all of the copartners are qualified to obtain
37 a license;

38 (6) corporation, unless stockholders owning in the aggregate 50% or
39 more of the stock of the corporation would be eligible to receive such
40 license and all other stockholders would be eligible to receive such license
41 except for reason of citizenship or residency; or

42 (7) a trust, if any grantor, beneficiary or trustee would be ineligible
43 to receive a license under this act for any reason, except that the provi-

1 sions of subsection (a)(6) shall not apply in determining whether a ben-
2 eficiary would be eligible for a license.

3 (g) The provisions of subsections (b)(1), (b)(2), (c)(3), (c)(4), (d)(3),
4 (f)(1), (f)(2) and K.S.A. 2004 Supp. 41-311b, and amendments thereto,
5 shall not apply in determining eligibility for the 10th, or a subsequent,
6 consecutive renewal of a license if the applicant has appointed a citizen
7 of the United States who is a resident of Kansas as the applicant's agent
8 and filed with the director a duly authenticated copy of a duly executed
9 power of attorney, authorizing the agent to accept service of process from
10 the director and the courts of this state and to exercise full authority,
11 control and responsibility for the conduct of all business and transactions
12 within the state relative to alcoholic liquor and the business licensed. The
13 agent must be satisfactory to and approved by the director, except that
14 the director shall not approve as an agent any person who:

15 (1) Has been convicted of a felony under the laws of this state, any
16 other state or the United States;

17 (2) has had a license issued under the alcoholic liquor or cereal malt
18 beverage laws of this or any other state revoked for cause, except that a
19 person may be appointed as an agent if the person's license was revoked
20 for the conviction of a misdemeanor and 10 years have lapsed since the
21 date of the revocation;

22 (3) has been convicted of being the keeper or is keeping a house of
23 prostitution or has forfeited bond to appear in court to answer charges of
24 being a keeper of a house of prostitution;

25 (4) has been convicted of being a proprietor of a gambling house,
26 pandering or any other crime opposed to decency and morality or has
27 forfeited bond to appear in court to answer charges for any of those
28 crimes; or

29 (5) is less than 21 years of age.

30 Sec. 9. K.S.A. 2004 Supp. 41-2623 is hereby amended to read as
31 follows: 41-2623. (a) No license shall be issued under the provisions of
32 this act to:

33 (1) Any person described in subsection (a)(1), (2), (4), (5), (6), (7),
34 (8), (9), (12) ~~or~~, (13) *or* (15) of K.S.A. 41-311, and amendments thereto,
35 except that the provisions of subsection (a)(7) of such section shall not
36 apply to nor prohibit the issuance of a license for a class A club to an
37 officer of a post home of a congressionally chartered service or fraternal
38 organization, or a benevolent association or society thereof.

39 (2) A person who has had the person's license revoked for cause un-
40 der the provisions of this act.

41 (3) A person who has not been a resident of this state for a period of
42 at least one year immediately preceding the date of application.

43 (4) A person who has a beneficial interest in the manufacture, prep-

1 aration or wholesaling or the retail sale of alcoholic liquors or a beneficial
2 interest in any other club, drinking establishment or caterer licensed here-
3 under, except that:

4 (A) A license for premises located in a hotel may be granted to a
5 person who has a beneficial interest in one or more other clubs or drinking
6 establishments licensed hereunder if such other clubs or establishments
7 are located in hotels.

8 (B) A license for a club or drinking establishment which is a restau-
9 rant may be issued to a person who has a beneficial interest in other clubs
10 or drinking establishments which are restaurants.

11 (C) A caterer's license may be issued to a person who has a beneficial
12 interest in a club or drinking establishment and a license for a club or
13 drinking establishment may be issued to a person who has a beneficial
14 interest in a caterer.

15 (D) A license for a class A club may be granted to an organization of
16 which an officer, director or board member is a distributor or retailer
17 licensed under the liquor control act if such distributor or retailer sells
18 no alcoholic liquor to such club.

19 (E) On and after January 1, 1988, a license for a class B club or
20 drinking establishment may be granted to a person who has a beneficial
21 interest in a microbrewery or farm winery licensed pursuant to the Kansas
22 liquor control act.

23 (5) A copartnership, unless all of the copartners are qualified to ob-
24 tain a license.

25 (6) A corporation, if any officer, manager or director thereof, or any
26 stockholder owning in the aggregate more than 5% of the common or
27 preferred stock of such corporation would be ineligible to receive a li-
28 cense hereunder for any reason other than citizenship and residence
29 requirements.

30 (7) A corporation, if any officer, manager or director thereof, or any
31 stockholder owning in the aggregate more than 5% of the common or
32 preferred stock of such corporation, has been an officer, manager or di-
33 rector, or a stockholder owning in the aggregate more than 5% of the
34 common or preferred stock, of a corporation which:

35 (A) Has had a license revoked under the provisions of the club and
36 drinking establishment act; or

37 (B) has been convicted of a violation of the club and drinking estab-
38 lishment act or the cereal malt beverage laws of this state.

39 ~~(8) A corporation organized under the laws of any state other than~~
40 ~~this state.~~

41 ~~(9)~~ A trust, if any grantor, beneficiary or trustee would be ineligible
42 to receive a license under this act for any reason, except that the provi-
43 sions of subsection (a)(6) of K.S.A. 41-311, and amendments thereto shall

1 not apply in determining whether a beneficiary would be eligible for a
2 license.

3 (b) No club or drinking establishment license shall be issued under
4 the provisions of the club and drinking establishment act to:

5 (1) A person described in subsection (a)(11) of K.S.A. 41-311, and
6 amendments thereto.

7 (2) A person who is not a resident of the county in which the premises
8 sought to be licensed are located.

11

9 ~~Sec. 10:~~ K.S.A. 77-512 is hereby amended to read as follows: 77-512.

10 A state agency may not revoke, suspend, modify, annul, withdraw, refuse
11 to renew, or amend a license unless the state agency first gives notice and
12 an opportunity for a hearing in accordance with this act, *or unless a state*
13 *agency receives notification from the secretary of revenue that a licensee*
14 *is delinquent in the payment of taxes or the filing of a tax return, in which*
15 *case the provisions of section 1, et seq., and amendments thereto, shall*
16 *apply. This section does not preclude a state agency from (a) taking im-*
17 *mediate action to protect the public interest in accordance with K.S.A.*
18 *77-536, and amendments thereto, or (b) adopting rules and regulations,*
19 *otherwise within the scope of its authority, pertaining to a class of licens-*
20 *ees, including rules and regulations affecting the existing licenses of a*
21 *class of licensees.*

Insert attached
← amendment to
K.S.A. 77-511 (d)

12

22 ~~Sec. 11:~~ K.S.A. 77-512 and K.S.A. 2004 Supp. 41-311 and 41-2623
23 are hereby repealed.

13

24 ~~Sec. 12:~~ This act shall take effect ~~and be in force from and after its~~
25 ~~publication in the statute book.~~

OK and after
January 1, 2006.

Kansas Statutes Annotated

Updated Through the 2003 Legislative Session

Statute Number: 77-511
Chapter Title: STATUTES; ADMINISTRATIVE RULES AND REGULATIONS AND PROCEDURE
Article Title: ADMINISTRATIVE PROCEDURE ACT
Tax Type: All
Brief Description: Time limits for processing application for an order or a request for a hearing; expiration of license, when.
Keywords:

Body:

77-511

Chapter 77.--STATUTES; ADMINISTRATIVE RULES AND REGULATIONS AND PROCEDURE

Article 5.--ADMINISTRATIVEPROCEDURE ACT

77-511. Time limits for processing application for an order or a request for a hearing; expiration of license, when. (a) Except to the extent that the time limits in this subsection are inconsistent with limits established by another statute, a state agency shall process an application for an order on which a statute provides for a hearing under this act as follows:

(1) Within 30 days after receipt of the application, the state agency shall acknowledge receipt thereof and inform the applicant of the name, official title, mailing address and telephone number of a state agency member or employee who may be contacted regarding the application. As soon as practicable, the state agency shall notify the applicant of any apparent errors or omissions. Failure to detect such errors or omissions does not preclude the state agency from raising them at a later stage of the proceeding.

(2) When practicable, within 90 days after receipt of a completed application, the state agency shall:

(A) Approve or deny the application, in whole or in part, on the basis of emergency or summary proceedings, if those proceedings are available under this act for disposition of the matter; or

(B) commence a formal hearing or a conference hearing in accordance with this act.

(b) Except to the extent that the time limits in this subsection are inconsistent with limits established by another statute, a state agency shall process a request for a hearing as follows:

(1) Within 30 days after receipt of the request, the state agency shall acknowledge receipt thereof and if the state agency has not previously done so, the state agency shall notify the applicant of the name, official title, mailing address and telephone number of a state agency member or employee who may be contacted regarding the request; and

(2) when practicable, within 90 days after receipt of the request the state agency shall commence a formal or conference hearing in accordance with this act unless a statute makes the granting of a hearing discretionary with the state agency and the state agency determines not to conduct a hearing.

(c) A hearing commences when the state agency or presiding officer notifies a party that a prehearing conference or other stage of the hearing will be conducted.

(d) If a timely and sufficient application has been made for renewal of a license with reference to any activity of a continuing nature, the existing license does not expire until the state agency has taken final action upon the application for renewal or, if the state agency's action is unfavorable, until the last day for seeking judicial review of the state agency's action or a later date fixed by the reviewing court.

History: L. 1984, ch. 313, § 11; L. 1986, ch. 362, § 2; L. 1988, ch. 356, § 5; L. 1989, ch. 283, § 2; July 1.

"When the state agency has received notice from the secretary of revenue pursuant to Subsection 4(d)(4) of 2005 Senate Bill 15 that the licensee is delinquent in the payment of taxes or the filing of returns, such application for license renewal shall not be considered timely and sufficient and shall not be processed. Such license shall expire, unless prior to the expiration date, the state agency has received from the secretary of revenue a tax clearance certificate, as defined at Subsection 1(g) of 2005 Senate Bill 15."

Tax Clearance Research Results
As of 12/20/2004

Assessment & Taxation
 Date 01-20-05
 Attachment # 4

COMPLIANCE	Kansas Residents	
Board of Account (Run #1 2000,1,2)	2,189	85.3%
Board of Account (Run #2 2000,1,2)	2,208	86.0%
Board of Account (Run #3 2001,2,3)	2,107	82.0%
Board of Cosmetology	14,871	80.5%
Dental Board	991	74.5%
Board of EMS	4	57.1%
Board of Nursing	30,192	82.1%
Board of Optometry	318	69.6%
Board of Healing Arts	9,361	71.8%
Real Estate Commission	76	86.4%
Board of Mortuary Arts	782	82.1%
Board of Pharmacy	2,125	85.9%
Behavioral Sciences Reg. Board	5,418	83.5%
TOTAL* COMPLIANT	63,016	80.0%

Other State Residents	
211	30.8%
221	32.3%
203	29.7%
924	32.4%
77	18.9%
-	0.0%
1,788	27.2%
19	17.4%
1,118	22.0%
-	0.0%
33	20.0%
203	18.2%
359	33.5%
4,576	25.9%

Residency Not Provided	
7	46.7%
7	46.7%
9	60.0%
1	100.0%
-	0.0%
7,854	74.2%
114	73.1%
5	45.5%
5	11.9%
10,154	65.5%
3	75.0%
2	50.0%
2	22.2%
18,154	68.9%

All Locations	
2,407	73.7%
2,436	74.6%
2,319	71.0%
15,796	74.1%
1,068	61.4%
7,858	74.2%
32,094	73.8%
342	59.3%
10,484	57.7%
10,230	65.6%
818	72.9%
2,330	64.8%
5,779	76.4%
85,746	69.9%

NON-COMPLIANCE		
Board of Account (Run #1 2000,1,2)	234	9.1%
Board of Account (Run #2 2000,1,2)	262	10.2%
Board of Account (Run #3 2001,2,3)	361	14.1%
Board of Cosmetology	3,523	19.1%
Dental Board	200	15.0%
Board of EMS	2	28.6%
Board of Nursing	6,307	17.1%
Board of Optometry	99	21.7%
Board of Healing Arts	3,090	23.7%
Real Estate Commission	11	12.5%
Board of Mortuary Arts	152	15.9%
Board of Pharmacy	290	11.7%
Behavioral Sciences Reg. Board	1,035	16.0%
TOTAL* NON-COMPLIANT	14,269	18.1%

442	64.5%
445	65.1%
468	68.4%
1,914	67.0%
310	76.2%
-	0.0%
4,731	72.1%
88	80.7%
3,694	72.8%
4	100.0%
131	79.4%
895	80.1%
703	65.6%
12,677	71.8%

7	46.7%
8	53.3%
6	40.0%
-	0.0%
1	100.0%
2,528	23.9%
40	25.6%
5	45.5%
36	85.7%
4,907	31.6%
1	25.0%
2	50.0%
7	77.8%
7,533	28.6%

683	20.9%
715	21.9%
835	25.6%
5,432	25.5%
511	29.4%
2,530	23.9%
11,078	25.5%
192	33.3%
6,820	37.6%
4,922	31.5%
284	25.3%
1,187	33.0%
1,745	23.1%
34,474	28.1%

PENDING		
Board of Account (Run #1 2000,1,2)	144	5.6%
Board of Account (Run #2 2000,1,2)	98	3.8%
Board of Account (Run #3 2001,2,3)	100	3.9%
Board of Cosmetology	74	0.4%
Dental Board	140	10.5%
Board of EMS	1	14.3%
Board of Nursing	289	0.8%
Board of Optometry	40	8.8%
Board of Healing Arts	594	4.6%
Real Estate Commission	1	1.1%
Board of Mortuary Arts	19	2.0%
Board of Pharmacy	60	2.4%
Behavioral Sciences Reg. Board	36	0.6%
TOTAL* PENDING	1,462	1.9%

32	4.7%
18	2.6%
13	1.9%
18	0.6%
20	4.9%
-	0.0%
47	0.7%
2	1.8%
260	5.1%
-	0.0%
1	0.6%
19	1.7%
9	0.8%
412	2.3%

1	6.7%
-	0.0%
-	0.0%
-	0.0%
-	0.0%
207	2.0%
2	1.3%
1	9.1%
1	2.4%
451	2.9%
-	0.0%
-	0.0%
-	0.0%
663	2.5%

177	5.4%
116	3.6%
113	3.5%
92	0.4%
160	9.2%
208	2.0%
338	0.8%
43	7.5%
855	4.7%
452	2.9%
20	1.8%
79	2.2%
45	0.6%
2,537	2.1%

* TOTAL - Includes all agencies except "Board of Accountancy (Run #2-3).

**- Confidential Statistical Information - For Informational Purposes Only -
Tax Clearance Research Results**

4-2

Agency Code and Name: 028 Board of Accountancy ** Additional Research for 028 on Last Pages

Tax Status	Kansas Residents		Other State Residents		Residency Not Provided		All Locations	
APPROVED	2,189	85.3%	210	30.7%	7	46.7%	2,406	74%
BANKRUPTCY		0.0%	1	0.1%		0.0%	1	0%
COMPLIANT	2,189	85.3%	211	30.8%	7	46.7%	2,407	73.7%
DRUG TAX BALANCE	2	0.1%	1	0.1%	-	0.0%	3	0.1%
NON-FILED	186	7.2%	431	62.9%	6	40.0%	623	19.1%
NON-FILED & BALANCE	10	0.4%	4	0.6%	1	6.7%	15	0.5%
OUTSTANDING BALANCE	36	1.4%	6	0.9%		0.0%	42	1.3%
NON-COMPLIANT	234	9.1%	442	64.5%	7	46.7%	683	20.9%
WORKLISTED	144	5.6%	32	4.7%	1	6.7%	177	5%
PENDING	144	5.6%	32	4.7%	1	6.7%	177	5.4%
TOTAL	<u>2,567</u>		<u>685</u>		<u>15</u>		<u>3,267</u>	

Agency Code and Name: 149 Kansas State Board of Cosmetology

APPROVED	14,835	80.3%	920	32.2%	1	100.0%	15,756	74%
BANKRUPTCY	36	0.2%	4	0.1%	-	0.0%	40	0%
COMPLIANT	14,871	80.5%	924	32.4%	1	100.0%	15,796	74.1%
DRUG TAX BALANCE	5	0.0%	1	0.0%	-	0.0%	6	0.0%
NON-FILED	2,893	15.7%	1,849	64.7%	-	0.0%	4,742	22.2%
NON-FILED & BALANCE	236	1.3%	47	1.6%	-	0.0%	283	1.3%
OUTSTANDING BALANCE	389	2.1%	18	0.6%	-	0.0%	407	1.9%
NON-COMPLIANT	3,523	19.1%	1,914	67.0%	-	0.0%	5,432	25.5%
WORKLISTED	74	0.4%	18	0.6%	-	0.0%	92	0%
PENDING	74	0.4%	18	0.6%	-	0.0%	92	0.4%
TOTAL	<u>18,468</u>		<u>2,856</u>		<u>1</u>		<u>21,320</u>	

* Licensee residence determined by licensing agency.

** Accountancy tax clearances ran several times. Additional results at report's end.

**- Confidential Statistical Information - For Informational Purposes Only -
Tax Clearance Research Results**

4-3

Agency Code and Name: 167 Kansas Dental Board

Tax Status	Kansas Residents		Other State Residents		Residency Not Provided		All Locations	
APPROVED	988	74.2%	77	18.9%		0.0%	1,065	61%
BANKRUPTCY	3	0.2%		0.0%		0.0%	3	0%
COMPLIANT	991	74.5%	77	18.9%	-	0.0%	1,068	61.4%
NON-FILED	142	10.7%	309	75.9%	1	100.0%	452	26%
NON-FILED & BALANCE	15	1.1%		0.0%		0.0%	15	1%
OUTSTANDING BALANCE	43	3.2%	1	0.2%		0.0%	44	3%
NON-COMPLIANT	200	15.0%	310	76.2%	1	100.0%	511	29.4%
WORKLISTED	140	10.5%	20	4.9%		0.0%	160	9%
PENDING	140	10.5%	20	4.9%	-	0.0%	160	9.2%
TOTAL	<u>1,331</u>		<u>407</u>		<u>1</u>		<u>1,739</u>	

Agency Code and Name: 206 Board of Emergency Medical Services

APPROVED	4	57.1%			7,831	74.0%	7,835	74%
BANKRUPTCY		0.0%			23	0.2%	23	0%
COMPLIANT	4	57.1%	-		7,854	74.2%	7,858	74.2%
DRUG TAX BALANCE		0.0%			1	0.0%	1	0%
NON-FILED	2	28.6%			1,652	15.6%	1,654	16%
NON-FILED & BALANCE		0.0%			129	1.2%	129	1%
OUTSTANDING BALANCE		0.0%			746	7.0%	746	7%
NON-COMPLIANT	2	28.6%	-		2,528	23.9%	2,530	23.9%
WORKLISTED	1	14.3%			207	2.0%	208	2%
PENDING	1	14.3%	-		207	2.0%	208	2.0%
TOTAL	<u>7</u>		<u>-</u>		<u>10,589</u>		<u>10,596</u>	

* Licensee residence determined by licensing agency.
** Accountancy tax clearances ran several times. Additional results at report's end.

**- Confidential Statistical Information - For Informational Purposes Only -
Tax Clearance Research Results**

4-7

Agency Code and Name: 482 Board of Nursing

Tax Status	Kansas Residents		Other State Residents		Residency Not Provided		All Locations	
APPROVED	30,066	81.7%	1,781	27.1%	114	73.1%	31,961	73%
BANKRUPTCY	126	0.3%	7	0.1%		0.0%	133	0%
COMPLIANT	30,192	82.1%	1,788	27.2%	114	73.1%	32,094	73.8%
DRUG TAX BALANCE	10	0.0%		0.0%		0.0%	10	0%
NON-FILED	4,436	12.1%	4,509	68.7%	35	22.4%	8,980	21%
NON-FILED & BALANCE	498	1.4%	117	1.8%	1	0.6%	616	1%
OUTSTANDING BALANCE	1,363	3.7%	105	1.6%	4	2.6%	1,472	3%
NON-COMPLIANT	6,307	17.1%	4,731	72.1%	40	25.6%	11,078	25.5%
WORKLISTED	289	0.8%	47	0.7%	2	1.3%	338	1%
PENDING	289	0.8%	47	0.7%	2	1.3%	338	0.8%
TOTAL	<u>36,788</u>		<u>6,566</u>		<u>156</u>		<u>43,510</u>	

Agency Code and Name: 488 Board of Optometry Examiners

APPROVED	318	69.6%	19	17.4%	5	45.5%	342	59%
COMPLIANT	318	69.6%	19	17.4%	5	45.5%	342	59.3%
NON-FILED	79	17.3%	88	80.7%	5	45.5%	172	30%
NON-FILED & BALANCE	7	1.5%		0.0%		0.0%	7	1%
OUTSTANDING BALANCE	13	2.8%		0.0%		0.0%	13	2%
NON-COMPLIANT	99	21.7%	88	80.7%	5	45.5%	192	33.3%
WORKLISTED	40	8.8%	2	1.8%	1	9.1%	43	7%
PENDING	40	8.8%	2	1.8%	1	9.1%	43	7.5%
TOTAL	<u>457</u>		<u>109</u>		<u>11</u>		<u>577</u>	

* Licensee residence determined by licensing agency.
** Accountancy tax clearances ran several times. Additional results at report's end.

**- Confidential Statistical Information - For Informational Purposes Only -
Tax Clearance Research Results**

4-5

Agency Code and Name: 105 Kansas Board of Healing Arts

Tax Status	Kansas Residents		Other State Residents		Residency Not Provided		All Locations	
APPROVED	9,343	71.6%	1,116	22.0%	5	11.9%	10,464	58%
BANKRUPTCY	18	0.1%	2	0.0%		0.0%	20	0%
COMPLIANT	9,361	71.8%	1,118	22.0%	5	11.9%	10,484	57.7%
NON-FILED	2,663	20.4%	3,638	71.7%	36	85.7%	6,337	35%
NON-FILED & BALANCE	114	0.9%	24	0.5%		0.0%	138	1%
OUTSTANDING BALANCE	313	2.4%	32	0.6%		0.0%	345	2%
NON-COMPLIANT	3,090	23.7%	3,694	72.8%	36	85.7%	6,820	37.6%
WORKLISTED	594	4.6%	260	5.1%	1	2.4%	855	5%
PENDING	594	4.6%	260	5.1%	1	2.4%	855	4.7%
TOTAL	13,045		5,072		42		18,159	

Agency Code and Name: 549 Real Estate Commission

APPROVED	76	86.4%		0.0%	10,111	65.2%	10,187	65.3%
BANKRUPTCY		0.0%		0.0%	43	0.3%	43	0.3%
COMPLIANT	76	86.4%	-	0.0%	10,154	65.5%	10,230	65.6%
DRUG TAX BALANCE		0.0%		0.0%		0.0%	-	0.0%
NON-FILED	6	6.8%	4	100.0%	4,166	26.9%	4,176	26.8%
NON-FILED & BALANCE	3	3.4%		0.0%	196	1.3%	199	1.3%
OUTSTANDING BALANCE	2	2.3%		0.0%	545	3.5%	547	3.5%
NON-COMPLIANT	11	12.5%	4	100.0%	4,907	31.6%	4,922	31.5%
WORKLISTED	1	1.1%		0.0%	451	2.9%	452	2.9%
PENDING	1	1.1%	-	0.0%	451	2.9%	452	2.9%
TOTAL	88		4		15,512		15,604	

* Licensee residence determined by licensing agency.

** Accountancy tax clearances ran several times. Additional results at report's end.

**- Confidential Statistical Information - For Informational Purposes Only -
Tax Clearance Research Results**

4-6

Agency Code and Name: 204 Kansas State Board of Mortuary Arts

Tax Status	Kansas Residents		Other State Residents		Residency Not Provided		All Locations	
APPROVED	779	81.7%	33	20.0%	3	75.0%	815	72.6%
BANKRUPTCY	3	0.3%		0.0%		0.0%	3	0.3%
COMPLIANT	782	82.1%	33	20.0%	3	75.0%	818	72.9%
NON-FILED	112	11.8%	128	77.6%	1	25.0%	241	21.5%
NON-FILED & BALANCE	14	1.5%	1	0.6%		0.0%	15	1.3%
OUTSTANDING BALANCE	26	2.7%	2	1.2%		0.0%	28	2.5%
NON-COMPLIANT	152	15.9%	131	79.4%	1	25.0%	284	25.3%
WORKLISTED	19	2.0%	1	0.6%		0.0%	20	1.8%
PENDING	19	2.0%	1	0.6%	-	0.0%	20	1.8%
TOTAL	<u>953</u>		<u>165</u>		<u>4</u>		<u>1,122</u>	

Agency Code and Name: 531 Kansas State Board of Pharmacy

APPROVED	2,125	85.9%	203	18.2%	2	50.0%	2,330	64.8%
COMPLIANT	2,125	85.9%	203	18.2%	2	50.0%	2,330	64.8%
NON-FILED	250	10.1%	887	79.4%	2	50.0%	1,139	31.7%
NON-FILED & BALANCE	6	0.2%	3	0.3%		0.0%	9	0.3%
OUTSTANDING BALANCE	34	1.4%	5	0.4%		0.0%	39	1.1%
NON-COMPLIANT	290	11.7%	895	80.1%	2	50.0%	1,187	33.0%
WORKLISTED	60	2.4%	19	1.7%		0.0%	79	2.2%
PENDING	60	2.4%	19	1.7%	-	0.0%	79	2.2%
TOTAL	<u>2,475</u>		<u>1,117</u>		<u>4</u>		<u>3,596</u>	

* Licensee residence determined by licensing agency.

** Accountancy tax clearances ran several times. Additional results at report's end.

**- Confidential Statistical Information - For Informational Purposes Only -
Tax Clearance Research Results**

4-7

Agency Code and Name: 102 Behavioral Sciences Reg. Board

Tax Status	Kansas Residents		Other State Residents		Residency Not Provided		All Locations	
APPROVED	5,400	83.2%	358	33.4%	2	22.2%	5,760	76.1%
BANKRUPTCY	18	0.3%	1	0.1%		0.0%	19	0.3%
COMPLIANT	5,418	83.5%	359	33.5%	2	22.2%	5,779	76.4%
NON-FILED	783	12.1%	676	63.1%	7	77.8%	1,466	19.4%
NON-FILED & BALANCE	44	0.7%	15	1.4%		0.0%	59	0.8%
OUTSTANDING BALANCE	208	3.2%	12	1.1%		0.0%	220	2.9%
NON-COMPLIANT	1,035	16.0%	703	65.6%	7	77.8%	1,745	23.1%
WORKLISTED	36	0.6%	9	0.8%		0.0%	45	0.6%
PENDING	36	0.6%	9	0.8%	-	0.0%	45	0.6%
TOTAL	<u>6,489</u>		<u>1,071</u>		<u>9</u>		<u>7,569</u>	

* Licensee residence determined by licensing agency.

** Accountancy tax clearances ran several times. Additional results at report's end.

4-8

Report Summary Sum of Agency Observations

Tax Status	Kansas Residents		Other State Residents		Residency Not Provided		All Locations	
APPROVED	66,123	80.0%	4,717	26.1%	18,081	68.7%	88,921	70.0%
BANKRUPTCY	204	0.2%	15	0.1%	23	0.1%	242	0.2%
COMPLIANT	66,327	80.2%	4,732	26.2%	18,104	68.8%	89,163	70.2%
DRUG TAX BALANCE	17	0.0%	2	0.0%	1	0.0%	20	0.0%
NON-FILED	11,552	14.0%	12,519	69.3%	5,911	22.5%	29,982	23.6%
NON-FILED & BALANCE	947	1.1%	211	1.2%	327	1.2%	1,485	1.2%
OUTSTANDING BALANCE	2,427	2.9%	181	1.0%	1,295	4.9%	3,903	3.1%
NON-COMPLIANT	14,943	18.1%	12,913	71.5%	7,534	28.6%	35,390	27.9%
WORKLISTED	1,398	1.7%	408	2.3%	663	2.5%	2,469	1.9%
PENDING	1,398	1.7%	408	2.3%	663	2.5%	2,469	1.9%
TOTAL	<u>82,668</u>		<u>18,053</u>		<u>26,301</u>		<u>127,022</u>	

* Licensee residence determined by licensing agency.

** Accountancy tax clearances ran several times. Additional results at report's end.

**- Confidential Statistical Information - For Informational Purposes Only -
Tax Clearance Research Results**

4-9

Board of Accountancy RUN # 1 10/01/2004 (2000, 2001, 2002)

Tax Status	Kansas Residents		Other State Residents		Residency Not Provided		All Locations	
	Count	Percentage	Count	Percentage	Count	Percentage	Count	Percentage
APPROVED	2,189	85.3%	210	30.7%	7	46.7%	2,406	73.6%
BANKRUPTCY		0.0%	1	0.1%		0.0%	1	0.0%
COMPLIANT	2,189	85.3%	211	30.8%	7	46.7%	2,407	73.7%
DRUG TAX BALANCE	2	0.1%	1	0.1%	-	0.0%	3	0.1%
NON-FILED	186	7.2%	431	62.9%	6	40.0%	623	19.1%
NON-FILED & BALANCE	10	0.4%	4	0.6%	1	6.7%	15	0.5%
OUTSTANDING BALANCE	36	1.4%	6	0.9%		0.0%	42	1.3%
NON-COMPLIANT	234	9.1%	442	64.5%	7	46.7%	683	20.9%
WORKLISTED	144	5.6%	32	4.7%	1	6.7%	177	5.4%
PENDING	144	5.6%	32	4.7%	1	6.7%	177	5.4%
TOTAL	2,567		685		15		3,267	

Board of Accountancy RUN # 2 on 11-01-2004 (2000, 2001, 2002)

APPROVED	2,208	86.0%	220	32.2%	7	46.7%	2,435	74.5%
BANKRUPTCY		0.0%	1	0.1%		0.0%	1	0.0%
COMPLIANT	2,208	86.0%	221	32.3%	7	46.7%	2,436	74.6%
DRUG TAX BALANCE	2	0.1%	1	0.1%	-	0.0%	3	0.1%
NON-FILED	184	7.2%	429	62.7%	6	40.0%	619	18.9%
NON-FILED & BALANCE	13	0.5%	4	0.6%	2	13.3%	19	0.6%
OUTSTANDING BALANCE	63	2.5%	11	1.6%	-	0.0%	74	2.3%
NON-COMPLIANT	262	10.2%	445	65.1%	8	53.3%	715	21.9%
WORKLISTED	98	3.8%	18	2.6%	-	0.0%	116	3.6%
PENDING	98	3.8%	18	2.6%	-	0.0%	116	3.6%
TOTAL	2,568		684		15		3,267	

* Licensee residence determined by licensing agency.

** Accountancy tax clearances ran several times. Additional results at report's end.

**- Confidential Statistical Information - For Informational Purposes Only -
Tax Clearance Research Results**

4-10

Board of Accountancy RUN # 3 11/29/2004 (2001, 2002, 2003)

Tax Status	Kansas Residents		Other State Residents		Residency Not Provided		All Locations	
APPROVED	2,107	82.0%	202	29.5%	9	60.0%	2,318	71.0%
BANKRUPTCY		0.0%	1	0.1%		0.0%	1	0.0%
COMPLIANT	2,107	82.0%	203	29.7%	9	60.0%	2,319	71.0%
DRUG TAX BALANCE	2	0.1%	1	0.1%		0.0%	3	0.1%
NON-FILED	266	10.4%	445	65.1%	4	26.7%	715	21.9%
NON-FILED & BALANCE	16	0.6%	6	0.9%	2	13.3%	24	0.7%
OUTSTANDING BALANCE	77	3.0%	16	2.3%		0.0%	93	2.8%
NON-COMPLIANT	361	14.1%	468	68.4%	6	40.0%	835	25.6%
WORKLISTED	100	3.9%	13	1.9%		0.0%	113	3.5%
PENDING	100	3.9%	13	1.9%	-	0.0%	113	3.5%
TOTAL	<u>2,568</u>		<u>684</u>		<u>15</u>		<u>3,267</u>	

* Licensee residence determined by licensing agency.

** Accountancy tax clearances ran several times. Additional results at report's end.



LEGISLATURE OF KANSAS
LEGISLATIVE DIVISION OF POST AUDIT

800 SOUTHWEST JACKSON STREET, SUITE 1200
TOPEKA, KANSAS 66612-2212
TELEPHONE (785) 296-3792
FAX (785) 296-4482
E-MAIL: lpa@lpa.state.ks.us
www.kslegislature.org/postaudit

Testimony before the Senate Assessment & Taxation Committee on SB 15
Cindy Lash, Audit Manager, Legislative Post Audit
January 20, 2005

Thank you Madam Chair for allowing me to speak to the Committee today.

Last October we released an audit that looked at the Department of Revenue's collection of delinquent trust taxes. Our conclusion and one of our recommendations spoke directly to the need to expand the use of tax clearance as a tool for enhancing the collection of delinquent taxes. As a result, I am here to speak in support of the broadened use of tax clearance contained in SB 15. Our office has no position on the method that would be use to implement the clearances, because that is not something we looked at in our recent audit.

As we noted in our audit, businesses and individuals that don't pay the taxes they owe increase the tax burden on everyone else. In particular, businesses that don't remit trust taxes--the sales tax they collected from customers, or the withholding tax they collected from employees, are in essence stealing money from the State and its citizens.

By expanding the use of tax clearance to virtually all individuals and businesses licensed by the State, this bill provides the Department of Revenue with an efficient front-end mechanism for collecting delinquent taxes, which should result in greater fairness to taxpayers and increased revenue for the State.

Assessment & Taxation
Date 01-20-05
Attachment # 5



Kansas Society of Certified Public Accountants

1080 S.W. Wanamaker, Suite 200 • P.O. Box 4291 • Topeka, Kansas 66604-0291 • 785-272-4366 • Fax 785-272-4468

January 20, 2005

To: Senate Assessment and Taxation Committee
From: T.C. Anderson
Re: SB 15

Chair Allen and members of the Committee.

Thank you for allowing me the opportunity to discuss SB 15 with you today. I am T.C. Anderson, Executive Director of the 2,600 member Kansas Society of Certified Public Accountants.

Last November our Board of Directors reviewed the concept of having the Kansas Department of Revenue run tax compliance checks on any person who is applying for issuance of or who has been issued a license by this state.

For a number of years Kansas CPAs have been subject to the revocation or suspension of their certificate or permit to practice for failure to file their own tax returns. (K.S.A. 1-311).

Our leaders were shocked when the Department of Revenue released figures this summer that indicated 9 percent of state licensed CPAs, with Kansas addresses, had failed to file a tax return within the past three years or pay their tax due. The Department ran our CPA group again, this time in October and found a 10 percent non-compliance rate.

We all know that Secretary of Revenue Wagnon inherited a computer system that has some short comings. I am hopeful when we drill down into the data we'll find very few CPAs who are not complying with our state tax laws.

However, the only way to do that is to enact portions of SB 15.

Sections 1 through 4 of this legislation appear to provide a type of tax "amnesty" for persons licensed in this state. After receiving the names and social security numbers from the licensing agency the Department makes its compliance check and sends those who appear to have failed to file or pay taxes a notice of delinquency.

The licensee is accorded the opportunity to exhaust all appeal remedies granted by law before the Department would notify the licensing agency that the licensee was delinquent. New Section 2 authorizes the licensing body to not process the license until the Department notifies the agency that the licensee is current. While licensees would not be granted a waiver of penalty in this type of "amnesty", they would be granted the right to keep their license unless they totally ignored the Department of Revenue.

The concept of a tax clearance certificate would be best used during the initial licensing process.



Wichita Independent Business Association

THE VOICE OF INDEPENDENT BUSINESS

Testimony by Ronald Waln, Ph. D.
Senate Bill 15
Senate Committee on Assessment and Taxation
January 20, 2005

Chairman Allen and Honorable Committee Members,

I am Ronald Waln, appearing before you as a board member of the Wichita Independent Business Association (WIBA). I am also a licensed psychologist and the owner of Assessment Strategies, L.L.C. WIBA represents more than 1,500 employers, of which approximately 20% are professionals licensed by the State. Thank you for the opportunity to address our concerns regarding SB 15, a bill that proposes to implement a tax clearance procedure for professional licenses in the State of Kansas.

I will begin with the premise that the members of WIBA do not oppose implementation of measures to assist the State in collecting taxes that are rightfully owed. Tax debtors only make the burden for those paying their taxes even greater. Increasing the collection of taxes owed will hopefully pave the way for fewer tax increases, something we members of WIBA always embrace.

I also would like to commend the efforts of the Secretary of Revenue and others involved in the effort to refine the proposed tax clearance legislation since the 2004 Interim Committee on Assessment and Taxation considered the topic. We recognize that SB 15 reflects changes to address concerns raised during the review of the original tax clearance proposal. However, our members still have some concerns I would like to share with you.

First, there is a great amount of concern that SB 15 only targets a select segment of Kansas' taxpayers, those who are required to seek a professional license in the State of Kansas. WIBA members acknowledge the State of Kansas' authority to require licensure of certain occupations in order to protect the public; however, we would consider the provisions of SB 15 to be an abuse of that licensing authority. In addition, it would seem that if this proposal were good tax policy that would significantly increase tax collections, then why would the Legislature not consider applying it to Kansas' largest licensed group, those holding a Kansas driver's license?

415 S. Main Street / Wichita, KS 67202-3719
316-267-8987 / 1-800-279-9422 / FAX 316-267-8964 / E-mail: info@wiba.org / Web Site:
www.wiba.org

Assessment & Taxation
Date 01-20-05
Attachment # 7

Second, there is a great amount of concern that reporting errors on behalf of the Kansas Department of Revenue will cause licensed professional additional bureaucratic hurdles. Unfortunately, the historical experience of our membership has been that the Department of Revenue does make mistakes in their record-keeping and reporting, often due to innocent human error or oversight, but no less a mistake that causes the taxpayer to jump through hoops to correct the error. Adding a tax clearance requirement prior to renewing one's professional license only adds to the layers of an already heavy taxpayer bureaucracy in Kansas. In exchange, the professionally licensed taxpayer is not afforded full due process under SB 15 and the bill offers no recourse for a falsely accused taxpayer. As our state strives to attract and retain a professional workforce, we ask that this committee strongly consider if a tax clearance procedure is the best mechanism to collect unpaid taxes.

Third, denial of one's license equates to the taking of one's livelihood. It can also force the cancellation of one's professional insurance, loss of client relationships, and loss of membership in professional societies. If the policy of SB 15 is to be the stick that makes tax debtors pay, then our members question why we would take from them their very ability to pay the debt they owe? Furthermore, the taking or holding of one's professional license not only punishes the accused delinquent taxpayer, but also punishes the professional's staff and clientele. Consider the attorney or rural doctor whose license is revoked. Their offices could be forced to close, their staff could be left without work and their clients/patients without the help they need. Though the professional may be delinquent in his taxes, is it justified to put innocent parties in the middle of the battle to collect undue taxes?

Finally, the time frame in which SB 15 sets out to accomplish the tax clearance status seems over ambitious. In just 60 days, SB 15 proposes the state agency will notify the KDOR of proposed renewals, who will then review its records for any taxes owed and notify the licensee all within 30 days. It further guarantees the accused taxpayer an informational hearing within 30 days. Despite best intentions of all parties involved, our professionals question whether this time frame is sufficient.

In a perfect world, taxpayers would pay their tax bills properly, and the Department of Revenue would make no errors in its tracking of taxpayers records. Unfortunately, the reality is that neither is true. As such, the members of WIBA urge you to consider pursuing other measures for addressing all delinquent taxpayers, not just those professionally licensed by the state.

Thank you for the opportunity to appear before you today. I will stand for questions.

415 S. Main Street / Wichita, KS 67202-3719
316-267-8987 / 1-800-279-9422 / FAX 316-267-8964 / E-mail: info@wiba.org / Web Site:
www.wiba.org