

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 9:00 A.M. on February 6, 2008 in Room 519-S of the Capitol.

All members were present except: Representative McCray-Miller - Excused

Committee staff present:

Chris Courtwright, Legislative Research Department  
Gordon Self, Office of Revisor of Statutes  
Ryan Hoffman, Legislative Research Department  
Scott Wells, Office of Revisor of Statutes  
Rose Marie Glatt, Committee Secretary

Conferees appearing before the committee:

Paul Welcome, Johnson County Appraiser's Office  
Representative Tom Holland  
Steve Warren, Vice Provost, Research at Kansas University  
Secretary Joan Wagnon - KDOR

Others attending:

See attached list.

The Chairman announced the formation of the **HB 2640** Sub-Committee, which would include Representatives King (Chair), Lukert, Menghini, Schroeder and Worley. They will have their first meeting tomorrow, February 7<sup>th</sup>, at 2:25 p.m., in Room 519-S.

The Chairman advised that due to the inclement weather, many of the conferees were not able to travel to Topeka, therefore **HB 2543** - Assessment for property tax purposes of newly constructed residential property would be postponed until a later date. He said they would not work any bills until all conferees had the opportunity to present their testimony.

**HB 2520 - Liability for taxes and other expenses related to conversion of lands into condominiums.**

The Chairman opened the public hearing.

In lieu of staff, who also had difficulty in getting to the Capital, the Chairman invited Cynthia Dunham, Assistant County Counselor, Johnson County, to the podium to explain the bill. She said **HB 2520** will amend K.S.A. 58-3115a to prevent condominium owners from being unfairly taxed for developable land designated for future condominiums. Under the bill condominium developers, not the owner of already built units, will be liable for real estate taxes owed on "convertible land" that is awaiting development as future condominium units. Testimony from Paul A. Welcome, Johnson County Appraiser's office was distributed (Attachment 1).

The Chairman closed the public hearing on **HB 2520**.

**HB 2750 - An act concerning property tax; exempting certain property leased to companies for research and development purposes.**

Scott Wells, Office of the Revisor, explained the bill would provide a property tax exemption for all real and all tangible personal property owned by state educational institutions or by the Board of Regents on behalf of the state educational institutions or by the Board of Regents on behalf of the state educational institutions which is leased by a for-profit company and is used for research and development purposes. Under current law, state educational institution of the Board of Regents must be used for educational or scientific purposes. In addition, the lease must not exceed a five year term.

The Chairman opened the public hearing

Representative Tom Holland appeared in support of legislation concerning the property tax exemption

CONTINUATION SHEET

MINUTES OF THE House Taxation Committee at 9:00 A.M. on February 6, 2008 in Room 519-S of the Capitol.

status of state universities. He said the bill clarifies that very early-stage university spin-off companies, led by university researchers, will be able to lease lab space at universities without jeopardizing the universities' property tax status (Attachment 2).

Discussion followed regarding the rationale behind exclusion of any centers of higher education.

Dr. Steve Warren, Vice Provost for Research and Graduate Studies, University of Kansas, explained the bill extends the current university property tax exemption to include a company's R & D efforts performed in a university lab. To accomplish that goal, it authorizes a company to enter into a lease agreement to use the labs, and the term of the lease would be brief – no more than five years. He explained the definition of early-start (Attachment 3).

The Chairman suggested that perhaps universities should invite any Kansans to bring their ideas to a panel that would evaluate their merit and perhaps extend a helping hand for the R & D. Dr. Warren agreed that would be a good idea.

Secretary Wagnon appeared in support of **HB 2750** and cited the following reasons:

- 1) Existing property is already tax exemption
- 2) She stated the bill is appropriately drafted
- 3) Kansas needs to enhance any developmental processes in R & D. This bill would protect university's exemption. (No written testimony)

Discussion followed about amending Community colleges and Technical schools into the bill.

The Chairman closed the hearing on **HB 2750**.

Representative Crum introduced Kaleb Feigl and Cody Walker from Rose Hill.

The meeting adjourned at 9:55 A.M. The next meeting is February 7, 2008.





# JOHNSON COUNTY APPRAISER'S OFFICE

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**To: House Taxation Committee**  
**From: Paul A. Welcome, CAE, ASA, RMA**  
**Subject: Testimony in support of HB 2520**  
**Date: February 6, 2008**

Chairperson and committee members, I am Paul Welcome, Johnson County Appraiser, and I appear here today on behalf of the Board of County Commissioners of Johnson County. I appreciate the opportunity to appear before the Committee and to present testimony in support of House Bill 2520.

HB 2520 will amend K.S.A. 58-3115a to prevent condominium owners from being unfairly taxed for developable land designated for future condominiums. Under HB 2520, condominium developers, not the owners of already built units, will be liable for real estate taxes owed on "convertible land" that is awaiting development as future condominium units.

Currently, under the Kansas condominium statutes (known as the Apartment Ownership Act), when developers are platting a condominium, they can designate part of the condominium as "convertible land." K.S.A. 58-3111. Convertible land is a part of the condominium site that has been set aside for future condominiums. K.S.A. 58-3102(h).

Until it is converted, convertible land is deemed part of the common area and, therefore, is not separately taxed. K.S.A. 58-3115a & 3122. Instead, the value of the common area is spread among all the condominium owners based on their undivided interests in the common areas as set forth in the condominium declaration. In other words, when a condominium owner receives a real estate tax bill, it is for the value of their unit along with a percentage of an undivided interest in the common areas of the whole condominium development.

A problem arises with convertible land because the county appraiser is required to appraise it as developable land. As a result, convertible land is appraised at a much higher value than regular common area. Based on how K.S.A. 58-3115a and 58-3122 are currently written, the relatively high value of the convertible land ends up being spread among the existing condominium owners. The owners' real estate tax bills increase because their undivided interest in the highly appraised convertible land is included in their tax bill. Meanwhile, the developer does not have to pay any tax on the land he is ultimately planning to convert and sell as condominium units. In other words, the tax burden for the convertible land is unfairly shifted to the existing condominium owners while the developer, who will ultimately profit from the development and sale of more condominiums on that convertible land, does not have to pay any taxes on it.

For example, a developer records a condominium plat showing that the project will ultimately contain ten units. However, five of those units are designated as "convertible" and will not initially be built with the other five units. The five built units are valued by the appraiser at \$100,000 each. Then, because the condominium plat contains five convertible units, the appraiser must place a value on the convertible land, which is valued as developable land rather than ordinary common area. The value is based on the right to build five more units, as established by the plat, declaration, and the Kansas statutes. So, let's s

appraiser values the unbuilt convertible units at \$15,000 each, which totals \$75,000. Under the current statutory scheme, the convertible land is treated as common area and, thus, each of the current condominium unit owners has an undivided interest in the common area. Since in our example we have five built units, the result is that an additional \$15,000 in value will be added onto each of those built units. Each of the owners of the built units winds up with a value of \$115,000 and will pay real estate taxes based on that value. The end result is that the real estate tax liability on the convertible land is shifted from the developer to the existing condominium unit owners.

HB 2520 will alter the result in our example by requiring the tax liability on convertible land to remain with the developer prior to conversion and not be passed over to the existing condominium owners. Similarly, HB 2520 includes a provision that any income or proceeds from the convertible land will be retained by the developer. The result is a fair distribution of the real estate tax liability on convertible land prior to conversion.

We appreciate your consideration of this problem and of the proposed solution, HB2520, and urge your support of this amendment. Thank you.

STATE OF KANSAS

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TOPEKA  
HOUSE OF  
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GOVERNMENTAL EFFICIENCY AND  
TECHNOLOGY

February 6<sup>th</sup>, 2008

Mister Chairman and Committee Members:

Good morning! My name is Tom Holland and I am the State Representative for the Kansas House 10<sup>th</sup> District serving the communities of south Lawrence, Baldwin City, Wellsville, and north Ottawa.

I am here today to ask for your support of legislation concerning the property tax exemption status of state universities. Specifically, HB 2750 clarifies that very early-stage university spin-off companies led by university researchers will be able to lease lab space at universities without jeopardizing the universities' property tax status.

As elected officials to the Kansas Legislature, it is imperative that we do everything within our powers to help foster commercialization of research activities and boost economic development. I hope you will join me in supporting this most helpful piece of legislation.

Thank you,

Tom Holland  
State Representative – 10<sup>th</sup> District

**Testimony by Dr. Steve Warren  
Vice Provost for Research and Graduate Studies  
The University of Kansas**

**Kansas House Taxation Committee  
Wednesday, February 6, 2008. 9 a.m.  
Room 519-South, State Capitol**

Chairman Wilk, members of the Committee; my name is Steve Warren, and I serve as vice provost for research and graduate studies at the University of Kansas.

I am here to speak in favor of a bill that would extend a public university's property tax exemption to include a private company's R&D efforts performed in a university laboratory.

Currently, companies in Kansas have limited access to university research facilities to perform R&D that results in new tech-based products.

For example, under the state tax code, for-profit companies may not lease or occupy state university research labs -- even on a temporary basis as part of company-university collaborative research projects -- without endangering the property tax exemption of the building in which the research occurs.

This concern applies to established companies as well as early-stage, university spin-offs -- small businesses whose very existence is tied to the work of university researchers.

Public universities have no choice but to adhere to current state statutes on property tax exemptions. The proposed bill language -- which you have before you -- resolves this issue in a fair and productive way.

The change would immediately benefit companies that wish to do research on a university campus.

It would also benefit the university, whose students and faculty would have new opportunities to work on real-world problems.

And it would benefit the state as a whole in ways I'll outline in a moment.

As I said, the bill extends the current university property tax exemption to include a company's R&D efforts performed in a university lab.

To accomplish that goal, it authorizes a company to enter into a lease agreement to use the labs, and the term of the lease would be brief -- no more than five years.

Such a change benefits all three partners in an economic development initiative based on university research.

Existing companies and start-up companies could:

- Access university research labs on a temporary basis;
- Develop new technologies for commercialization that benefit the public; and
- Expedite their transition from the university to a business incubator or industrial site.

This is especially important for small start-up companies. For them, close proximity to faculty and students doing related research greatly improves the likelihood they will survive and thrive on their own.

By the same token, an established company conducting a single research project in cooperation with university faculty is more likely to want to conduct additional research on that campus in the future.

Building a research track record over time -- with a Fortune 500 company or a small regional firm -- is the building of a relationship. It can be a factor in whether that company chooses to locate or expand a future research or manufacturing facility in Kansas.

Further, the state's three research universities have a mission in economic development. That mission compels us to reach out to the private sector and support their efforts through research, workforce development, and public service.

The research resulting from adoption of this bill would do just that. Without this language, however, the universities will continue to be hamstrung.

In particular, our efforts to start, nurture and grow small, high-tech companies will be limited by the need to maintain a firewall between university labs and these small entrepreneurial businesses.

We are forced to distance ourselves from them, in a sense, at the very moment they need our support and expertise the most.

Finally, this exemption is not expected to result in a loss of local property tax revenue.

In fact, it should lead to new property tax revenue being generated. For example:

- Existing Kansas companies that perform R&D are not likely to move their operations to a temporary location on campus. Therefore, no current property tax revenue will be lost.
- Existing Kansas companies could start new R&D projects with Kansas universities. This could lead to new technologies being commercialized and then located within Kansas communities, generating new property tax revenue.
- Successful, new, university-based start-up companies will move quickly from the lab into private building space, thus generating new property tax revenue.
- Finally, out-of-state companies using the labs could create technologies here and be recruited to commercialize that technology in Kansas, thus generating new property tax revenue.

The state could benefit from this change in other ways, including increased royalty revenue from technology licensing agreements and possible equity positions in successful companies.

Last year, KU faculty generated research expenditures in excess of \$193 million from external grants and contracts. That's a huge economic impact by itself, but it's not the only one.

Currently, 14 companies operating in Kansas began as KU start-ups. We also have 21 active technology licenses with Kansas companies.

Our goal is to significantly increase both numbers, along with the jobs and investment that result.

Let me briefly describe two KU start-up companies, the kind of operations that would benefit the most from the bill you're considering.

#### **XenoTech, LLC**

- XenoTech is located in Lenexa. It started in the mid-1990s as a spin-off from research performed at the KU Medical Center. The company is a contract research organization, specializing in drug metabolism-related research. The company currently has more than 100 employees.



- With a grant from the Kansas Bioscience Authority, XenoTech plans to expand its operations and locate a new facility in the Kansas Bioscience Park in Olathe.

**CyDex Pharmaceuticals, Inc.**

- CyDex is also located in Lenexa. It started in the mid- 1990s as a spin-off from research performed at the nationally recognized KU School of Pharmacy in Lawrence. The company develops pharmaceutical products based upon advanced drug delivery technologies. CAPTISOL is its lead technology. The company employees approximately 30 people.

Technologies developed in KU labs were the foundation for the success of both companies. Each company licensed its respective technologies. Combined, these two companies have now paid more than \$6.4 million in royalties and other revenue to KU.

Not included in this summary is the financial impact on Kansas of the income, sales, and property taxes generated as a result of these companies and their employees.

For all these reasons, I encourage you to support this legislation. When adopted, it will free the state's public universities to do an even better job of economic development based on productive and innovative research.

