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3 **HOUSE BILL No. 2457**

4 (Revisions Proposed by the Department of Administration
5 And subsequently modified at Rep. Morrison's direction)
6

7 By Representatives Kelley, Beamer, Bowers, Brunk, Burgess, Dahl,
8 Donohoe, George, Goico, Gordon, Grange, Hayzlett, Huntington,
9 Kelsey, Kiegerl, King, Kinzer, Landwehr, Mast, Masterson, Merrick,
10 Metsker, Judy Morrison, Jim Morrison, O'Neal, Otto, Peck, Rhoades,
11 Siegfried, Swanson, Vickrey, Watkins, K. Wolf and Yoder
12

13 2-7
14

15 AN ACT relating to public finance; creating the Kansas taxpayer
16 transparency act; defining terms; requiring the secretary of
17 administration to develop and operate a specified website; enumerating
18 information which shall be made available on such website; establishing
19 a time period covered for information on such website; ~~requiring~~
20 ~~specified agencies to provide certain information;~~ creating the public
21 finance transparency board and prescribing its duties; and providing for
22 nondisclosure of certain information; ~~amending K.S.A. 2006 Supp. 75-~~
23 ~~5133 and repealing the existing section.~~
24

25 *Be it enacted by the Legislature of the State of Kansas: New Section 1.*
26 This act shall be known and may be cited as the Kansas taxpayer
27 transparency act.
28

29 New Sec. 2. (a) As used in the Kansas taxpayer transparency act:
30

31 (1) "Searchable website" shall means a website that allows the public
32 to search and aggregate the information identified in subsection (b).
33 Such term shall include requirements that the website offer the public
34 the ability to efficiently perform keyword searching, and display
35 download data, and ascertain the total amounts of revenues and
36 expenditures of funds established within the state treasury in an
37 aggregate or summary form in a manner determined by the secretary of
38 administration ; of compensation paid to public employees employed by
39 state agencies; and of bond debt as specified in this act . ~~awarded to an~~
40 ~~entity through a single search and provide feedback and~~
41 ~~recommendations regarding the utility of the website. Such term shall~~
42 ~~not include any website that provides, as a search result, any hyperlink~~

1 to another state of Kansas government website that cannot be searched
2 electronically by field in a single search.

3
4
5
6 ~~(2) “Expenditure(s)” of state funds” shall mean the expenditure, of by~~
7 ~~any state agency, from funds within the state treasury as determined by~~
8 ~~the secretary of administration and available within the central~~
9 ~~accounting system, all appropriated or nonappropriated funds by a state~~
10 ~~entity from the state treasury in forms including, but not limited to:~~

11 ~~(A) Grants;~~

12 ~~(B) contracts;~~

13 ~~(C) subcontracts;~~

14 ~~(D) tax refunds, rebates or credits, excluding those which result from~~
15 ~~the overpayment of income tax pursuant to K.S.A. 79-1701 and 79-1702~~
16 ~~and K.S.A. 2006 Supp. 79-1705, and amendments thereto;~~

17 ~~(E) payments made under the Kansas investments in major projects and~~
18 ~~comprehensive training act, K.S.A. 74-50,102 et seq., and amendments~~
19 ~~thereto; and (F) expenditures pursuant to any compact between the~~
20 ~~Governor and a federally recognized Indian tribe or nation in this state.~~

21 ~~(3) “Expenditure of state funds” shall not mean the transfer of funds~~
22 ~~between two state agencies or payments of state or federal assistance to~~
23 ~~an individual.~~

24 ~~(3) “Revenue(s)” shall mean revenue for any state agency for funds~~
25 ~~within the state treasury as determined by the secretary of~~
26 ~~administration and available within the central accounting system.~~

27
28 ~~(2) (4) “Agency” shall mean any agency entity or instrumentality of the~~
29 ~~state of Kansas which stores, gathers or generates public information as~~
30 ~~defined in K.S.A. 75-3701(3) and amendments thereto, and any other~~
31 ~~entity or instrumentality delegated statutory authority by the legislature~~
32 ~~to issue bonds and to collect revenue for the purpose of repaying bonds~~
33 ~~issued under authority delegated by statute.~~

34
35 (b) No later than ~~January~~ March 1, 2008, the secretary of administration
36 shall develop and operate a single, searchable website accessible by the
37 public at no cost to access, that includes:

38
39 ~~(1) Annual expenditures which shall include, but not be limited to,~~
40 ~~disbursements by any state agency from funds established within the~~
41 ~~state treasury, compensation paid to public employees, and bond debt~~
42 ~~payments, as determined by the secretary of administration and~~
43 ~~available within the central accounting system, the state payroll system,~~

1 and any other source of information available to the secretary of
2 administration, including information submitted by state agencies
3 pursuant to new sec. 2(d) in this act.
4

5 Expenditures shall include but not be limited to:
6

7 (a) salaries and wages, including but not limited to compensation
8 paid to individual employees of state agencies;
9

10 (b) contractual services, including but not limited to amounts paid to
11 individual vendors;
12

13 (c) commodities, including but not limited to amounts paid to
14 individual vendors;
15

16 (d) capital outlay, including but not limited to amounts paid to
17 individual vendors;
18

19 (e) debt service, including but not limited to amounts of bond
20 interest paid and sources of funds paid for individual bond
21 issues;
22

23 (f) aid to local units, including but not limited to amounts paid to
24 individual units of government for individually identifiable aid
25 programs;
26

27 (g) other assistance and benefits; and
28

29 (h) capital improvements, including but not limited to amounts of
30 bond principal paid and sources of funds paid for individual
31 bond issues.
32

33
34 (2) Annual revenues which shall include, but not be limited to, receipts
35 or deposits by any state agency into funds established within the state
36 treasury as determined by the secretary of administration and available
37 within the central accounting system and any other source of
38 information available to the secretary of administration, including
39 information submitted by state agencies pursuant to new sec. 2(d) in this
40 act.
41

42 Revenue shall include but not be limited to:
43

- 1 (a) taxes, including but not limited to compulsory contributions
2 imposed by the state for the purpose of financing services;
3
4 (b) agency earnings, including but not limited to amounts
5 collected by each agency for merchandise sold, services
6 performed, licenses and permits issued, or regulation;
7
8 (c) revenue for the use of money and property, including but not
9 limited to amounts received for compensation of the use of
10 state owned money and property;
11
12 (d) gifts, donations and federal grants, including but not limited
13 to amounts received from public and private entities to aid in
14 support of a specific function or other governmental activity;
15
16 (e) other revenue, including but not limited to receipts not
17 classified elsewhere; and
18
19 (f) non-revenue receipts, including but not limited to all receipts
20 that do not constitute revenue.
21

22 (3) Annual bonded indebtedness which shall include, but not be limited
23 to, the amount of the total original obligation stated in terms of principal
24 and interest, the term of the obligation, the source of funding for
25 repayment of the obligation, the amounts of principal and interest
26 previously paid to reduce the obligation, the balance remaining of the
27 obligation, any refinancing of the obligation, and the cited statutory
28 authority to issue such bonds.
29

30
31 ~~For each expenditure, information including, but not limited to:~~

- 32 ~~(A) The name and principal location or residence of the entity or~~
33 ~~recipient, or both, of the funds;~~
34 ~~(B) the amount of state funds expended;~~
35 ~~(C) the type of transaction;~~
36 ~~(D) the funding or expending agency;~~
37 ~~(E) the budget program source;~~
38 ~~(F) a descriptive purpose of the funding action or expenditure; and~~
39

40 ~~(3)(G)~~ (4) A any other relevant information specified by the secretary
41 of administration after consulting with and seeking the advice of the
42 public finance transparency board as herein established.
43

1
2 ~~(2) the complete contents of the tax expenditure information or report~~
3 ~~prepared by the department of revenue;~~

4 ~~(3) visual representations, in graph form organized by function of~~
5 ~~government, of state general fund expenditures and all fund~~
6 ~~expenditures for any fiscal year searched, which shall be accessible as~~
7 ~~hyperlinks from any page providing a search result; and~~

8 ~~(4) a hyperlink to a website displaying the CPI (urban), which shall be~~
9 ~~displayed on any page providing a search result.~~

10
11 (c) The single website provided for in subsection (b) of this section shall
12 include data for the fiscal year 2002 and each fiscal year thereafter.
13 Such data shall be retained on the single website for a maximum of not
14 less than ten years and shall include data for the most current recent
15 fiscal years. Such data shall be available on the single website as soon
16 as possible, but no later than 45 90 30 days after the last day of the
17 preceding fiscal year. Nothing in this act shall require the secretary of
18 administration to provide information on the website that is not
19 available at the time of initial implementation of the website in the
20 central accounting system, state payroll system, or any other source of
21 information available to the secretary of administration. After
22 implementation of the initial website, the secretary of administration
23 shall periodically consult and seek advice of the public finance
24 transparency board about incorporating additional information
25 prescribed by this act into the website, but which is not available upon
26 initial implementation of the website.

27
28 ~~(d) The department of revenue, state treasurer and a~~ Any other state
29 agency shall provide, to at the request of the secretary of administration,
30 such information as is necessary to accomplish the purposes of this act.

31
32 (e) Nothing in this act shall permit or require the disclosure of
33 information which is considered confidential by state or federal law.

34
35 New Sec. 3. (a) There is hereby created the public finance transparency
36 board for the purpose of advising and consulting with the secretary of
37 administration on the content, format and reports to be produced on the
38 website.

39
40 (b) The board shall consist of 10 members as follows:

1 (1) The secretary of administration, who shall serve as chairperson
2 of the board;

3 (2) the director of accounts and reports;

4 (3) two members who are chief executive officers of agencies of
5 the executive branch, appointed by the governor, who shall serve at the
6 pleasure of the governor;

7 (4) one member appointed by the governor from the general public;

8 (5) four members of the legislature, one appointed by the president
9 of the senate, one appointed by the minority leader of the senate, one
10 appointed by the speaker of the house, and one appointed by the
11 minority leader of the house, all of whom shall serve at the please of the
12 appointing official; and

13 (6) the legislative post auditor.

14 (c) The board shall annually elect one member from the board as vice-
15 chairperson and another as secretary.

16 (d) Five members of the board shall constitute a quorum and the
17 affirmative vote of five members shall be necessary for any action taken
18 by the board. No vacancy in the membership of the board shall impair
19 the right of a quorum to exercise all the rights and perform all the duties
20 of the board.

21 (e) In order to achieve its purpose as provided in this act, the board
22 shall:

23 (1) Serve in an advisory capacity to the secretary of administration,
24 who shall from time to time consult with and seek the advice of the
25 board on matters related to the further development of the website,
26 expansion of the content of information for the website, and new reports
27 to be generated on the website to assist the public in accessing public
28 information.

29 (2) seek advice from the general public, professional associations,
30 academic groups and institutions and individuals with knowledge of and
31 interest in areas of public information access, gateway services, add-on
32 services and electronic information; and

1 (3) meet at least twice during each fiscal year on the call of the
2 secretary of administration who shall set the agenda for such meetings,
3 which shall include a report on the progress in implementing and
4 developing the website, proposed enhancements to the website in terms
5 of content, format, and reports, and other matters as deemed appropriate
6 by the secretary of administration.

7 (e) All state agencies shall cooperate with the board in providing such
8 assistance as may be requested for the achievement of its purpose.

9 ~~Sec. 3. K.S.A. 2006 Supp. 75-5133 is hereby amended to read as~~
10 ~~follows: 75-5133. (a) Except as otherwise more specifically provided by~~
11 ~~law, all information received by the secretary of revenue, the director of~~
12 ~~taxation or the director of alcoholic beverage control from returns,~~
13 ~~reports, license applications or registration documents made or filed~~
14 ~~under the provisions of any law imposing any sales, use or other excise~~
15 ~~tax administered by the secretary of revenue, the director of taxation, or~~
16 ~~the director of alcoholic beverage control, or from any investigation~~
17 ~~conducted under such provisions, shall be confidential, and it shall be~~
18 ~~unlawful for any officer or employee of the department of revenue to~~
19 ~~divulge any such information except in accordance with other~~
20 ~~provisions of law respecting the enforcement and collection of such tax,~~
21 ~~in accordance with proper judicial order or as provided in K.S.A. 74-~~
22 ~~2424, and amendments thereto.~~

23 (b) The secretary of revenue or the secretary's designee may:

24 (1) Publish statistics, so classified as to prevent identification of
25 particular reports or returns and the items thereof;

26 (2) allow the inspection of returns by the attorney general or the
27 attorney general's designee;

28 (3) provide the post auditor access to all such excise tax reports or
29 returns in accordance with and subject to the provisions of subsection
30 (g) of K.S.A. 46-1106, and amendments thereto;

31 (4) disclose taxpayer information from excise tax returns to persons or
32 entities contracting with the secretary of revenue where the secretary
33 has determined disclosure of such information is essential for
34 completion of the contract and has taken appropriate steps to preserve
35 confidentiality;

36 (5) provide information from returns and reports filed under article 42
37 of chapter 79 of the Kansas Statutes Annotated, *and amendments*
38 *thereto*, to county appraisers as is necessary to insure proper valuations
39 of property. Information from such returns and reports may also be
40 exchanged with any other state agency administering and collecting

1 conservation or other taxes and fees imposed on or measured by mineral
2 production;

3 ~~(6) provide, upon request by a city or county clerk or treasurer or~~
4 ~~finance officer of any city or county receiving distributions from a local~~
5 ~~excise tax, monthly reports identifying each retailer doing business in~~
6 ~~such city or county or making taxable sales sourced to such city or~~
7 ~~county, setting forth the tax liability and the amount of such tax remitted~~
8 ~~by each retailer during the preceding month, and identifying each~~
9 ~~business location maintained by the retailer and such retailer's sales or~~
10 ~~use tax registration or account number;~~

11 ~~(7) provide information from returns and applications for registration~~
12 ~~filed pursuant to K.S.A. 12-187, and amendments thereto, and K.S.A.~~
13 ~~79-3601, and amendments thereto, to a city or county treasurer or clerk~~
14 ~~or finance officer to explain the basis of statistics contained in reports~~
15 ~~provided by subsection (b)(6);~~

16 ~~(8) disclose the following oil and gas production statistics received by~~
17 ~~the department of revenue in accordance with K.S.A. 79-4216 et~~
18 ~~seq., and amendments thereto: Volumes of production by well name,~~
19 ~~well number, operator's name and identification number assigned by the~~
20 ~~state corporation commission, lease name, leasehold property~~
21 ~~description, county of production or zone of production, name of~~
22 ~~purchaser and purchaser's tax identification number assigned by the~~
23 ~~department of revenue, name of transporter, field code number or lease~~
24 ~~code, tax period, exempt production volumes by well name or lease, or~~
25 ~~any combination of this information;~~

26 ~~(9) release or publish liquor brand registration information provided by~~
27 ~~suppliers, farm wineries and microbreweries in accordance with the~~
28 ~~liquor control act. The information to be released is limited to: Item~~
29 ~~number, universal numeric code, type status, product description,~~
30 ~~alcohol percentage, selling units, unit size, unit of measurement,~~
31 ~~supplier number, supplier name, distributor number and distributor~~
32 ~~name;~~

33 ~~(10) release or publish liquor license information provided by liquor~~
34 ~~licensees, distributors, suppliers, farm wineries and microbreweries in~~
35 ~~accordance with the liquor control act. The information to be released is~~
36 ~~limited to: County name, owner, business name, address, license type,~~
37 ~~license number, license expiration date and the process agent contact~~
38 ~~information;~~

39 ~~(11) release or publish cigarette and tobacco license information~~
40 ~~obtained from cigarette and tobacco licensees in accordance with the~~
41 ~~Kansas cigarette and tobacco products act. The information to be~~
42 ~~released is limited to: County name, owner, business name, address,~~
43 ~~license type and license number;~~

1 ~~(12) provide environmental surcharge or solvent fee, or both,~~
2 ~~information from returns and applications for registration filed pursuant~~
3 ~~to K.S.A. 65-34,150 and 65-34,151, and amendments thereto, to the~~
4 ~~secretary of health and environment or the secretary's designee for the~~
5 ~~sole purpose of ensuring that retailers collect the environmental~~
6 ~~surcharge tax or solvent fee, or both;~~

7 ~~(13) provide water protection fee information from returns and~~
8 ~~applications for registration filed pursuant to K.S.A. 82a-954, and~~
9 ~~amendments thereto, to the secretary of the state board of agriculture or~~
10 ~~the secretary's designee and the secretary of the Kansas water office or~~
11 ~~the secretary's designee for the sole purpose of verifying revenues~~
12 ~~deposited to the state water plan fund;~~

13 ~~(14) provide to the secretary of commerce copies of applications for~~
14 ~~project exemption certificates sought by any taxpayer under the~~
15 ~~enterprise zone sales tax exemption pursuant to subsection (cc) of~~
16 ~~K.S.A. 79-~~

17 ~~3606, and amendments thereto;~~

18 ~~(15) disclose information received pursuant to the Kansas cigarette and~~
19 ~~tobacco act and subject to the confidentiality provisions of this act to~~
20 ~~any criminal justice agency, as defined in subsection (c) of K.S.A. 22-~~
21 ~~4701, and amendments thereto, or to any law enforcement officer, as~~
22 ~~defined in subsection (c)(10) of K.S.A. 21-3110, and amendments~~
23 ~~thereto, on behalf of a criminal justice agency, when requested in~~
24 ~~writing in conjunction with a pending investigation; and~~

25 ~~(16) provide to retailers tax exemption information for the sole purpose~~
26 ~~of verifying the authenticity of tax exemption numbers issued by the~~
27 ~~department.~~

28 ~~(e) The secretary of revenue or the secretary's designee shall disclose~~
29 ~~specific information as required by subsections (b) and (d) of section 1,~~
30 ~~and amendments thereto.~~

31 ~~(d) Any person receiving any information under the provisions of~~
32 ~~subsection (b) shall be subject to the confidentiality provisions of~~
33 ~~subsection (a) and to the penalty provisions of subsection (d) (e).~~

34 ~~(d) (e) Any violation of this section shall be a class A, nonperson~~
35 ~~misdemeanor, and if the offender is an officer or employee of this state,~~
36 ~~such officer or employee shall be dismissed from office. In addition to~~
37 ~~any term of imprisonment, the offender shall be fined not less than~~
38 ~~\$1,500. Reports of violations of this paragraph section shall be~~
39 ~~investigated by the attorney general. The district attorney or county~~
40 ~~attorney and the attorney general shall have authority to prosecute any~~
41 ~~violation of this section if the offender is a city or county clerk or~~
42 ~~treasurer or finance officer of a city or county.~~

43 ~~Sec. 4. K.S.A. 2006 Supp. 75-5133 is hereby repealed.~~

1

2 Sec. ~~5~~4. This act shall take effect and be in force from and after its
3 publication in the statute book.