Approved: January 22, 2003
Date

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE

The meeting was called to order by Vice Chairperson Les Donovan at 10:40 a.m. on January 15, 2003, in Room 519-S of the Capitol.

All members were present except: Sen. Corbin – Excused

Committee staff present: Chris Courtwright, Legislative Research Department
April Holman, Legislative Research Department
Gordon Self, Revisor of Statutes Office
Shirley Higgins, Committee Secretary

Conferees appearing before the committee: Richard Cram, Kansas Department of Revenue

Others attending: See attached list.

Senator Donovan called upon Chris Courtwright, Kansas Legislative Research Department, for a review of the 2002 Supplement to the Seventh Edition of *Kansas Tax Facts.* (Attachment 1) Mr. Courtwright informed the Committee that more detailed information on any tax can be found in the Seventh Edition of *Kansas Tax Facts* which was published in December of 2000. He then proceeded to summarize the highlights of the Supplement as outlined on page two and went on to discuss the tables relating to state and local tax revenues and the 50-state tax burden ranking of Kansas and surrounding states. He pointed out that the final pages of the Supplement include a summary of tax law changes for the last two legislative sessions and several tables relating to local and state tax revenues. In addition, he called attention to copies of statistics relating to Census Bureau regions and divisions with state FIPS codes published by the U.S. Census Bureau after the 2002 Supplement was completed. (Attachment 2)

Senator Donovan called the Committee's attention to copies of a sales tax exemption summary prepared by the Kansas Department of Revenue. (Attachment 3) He pointed out that the overall cost of the exemptions to the state ranges from almost $3 million for fiscal year 2002 to almost $4 million for fiscal year 2006.

Mr. Courtwright presented information regarding the possibility of the State of Kansas decoupling from a portion of the new federal tax law relating to a special "bonus" depreciation of 30 percent for certain business property acquired between September 11, 2001, and September 11, 2004. He pointed out that the new federal tax treatment will also affect Kansas income tax liability because of the extent to which much of the state's income tax structure piggybacks and uses the federal law as a starting point. (Attachment 4)

Richard Cram, Kansas Department of Revenue, discussed the fiscal impact of President Bush's January 7 tax stimulus proposal. He reported that the Federation of Tax Administrators estimate that the total negative fiscal impact to the states would be $4.098 billion per year, with $40 million of the impact falling upon Kansas individual income tax receipts. However, the Center on Budget and Policy Priorities (CBPP) estimates the total negative fiscal impact on the states at $4.5 billion, with $51 million of the impact falling on Kansas. According to CBPP, the increased small business "expensing" proposal would result in a negative $2 million in Kansas spread across both individual income tax and corporate income tax. An estimate of the capital gains exclusion related to retained earnings already taxed is not yet available. (Attachment 5)

Senator Oleen requested that Mr. Cram provide the Committee with a list of sales tax exemptions passed in the last ten years which could be collected without a lot of new software. Mr. Cram agreed to do so in the near future.

Senator Donovan announced that the update on the Streamlined Sales Tax by the Department of Revenue scheduled for January 16 was rescheduled for next week. He suggested that a conceptual bill on the Streamlined Sales Tax proposal be prepared so that the Committee can begin working on the proposal next week.

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE at 10:40 a.m. on January 15, 2003, in Room 519-S of the Capitol.

Senator Taddiken moved to introduce a conceptual bill dealing with the Streamlined Sales Tax, seconded by Senator Lee. The motion carried.

The meeting was adjourned at 11:35 a.m.

The next meeting is scheduled for January 22, 2003.

SENATE ASSESSMENT AND TAXATION COMMITTEE
GUEST LIST

DATE: January 15, 2003

NAME	REPRESENTING
MARK CIARDULLO	KDOR
Robert J. Fasl	SBC
Ann Durkes	DOB
Richard Cram	KDOR
Todd Johnson	KLA
Tom Bruno	GBBA
Ronald Seeber	Hein law firm
LARRY R BAER	LKM
DOUG LAWRENCE	Westar Energy
Stuart Little	Little Gov. Relations
John Frederick	Boeing
Mark Tallman	KASB
Bill Brady	KGC
Amy Campbell	Midwest Energy, Inc.
Christi Stewart	KS motor Carriers
Deann Williams	KMCA
Christy Caldwell	Topeka Chamber of Comm.
Martha Neu Smith	KMHA
Michael D. Dowis	KFB

SENATE ASSESSMENT AND TAXATION COMMITTEE
GUEST LIST

DATE: January 15, 2003

NAME	REPRESENTING
Bob Kuehkiel	KIOGA
Lew Ebert	KCCI
Marlee Carpenter	KCCI
Danielle Noe	Johnson County
Hal Hudson	NFIB/KS

FOREWORD

The Seventh Edition of *Kansas Tax Facts* was published in December, 2000. This document is designed to supplement and update that publication by providing data from FY 2001 and FY 2002 and by summarizing significant tax legislation enacted in 2001 and 2002.

Chris W. Courtwright of the Kansas Legislative Research Department is responsible for this publication.

Senate Assessment + Taxation
1-15-03
Attachment 1

Combined State and Local Tax Revenue

Kansas state and local government net tax revenue totaled $8.399 billion in FY 2002, which equated to $3,117 per capita and to 10.91 percent of Kansas personal income in CY 2001. Following are the tax levies or collections, combining state and local tax revenue, in descending order of importance for FY 2002.

Table 1
Kansas State and Local Taxes

	FY 2000	FY 2001	FY 2002	% of FY 02 Total	% increase from FY 01
General Property (a)	$ 2,212,241	$ 2,412,906	$ 2,657,197	31.64%	10.12%
Sales and Use (b)	2,257,470	2,292,765	2,349,090	27.97%	2.46%
Income and Privilege	2,134,043	2,221,298	1,976,778	23.54%	(11.01)%
Motor Fuels	358,569	358,899	374,701	4.46%	4.40%
Various Vehicle (a) (c)	261,241	237,628	255,275	3.04%	7.43%
Unemployment Comp.	107,655	176,337	186,054	2.22%	5.51%
Vehicle Registration	149,586	147,726	148,779	1.77%	0.71%
Insurance Premiums	67,631	77,210	96,894	1.15%	25.49%
Liquor and Beer	73,436	77,531	81,380	0.97%	4.96%
Severance	56,956	109,180	59,871	0.71%	(45.16)%
Cigarette and Tobacco	52,898	52,876	52,342	0.62%	(1.01)%
Estate/Inheritance	62,888	41,196	48,082	0.57%	16.72%
Mortgage Registration	36,234	32,729	42,340	0.50%	29.37%
Transient Guest	17,068	18,439	18,768	0.22%	1.78%
Corporation Franchise	16,834	16,927	18,519	0.22%	9.41%
Motor Carrier Property	16,125	17,920	18,068	0.22%	0.83%
Intangibles (a)	4,888	5,022	4,779	0.06%	(4.84)%
Parimutuel	4,239	3,973	3,813	0.05%	(4.03)%
Wheat	3,432	---	---	---	---
All Other (d)	6,548	6,253	5,896	0.07%	(5.71)%
Total	$ 7,899,982	$ 8,306,815	$ 8,398,626	100.00%	1.11%

(a) Taxes levied for collection during the fiscal year.

(b) Includes state, county, city and municipal university sales and use taxes.

(c) Includes motor vehicle, recreational vehicle, 16m and 20m "tagged" vehicles, and rental car excise taxes.

(d) Total revenue from eight taxes, the largest of which for FY 2002 was the drycleaning excise tax at $1.207 million.

State and Local Tax Structure – Overview

Kansas has had a broad-based state and local tax structure since the 1930s when income, sales, and other taxes were adopted. The broadening continued—at least through the 1980s—with the adoption of various privilege, gross receipts, and severance taxes. One result of these changes is that the general property tax, while still by far the most important tax source for local governments, now is far less significant in terms of the overall state and local tax mix.

The 1992 school finance law substantially altered school district property taxes. In 1991, school district general fund property tax levies ranged from 9.12 mills (Burlington) to 97.69 mills (Parsons). The 1992 law established a uniform general fund mill levy rate of 32 mills for 1992, 33 mills for 1993, and 35 mills for 1994 and thereafter. Beginning in 1997, the Legislature provided major reductions in the general fund levy—which is currently set at 20 mills—in addition to an exemption from that levy for residential property to the extent of the first $20,000 of its valuation.

Some Highlights of this Supplement

- In FY 2002, total state and local tax revenue in Kansas was $8.399 billion, with state taxes accounting for $4.901 billion—or about 58 percent—of the total. State and local taxes grew by only 1.1 percent over the FY 2001 figure of $8.307 billion. State taxes actually declined by about $184 million, or 3.6 percent, from FY 2001 to FY 2002; local taxes on the other hand increased by about $276 million, or 8.6 percent. Details are available in Tables 1, 2, and 4.

- Local governments continue to spend most of the state and local tax revenue. In FY 2002, local government tax revenue was $3.497 billion and local units received another $2.881 billion from state taxes allocated to or shared with them. Thus, local units received $6.378 billion, or 76 percent, of total state and local taxes in FY 2002. Almost 59 percent of the state's tax revenue was shared with or allocated to local units, mostly for education.

- While the general property tax is still the most important single revenue producer, its proportion of total state and local taxes has steadily declined over the decades—from 82 percent of the total in FY 1930, to 56 percent in FY 1960, and to 32 percent in FY 2002 (or about 35 percent if the various vehicle taxes, which are levied in lieu of the general property tax, are included). But the trend has reversed itself recently, since in FY 1998 the general property tax was only about 27 percent of the burden (or 31 percent if vehicle taxes were included).

- Income and privilege taxes accounted for 24 percent of state and local tax revenue in FY 2002, compared with only 11 percent as recently as FY 1970 and only 2 percent in FY 1940. Less dramatic, but significant nevertheless, has been the growth of sales and use tax revenue in the state-local tax mix, *i.e.*, rising from 10 percent of the total in FY 1940, to 16 percent in FY 1970, and to almost 28 percent in FY 2002. The spread of local sales taxes has contributed significantly to the growth of sales tax revenue since 1970.

- State and local tax revenue in FY 2002 was 10.91 percent of CY 2001 Kansas personal income. Historically, this figure has remained remarkably constant. (The ratio was 10.77 percent for FY 1970, for example). The following table provides the data for the last five fiscal years.

Taxes as Percent of Personal Income

	State	Local	Both
FY 1997	6.99	4.50	11.49
FY 1998	7.23	4.27	11.50
FY 1999	6.71	4.19	10.90
FY 2000	6.98	4.32	11.29
FY 2001	6.86	4.35	11.21
FY 2002	6.37	4.54	10.91

- The significant increase in local taxes in FY 2002 was primarily due to property tax increases. Of the $246 million in general property tax increases, schools accounted for $123 million; counties for $61 million; and cities for $49 million.

- It should be noted that while the courts have held that the mandatory school district general fund property tax levy is a state tax, it is treated as a local tax for the maintenance of historical tax tables.

State Tax Revenue

In FY 2002, state tax revenue totaled $4.901 billion, which was a decrease of $184 million, or 3.6 percent, below collections in FY 2001. Significant decrease in individual income taxes ($130 million), the corporation income tax ($118 million), and severance taxes ($49 million) were responsible for the reduction. Total state tax collections have now declined in two of the previous four fiscal years.

For FY 2002, Table 3 shows state tax revenues in descending order of importance and how much of such revenue was credited to the State General Fund and to other state funds. In that year, 81.54 percent went to the General Fund and 18.46 percent was deposited in other funds.

Individual income taxes, corporation income taxes, and sales and use taxes accounted for almost 91 percent of SGF tax receipts in FY 2002. The same four sources comprised just over 80 percent of SGF taxes in FY 1985.

State and Local Taxes

The relative balance in the big three sources of state and local tax revenue – sales, income, and property – that Kansas had achieved for a number of years after the 1992 school finance law appears to be eroding. (In FY 1992 – prior to the implementation of that law – property and vehicle taxes comprised 38.7 percent of total state and local revenues; sales and use taxes, 22.7 percent; and income and privilege taxes, 21.1 percent.)

In FY 2002, property and vehicle taxes accounted for 34.7 percent of the burden; sales and use taxes, 28.0 percent; and income and privilege taxes, 23.5 percent. As recently as FY 1998, the figures were much more closely balanced: 30.9 percent for property and vehicles; 28.1 percent for sales and use; and 28.0 percent for income and privilege.

Economists generally believe that with a diversified revenue portfolio not relying too heavily on a single source, Kansas state and local governments are better able to withstand economic downturns. Indeed, the Governor's Tax Equity Task Force in 1995 concluded as a major tax policy objective that:

> "The state and local tax system should be balanced and diversified. A diversified tax system offers a blend of economic tradeoffs. Because all revenue sources have their weaknesses, a balanced tax system will reduce the magnitude of problems caused by over reliance on a single tax source. It will also result in lower rates on each tax and reduce the pressure of competition from other states that have lower rates for a particular tax."

Shown below for the last six years are state, local, and combined state and local tax revenues.

State and Local Tax Revenue
(in thousands)

Fiscal Year	State	Percent Increase	Local	Percent Increase	State and Local	Percent Increase
1997	4,199,176	6.20	2,704,078	3.12	6,903,254	4.97
1998	4,605,403	9.67	2,723,830	0.73	7,329,233	6.17
1999	4,555,513	(1.08)	2,844,536	4.43	7,400,049	0.97
2000	4,880,939	7.14	3,019,043	6.13	7,899,982	6.76
2001	5,085,371	4.19	3,221,444	6.70	8,306,815	5.15
2002	4,901,421	(3.62)	3,497,205	8.56	8,398,626	1.11

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Comparative Kansas Tax Burden

Kansas is not a "high" tax state. Using the two major tax burden comparisons (taxes per capita or as a percent of personal income), the state consistently has finished in the middle of the pack when compared with all other states. For example, Kansas finished #28 in state tax revenue as a percent of personal income and also #25 in per capita state tax revenue in FY 2001, the latest year for which data are available from all states for such statistics. Kansas finished #27 in per capita state and local collections and #32 in state and local collections as a percent of personal income in FY 1999, the latest data for these statistics. Economic development proponents sometimes suggest that the Kansas tax burden figures should be compared more closely with the data from surrounding states. The following table provides this comparison.

50-State Tax Burden Ranking of Kansas and Surrounding States

	FY 2001 State Taxes Per Capita	FY 2001 State Taxes as Percent of Personal Income	FY 1999 State and Local Taxes Per Capita	FY 1999 State and Local as Percent of Personal Income
Kansas	25	28	27	32
Missouri	43	44	37	44
Oklahoma	27	15	45	36
Colorado	36	46	18	41
Nebraska	32	32	25	31

Recommended Tax Policy Objectives

The aforementioned Governor's Tax Equity Task Force in 1995 recommended that all tax legislation "be evaluated with the following objectives in mind."

- Kansas should maintain its enviable reputation as a fiscally responsible state.
- A tax system should produce revenues that are adequate to finance an agreed-upon level of public services over time.
- A tax system should produce adequate revenue during economic downturns and also respond to economic growth.
- State and local taxing and spending decisions should be consistent with economic growth and development.
- Administration of the tax system should be fair and efficient.
- Fiscal accountability should be strengthened by making taxpayers aware of their true tax liabilities.
- Tax revisions should not unduly erode the tax base.
- State fiscal policy should advance the interests of the state as a whole, while facilitating the fiscal autonomy of local governments.
- Policymakers must recognize that tax policy influences economic behavior, and not always in the desired manner.
- Kansans should be able to rely upon a stable tax policy.
- The state and local tax system should be balanced and diversified.

SUMMARY OF 2002 TAX LEGISLATION

Revenue Enhancements and Other Tax Provisions

SB 39 provides a number of revenue enhancements, with the additional revenues earmarked for deposit in the State General Fund (SGF). The bill also provides for several business tax reductions, including an expansion of the business machinery and equipment income tax credit for property taxes paid; an extension of that credit to railroads; a special corporation income tax apportionment formula for investment funds service corporations; and a package of incentives for tire manufacturers and retreaders that includes a provision authorizing that debt service on Kansas Development Finance Authority (KDFA) bonds be paid by utilizing up to 75 percent of employee withholding taxes. The legislation further expands two programs designed to reduce the regressivity of the tax structure - the earned income tax credit and food sales tax rebate programs. Among the bill's provisions:

Revenue Enhancements

- **Sales Tax.** The state sales and compensating (use) tax rates are increased from 4.9 to 5.3 percent, effective July 1, 2002. The rates will subsequently be reduced to 5.2 percent on July 1, 2004; and to 5.0 percent on July 1, 2005.

- **Cigarette Tax.** The cigarette tax is increased from 24 cents per pack to 70 cents per pack, effective July 1, 2002, and is further increased an additional nine cents (to 79 cents per pack) on January 1, 2003. A "floor" or inventory tax equivalent to the increases also is imposed, and an adjustment is made to the dealers' discount percentage to assure that all new revenues will be deposited in the SGF.

- **Class C Inheritance Tax Reimposition.** For estates of decedents dying on or after the effective date of this section, an inheritance tax is imposed on interests received by "Class C" beneficiaries (generally, persons other than lineal ascendants or descendants and brothers and sisters) at rates ranging from 10 to 15 percent. These provisions effectively reenact part of the inheritance tax act repealed in 1998.

- **Withholding Tax Provisions**. A definition of "distribution" is amended to include subchapter S corporations, limited liability corporations, and partnerships to bring Kansas' withholding tax provisions into conformity with federal provisions such that state withholding will occur under the same circumstances as federal withholding. KSA 2001 Supp. 79-31,100a is amended to provide that withholding be applicable to distributions to nonresident shareholders and partners. An additional provision clarifies that any IRS determination relieving payors from withholding responsibilities also will be applicable for Kansas withholding. Finally, the term "wages" is expanded to include prizes and awards paid to professional athletes at sporting events held in the state.

- **Corporation and Other Franchise Taxes**. Various franchise taxes and fees are increased to effectively double the amount of revenue received relative to prior law. (Prior law, for example, imposed a tax of \$1 per \$1,000 of shareholder equity on corporations up to a maximum of \$2,500. The tax will now be \$2 per \$1,000 of shareholder equity up to a maximum of \$5,000).

- **Sales Tax Exemption on Custom Software.** The bill repeals a sales tax exemption which had been provided for the sale of custom computer software.

Low-and-Moderate-Income Tax Relief

- **Food Sales Tax Rebates.** The food sales tax rebate program is expanded beginning in tax year 2002 by indexing the qualifying income thresholds for inflation and by increasing the dollar amounts of the rebates to $36 and $72. (Under prior law, refunds of $60 per person were available for taxpayers with qualifying income of $0 to $12,500; and refunds of $30 were available for those with income of $12,501 to $25,000. Based on inflation assumptions used by the Department of Revenue, the program will be expanded for tax year 2002 such that refunds of $72 per person will be available for those with qualifying income of $0 to $12,800; and refunds of $36 per person will be available for those with income of $12,801 to $25,600.)

- **EITC.** The bill increases the Kansas Earned Income Tax Credit from 10 percent to 15 percent of the federal credit beginning in tax year 2002.

Business and Economic Development Tax Provisions

- **Business Machinery and Equipment Credits.** The tax credits available for property taxes timely paid on business machinery and equipment are increased from 15 to 20 percent beginning in tax year 2005; and to 25 percent beginning in tax year 2007.

- **Tax Credits Extended to Railroads.** The machinery and equipment tax credits for property taxes paid will for the first time be made available for railroad property beginning in tax year 2005 (when the amount of the credit will be 20 percent). The railroad property also will qualify for the subsequent credit increase in tax year 2007. Prior to 2005, the Joint Committee on Economic Development will be required to conduct an interim study regarding the necessity of extending the tax credits to railroad property.

- **Investment Funds Service Corporations.** A special income tax apportionment formula will be made available to investment funds service corporations, authorizing such entities to elect to have income apportioned to Kansas based on the number of shares owned by resident shareholders compared with the total number of shares owned by all shareholders (in lieu of the traditional three factor apportionment formula based on property, payroll, and sales).

- **Tire Manufacturers.** KDFA is authorized to issue up to $10 million in bonds qualified to tire manufacturing businesses meeting certain criteria and contracting with the Department of Commerce and Housing. Bonds would be issued equal to $1 for every $5 pledged to be invested by the qualified business, and the proceeds would be used to acquire or improve real or personal property in Kansas for modernization and retooling of the contracting business. The bonds would be paid with up to 75 percent of moneys collected by the contracting business for withholding of employee individual income taxes.

- **Property Tax Exemption.** The bill also expands the property tax exemption in KSA 2001 Supp. 79-201w for certain items of machinery, equipment, materials, and supplies with original retail cost when new of $250 or less to include such items with original retail cost when new of $400 or less beginning in tax year 2003.

- **Use Valuation of Agricultural Land.** The statutory formula relating to use valuation of agricultural land for property tax purposes is amended to provide that the capitalization rate for all years beginning in 2003 be set at not less than 11 percent and not more than 12 percent.

Property Tax Provisions—Miscellaneous

- **Use Valuation Report.** The Director of Property Valuation (PVD) is required to submit a report on or before September 1, 2002, relating to the history of agricultural land valuation procedures.

- **Delinquent Property Tax Provisions.** The bill amends the procedures for sale of property for delinquent taxes to permit a county without a court order to sell lots or tracts previously offered at public auction but which did not sell. In addition, a court may authorize a county to dispose of one or more lots or tracts by negotiated public or private sale or simply to transfer the lots or tracts if the properties have not sold at a prior public auction. (The latter procedure is subject to a notice and hearing procedure.) KSA 79-2401a also is amended to remove Wyandotte County from a special provision of law previously applicable to only Wyandotte and Johnson counties that requires partial redemption payments for delinquent homestead property taxes be credited to the most recent year for which the real estate was carried on the county tax-sale books.

- **Boat Valuation.** The bill provides for proration of the taxable value of boats which are acquired or sold between January 1 and September 1 of any taxable year. Under prior law, responsibility for taxes on the entire value of the boat is with the party who owns the boat on January 1 of a given year. A specific formula will now be used to establish a prorated share of the taxable value for parties selling and acquiring a boat between January 1 and September 1. The bill requires that the county appraiser be notified within 30 days of the sale or acquisition.

Sales Tax Provisions—Miscellaneous

- **Sales Tax on Phone Cards.** The bill removes from the sales tax imposition statute a requirement that prepaid telephone calling cards or authorization numbers have prepaid value measured in minutes or other time units in order to qualify for gross receipts taxation at the point of sale. Striking the requirement effectively extends the point-of-sale tax treatment to all prepaid calling cards and authorization numbers.

- **Local Sales Tax Provisions.** The bill grants Douglas County additional local sales tax authority of 0.25 percent, provided the revenue is pledged for preservation, access, and management of open space and for industrial and business park-related economic development. Anderson County also is added to a list of counties authorized to impose a sales tax and retain the entire amount of revenues (without sharing such revenues with cities), provided the moneys are pledged for financing the construction or remodeling of a courthouse, jail, law enforcement center, or other county administrative facility. Anderson County is granted an additional one percent of authority relative to the law for such purposes.

- **Sales Tax Exemption for Federal Employee Hotel Room Rentals.** Another section enacts a new sales tax exemption for the gross receipts received from the rental of rooms by hotels and accommodations brokers to the federal government and its officers and employees when such rentals are made in association with the performance of official government duties.

Income Tax Provisions—Miscellaneous

- **Historic Preservation Credits.** The bill makes several changes to the Historic Structure Rehabilitation Expenditure Credit which was created in 2001 and authorizes tax credits equivalent to 25 percent of qualified expenditures incurred in the restoration and preservation of a qualified historic structure pursuant to a qualified rehabilitation plan. The bill allows the credits to be claimed against the financial institutions privilege tax and the insurance premiums

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tax, in addition to the income tax. The bill further clarifies the treatment of business entities claiming the credits against individual income taxes and provides for the transfer of credits.

- **PEOs.** A Professional Employment Organization (PEO) will be considered an employer for purposes of Kansas income tax withholding. The client will give payroll information for assigned workers to the Department of Revenue for income tax purposes and in order to qualify for certain tax incentives.

Taxpayer Fairness

- **Taxpayer Fairness.** Other sections of the bill enact the Taxpayer Fairness Act of 2002:

  - Among the new provisions of law are a requirement that Department of Revenue correspondence regarding tax assessments contain detailed, clear and accurate explanations of the assessments demanded, including specific information on the tax and tax year in question, as well as on penalties and interest. Any such correspondence involving amounts in excess of $750 for individual accounts and $2,000 for business accounts is required to be reviewed for accuracy by departmental employees prior to issuance and to contain the employee identification number and telephone number of employees performing the accuracy reviews. An additional requirement relating to correspondence seeking to change the tax or refund due on returns filed by taxpayers mandates that the proposed change be explained in simple and nontechnical terms.

  - If a taxpayer has designated a third party or other representative to discuss Kansas income tax returns, the Department is required to adhere to and comply with such designation and in discussions and correspondence regarding issues related to the returns.

  - The Department also is required to waive civil penalties upon the finding of any circumstance allowing waiver of civil penalties pursuant to the provisions of the federal Internal Revenue Code.

  - Closing letters also are required to be issued within 30 days upon the resolution of assessments to taxpayers or taxpayers' representatives. Taxpayers will be entitled to rely on the closing letters, and the Department is prohibited from maintaining positions against taxpayers inconsistent with the stipulations of the letters.

  - The Department is required to notify in writing persons who are the subject of tax warrant filings. The notification will have to be delivered within five business days of the date the warrant is filed and is required to include in simple and nontechnical terms the amount of unpaid taxes, information on the administrative appeals process available to the taxpayer, and on the provisions of law relating to the release of warrants on property.

  - KSA 79-3226 is amended to change a provision prohibiting additional individual income tax assessments in amounts of less than $5. Under the new language, additional tax amounts of up to $100 may be waived when the Department has determined that administration and collection costs involved would not warrant the efforts.

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Annual Report on Cost-Effectiveness of Tax Incentives

SB 129 requires the Secretary of Revenue to consult with the President of Kansas, Inc. regarding the development of a questionnaire on the use of state income tax credits and sales questionnaires to develop an annual report on the cost-effectiveness of economic development tax exemptions and credits.

Mobile Telecommunications Sourcing Act

SB 372 conforms Kansas law to the federal Mobile Telecommunications Sourcing Act (MTSA). The MTSA will be in effect as of August 1, 2002. It provides for a uniform method of sourcing tax revenues from the sales of mobile transactions, thereby avoiding multiple taxation of a customer's purchase of wireless telecommunications services. Two key components of the law are establishment of a "place of primary use" and the creation of state databases assigning street addresses to state and local taxing jurisdictions.

Under the law, tax revenues from sales of wireless telecommunications services are sourced to the customer's place of primary use. This is defined as the residential or business street address of the customer, regardless of the state where the individual's calls originate, terminate, or pass through. This address also must be within the licensed service area of the customer's home service provider.

In order to facilitate the new method of sourcing, the MTSA allows for states to create a state-level database assigning each street address within the state to the appropriate set of taxing jurisdictions. Carriers using a state database are held harmless for mistakes in assigning street addresses to taxing jurisdictions. If a state chooses not to create the database, a carrier may develop a database that assigns street addresses to taxing jurisdictions using a nine-digit zip code methodology. So long as the carrier exercises due diligence in creating and maintaining the database, the carrier is held harmless under the law for any under-collected tax liability arising from a good faith mistake in matching street addresses to taxing jurisdictions.

The effective date of the bill is August 1, 2002, to correspond with the effective date of the federal law.

Streamlined Sales Tax; Tax Administration

SB 472 enacts the Kansas version of the streamlined sales and use tax administration act and a number of tax administrative clean-up provisions.

Streamlined Sales Tax

The Department of Revenue is authorized to become a signatory to the multistate streamlined sales and use tax agreement and make preparations for its implementation, which cannot occur until such time as the Legislature has taken further action to bring the state's laws into compliance with the agreement. The Department is required to identify all changes in law and rules and regulations necessary and sufficient to meet the agreement's compliance requirements. The bill also provides that the Secretary of Revenue or his designee is authorized to represent Kansas before other states participating in the streamlined sales tax project or that are signatories to the agreement. Appointees of the Senate President, House Speaker, Senate Minority Leader, and House Minority Leader also will be authorized to represent Kansas at the meetings. All such appointees will be paid compensation, subsistence allowances, mileage, and other expenses.

Tax Administrative Clean-Up

New statutory language clarifies that the Secretary of Revenue is authorized to adopt rules and regulations necessary to administer and enforce, as provided by law, various taxes and that all rules and regulations in existence on the effective date of the act will continue to be in effect.

Amendments to KSA 2001 Supp. 74-2438 and KSA 79-3226 clarify that taxpayers are authorized to appeal to the State Board of Tax Appeals at any time when no final determination has been made by the Department of Revenue after 270 days since the date of request for informal conferences, provided no written agreement exists between the parties agreeing to extend the time for final determination.

Additional amendments to KSA 79-3650 expand the circumstances under which consumers are authorized to file sales tax refund claims directly with the Department in lieu of going through retailers. Refund claims from individuals will be acceptable when accompanied with notarized statements from retailers: (a) disavowing making the same refund claims on behalf of consumers; (b) agreeing to provide documentation of any information to consumers regarding the claims; ©) acknowledging that the tax in question has already been remitted to the state; and (d) stipulating that credits have not been and will not be taken for the amount of tax in question.

Another provision clarifies corporation income tax law regarding how income is reported for Kansas tax purposes by confirming that the state uses a" transactional test" to determine whether income is apportionable business income.

Another section provides statutory authority for the Department of Revenue to setoff a taxpayer's liability for one type of tax against the taxpayer's overpayment of another type of tax. The bill expressly provides that overpayments of estimated income tax will first be applied to any other tax liability, with the balance remaining available for refund or credit. The bill also amends certain statutes to replace references to the "Director of Revenue" with the "Secretary," reflecting the current organizational structure of the Department of Revenue.

KSA 2001 Supp. 75-5154 is amended to add marijuana and controlled substance taxes to the list of other excise taxes that may be abated by the Secretary of Revenue or his designee.

Finally, additional language provides civil penalties and interest provisions for failure to meet requirements relative to filing or payment of royalties for sand, gravel, or other products removed from river beds. The Department of Revenue will enforce the penalties, which may be waived or reduced at the Secretary's discretion.

IMPACT Program Enhancements

SB 565 increases the statutory maximum on the percentage rate of individual income withholding taxes credited to funds within the Department of Commerce and Housing and used for debt service on bonds for the Investments in Major Projects and Comprehensive Training (IMPACT) Program. The bonds are issued to fund grants for training expenses for companies relocating to or expanding in Kansas. The prior statutory maximum rate was 1.0 percent of individual income withholding taxes and was credited to funds for payment of the debt service. SB 565 increases that maximum to 1.5 percent in Fiscal Year 2004 and to 2.0 percent in Fiscal Year 2006. The bill also adjusts the eligibility requirements for participation in the IMPACT program. Previously, companies were required to maintain a minimum of 1,000 retained jobs and make a minimum capital investment of $250,000,000. SB 565 lowers those minimums to 250 retained jobs and $50,000,000 in capital investment.

Tax Credit for Port Authority Debt Retirement

HB 2586 provides capital contribution credit similar to an income tax credit for tax years 2002 through 2021 equal to the total amount attributable to the retirement of indebtedness authorized by a single city port authority established before January 1, 2002. The amount of the credit allowed for any one fiscal year is limited to $500,000, and any unused credit could be carried forward to future tax years.

The Director of Accounts and Reports is required to issue a warrant to such taxpayer for the amount of the credit after the appropriate amount of credit has been certified by the Secretary of Revenue. This warrant mechanism will be in lieu of an actual tax credit and will be deemed to be a capital contribution.

Real Estate Sales Validation Questionnaire

HB 2698 changes the requirement for filling out the real estate sales validation questionnaire to add to the list of exemptions regarding transfers of title. The questionnaire requirement would not apply to transfers of title "from" a trust with no consideration. Prior law allowed the exemption for transfers "to" a trust with no consideration.

Another exception is to be made for the purpose of releasing an equitable lien on a previously recorded affidavit of equitable interest and without additional consideration.

Transportation Tax Enhancements

HB 3011 makes several changes in tax provisions relative to the comprehensive transportation program enacted in 1999.

Motor Fuels Tax Increase

The gasoline and LP-gas motor fuels tax rate are 2 cents per gallon, effective July 1, 2002. Various fees charged for special LP-gas permit users also are increased by complementary amounts. The motor fuels tax rate changes on July 1, 2002, will be as follows: gasoline, increased from 21 to 23 cents per gallon; the special fuels tax increased from 23 to 25 cents per gallon; and the LP-gas tax increased from 20 to 22 cents per gallon. Total motor fuels tax receipts are expected to increase by about $32.6 million in fiscal 2003.

Motor Vehicle Registration Tax Increase

Motor vehicle registration taxes are increased for passenger automobiles and pickup trucks by $5; and for various trucks by amounts ranging from $2 to $10, effective July 1, 2002. Registration taxes are expected to increase by $11.6 million in fiscal 2003.

Additional Local Use Tax—Motor Vehicle Situs

HB 3032 imposes an additional local compensating use tax on motor vehicles purchased in the state that is applicable to the extent that the combined local sales tax rates imposed on the situs of such vehicles (the residences or places of business of purchasers) exceeds the combined local rates imposed at the locations of the vehicle purchases.

Any such additional tax imposed will be collected by county treasurers at the time the vehicles are registered. All laws and rules and regulations of the Department of Revenue relating to the use tax will apply to the additional use tax insofar as they may be made applicable.

Revenues from the tax received by counties are required to be apportioned according to the existing formulas for distribution of countywide sales and use taxes.

SUMMARY OF 2001 TAX LEGISLATION

Bundled Telecommunications Services—Taxation

SB 1 provides a system for taxing bundled telecommunications services. Under this system, a retailer with the ability to break down the cost of bundled telecommunications services remits tax for only those services which are taxable. If the retailer's bookkeeping system does not allow for a breakdown of the cost of taxable and nontaxable services, then the combined cost is deemed to be attributable to the taxable services and, as such, the combined total is taxed.

The bill places the burden of proving that a receipt or charge is not taxable on the telecommunications retailer. The bill also provides that, upon request from the customer, the retailer is required to disclose the selling price of taxable services (if a breakdown is provided) and of taxable and nontaxable services (if billed on a combined basis).

The bill also requires that such retailers offering taxable and nontaxable bundled services enter into a written agreement with the Secretary of Revenue identifying the records to be used in determining the taxable portion of the selling price of the combined services within 90 days of billing.

Estate Tax Act—Outstanding Liability

SB 41 amends the Kansas Estate Tax Act to eliminate any outstanding inheritance tax liability as of July 1, 2008, for those estates for which no return has been filed by that date.

Liquor Drink Tax—Statute of Limitation

SB 42 provides a three-year statute of limitations for the liquor drink tax. The statute-of-limitation language, which limits refund requests and assessments to three years, except in cases of fraud, is similar to that previously in place for the sales tax. In the case of a false or fraudulent return with intent to evade the tax, assessments must be made within two years after the fraud is discovered.

Sales Tax—Food Sales Tax Refund Claims

SB 43 changes the appeals process for denials of food sales tax refund claims to provide that aggrieved persons enter into the Department of Revenue's informal appeals process before proceeding to the State Board of Tax Appeals (SBOTA). Final determinations by the Director of Taxation may subsequently be appealed to SBOTA.

Homestead Property Tax Refunds; Property Taxes on Certain Oil Leases

SB 44 makes several changes to the Homestead Property Tax Refund Act and also clarifies a law designed to offset a portion of property taxes paid on certain low-production oil leases.

One series of amendments allows refunds to be paid directly from the income tax refund fund in lieu of the prior methodology, which provided for refunds to be paid from an appropriation.

A second set of amendments to the refund advancement program, which allows certain eligible taxpayers to receive refunds prior to the payment of their property taxes on December 20, clarifies that the certificate of eligibility forms must be issued by the Department of Revenue and that the Department (and not county clerks) is ultimately responsible for the qualification determination.

A final provision clarifies that extant refunds designed to offset part of property taxes paid on the working interest of certain low-production oil leases be paid from the income tax refund fund.

Kansas Income Tax Law

SB 45 modifies Kansas income tax law in several ways. These include the following.

Assistive Technology Individual Development Accounts. The bill enacts the Individual Development Account Program for Assistive Technology, a program which will be administered by the Schiefelbusch Institute for Life Span Studies of the University of Kansas. This program enables eligible families and individuals to establish accounts for the purpose of funding purchases of assistive technology.

Families or individuals with household income less than or equal to 300 percent of the federal poverty level are eligible to open individual development accounts (IDAs) earmarked for assistive technology purchases, which are defined to include "any item, piece of equipment or product system, whether acquired commercially, off the shelf, modified or customized, that is used to increase, maintain or improve functional capabilities of individuals with disabilities." The maximum amount account holders may deposit into an IDA in a calendar year is limited to $5,000. The total balance of an IDA at any point in time is limited to $50,000.

The Schiefelbusch Institute (the University of Kansas) will be required to adopt rules and regulations and prepare a request for proposals from nonprofit or charitable community-based organizations seeking to administer the Individual Development Account Reserve Fund (IDARF). The IDARF will be created to fund administrative cost of the program incurred by financial institutions, community-based organizations, and also to provide matching funds for moneys in IDAs. No more than 20 percent of all funds in the IDARF may be used for administrative costs during the first two years of the program, and the limitation will be set at 15 percent in subsequent years.

A program contributor, defined to include "a person or entity who makes a contribution" to an IDARF, is allowed income tax credits up to 25 percent of the contribution amount. The total amount of all such tax credits authorized may not exceed $6,250 in any fiscal year. These tax credits will not take effect until tax year 2003.

Account holders making nonqualified withdrawals from IDAs are required to forfeit all matching moneys in the accounts, which are then returned to the IDARFs of the contributing community-based organizations. In the event of the death of an account holder, the account holder's money is distributed, without matching moneys, to his or her heirs.

State agencies are directed to disregard IDA funds, including accrued interest, when determining eligibility for public assistance or benefits.

Additional language clarifies that the Schiefelbusch Institute has no contractual expense in recruiting or maintaining community-based organizations or financial institutions willing to administer the program; and that the Institute is under no obligation to provide matching funds if sufficient outside IDARF contributors are not found.

Community Service Tax Credits. The bill extends the Community Service Tax Credit Program to allow charitable contributions by individual taxpayers to qualify for the tax credits available through the program. Under the law, only contributions made to participating charitable organizations by business taxpayers qualify for tax credits.

The bill requires that transfers of Community Service Tax Credits be for at least 50 percent of the value of the credits and a minimum contribution of $250 is required in order to receive a tax credit.

The bill also reduces the cap on Community Service Tax Credits which may be used in a year from $5.0 million to $4.13 million.

Meals on Wheels Check-Off. The bill provides an income tax check-off for the Senior Citizen Meals on Wheels Program, to be placed on each Kansas individual income tax return form beginning for tax year 2002.

Income Tax Statute of Limitations. The bill clarifies that the statute of limitations for assessments is established at three years after the original return was filed or within one year after an amended return was filed, whichever is later. The bill also eliminates the distinction between timely filed returns and late returns regarding refunds and conforms state law with federal income tax statute of limitation provisions.

The statute of limitations for both assessments and refunds attributable to federal revenue agent reports are set at 180 days following receipt of such reports or "within two years of the date the tax claimed to be refunded or against which the credit is claimed was paid," whichever date is later.

Income Tax Credit for Certain Costs Associated with Plugging Abandoned Oil and Gas Wells. An income tax credit equivalent to 50 percent of expenditures incurred in plugging abandoned oil and gas wells is made permanent beginning with tax year 2001. This credit had previously been available, but it sunset at the conclusion of tax year 2000.

Limitation on Alternative Fuel Motor Vehicle Income Tax Credits. The bill places a limitation on an income tax credit already available to taxpayers who make the original purchase of alternative fuel system motor vehicles. For such vehicles capable of operating on a fuel blend of 85 percent ethanol and 15 percent gasoline, the credit of up to $750 is available only after taxpayers claiming the credit furnished evidence of the purchase of at least 500 gallons of such blend from the date of the purchase of the vehicle through December 31 of the next calendar year.

Estate Tax Apportionment Act

SB 137 enacts the Kansas Estate Tax Apportionment Act. The bill establishes a default rule for the method of payment of federal and state estate taxes and further establishes an apportionment rule whereby each person interested in the estate pays a proportionate part of the total tax.

Property Tax Exemption—Farm Storage and Drying Equipment

SB 138 amends the property tax exemption for farm storage and drying equipment to remove a requirement that property must be "used exclusively" for the storage or drying of enumerated grains in order to qualify for the exemption. This change has the effect of expanding the exemption to include property which is acquired through a lease agreement.

Job Investment Credit Act

SB 146 temporarily expands the sales tax exemption provisions of the Job Investment Credit Act to allow a sales tax exemption for qualified retail businesses located outside of a city in a county having a population of 10,000 or less. This provision applies to retail businesses which locate or expand prior to July 1, 2004. Under prior law, certain retail businesses could qualify for the sales tax exemption but they had to be located within a city having a population of 2,500 or less.

Local Sales Tax—0.1 Percent Incremental Authority for Cities

SB 216 amends KSA 2000 Supp. 12-189 to authorize local sales tax rates in 0.1 percent increments for class A, B, and C cities. Such cities had rate authority in 0.25 percent increments under prior law.

Local Retail Sales Tax—Amendments

SB 253 changes two timing issues related to implementing an approved local retail sales tax. The first change imposes a 30-day deadline for a city or county to notify the Director of Taxation following the adoption of a local retail sales tax. Under prior law, no deadline existed. The second change increases the time between notifying the Director and implementing the sales tax from 60 days to 90 days.

The bill also specifies accounting procedures for "excess" local retail sales tax receipts to require local governments to deposit into their general funds any receipts received in excess of amounts necessary to pay the cost of special projects.

Water Districts—Various Provisions

House Sub. for SB 332 provides a sales tax exemption—under certain circumstances—effective January 1, 2002, for the purchases of various public water districts, including indirect purchases made on behalf of such districts by contractors. Additional language clarifies that the sales tax does not apply to the gross receipts from sales of rural water district benefit units; water system impact or system enhancement or other similar fees; and connection or reconnection fees collected by water suppliers.

A new clean water drinking fee of $0.03 per 1,000 gallons of water sold at retail by a public water supply system is imposed on and after January 1, 2002 by those public water supply systems which do not elect prior to October 1, 2001 to "opt out" of imposing such fee. Any such election will be irrevocable and would eliminate the application of the aforementioned sales tax exemption for those systems. Public water supply systems which do not opt out and do begin imposing the fee are prohibited from passing on the fee to consumers.

Transient Guest Tax—Information Sharing

HB 2007 authorizes the Director of Taxation to provide monthly transient guest tax reports to cities located within counties imposing such taxes and to counties within which are located in cities imposing such taxes. (Prior law allowed the information to be provided to only those cities and counties levying transient guest taxes.)

City and county officials receiving such information are authorized to divulge it solely to financial officers designated by governing bodies.

Sales Tax Exemptions—Parkinson's Disease and Kidney Foundation

HB 2029 provides a sales tax exemption for sales and purchases of Kansas chapters of the Parkinson's Disease Association when such transactions are related to the purpose of eliminating Parkinson's Disease through medical research and public and professional education.

The bill also exempts sales and purchases of the National Kidney Foundation of Kansas and Western Missouri when such transactions are related to the purpose of eliminating kidney disease through medical research and public and private education.

Income Tax Credit for Business Research and Development

HB 2055 provides a permanent income tax credit for business research and development. The bill authorizes a 6.5 percent credit for research and development expenditures in Kansas, based on the amount by which such expenditures exceed the business' actual expenditures for that purpose in the tax year and the two preceding tax years. In any tax year, the maximum deduction from tax liability is 25 percent of earned credit plus carryover amounts. Any amount by which the allowed portion of the credit exceeds the business' total Kansas tax liability in a given tax year can be carried forward.

Any expenditures that are eligible for a Kansas research and development tax credit also are eligible for a federal itemized income tax deduction or, for an expanded level of research activity, a federal research tax credit. However, if the business receives a federal or state grant and uses grant proceeds for research and development expenditures, that taxpayer cannot claim a state credit for those expenditures.

Property and Motor Vehicle Tax

HB 2063 clarifies that any personal property located in exempt student dormitories also is exempt, and the clarification is retroactive to tax year 1998 as well as being prospective.

The bill further provides for the cancellation of any delinquent motor vehicle property taxes more than one year past due along with any related penalty and interest when the motor vehicle has been donated to a nonprofit charitable organization exempt from federal income taxation.

Finally, the bill amends KSA 79-2801 to provide that if a county has failed to initiate proceedings for a judicial tax foreclosure sale on property located within the corporate limits of a city and if the taxes on such property have remained delinquent for at least three years, the governing body of the city may initiate a tax foreclosure sale. Under such circumstances, the city governing body and the city attorney will have the same powers and duties as the board of county commissioners and the county counselor under the judicial tax foreclosure sale statutes. All other county officers are required to perform the same duties required by law as if such tax sales had been initiated by the county.

Income Tax Credits—Historic Preservation

HB 2128 provides state income tax credits equal to 25 percent of qualified expenditures incurred in the restoration and preservation of a qualified historic structure pursuant to a qualified rehabilitation plan. "Qualified rehabilitation plan" is defined as a project consistent with rehabilitation standards and guidelines adopted by the federal Secretary of the Interior and further approved by either the Kansas State Historical Society's Cultural Resources Division or a local government certified by the Division.

All expenditures of $5,000 or more under such plans will qualify for the tax credit.

The tax credits are nonrefundable, but any unused portions may be carried forward for up to ten years.

Tax Incentives—Annual Report on Cost-Effectiveness

HB 2591 suspends until the 2003 Legislative Session a pre-existing requirement that Kansas, Inc. prepare an annual report evaluating the cost effectiveness of various economic development income and sales tax incentives.

The bill also requires Kansas, Inc. and the Department of Revenue prior to the 2002 Legislative Session to agree upon procedures regarding the disclosure of tax information and submit whatever proposed changes in law would be necessary as a result of that agreement to the 2002 Legislature.

School Finance

Senate Sub. for HB 2336 modified the school finance formula and addressed various education policy matters and extended the uniform school district property tax rate of 20 mills and the $20,000 residential exemption for tax years 2001 and 2002.

Premium Tax Changes

HB 2065 concerns premium tax credits allowed to insurance companies. For tax year 2001 and thereafter, insurance companies may claim a credit against any premium tax owed in an amount up to 15 percent of the salaries paid to Kansas employees. However, the credit allowed may not reduce the amount of the tax owed by more than 1.125 percent of premium for an insurance company or 1 percent for companies having affiliates. (Prior law allowed for a credit up to 30 percent of the salaries paid to Kansas employees with a reduction in the amount of the tax not to exceed 1.25 percent for all companies and affiliates.)

Incentives for Independent Power Producers

HB 2266 provides a property tax exemption for certain "independent power producer (IPP) property" which is newly constructed and placed in service on or after January 1, 2001.

Qualifying IPP property will be exempt from property taxation from and after commencement of construction of the generating facility and any pollution control devices installed at the facility and for the 12 taxable years immediately following the taxable year in which construction or installation of the property is completed. For peak load plants and pollution control devices at such plants, the tax exemption will apply for six taxable years immediately following completion of construction or installation.

Electric Public Utilities—Expanded Use of Construction Work in Progress

HB 2268 provides a number of incentives for the construction of certain electric utility property which is owned or operated by Kansas public utilities, including a property tax exemption for eligible electric generation facilities, pollution control devices at such facilities, and eligible transmission lines. One such exemption applies from and after commencement of construction of such facilities (except for peak load plants) or transmission lines and from and after purchase or commencement of construction or installation of pollution control devices at "non-peaking" plants for ten taxable years immediately following the year in which construction is completed.

A property tax exemption provision for "peak load" plants and pollution control devices installed at such plants is effective for four years following the year in which construction is completed.

TABLE 2

STATE TAX REVENUE, NET OF REFUNDS, FY 1997-2002

In Thousands

	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002
Property						
Educational Bldg.[1]	$ 16,729	$ 18,169	$ 18,885	$ 19,790	$ 20,973	$ 22,563
Institutional Bldg.[1]	8,364	9,084	9,443	9,895	10,487	11,282
Mortgage Regis.[2]	599	729	849	771	813	1,001
Motor Carrier	15,683	15,998	15,771	16,125	17,920	18,068
Mtr. & Rec. Vehicles[3]	3,761	3,858	3,944	3,836	3,809	3,979
Total	$ 45,136	$ 47,839	$ 48,892	$ 50,417	$ 54,002	$ 56,893
Income and Privilege						
Individual	$ 1,527,516	$ 1,744,030	$ 1,697,580	$ 1,861,624	$ 1,984,575	$ 1,854,848
Corporation	263,573	281,651	227,370	250,123	211,907	94,012
Financial Inst.	26,506	22,150	26,356	22,301	24,816	27,919
Domestic Ins. Co.	1,001	2,113	(1,191)	(5)	0	0
Total	$ 1,818,597	$ 2,049,944	$ 1,950,115	$ 2,134,043	$ 2,221,298	$ 1,976,779
Inheritance/Estate	$ 76,029	$ 88,651	$ 81,859	$ 62,888	$ 41,196	$ 48,082
Sales, Use, and Excise						
Retail Sales	$ 1,301,355	$ 1,424,215	$ 1,474,536	$ 1,520,412	$ 1,500,677	$ 1,552,746
Compensating Use	174,499	195,031	212,035	223,423	249,323	246,739
Subtotal	$ 1,475,854	$ 1,619,246	$ 1,686,571	$ 1,743,835	$ 1,750,000	$ 1,799,485
Motor Fuels	302,216	320,373	325,088	358,569	358,899	374,701
Vehicle Registration[4]	123,456	121,253	137,872	138,696	136,685	137,549
Cereal Malt Beverage	2,460	2,439	2,448	2,431	2,489	2,380
Liquor Gallonage	13,437	13,857	14,496	15,063	15,196	15,337
Liquor Enforcement	27,446	28,549	30,797	33,336	35,351	37,424
Liquor Drink	19,449	20,818	21,833	22,606	24,495	26,239
Cigarette	52,931	52,095	51,181	49,125	48,784	48,040
Tobacco Prod.	3,103	3,269	3,369	3,773	4,092	4,302
Corporation Franchise	14,293	15,351	15,866	16,834	16,927	18,520
Wheat[5]	1,929	3,294	4,052	3,432	0	0
Boat Registration	597	620	646	626	640	757
Severance	81,412	67,266	44,013	56,956	109,180	59,871
New Tires	1,291	1,315	1,384	1,423	1,433	864
Motor Vehicle Rental	2,098	2,248	2,719	2,521	2,636	2,788
Drycleaning & Laundry	1,005	969	1,058	1,241	1,202	1,207
Clean Water	0	0	0	0	0	490
Total	$ 2,122,976	$ 2,272,963	$ 2,343,393	$ 2,450,467	$ 2,508,009	$ 2,529,954

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	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002
Gross Receipts						
Insurance Premiums						
Foreign Cos.(6	$ 71,560 $	77,632 $	59,809 $	49,914 $	50,222 $	69,979
Domestic Cos.	9,910	10,425	6,440	8,862	17,528	15,807
Firefighters Relief	5,057	5,149	5,545	5,213	5,519	6,714
Fire Marshal	3,079	2,378	3,680	3,642	3,942	4,394
Subtotal	$ 89,605 $	95,584 $	75,474 $	67,631 $	77,211 $	96,894
Private Car Cos.	$ 900 $	873 $	881 $	866 $	887 $	856
Music-Dramatic Tax	25	20	15	18	14	11
Bingo Enforcement	1,055	958	979	908	778	680
Transient Guest (7	257	287	338	341	367	376
Parimutuel	4,090	4,032	4,118	4,239	3,973	3,813
Illegal Drugs	1,278	1,023	1,601	1,466	1,299	1,031
Total	$ 97,209 $	102,777 $	83,406 $	75,469 $	84,529 $	103,661
Unemployment Comp.	$ 39,229 $	43,229 $	47,848 $	107,655 $	176,337 $	186,054
TOTAL STATE TAXES	**$ 4,199,176 $**	**4,605,403 $**	**4,555,513 $**	**4,880,939 $**	**5,085,371 $**	**4,901,421**

SOURCES: Financial reports of the Division of Accounts and Reports and records of tax-collecting agencies. Details might not add to totals due to rounding.

1. Taxes levied for collection in the fiscal year as reported by the Department of Revenue, including the state's small share (if any) of certain in-lieu tax levies.
2. The state's 1/26 share of the tax.
3. Amount received by the state from the motor vehicle and recreational vehicle taxes.
4. State receipts only, excluding amounts retained by county treasurers.
5. Starting in FY 2001, wheat collections are no longer treated as a tax. Legislation enacted in 2000 privatizing the wheat commission also changed the nature of this levy from a tax to an assessment.
6. Includes retaliatory taxes.
7. State's 2 percent share of the tax.

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TABLE 3

Allocation to Funds of Total State Tax Revenue (Net of Refunds) FY 2002 ($ in Thousands)

	Amount	Percent of Total	Cumulative Percent	Taxes Credited to: SGF (b)	Other Funds
Individual Income	$ 1,854,848	37.84%	37.84%	$ 1,829,611	$ 25,237
Retail Sales	1,552,746	31.68%	69.52%	1,470,607	82,139
Motor Fuels	374,701	7.64%	77.17%	0	374,701
Compensating Use	246,739	5.03%	82.20%	233,604	13,135
Unemployment Comp.	186,054	3.80%	86.00%	0	186,054
Motor Vehicle Registration	137,549	2.81%	88.80%	0	137,549
Insurance Premiums	96,894	1.98%	90.78%	84,950	11,944
Corporation Income	94,012	1.92%	92.70%	93,958	54
Liquor and Beer	81,380	1.66%	94.36%	61,051	20,329
Cigarette and Tobacco	52,342	1.07%	95.43%	52,342	0
Estate/Inheritance	48,082	0.98%	96.41%	48,082	0
Gas Severance	44,933	0.92%	97.32%	41,788	3,145
State Property	33,845	0.69%	98.01%	0	33,845
Financial Institutions Privilege	27,919	0.57%	98.58%	27,919	0
Corporation Franchise	18,520	0.38%	98.96%	18,520	0
Motor Carrier Property	18,068	0.37%	99.33%	18,068	0
Oil Severance	14,938	0.30%	99.64%	13,893	1,045
Parimutuel	3,813	0.08%	99.71%	0	3,813
Vehicle Rental Excise	2,788	0.06%	99.77%	0	2,788
Drycleaning	1,207	0.02%	99.80%	0	1,207
Illegal Drugs	1,031	0.02%	99.82%	258	773
New Tires	864	0.02%	99.83%	0	864
Car Companies	856	0.02%	99.85%	856	0
Boat Registration	757	0.02%	99.87%	0	757
Bingo	680	0.01%	99.88%	454	226
Water	490	0.01%	99.89%	465	25
Music, Dramatic	11	0.00%	99.89%	11	0
Other Taxes (a)	5,356	0.11%	100.00%	376	4,980
Total	**$ 4,901,421**	**100.00%**		**$ 3,996,813**	**$ 904,608**
				81.54%	**18.46%**

(a) Other taxes include the state's share of the following taxes: mortgage registration, motor vehicle, recreational vehicle, and transient guest.

(b) Does not include nontax revenue credited to the SGF.

TABLE 4

LOCAL GOVERNMENT TAX REVENUE, FY 1997-2002
In Thousands

	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002
Counties						
Tangible Property(1	$ 505,298	$ 541,849	$ 593,659	$ 634,595	$ 677,315	$ 737,746
Intangibles(2	2,005	2,022	2,101	2,087	2,257	2,131
Mortgage Registration(3	22,321	25,021	36,410	35,463	31,916	41,339
Motor Veh. Registration(3	9,910	8,960	10,580	10,890	11,041	11,230
Transient Guest	885	960	1,052	1,090	1,082	1,068
Motor and Rec. Vehicle(2	75,402	76,314	78,134	75,727	75,249	80,989
Cities						
Tangible Property(1	$ 315,244	$ 327,037	$ 397,334	$ 432,523	$ 461,354	$ 510,043
Intangibles(2	1,441	1,554	1,627	1,497	1,359	1,404
Transient Guest	11,691	13,105	15,506	15,637	16,990	17,324
Motor and Rec. Vehicle(2	63,118	62,466	62,054	58,853	57,285	60,271
Schools(4						
Tangible Property(1	$ 1,017,723	$ 949,129	$ 897,665	$ 959,305	$ 1,076,488	$ 1,199,048
Motor and Rec. Vehicle(2	147,766	136,473	115,482	100,933	79,295	86,369
Townships						
Tangible Property(1	$ 29,775	$ 31,646	$ 34,418	$ 37,687	$ 39,258	$ 41,882
Intangibles(2	1,223	1,333	1,258	1,304	1,405	1,244
Motor and Rec. Vehicle(2	3,763	3,894	4,109	4,043	4,108	4,336
Special Districts						
Tangible Property(1	$ 84,275	$ 93,523	$ 106,555	$ 118,446	$ 127,031	$ 134,633
Motor and Rec. Vehicle(2	10,652	10,810	11,472	10,976	10,959	11,696
Taxes Not Allocated						
Local Sales & Use(5	$ 401,590	$ 437,735	$ 470,432	$ 513,635	$ 542,765	$ 549,605
16m & 20m "tagged" vehicles(2 (6	$ 0	$ 0	4,688	4,352	4,287	4,847
TOTAL LOCAL TAXES	**$ 2,704,078**	**$ 2,723,830**	**$ 2,844,536**	**$ 3,019,043**	**$ 3,221,444**	**$ 3,497,205**
Exhibit:						
Tangible Property	$ 1,952,315	$ 1,943,184	$ 2,029,631	$ 2,182,556	$ 2,381,446	$ 2,623,352
Motor and Rec. Vehicle	300,700	289,958	275,939	254,884	226,896	243,661
Total	$ 2,253,015	$ 2,233,141	$ 2,305,570	$ 2,437,440	$ 2,608,342	$ 2,867,013

Sources: Reports and records of the Department of Revenue.

1. Taxes levied for collection in the fiscal year. Includes certain in-lieu taxes, *e.g.*, on industrial revenue bond property.
2. Taxes collected on a calendar-year basis.
3. Calendar year revenue, *e.g.*, the figure in the FY 2002 column is for CY 2001.
4. School districts, community colleges, and municipal universities, including out-district tuition tax levies made by counties and townships. Legislation enacted in 1999 eliminates out-district tuition levies after FY 2003.
5. Collections by the Department of Revenue for counties, cities, and municipal universities which impose a sales tax, as reported by the Division of Accounts and Reports.
6. Certain vehicles weighing up to 20,000 pounds pay these taxes with liability based upon the motor vehicle tax law but have a payment schedule (December and June) similar to personal property (see KSA 2000 Supp. 79-5105a). The state received $78,000 of the $4.287 million in CY 2000 collections and $83,000 of the $4.847 million in CY 2001 collections. Since the state's share could not be disaggregated for prior years, all revenue is again treated as "local" for the sake of comparison.

Special Note

This table does not include revenue from certain taxes for which annual data are not compiled, *e.g.*, occupation and franchise taxes; "911" taxes; and development excise taxes.

TABLE 5—STATE COLLECTED TAXES ALLOCATED TO OR SHARED WITH LOCAL UNITS OF GOVERNMENT FROM TAXES LISTED IN TABLE 2

In Thousands

	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002
Transportation-User Taxes to Counties, Cities, & Townships[1]	$ 135,975	$ 139,061	$ 145,294	$ 174,991	$ 188,158	$ 192,405
Firefighters' Relief Tax to Local Firefighters' Relief Associations[2]	4,749	5,072	5,468	5,127	5,440	5,250
Bingo Enforcement Tax to County or City Based on Licensed Premises	349	337	327	303	259	221
Liquor Drink Tax to County or City Based on Collections From Licensees Therein	13,546	14,604	14,912	15,226	17,009	17,820
Severance Tax to Counties and School Districts[3]	5,364	5,240	3,174	3,189	3,458	3,630
Racing Admissions Tax to City and/or County Where Racing Facility Located	2	3	2	2	2	2
Illegal Drug Taxes to Local Units	751	817	1,201	1,099	974	773
Mortgage Registration Tax to Qualifying Local Units[4]	45	94	206	286	350	956
Motor Vehicle Rental Excise Tax to Property Tax Levy Units	2,098	2,248	2,619	3,050	2,720	2,800
New Tires Tax to Qualifying Cities or Counties	614	0	0	0	0	0
From State General Fund[5]						
for Education[6]	1,754,473	1,934,003	2,180,481	2,313,701	2,368,613	2,450,022
for Property Tax Reduction[7]	46,949	47,771	55,122	57,903	54,137	54,681
to Counties and Cities (Revenue Sharing)[7]	35,095	35,709	36,566	36,932	34,531	34,876
Other[8]	83,190	98,605	125,402	132,349	111,251	117,878
Total, General Fund	$ 1,919,707	$ 2,116,088	$ 2,397,571	$ 2,540,885	$ 2,568,532	$ 2,657,457
GRAND TOTAL	$ 2,083,201	$ 2,283,564	$ 2,570,774	$ 2,744,158	$ 2,786,902	$ 2,881,314

SOURCES: Records of the Division of Accounts and Reports and state budget documents.

1) Includes city maintenance payments, Special City and County Highway Fund, County Equalization and Adjustment Fund, County Treasurer's Licensing Fee Fund, aid for public transportation, aid for aviation, and an amount equal to annual receipts from the motor carrier tax credited to the State General Fund which is earmarked for transfer to the Special City and County Highway Fund.

2) Excludes payments to the State Firefighters Association and any amount of the tax used for administration.

3) Seven percent of the tax is returned to producing areas.

4) Amount distributed from the Heritage Trust Fund.

5) Taxes accounted for 97.27 percent of General Fund receipts in FY 2002. The "Other" category does not include the motor carrier tax transfer to the Special City and County Highway Fund because those amounts are included in "Highway-User Taxes."

6) This category includes aid to school districts, community colleges, Washburn University (including Public TV), local libraries, area vocational schools and technical institutes, the state's contribution for school employees retirement (KPERS-School), arts program grants, and the KUMC telemedicine program. Aid to school districts does not include "excess" local effort remitted to the state by certain districts with exceptionally high assessed valuations; these amounts were included in the tax levies of those districts.

7) By law, fixed percentages of state sales and use taxes credited to the General Fund are transferred to the Local Ad Valorem Tax Reduction Fund and the County-City Revenue Sharing Fund, unless the Legislature limits the transfers by separate legislation.

8) The principal aids included in "Other" were for community corrections and community conservation camps, local public health, community mental health and retardation and associated community assistance grants, Aging Department programs, and the juvenile community programs.

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TABLE 6 — PERCENTAGE OF COMBINED STATE AND LOCAL TAX REVENUE

Ranked on the Basis of FY 2002

	FY 2002	FY 2001	FY 2000	FY 1999	FY 1998	FY 1997	FY 1990	FY 1980	FY 1970	FY 1960	FY 1950	FY 1940	FY 1930
General Property (a)	31.64%	29.05%	28.00%	27.81%	26.88%	26.87%	32.34%	39.19%	53.06%	56.44%	52.19%	62.95%	82.02%
Sales and Use (b)	27.97	27.60	28.58	29.15	28.07	28.05	22.55	19.75	15.74	15.34	15.76	9.94	-
ncome and Privilege	23.54	26.74	27.01	26.35	27.97	27.96	21.87	21.42	10.57	6.73	4.95	2.04	-
Motor Fuels	4.46	4.32	4.54	4.39	4.37	4.37	4.61	5.24	8.81	8.26	11.00	9.92	8.18
Various Vehicle (c)	3.04	2.86	3.31	3.82	4.01	4.01	5.66	-	-	-	-	-	-
Unemployment Comp	2.22	2.12	1.36	0.65	0.59	0.59	3.49	3.86	1.77	2.21	2.51	4.85	-
Vehicle Registration	1.77	1.78	1.89	2.01	1.78	1.82	2.02	3.03	3.50	4.39	4.35	3.99	5.69
nsurance Premiums	1.15	0.93	0.86	1.02	1.30	1.30	1.44	1.54	1.22	1.31	1.22	0.99	1.05
Liquor and Beer	0.97	0.93	0.93	0.94	0.90	0.90	1.03	1.30	1.08	1.09	2.24	0.49	-
Severance	0.71	1.31	0.72	0.59	0.92	0.92	1.71	-	-	-	-	-	-
Cigarette and Tobacco	0.62	0.64	0.67	0.74	0.76	0.76	1.15	1.44	2.20	1.83	2.08	1.27	0.63
Estate/Inheritance	0.57	0.50	0.80	1.11	1.21	1.21	0.89	1.19	0.82	0.82	0.48	0.39	0.67
Mortgage Registration	0.50	0.39	0.46	0.50	0.35	0.35	0.25	0.38	0.20	0.28	0.39	0.30	0.30
ransient Guest	0.22	0.22	0.22	0.23	0.20	0.20	0.15	0.04	-	-	-	-	-
Corporation Franchise	0.22	0.20	0.21	0.21	0.21	0.21	0.19	0.25	0.09	0.13	0.17	0.31	0.34
Motor Carrier Property	0.22	0.22	0.20	0.21	0.22	0.22	0.20	0.19	0.15	0.16	0.09	0.03	(e)
ntangibles	0.06	0.06	0.06	0.07	0.07	0.07	0.23	0.98	0.64	0.70	1.09	0.93	0.72
arimutuel	0.05	0.05	0.05	0.06	0.06	0.05	0.16	-	-	-	-	-	-
ll Other (d)	0.07	0.08	0.13	0.14	0.15	0.15	0.06	0.20	0.15	0.31	1.48	1.60	0.40
Total	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**

a) Taxes levied for collection during the fiscal year.
b) Local sales taxes included starting in FY 1980.
c) Includes motor vehicle, recreational vehicle, 16m and 20m "tagged" vehicles, and rental car excise taxes.
d) Total revenue from eight taxes.
e) Included in the general property tax until the law was changed in 1935.

TABLE 7

State and Local Government Taxes in Relation to Population and Personal Income

	FY 2002	FY 2001	FY 2000	FY 1999	FY 1998	FY 1997
State Taxes ($000)	4,901,421	5,085,371	4,880,939	4,555,513	4,605,403	4,199,176
Local Taxes ($000)	3,497,205	3,221,444	3,019,043	2,844,536	2,723,830	2,704,078
Total ($000)	8,398,626	8,306,815	7,899,982	7,400,049	7,329,233	6,903,254
State Population (000)	2,695	2,692	2,678	2,661	2,635	2,615
Kansas Personal Income						
($ millions)	76,972.6	74,123.8	69,960.1	67,896.3	63,727.8	60,073.7
Per Capita Income	28,565	27,537	26,121	25,519	24,182	22,977
Per Capita Taxes						
State	1,819	1,889	1,823	1,712	1,748	1,606
Local	1,298	1,197	1,127	1,069	1,034	1,034
Total	3,117	3,086	2,950	2,781	2,782	2,640
Ratio of Taxes to Personal Income						
State	6.37%	6.86%	6.98%	6.71%	7.23%	6.99%
Local	4.54%	4.35%	4.32%	4.19%	4.27%	4.50%
Total	10.91%	11.21%	11.29%	10.90%	11.50%	11.49%

Estimates of the U.S. Department of Commerce, revised September 23, 2002.

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U.S. Census Bureau

Census Bureau Regions and Divisions with State FIPS Codes

Region I: Northeast

Division I:
New England

Connecticut (09)
Maine (23)
Massachusetts (25)
New Hampshire (33)
Rhode Island (44)
Vermont (50)

Division 2:
Middle Atlantic

New Jersey (34)
New York (36)
Pennsylvania (42)

Region 2: Midwest*

Division 3:
East North Central

Indiana (18)
Illinois (17)
Michigan (26)
Ohio (39)
Wisconsin (55)

Division 4:
West North Central

Iowa (19)
Kansas (20)
Minnesota (27)
Missouri (29)
Nebraska (31)
North Dakota (38)
South Dakota (46)

Region 3: South

Division 5:
South Atlantic

Delaware (10)
District of Columbia (11)
Florida (12)
Georgia (13)
Maryland (24)
North Carolina (37)
South Carolina (45)
Virginia (51)
West Virginia (54)

Division 6:
East South Central

Alabama (01)
Kentucky (21)
Mississippi (28)
Tennessee (47)

Division 7:
West South Central

Arkansas (05)
Louisiana (22)
Oklahoma (40)
Texas (48)

Region 4: West

Division 8:
Mountain

Arizona (04)
Colorado (08)
Idaho (16)
New Mexico (35)
Montana (30)
Utah (49)
Nevada (32)
Wyoming (56)

Division 9:
Pacific

Alaska (02)
California (06)
Hawaii (15)
Oregon (41)
Washington (53)

**Prior to June 1984, the Midwest Region was designated as the North Central Region.*

Senate Assessment + Taxation
1-15-03
Attachment 2

50-State State and Local Tax Burden Ranking for Kansas and Surrounding States

	FY 2000 State and Local Taxes Per Capita	FY 2000 State and Local Taxes as % PI
Kansas	30	34
Missouri	45	49
Oklahoma	44	25
Colorado	17	35
Nebraska	23	26

Source: US Census Bureau

50-State State and Local Tax Burden Ranking for Division 4 States (West North Central Division of Midwest States)

	FY 2000 State and Local Taxes Per Capita	FY 2000 State and Local Taxes as % PI
Kansas	30	34
Missouri	45	49
Iowa	28	21
Minnesota	7	12
Nebraska	23	26
N Dakota	19	7
S Dakota	49	47

Source: US Census Bureau

Sales Tax Exemptions Summary

Statute	Description of Exemption or Exclusion	Recent Revision	FY 2002 ($ in Millions)	FY2003 ($ in Millions)	FY2004 ($ in Millions)	FY2005 ($ in Millions)	FY2006 ($ in Millions)
Tax Rate			4.9%	5.3% (July 1)	5.3%	5.2% (July 1)	5.0% (July 1)
Annual Increase			2.25%	2.75%	2.75%	2.75%	2.75%
3602 (e)	Definition of retail sales, exempting wholesale sales and sales for resale		$ -	$ -	$ -	$ -	$ -
3603 (b)	Taxes telephone and telegraph services except ceratin WATS and private data lines. Bundling of services added in 2001. Modified pre-paid calling cards - revomved phrase dealing with sold in minutes (no fiscal impact).	Rev 2001 SB 1 Rev 2002 SB 39	$ 0.298	$ 0.329	$ 0.341	$ 0.369	$ 0.401
3603 (e)	Admission to any cultural and historical event which occurs triennially	Revised 1994	$ -	$ -	$ -	$ -	$ -
3603 (f)	Coin operated Laundry Services		$ 0.268	$ 0.296	$ 0.305	$ 0.331	$ 0.359
36063 (g)	Serivce of renting of rooms by holds or acccomodation brokers to federal governmnet or any federal employee in performance of official government duties.	2002 SB39	n/a	$ 0.091	$ 0.094	$ 0.101	$ 0.110
3603 (h)	Service of leasing or renting machinery and equipment owned by city purchased with industrial revenue bonds prior to July 1, 1973		$ -	$ -	$ -	$ -	$ -
3603 (m)	Fees and charges by any political subdivision, youth recreation organization exclusively providing services to persons 18 or younger organized as a 501(c)(3) for sports, games and other recreational activities and entry fees and charges for participation.	Revised 1994	$ 0.662	$ 0.731	$ 0.752	$ 0.816	$ 0.885
	In 1998, added fees and charges by any organization exempt by paragraph 9 of 79-201	1998 SB493		$ -	$ -	$ -	$ -
3603 (n)	Dues charged by any organization pursuant to paragraph 8 and 9 of 79-201 (veteran & humanitaran organizations) and zoos	1998 SB493	$ 0.244	$ 0.269	$ 0.277	$ 0.300	$ 0.326
3603 (o)	Motor vehicles exchanged for corporate stock, corporate transfer to itself and immediate family member sales		$ 0.126	$ 0.139	$ 0.143	$ 0.155	$ 0.168
3603 (p)	Labor services of installing or applying property in original construction of a building or facility or the construction reconstruction, restoration, replacement or repair or a residence, bridge or highway	1998 SB493	$ 36.558	$ 40.374	$ 41.485	$ 45.018	$ 48.852
~~3603 (q)~~	~~Service of repairing, servicing , maintaining computer software as described in section 3603 (s)~~	1988 Repealed 2002 SB39	~~$~~	$ -	$ -	$ -	$ -
~~3603 (s)~~	~~Customized computer software and services for modifying software for single end use and billed as a separate invoiced item~~	1988 Repealed 2002 SB39	~~$ 15.766~~	~~$ 17.411~~	~~$ 17.890~~	~~$ 19.414~~	~~$ 21.067~~
3603 (v)	Sales of bingo cards, bingo faces and instant bingo tickets.Tax rate 2.5 on July 1, 2001 to June 30, 2002; exempt on July 1, 2002	2000 HB 2013	$ 2.000	$ 2.209	$ 2.270	$ 2.463	$ 2.673
3606 (a)	Motor fuels and items taxed by sales or excise tax	1999	$ 108.836	$ 120.197	$ 123.502	$ 134.020	$ 145.434
3606 (b)	Property or services purchases by State of Kansas, political subdivision, nonprofit hospital or blood /donor bank. In 2001, deleted sales of water to make purchases for water suppliers exempt.(Netural FN due to Clean Water Fee)	2001 SB 332	$ 224.604	$ 248.050	$ 254.872	$ 276.578	$ 300.133
3606 (c)	Property or services purchased and leasing by elementary or secondary schools and educational institutions		$ 40.214	$ 44.412	$ 45.633	$ 49.520	$ 53.737
3606 (d)	Property or services purchased by contractor for building or repair of buildings for nonprofit hospital, elementary or secondary schools or nonprofit educational institutions		$ 76.130	$ 84.077	$ 86.389	$ 93.746	$ 101.730
3606 (e)	Property or services purchases by federal government, its agencies or instrumentalities		$ 4.526	$ 4.998	$ 5.135	$ 5.573	$ 6.047
3606 (f)	Property purchased by railroad or public utility for use in the movement of interstate commerce		$ 11.369	$ 12.556	$ 12.901	$ 14.000	$ 15.192
3606 (g)	Sales, repair or modification of aircraft sold for interstate commerce directly through an authorized agent	1998 SB493	$ 0.765	$ 0.845	$ 0.869	$ 0.943	$ 1.023
3606 (h)	Rental of nonsectarian textbooks by elementary or secondary schools		$ 1.700	$ 1.877	$ 1.929	$ 2.093	$ 2.271
3606 (i)	Lease or rental of films, records, tapes, etc. by motion picture exhibitors		$ 4.284	$ 4.731	$ 4.861	$ 5.276	$ 5.725
3606 (j)	Meals served without charge to employees if duties include furnishing or sale of such meals or drinks		$ 2.870	$ 3.169	$ 3.257	$ 3.534	$ 3.835
3606 (k)	Vehicles, trailers or aircraft purchased and delivered out of state to a nonresident		$ 12.453	$ 13.753	$ 14.131	$ 15.335	$ 16.641
3606 (l)	Isolated or occasional sales, except motor vehicles		$ -	$ -	$ -	$ -	$ -
3606 (m)	Property which becomes an ingredient or component part of property or services produced or manufactured for ultimate sale at retail		$ 1,645.559	$ 1,817.335	$ 1,867.312	$ 2,026.343	$ 2,198.918
3606 (n)	Property consumed in the production, manufacturing, processing, mining, drilling, refining or compounding of property; or irrigation of crops for ultimate sale at retail. In 2000, added provision to eliminate refudns from the Johnson County Water case saving $9M in FY 01.		$ 215.905	$ 238.443	$ 245.000	$ 265.866	$ 288.508

Senate Assessment & Taxation
1-15-03
Attachment 3

Statute	Description of Exemption or Exclusion	Recent Revision	FY 2002 ($ in Millions)	FY2003 ($ in Millions)	FY2004 ($ in Millions)	FY2005 ($ in Millions)	FY2006 ($ in Millions)
Tax Rate			4.9%	5.3% (July 1)	5.3%	5.2% (July 1)	5.0% (July 1)
Annual Increase			2.25%	2.75%	2.75%	2.75%	2.75%
3606 (o)	Sales of animals, fowl, aquatic plants, and animals used in agriculture or aquaculture, for production of food for human consumption, the production of animal, dairy, poultry, or aquatic products, fiber or fur or the production of offspring.		$ 110.240	$ 121.748	$ 125.096	$ 135.750	$ 147.311
3606 (p)	Sales for prescription drugs	1999 SB 45	$ 35.819	$ 39.558	$ 40.645	$ 44.107	$ 47.863
3606 (q)	Sales of insulin dispensed by pharmacist for treatment of diabetes		$ 0.398	$ 0.439	$ 0.451	$ 0.490	$ 0.531
3606 (r)	Sales of prosthetic or orthopedic appliances prescribed by a doctor.	Amended 1997	$ 5.484	$ 6.056	$ 6.223	$ 6.753	$ 7.328
3606 (s)	Sales of property or services purchased by a groundwater management district		$ 0.031	$ 0.034	$ 0.035	$ 0.038	$ 0.041
3606 (t)	Sales of farm or aquaculture machinery and equipment, parts and services for repair and replacement		$ 49.941	$ 55.154	$ 56.671	$ 61.497	$ 66.735
3606 (u)	Leases or rentals of property used as a dwelling for more than 28 consecutive days.		$ 0.534	$ 0.589	$ 0.605	$ 0.657	$ 0.713
3606 (v)	Sales of food products purchased by contractor for use in preparing meals for delivery to homebound elderly persons		$ 0.607	$ 0.670	$ 0.689	$ 0.748	$ 0.811
3606 (w)	Sales of natural gas, electricity, heat, & water delivered through mains, lines or pipes to residential premises for noncommercial use, for agricultural use (to include propane gas),for use in severing oil and any property exempt from property taxation		$ 104.648	$ 115.572	$ 118.750	$ 128.863	$ 139.838
3606 (x)	Sales of propane, gas, LP-gas, coal, wood, and other fuel sources for the production of heat or lighting for noncommercial use in a residential premise		$ 7.312	$ 8.075	$ 8.297	$ 9.004	$ 9.770
3606 (y)	Sales of materials and services used in repairing, maintaining, etc., of railroad rolling stock used in interstate commerce		$ 0.685	$ 0.757	$ 0.778	$ 0.844	$ 0.916
3606 (z)	Property and services purchased directly by a port authority or a contractor therefor.		$ 0.110	$ 0.122	$ 0.125	$ 0.136	$ 0.147
3606 (aa)	Materials and services brought into Kansas for usage outside of Kansas for repair, services, alteration, maintenance, etc. used for the transmission of liquids or national gas by a pipeline in interstate commerce		Minimal	Minimal	Minimal	Minimal	Minimal
3606 (bb)	Used mobile and manufactured homes		$ 3.245	$ 3.334			
3606 (cc)	Property or services purchased for constructing, reconstructing, enlarging or remodeling a business; sale and installation of machinery and equipment purchased for installation in such business. (Project Exemption Certificates)		$ 49.788	$ 54.985	$ 56.497	$ 61.309	$ 66.530
3606 (dd)	Property purchased with food stamps issued by US Department of Agriculture		$ 4.798	$ 5.299	$ 5.445	$ 5.909	$ 6.412
3606 (ee)	Lottery tickets and shares made as part of a lottery operated by the State of Kansas		$ 10.762	$ 11.886	$ 12.212	$ 13.253	$ 14.381
3606 (ff)	New mobile or manufactured homes to the extent of 40% of the gross receipts		$ 2.628	$ 2.902	$ 2.982	$ 3.236	$ 3.511
3606 (gg)	Property purchased with vouchers issued pursuant to the federal special supplemental food program for women, infants and children		$ 1.501	$ 1.658	$ 1.703	$ 1.849	$ 2.006
3606 (hh)	Medical supplies and equipment purchased by nonprofit skilled nursing home or intermediate nursing care home for providing medical services to residents		$ 0.762	$ 0.842	$ 0.865	$ 0.938	$ 1.018
3606 (ii)	Property purchased by nonprofit organization for nonsectarian comprehensive multidiscipline youth development programs and activities and sales of property by or on behalf of such organization	1998 SB493	$ 1.923	$ 2.123	$ 2.182	$ 2.368	$ 2.569
3606 (jj)	Property and services, includes leasing of property, purchased for community-based mental retardation facility or mental health center.		$ 1.766	$ 1.950	$ 2.004	$ 2.175	$ 2.360
3606(kk)	Machinery and equipment used directly and primarily in the manufacture, assemblage, processing, finishing, storing, warehousing or distributing of property for resale by the plant or facility.	1998 HB2584	$ 84.769	$ 93.618	$ 96.193	$ 104.385	$ 113.275
3606 (ll)	Educational materials purchased for distribution to the public at no charge by a nonprofit public health corporation		$ 0.059	$ 0.066	$ 0.067	$ 0.073	$ 0.079
3606 (mm)	Seeds, tree seedlings, fertilizers, insecticides, etc., and services purchased and used for producing plants to prevent soil erosion on land devoted to agricultural use.	1988 HB2626	$ 0.700	$ 0.773	$ 0.794	$ 0.862	$ 0.935
3606 (nn)	Services rendered by advertising agency or broadcast station		$ 3.085	$ 3.407	$ 3.500	$ 3.798	$ 4.122
3606 (oo)	Property purchased by a community action group or agency to repair or weatherize housing occupied by low income individuals.		Minimal	Minimal	Minimal	Minimal	Minimal
3606 (pp)	Drill bits and explosives used in the exploration and production of oil or gas		$ 0.295	$ 0.326	$ 0.334	$ 0.363	$ 0.394

Sales Tax Exemptions Summary

Statute	Description of Exemption or Exclusion	Recent Revision	FY 2002 ($ in Millions)	FY2003 ($ in Millions)	FY2004 ($ in Millions)	FY2005 ($ in Millions)	FY2006 ($ in Millions)
Tax Rate			4.9%	5.3% (July 1)	5.3%	5.2% (July 1)	5.0% (July 1)
Annual Increase			2.25%	2.75%	2.75%	2.75%	2.75%
3606 (qq)	Property and services purchased by a nonprofit museum or historical society which is organized under the federal income taxation code as a 501 (c)(3)		$ 0.289	$ 0.319	$ 0.328	$ 0.356	$ 0.386
3606 (rr)	Property which will admit purchases to an annual event sponsored by a nonprofit organization organized under the federal income taxation code as a 501 (c)(3)		$ 0.022	$ 0.024	$ 0.025	$ 0.027	$ 0.029
3606 (ss)	Property and services purchased by a public broadcasting station licensed by FCC as a noncommercial educational television or radio station.		Minimal	Minimal	Minimal	Minimal	Minimal
3606 (tt)	Property and services purchased by not-for-profit corporation for the sole purpose of constructing a Kansas Korean War memorial and is organized under the federal income taxation code as a 501 (c)(3)	1996 HB2656		$ -	$ -	$ -	$ -
3606 (uu)	Property and services purchased by rural fire fighting organization	1997 SB184	Minimal	Minimal	Minimal	Minimal	Minimal
3606 (vv)	Property purchased by the following organizations who are organized under the federal income taxation code as a 501 (c)(3): American Heart Association, Kansas Affiliate; Kansas Alliance for the Mentally Ill, Inc.; Kansas Mental Illness Awareness Council; In 2001, Parkinson's and National Kidney Foundation added	1997 SB184, 2001 HB 2029	$ 0.069	$ 0.076	$ 0.078	$ 0.084	$ 0.092
3606 (ww)	Property purchased by the Habitat for Humanity for use within a housing project	1997 SB184	$ 0.084	$ 0.093	$ 0.095	$ 0.103	$ 0.112
3606 (xx)	Property and services purchases by nonprofit zoo or on behalf of a zoo by an entity that is a 501(c)(3)	1998 SB493	$ 0.442	$ 0.488	$ 0.501	$ 0.544	$ 0.590
3606 (yy)	Property and services purchased by a parent-teach association or organizations and all sales of tangible personal property by or on behalf of such association	1998 SB493	$ 0.415	$ 0.458	$ 0.471	$ 0.511	$ 0.554
3606 (zz)	Machinery and equipment purchased by over-the-air free access radio or television station used directly and primarily for producing signal or the electricity essential for producing the signal.	1998 SB493	$ 0.697	$ 0.769	$ 0.791	$ 0.858	$ 0.931
3606(aaa)	Property and services purchased by religious organizations and used exclusively for religious purposes	1998 SB493	$ 4.977	$ 5.496	$ 5.647	$ 6.128	$ 6.650
3606 (bbb)	Sales of food for human consumption by organizations exempt by 501(c)(3) pursuant to food distribution programs which offers such food at a price below cost in exchange for the performance of community service by the purchaser.	1998 SB493	Minimal	Minimal	Minimal	Minimal	Minimal
3606 (ccc)	Property and services purchases by health care centers and clinics who are serving the medically underserved.	1999 SB 45	$ 0.276	$ 0.305	$ 0.314	$ 0.340	$ 0.369
3606 (ddd)	Property and services purchases by any class II or III railroad (shortline) for track and facilities used directly in interstate commerce. Only for calendar year 1999.	1999 SB 45	n/a	n/a	n/a	n/a	n/a
3606 (eee)	Property and services purchases for reconstruction, reconstruction, renovation, repair of grain storage facilities or railroad sidings. Only for calendar year 1999 and 2000.	1999 SB 45, 2000 SB 59	n/a	n/a	n/a	n/a	n/a
3606 (fff)	Material handling equipment, racking systems and other related machinery & equipment used for the handling, movement or storage of tangible personal property in a warehouse or distribution facility; installation, repair & maintenance services performed on & repair and replacement parts on such machinery and equipment.	2000 HB 2011	$ 4.590	$ 5.069	$ 5.209	$ 5.652	$ 6.133
3606 (ggg)	Property and services purchased by or on behalf of the Kansas Academy of Science.	2000 SB 59	Minimal	Minimal	Minimal	Minimal	Minimal
				$ -	$ -	$ -	$ -
	Total		$ 2,900.895	$ 3,203.400	$ 3,285.947	$ 3,565.798	$ 3,869.482

MEMORANDUM May 3, 2002

To: Senators Dave Kerr and Dave Corbin
From: Chris W. Courtwright
Re: Decoupling Fiscal Note

This memo is in response to your request to quantify legislation that would "decouple" from that part of the new federal tax law, the Job Creation and Worker Assistance Act of 2002, relating to a special "bonus" depreciation of 30 percent for certain business property acquired between September 11, 2001, and September 11, 2004. As you know, the new federal tax treatment will also affect Kansas income tax liability because of the extent to which much of our income tax structure piggybacks and uses the federal law as a starting point.

The Department of Revenue has provided the following figures, which would be applicable to some new language that Don Hayward and Richard Cram have devised that would be amendatory to the provisions of HB 3037.

($ in millions)

FY 03	$25.000
FY 04	$22.000
FY 05	$20.000
FY 06	($13.000)
FY 07	($14.000)
5-yr total	$40.000

I have also attached a "bullet-point" memo that you had me prepare on April 18 regarding some of the issues being discussed in Kansas and other states about decoupling.

Senate Assessment + Taxation
1-15-03
Attachment 4

MEMORANDUM April 18, 2002

To: Senate President Dave Kerr
From: Chris W. Courtwright
Re: Decoupling

This memo is in response to your request for some quick bullet points on "decoupling" from that part of the new federal tax law, the Job Creation and Worker Assistance Act of 2002, relating to a special "bonus" depreciation of 30 percent for certain business property acquired between September 11, 2001, and September 11, 2004. As you know, the new federal tax treatment will also affect Kansas income tax liability because of the extent to which much of our income tax structure piggybacks and uses the federal law as a starting point.

- The Department of Revenue told the Consensus Group that estimated FY 2003 corporation income tax liability will be about $25 million less under the new law than it would have been absent the bonus depreciation provision. In other words, the FY 2003 Consensus estimate would be $25 million more than it is now if the federal change had not occurred.

- The Department of Revenue is still working on the specifics of the fiscal note on HB 3037, which would "decouple" Kansas' income tax law such that the bonus depreciation available at the federal level would not be available for state income tax purposes. Besides increasing FY 2003 receipts by $25 million, some rough estimates they have provided suggest that similar amounts would be gained in FY 2004 and FY 2005 relative to current law (though no official Consensus estimate for those years exists yet).

- NCSL and the National Governor's Association have expressed a good deal of concern about the amount of revenue that this particular provision will cost states like Kansas who conform to federal tax law. I have attached articles from the Wall Street Journal and State Tax Notes magazine.

- While I have not been able to keep up the last several weeks with exactly which states have decoupled, I did talk to legislative staff in Nebraska last week and learned that they did in fact decouple as part of their final tax package (which also included sales tax base broadening, a sales tax rate increase, and a cigarette tax increase).

- One policy issue to consider for Kansas is that many of the same taxpayers seeking tax relief via the expansion of the business machinery and equipment income tax credit for property taxes paid will be seeing substantial relief as a result of the new federal change that flows on through to the state income tax base. In other words, if Kansas decides NOT to decouple, I think it fair to keep in mind that Kansas taxes on machinery and equipment will have already been reduced by $25 million for FY 2003.

- On the other hand, if we were to decouple and reclaim the $25 million that we never explicitly granted in the first place, some portion of that money could be used for targeted tax relief to enhance the credit for tire manufacturers or others.

CENTER ON BUDGET AND POLICY PRIORITIES

Revised April 30, 2002

States Can Avoid Substantial Revenue Loss by Decoupling from New Federal Tax Provision

by Nicholas Johnson

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A new provision of federal tax law, signed into law March 9, threatens to reduce corporate and personal income tax revenue in nearly every state to a significant degree in the current and upcoming fiscal years. The provision is known as "bonus depreciation." It allows a business to claim an immediate tax deduction of up to 30 percent of the cost of new equipment purchases, rather than following the standard accounting approach of depreciating the full cost gradually over several years as under previous federal law. The bonus is effective *retroactive to September 2001*, meaning that businesses can begin immediately to claim the deduction in their tax returns for 2001 and their estimated tax payments due in spring, 2002. It expires in September 2004, by which time it will have reduced federal taxes on profitable businesses by $97 billion.

In addition to the reduction in federal revenue, states stand to lose more than $14 billion[(1)] in corporate and individual tax revenue over three years, because income taxes in nearly every state traditionally have been calculated based on federal tax law. Because the provision is retroactive, states that conform to it will experience immediate revenue loss.

This revenue loss would cause serious problems for states that are already struggling to balance their budgets. The National Governors Association, in a March 11 news release, described the provision as "an assault on the states' revenue base" that could result in cuts in education, health care and transportation services. The National Conference of State Legislatures has criticized the provision in similar terms. The additional spending cuts that likely would result from failure to decouple would cause harm to state economies at this moment of economic recovery.

There is a way states can protect themselves from this immediate and large revenue loss while the federal provision is in effect. States can, at their own option, "decouple" their business depreciation rules from the federal rules for the period of time that bonus depreciation is in effect. In other words, states can choose not to conform to this federal change. California already used its own depreciation schedules even before the change. Another ten states that previously followed federal rules — Arkansas, Georgia, Idaho, Indiana, Iowa, Massachusetts, Mississippi, Nebraska, Texas and Virginia — plus the District of Columbia have now decoupled from the bonus depreciation provision (seven of those through legislative action, three through pre-existing statutory authority). At least ten

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additional states appear poised to decouple, as legislation to decouple has advanced in Connecticut, Maryland, and Wisconsin, and governors or top legislators have called for decoupling in Arizona, Illinois, Ohio, Minnesota, New Jersey, Pennsylvania, and Vermont. In the early 1980s, responding to a similar federal change, some 21 states decoupled from federal depreciation rules.

Table 1 shows the approximate revenue loss to each state in fiscal years 2002, 2003 and 2004 if they conform to the new federal depreciation rules. It reflects official revenue estimates from individual state tax departments, where available; for the remaining states, it reflects Center on Budget and Policy Priorities estimates based on calculations by Congress' Joint Committee on Taxation and the Congressional Research Service.

How Can States Avoid This Loss?

In some states, the revenue loss from bonus depreciation will occur automatically in the absence of legislative action. In other states, this revenue loss will occur if states pass legislation to update their tax codes to incorporate federal changes, as has been annual standard practice in recent years.

Although most states in recent years have conformed to federal depreciation rules, there is no obligation to do so. There is ample precedent and opportunity for states to use their own depreciation rules that differ from federal rules.

- California for a number of years has used its own depreciation rules, different from federal rules, for computing corporate and personal income tax. There is no evidence that the additional bookkeeping requirements have impeded economic development in California.(2)

- When the federal government sharply increased depreciation allowances in 1981 by adopting the "accelerated cost recovery system," about half of the states promptly decoupled in whole or in part. The states included Alaska, Arkansas, California, Connecticut, Florida, Georgia, Kentucky, Maine, Minnesota, New Jersey, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Utah, Virginia, and West Virginia.(3) Several of those states, including New York, New Jersey and Kentucky, continued to require different depreciation schedules from the federal schedule for at least some industries into the early 1990s.

- Ten states plus the District of Columbia that previously followed federal depreciation rules have determined that they will disallow the new bonus provision (or taken equivalent action to decouple), and others are likely to follow. In seven states— Georgia, Idaho, Indiana, Iowa, Massachusetts, Nebraska, and Virginia — and in D.C. the decoupling resulted from explicit legislative action.(4) Two other states, Arkansas and Texas, do not have legislative sessions this year and therefore are decoupled automatically under pre-existing tax law. The tenth state that has decoupled is Mississippi, as a result of a ruling by the state tax commissioner that the bonus depreciation deduction fails to meet the state standard for a "reasonable allowance" for depreciation.

- Legislation to decouple is expected to advance in at least ten other states that are still developing their budgets for next fiscal year. Decoupling legislation has won support from joint legislative finance committees in Connecticut and Wisconsin; in Maryland, a bill to decouple awaits the governor's signature. Governors in Arizona,

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Minnesota, New Jersey, Pennsylvania and Vermont have requested legislation to decouple, as have legislative leaders in Illinois and Ohio.

The Mechanics of Decoupling

For calculating corporate income tax, the starting point in most states is taxable income as defined by the federal Internal Revenue Code. Taxable income is income after allowable expenses such as depreciation. For firms that do not pay corporate income tax (such as S corporations, partnerships, and sole proprietorships), depreciation is reflected in the owners' federal adjusted gross income, which is the starting point for most states' calculations of state individual income tax liability. Because bonus depreciation reduces both the taxable income of corporations and the adjusted gross income of individuals, it can reduce states' tax bases to a commensurate degree.

States nevertheless can prevent the change from affecting them for the three years it is in effect. One method of doing so is to change the applicable reference to the federal Internal Revenue Code to specify the Code as it existed on September 1, 2001 (or on some other date prior to the September 11 effective date of the new provision).[(5)] Tax departments then can revise tax forms and/or instructions so that businesses add to their federal income the amount by which depreciation under the new, temporary "bonus" provision is greater than depreciation under permanent law. Many states already require corporations to make various additions and subtractions to federal taxable income to calculate taxable income for state purposes; a revised state tax form might include one additional line for a corporation to add back the bonus depreciation amount.[(6)]

Any complications that would be caused by decoupling would be temporary, since the federal change expires in less than three years. In addition, note that small businesses with $24,000 or less in annual equipment purchases generally are unaffected by bonus depreciation rules because such businesses account for capital expenditures in a different way.

Impact on State Budgets

Conforming to the federal changes will hit states with an additional revenue loss that they cannot afford. As a result of the recession, the terrorist attacks, last summer's federal tax changes, and rising health care costs, among other factors, most states are experiencing very tight fiscal times. Many had already planned or enacted spending cuts and tax increases. Any additional spending cuts or tax increases required to replace revenue lost as a result of bonus depreciation conformity would be unpopular and difficult.

Recognizing the potential fiscal danger to states from the bonus depreciation provision, organizations of state officials such as the National Governors Association and the National Conference of State Legislators asked Congress to include fiscal relief in the form of additional Medicaid funds in the stimulus bill. "States must keep their budgets balanced and without relief, the result will be steep cuts and tax increases that might threaten economic recovery," NGA Chairman John Engler told members of Congress. Congress, however, chose not to provide such relief.

Three Years of Bonus Depreciation Is Not Effective Economic Stimulus

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and Can Create Economic Distortions

There is significant doubt as to the effectiveness of the three-year federal bonus depreciation provision in creating economic growth. Last fall and early this winter, a number of economists advised that such a proposal could provide useful near-term stimulus *if* it were made effective for one year. Doing so would encourage firms to accelerate purchases into 2002 to take advantage of this tax break.

But the enacted legislation makes the provision effective for three years rather than one. According to the nonpartisan Congressional Budget Office, the three-year term weakens the provision's ability to stimulate the economy. "Temporarily cutting taxes on investment can provide one-time opportunities for saving that may induce firms to advance their investment plans to the present," CBO noted in a January report, but firms "might not take [such action in the near-term] if they knew that the tax advantage would remain in place and be available to them later."

Bonus depreciation allows a large share of the cost of investment to be counted as an expense in the first year rather than subtracted gradually over the life of the asset. This "partial expensing" could create unintended economic problems when the economy returns to full employment, as is likely to occur before the provision expires. For example, among the types of investments that it does cover, partial expensing reduces the costs of longer-lived investments more than shorter-lived investments — and thereby biases firms toward making longer-lived investments even if that would not make economic sense in the absence of the tax provision. More broadly, by spurring demand for covered investments, partial expensing puts upward pressure on interest rates and thereby dampens demand for investments not covered by the partial expensing (such as residential housing). Partial expensing can thus skew incentives toward particular types of investment and away from other types. In other words, partial expensing can distort economic decisions and create economic inefficiencies.

Conforming to the federal change would exacerbate a trend toward lower corporate taxation at the state level. State corporate income tax payments, as a share of total corporate profits, have declined dramatically over the last decade, from an average effective rate of 6.5 percent in the 1980s to about 3.8 percent in 1998. In part this has occurred because multi-state corporations increasingly are able to exploit shortcomings in state tax law to minimize their tax payments.[(7)] By decoupling, states can prevent additional erosion of the corporate tax base.

Impact on State Economies

The tax hikes or spending cuts needed to balance state budgets would have another effect as well: They would take money out of state economies at a time when states should be contributing to economic activity, not preventing it. For every dollar that bonus depreciation would put into the hands of corporations in the form of a tax break, the state would have to take a dollar away from state or local workers or contractors, or from other taxpayers. Because states must balance their budgets, the combination of conforming to bonus depreciation while cutting spending would at best be a zero-sum game and have no effect on state economies. However, as economists Peter Orszag and 2001 Nobel Prize winner Joseph Stiglitz have noted, cutting spending on goods and services to pay for a tax cut could *hurt* a state's economy and slow an economic recovery.[(8)] For example, a $1 reduction in direct state spending on goods and services reduces consumption within the state by at least $1. The new tax break is unlikely to provide sufficient stimulus to offset the effects of the spending cuts it would cause, because the businesses would not necessarily spend all of the tax break; some is likely to be retained as savings by the corporation.

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Moreover, as explained below, businesses are highly likely to spend their tax break in a state other than the one that is providing the tax break.

It is worth noting that state decoupling will not impair a corporation's ability to benefit from the *federal* bonus depreciation provision. In other words, regardless of state action, corporations will receive a very generous investment incentive through their federal tax returns. Since federal tax rates are higher than state rates, the federal deduction for bonus depreciation is far more valuable than any state deduction would be.

One reason that Congress chose not to provide fiscal relief to states in the stimulus bill may have been a belief that states could protect themselves by decoupling from the provision.[(9)] In other words, the expectation that the bonus depreciation would assist the U.S. economy, whether correct or incorrect, was *not* dependent on states conforming to it.

A further reason to question state conformity to the bonus depreciation rule is that states are likely to suffer a substantial revenue loss to subsidize investments made in *other* states. Multi-state corporations pay taxes to each state where they operate based on their total income minus total expenses, including depreciation; the amount that they pay to each state is based on the extent of their physical presence and sales in the state, not on where their expenses occur.[(10)] And states are barred by the U.S. Constitution from requiring corporations to depreciate out-of-state equipment purchases less favorably than in-state equipment purchases. No matter where the equipment is purchased, it would reduce taxable income. Thus, if a corporation replaces a piece of equipment at a factory out of state, it would receive the exact same bonus depreciation deduction as it would for replacing a piece of equipment within the state. Since multi-state corporations represent a large portion of most states' corporate tax bases, much of the cost of conforming to the temporary depreciation rule would subsidize out-of-state investments.[(11)]

Summary

The change to federal depreciation rules that is now in effect, and will remain in effect for another 30 months, threatens to do significant damage to state budgets without benefitting state economies. To avoid this damage, states must depart from the practice of the last several years of routinely conforming to changes in federal tax law. Instead, as many did in the early 1980s, states will have to adjust their tax forms and instructions to recapture the lost revenue.

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Table 1
Cost to States of Conforming to Bonus Depreciation Rules, By State Fiscal Year (Dollars in Millions)

	FY 2002	FY 2003	FY 2004	Total
Alabama	$49	$45	$41	$135
Alaska	31	73	52	156
Arizona	48	113	81	242
Arkansas	*24*	*56*	*40*	*119*
California	n/a	n/a	n/a	n/a
Colorado	38	91	65	194
Connecticut	44	104	74	222
Delaware*	5	15	15	35
Florida*	126	146	124	396
Georgia	*78*	*185*	*132*	*394*
Hawaii	9	22	15	46
Idaho	*14*	*32*	*23*	*69*
Illinois	159	378	270	806
Indiana	*79*	*187*	*134*	*400*
*Iowa**	*14*	*46*	*48*	*108*
Kansas	25	59	42	126
Kentucky	32	76	55	163
Louisiana	25	59	42	127
Maine	13	31	22	67
Maryland	52	123	88	262
Massachusetts	*118*	*279*	*200*	*597*
Michigan	13	51	47	111
Minnesota*	104	130	117	351
Mississippi	*24*	*58*	*41*	*123*
Missouri	38	91	65	195
Montana	10	23	16	48
*Nebraska**	*0*	*35*	*32*	*67*
Nevada	n/a	n/a	n/a	n/a
New Hampshire	19	44	32	95
New Jersey	116	274	196	586
New Mexico	17	41	29	88
New York	—	912	545	1,457
North Carolina	86	203	145	434
North Dakota	7	16	12	34
Ohio	39	152	139	330
Oklahoma	21	50	36	107
Oregon	45	106	76	227
Pennsylvania	148	352	252	753
Rhode Island	8	20	14	42
South Carolina	25	60	43	129

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Texas	*198*	*279*	*253*	*730*
Utah	19	45	32	97
Vermont*	3	14	8	25
Virginia	*60*	*143*	*102*	*305*
Washington	n/a	n/a	n/a	n/a
West Virginia*	16	35	21	72
Wisconsin	62	146	104	312
Wyoming	n/a	n/a	n/a	n/a
New York City	170	403	288	860
District of Columbia	*35*	*32*	*29*	*96*

Notes: n/a = Not applicable. Nevada, Washington and Wyoming do not have income taxes based on federal definitions of income; California does not conform to federal depreciation provisions.
All other states, plus New York City and the District of Columbia, historically have utilized federal depreciation schedules in computing corporate and/or personal income taxes.
States in italics (*Arkansas, Georgia, Idaho, Indiana, Iowa, Massachusetts, Mississippi, Nebraska, Texas, Virginia and the District of Columbia*) are now decoupled from federal bonus depreciation provision and therefore not expected to be affected by revenue loss; see text for discussion.
Estimates marked with an asterisk (*) are official published state estimates where available. All others are approximations based on the federal Joint Committee on Taxation (JCT) estimate of impact on federal tax receipts ($97 billion over three federal fiscal years). Using the JCT estimate, the Congressional Research Service (CRS) has estimated the effect of the provision on states to total between $14 billion and $15 billion over those three years. The approximations shown here were developed by updating the CRS estimate to reflect the most recent JCT estimates and then distributing the result among affected states, based on the size of each state's actual corporate and personal income tax receipts. Most state fiscal years are different from the federal fiscal year, and corporate filing rules also differ state to state; amounts were adjusted accordingly. In nearly all affected states, additional revenue losses are expected to occur in FY 2005, not shown here.

1. This amount includes the expected revenue loss from investments made through September, 2004, the month in which the provision is scheduled to expire.

2. Since the California rules apply to equipment outside of California as well as within California, and since nearly every large corporation has a California presence and files a California tax return, the California rules apply to a large share of all depreciable assets in the United States. In 1998, for instance, total depreciation on California corporate returns equaled about 68 percent of total depreciation on all federal corporate returns nationwide.

3. At least four other states, Indiana, Iowa, Nebraska, and Wisconsin, raised corporate income tax rates to offset the revenue loss due to the federal changes. Sources: Advisory Commission on Intergovernmental Relations, *Significant Features of Fiscal Federalism, 1982-83 Edition*, pp. 68-70; Federation of Tax Administrators, *Tax Administrators News*, February 1984; National Conference of State Legislatures, *The 1982 Federal Tax Increase and State Revenue: The Major Issues*, January 1983.

4. In Georgia, Idaho, Indiana, and Iowa, the decoupling was accomplished by updating tax codes to conform to other recent federal tax law changes but chose *not* to conform to the bonus depreciation change, thereby remaining decoupled from that provision.

5. Some states have avoided conforming to the bonus depreciation provision by referring to the Internal Revenue Code as it *existed* on January 1, 2002, which presumably would exclude the bonus depreciation provision. A reference date of September 1, 2001, however, would be clearer.

6. Under this approach, additional adjustments in later years may be appropriate in order to allow businesses to deduct the full value of the purchase over time. These additional adjustments can create new

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accounting and administrative burdens on businesses and state tax administrators. The new federal tax law has prompted a number of state revenue departments and legislatures to begin developing other approaches to decoupling in order to minimize those accounting and administrative burdens while avoiding substantial revenue loss; one example is the decoupling legislation enacted in Nebraska, LB 1085.

7. Steve Maguire, *Average Effective Corporate Tax Rates*, Congressional Research Service, February 29, 2000; Peter Fisher, "Tax Incentives and the Disappearing State Corporate Income Tax," *State Tax Notes*, January 17, 2002.

8. Peter Orszag and Joseph Stiglitz, *Budget Cuts vs. Tax Increases at the State Level: Is One More Counter-Productive than the Other During a Recession?* Center on Budget and Policy Priorities, November 6, 2002 (http://www.centeronbudget.org/10-30-01sfp.htm).

9. For instance, this point was made by the staff director for the U.S. House Ways and Means Committee in a December meeting with state legislators who chair tax and finance committees.

10. Specifically, the share of a corporation's nationwide profits taxed in a particular state generally depends on the shares of the corporation's nationwide property, payroll, and/or sales located in that state.

11. The same can be said with respect to the state *personal* income tax revenue losses flowing from the bonus depreciation provisions, since many "S" corporations, partnerships, and Limited Liability Companies also have multistate operations. Depreciation deductions taken by such business entities flow through to the state personal income tax returns of their owners.

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To: **Senator David Corbin, Chair**
Senate Committee on Assessment and Taxation

From: Richard L. Cram, Director of Policy & Research, Department of Revenue

Re: **Fiscal Impact of President Bush's January 7 Tax Stimulus Proposal**

Date: January 15, 2003

On January 7, 2003, President George Bush publicly announced the highlights of his newest proposal for tax relief and economic stimulus. The proposal includes accelerated expansion of the 10% bracket, accelerated reduction in the income tax rates, accelerated deduction of the marriage penalty, accelerated increase in the child tax credit from $600 to $1000, exclusion of dividends from individual taxable income when paid out of previously taxed corporate income, an increased allowance of small business expensing from $25,000 to $75,000, and some alternative minimum tax (AMT) hold-harmless relief. The press release from the Office of Public Affairs, Department of Treasury, generally describing the proposal, is attached.

Acceleration of the tax rate reductions, increased marriage penalty relief, increase to the child care tax credit, and AMT hold-harmless relief should not significantly affect Kansas income tax revenue. The proposed dividend exclusion would be the most costly to the states. Increased small business expense write-offs will have a smaller negative impact on Kansas income tax revenue. Although the details of the Bush proposal are still somewhat sketchy and subject to change, preliminary estimates of the fiscal impact to states of the proposed dividend exclusion are already appearing. On January 6, the Federation of Tax Administrators estimated that the total negative fiscal impact to the states would be $4.098 billion per year, with $40 million of that impact falling upon Kansas individual income tax receipts. On January 10, the Center on Budget and Policy Priorities (CBPP) made a higher preliminary estimate, placing the total negative fiscal impact on the states at $4.5 billion, with $51 million of that on Kansas. At this point, we are more inclined to rely on the CBPP estimate for Kansas of $51 million.

The CBPP has also noted that the dividend exclusion proposal will include some limited capital gains relief, the state fiscal impact of which has not yet been estimated. A fact sheet from the Treasury Department entitled "Reinvested Earnings" (attached) explains how this works. The increase in the stock price attributable to retained earnings on which the corporation has already paid corporate income tax will be added to the basis of the stock when sold, thus decreasing capital gains to that extent when the stock is sold.

According to CBPP, the increased small business "expensing" proposal would result in a small annual reduction in state revenue. This provision would increase the ability of small businesses to consider a portion of investments made as an expense that can be deducted immediately, rather than deducted gradually over the life of the asset. The proposal would increase the amount that can be expensed from $25,000 to $75,000. CBPP estimates the revenue loss to the states is likely to be around $200 million a year.

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1-15-03
Attachment 5

We would estimate that this would probably break out to a fiscal impact to Kansas of approximately $2 million, spread across both individual and corporate income tax.

The CBPP also opined that the dividend exclusion could cause upward pressure on interest rates by drawing capital from the bond market to stocks and increasing the federal deficit, thus increasing states' borrowing costs. The CBPP cited Brookings Institution economists who believe that the increased deficit pressure alone could result in a one-half percent increase in interest rates.

The CBPP commented that many states could consider "decoupling" from the federal dividend exclusion, if enacted, noting that an unprecedented number of states (30) had "decoupled" from the federal bonus accelerated depreciation provisions enacted in 2002. However, the CBPP also observed that decoupling from the dividend exclusion may be more difficult:

> States that decoupled from the bonus depreciation knew that after a short period of time, their tax laws on depreciation would once again conform to federal treatment. The dividend exclusion, however, would be permanent. In the majority of states that have the tradition of conformity to federal tax law, it can be quite difficult to sustain a major difference from federal law over time.

Conclusion

Fiscal impact to Kansas from the President's latest economic stimulus proposal is estimated to be a negative $51 million against individual income tax receipts per year for the dividend exclusion proposal and a negative $2 million spread across both individual income tax and corporate income tax for the increased small business expensing proposal. An estimate for the capital gains exclusion related to retained earnings already taxed is not yet available.

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PRESS ROOM

FROM THE OFFICE OF PUBLIC AFFAIRS

January 7, 2003
KD-3739

Tax Provisions of The President's Growth Package

Accelerated 10-Percent Bracket Expansion: The expansion of the 10-percent bracket scheduled for 2008 is accelerated to 2003, and is indexed for inflation beginning in 2004. The endpoint of the 10-percent tax bracket increases from $12,000 of taxable income to $14,000 for married couples (and from $6,000 to $7,000 for single taxpayers). This expansion benefits married taxpayers with taxable income over $12,000 and single taxpayers with taxable income over $6,000. Tax Relief: CY 2003: $5 billion; FY 2003-2013: $48 billion

Accelerated Reduction in Income Tax Rates: The reductions in income tax rates in excess of 15-percent scheduled for 2004 and 2006 are accelerated to 2003, resulting in new rates of 25%, 28%, 33% and 35% (from 27%, 30%, 35% and 38.6%). These reductions benefit married couples with taxable income greater than $47,450 and single taxpayers with taxable income greater than $28,400. Tax Relief: CY 2003: $29 billion; FY 2003-2013: $64 billion

Accelerated Reduction of Marriage Penalty: The standard deduction for married couples is increased to double the amount of the standard deduction for single taxpayers in 2003. The width of the 15-percent tax bracket for married couples is increased to twice the width for single taxpayers in 2003. These provisions were scheduled to phase-in over the period between 2005 and 2009. These reductions benefit married couples who claim the standard deduction or who have taxable income greater than $47,450. Tax Relief: CY 2003: $19 billion; FY 2003-2013: $58 billion

Accelerated Increase in Child Tax Credit: The amount of the child tax credit is increased to $1,000 in 2003 (from $600), accelerating a scheduled phase-in over the period between 2005 and 2010. In 2003, the increased amount of the child tax credit will be paid in advance beginning in July 2003 on the basis of information on the taxpayer's 2002 tax return filed in 2003. Advanced payments will be made in a manner similar to the advance payment checks that were issued in 2001 to reflect the new 10-percent tax bracket. Tax Relief: CY 2003: $16 billion; FY 2003-2013: $91 billion

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Exclusion of Dividends from Individual Taxable Income: Dividends paid by corporations to individuals are excluded from taxable income when paid out of previously taxed corporate income beginning in 2003. Dividends paid by corporations in excess of previously taxed corporate income are included in taxable income. This provision eliminates the double taxation of corporate dividends. Tax Relief: CY 2003: $20 billion; FY 2003-2013: $364 billion

Increase in Small Business Expensing for New Investment: The amount of investment that may be immediately deducted by small businesses is increased from $25,000 to $75,000 beginning in 2003. The amount of investment qualifying for this immediate deduction begins to phase out for small businesses with investment in excess of $325,000 (increased from $200,000). Both parameters are indexed for inflation beginning in 2004. Tax Relief: CY 2003: $2 billion; FY 2003-2013: $16 billion

AMT Hold-Harmless Relief: To ensure that the benefits from the acceleration of the tax reductions are not reduced by the AMT, the AMT exemption amount is increased by $8,000 for married taxpayers and by $4,000 for single taxpayers in 2003 through 2005. Tax Relief: CY 2003: $8 billion; FY 2003-2013: $29 billion

Total Tax Relief: CY 2003 $98 billion; FY 2003-2013: $670 billion

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PRESS ROOM

FROM THE OFFICE OF PUBLIC AFFAIRS

January 8, 2003
KD-3751

FACT SHEET: REINVESTING TAXED EARNINGS

• Under current law, income earned by a corporation is taxed at the corporate level, generally at the marginal rate of 35 percent. If the corporation distributes earnings to shareholders in the form of dividends, the income is generally taxed again at the shareholder level (at rates as high as 38.6 percent).

• In contrast, if a corporation retains earnings (instead of distributing them as dividends to shareholders), the value of corporate stock generally will increase to reflect the retained earnings. When shareholders sell their stock, that additional value will be taxed in the form of capital gains (generally at a maximum rate of 20 percent). Thus, current law is biased in favor of retained earnings and against dividends.

• The Administration's proposal to exclude 100 percent of dividends from shareholder income requires a parallel tax adjustment for individuals to account for reinvested earnings of a corporation out of taxed earnings in order not to provide a bias against retained earnings. A corporation has a legitimate business need to retain earnings for reasons such as new investment in plant and equipment.

• The Administration's proposal would permit corporations that reinvest their taxed earnings to make an adjustment that would flow through to the shareholders' stock basis reflecting the taxed income the corporation was retaining. (Dividend reinvestment plans exist under current law for actual dividends paid. Under current law, however, reinvested dividends are subject to a shareholder level tax even though a tax has been paid at the corporate level.)

• With this proposal, the decision by a corporation whether to retain earnings or distribute them in the form of excludable dividends would be more neutral. The proposal would allow shareholders to increase their basis in the corporation's stock by the amount of the retained earnings.

• A simple example will illustrate:

o Assume that a corporation, after being taxed on its profits at 35 percent, distributes excludable dividends to its shareholders. Under the Administration's proposal, no further tax is imposed although the value of its stock generally would decrease by the amount distributed.

o Assume that a different corporation, after being taxed on its profits at 35 percent, retains its earnings. Also assume that the value of its stock would increase from \$100 to \$101 per share to reflect those retained earnings. If a shareholder had purchased stock for \$50 per share, without the adjustment for the retained earnings, the shareholder would pay tax on an additional \$1 of gain (\$101-50 = 51) when the stock was sold. With the adjustment for retained earnings, the shareholder would increase basis to \$51, thus eliminating the increase in gain (\$101-51=50). The decision to retain earnings by the corporation would not result in additional tax at the shareholder level.