

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE

The meeting was called to order by Chairman Barbara Allen at 10:35 A.M. on February 22, 2005 in Room 519-S of the Capitol.

All members were present.

Committee staff present:

Chris Courtwright, Kansas Legislative Research
Martha Dorsey, Kansas Legislative Research
Gordon Self, Revisor of Statutes Office
Nancy Kirkwood, Secretary

Conferees appearing before the committee:

Others attending:

Final action

SB 256 - Income tax exemption for amounts received for recruitment and student loan repayments by members of military

Chairperson Allen brought the Committee's attention to **SB 256**. The Chair reminded the Committee this was the bill sent out of Committee yesterday regarding certain income tax exemptions for military personnel. Since the Committee's meeting yesterday, it has received new fiscal information from KDOR. The Chair received a memo from KDOR with a fiscal note that included all military branches, as opposed to only the Kansas National Guard. The total impact of **SB 256** including Active Duty, Reserves and Kansas National Guard is estimated to be about \$587,000 a year in reduced individual income taxes to the State.

Chairperson Allen called for a motion to reconsider the action taken yesterday to pass **SB 256** out favorably as amended. Senator Schmidt made a motion to reconsider the action taken on **SB 256**, seconded by Senator Donovan. The motion carried.

Chairperson Allen then called for a motion to strike yesterday's action, the effect of which was to apply these tax exemptions only to the Kansas National Guard, and instead return **SB 256** to its original form. Senator Donovan made a motion to remove the amendment added to **SB 256**. Senator Schmidt seconded the motion. The motion carried.

SB 256 was now restored to its original form. The Chair called for a motion to pass **SB 256** out of Committee favorably. Senator Schmidt made a motion to pass **SB 256** out favorably. Senator Apple seconded the motion. The motion carried.

SB 156 - Tax and revenue assessment report by secretary of revenue to legislature

Chairperson Allen called for final action on **SB 156**, requiring by statute that KDOR provide a Tax Expenditure Report to the Legislature annually. The Chair referred to the annual Tax Expenditure Report currently voluntarily furnished by KDOR (Attachment 1). The issue was raised that **SB 156** considered only half of the issue, expenditures, and there is another bill in the House that addresses the other half of the issue, benefits. That bill, **HB 2010**, relates to the Kansas Inc. annual report. The bill would require an evaluation of the cost effectiveness of certain income tax credits and sales tax exemptions in an annual report. **HB 2010** also transfers the responsibility to produce the annual report from Kansas, Inc., to KDOR. The Chair referred to the testimony in the packet from the Secretary of Revenue, suggesting a balloon amendment to **HB 2010**. The Chair made a request for the Committee to consider amending **HB 2010** into **SB156** (Attachment 2). Also, the packet contained testimony from Kansas Inc., opposing the transfer of responsibility for this report to KDOR (Attachment 3). Chairperson Allen related to the Committee the fiscal note indicates the bill would have no fiscal effect on KDOR.

Chairperson Allen called for the Committee to consider passing **SB 156** out, by amending **HB 2010** with the

CONTINUATION SHEET

MINUTES OF THE Senate Assessment and Taxation Committee at 10:35 A.M. on February 22, 2005 in Room 423-S of the Capitol.

balloon KDOR furnished, and amending **HB 2010** into **SB 156**. The Chair reminded the Committee **SB 13** was going to be debated on the Senate floor today, and that bill repeals the requirement that Kansas, Inc., produce an annual report. After further discussion of the Committee, the Co-Chair of the Commerce Committee, Senator Jordan, expressed willingness to consider amending **SB 156** into **HB 2010**. After further Committee discussion, the Chair suggested the interested party, April Holman of Fiscal Focus, pursue **SB 156** in the Senate Commerce Committee. No action was taken on **SB 156** by the Tax Committee.

SB 192 - Property tax exemption for renewable energy resources or technologies

Chairperson Allen called for final action on **SB 192**, and explained the bill relates to tax exemptions for renewable energy resources. **SB 192** was brought to the Committee by Las Animas Landfill Gas, LLC. The Committee heard testimony from Rachel Rubin, Attorney for Las Animas, Luke Morrow, Vice President for Las Animas, and Charles Benjamin representing the Sierra Club. This particular tax exemption for renewable energy resources is currently the subject of litigation before the Board of Tax Appeals. The Chair informed the Committee she had been in contact with the Johnson County Appraiser regarding **SB 192**. The County Appraiser indicated he is trying to enforce the law as he believes it is written. The Chair referred the Committee to the proposed balloon amendment by Brad Smoot, and requested Brad to briefly describe the amendment (Attachment 4).

Questions and discussion followed the Committee's concerns about the bill. The Chair requested Senator Schmidt work with the parties involved to create a *twelfth* exemption to K.S.A. 79-201. The Chair recessed the meeting at 11:20 until 11:30 to draft language that would satisfy the concerns of those involved.

The Chair brought the meeting back to order at 11:30 a.m., and recognized Senator Schmidt. Senator Schmidt read the language for the new 12th exemption to K.S.A. 79-201. "For all taxable years commencing after December 31, 2001, all personal property actually and regularly used predominately to produce landfill gas, transport landfill gas from a landfill to a common carrier and the landfill gas produced." These three categories of property would be exempt from taxation under this amendment. The effective date of December 31, 1998 would remain as originally proposed.

Senator Schmidt made a motion to adopt the proposed language in the form of an amendment to SB 192. The motion was seconded by Senator Donovan. The motion carried.

Chairperson Allen called for a motion to pass **SB 192** as amended. Senator Lee made a motion to pass **SB 192** out favorably as amended. Senator Donovan seconded the motion. The motion carried.

No other business in Committee, the meeting adjourned at 11:40 a.m.

TAX EXPENDITURE REPORT

Calendar Year 2003

Prepared by
Kansas Department of Revenue
Joan Wagnon, Secretary of Revenue

Introduction

The Kansas Department of Revenue has compiled this report to indicate the fiscal impact of exemptions, credits, deductions, modifications, and exclusions relating to the following taxes and programs:

- Individual, Fiduciary and Corporate Income, Privilege Taxes;
- Retailers' Sales Tax Exemptions;
- Mineral Taxes;
- Motor Fuel Taxes;
- Homestead;
- Food Sales Tax Refund; and
- Kansas IMPACT.

This report shall be a working document. It is our hope and intention that this report will continue to develop and provide information to the Governor, Kansas Legislature and the citizens of the state of Kansas to allow for the making of informative analysis and decisions.

This report covers expenditures for the calendar year of 2003.

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**TAX EXPENDITURE REPORT
SUMMARY**

PROGRAM	TAX EXPENDITURE
Kansas Addition/Subtraction Modifications (PY 2003-Income & Privilege)	\$6,309,000
Kansas Tax Deductions (PY 2003-Income & Privilege)	(\$875,372,000)
Kansas Tax Credits (PY 2003 Income & Privilege)	(\$302,824,000)
Kansas Sales Tax Exemptions (FY 2004)	(\$3,453,043,000)
Mineral Tax (FY 2004)	(\$34,801,000)
Motor Fuel Tax (CY 2003-Diesel, Gas, Gasohol)	(\$321,000,000)
Homestead Refund Program (FY 2004)	(\$13,004,000)
Food Sales Tax Refund Program (PY 2003)	(\$32,212,000)
IMPACT (FY 2004)	(\$10,904,000)
	(\$5,036,851,000)

A positive number in the tax expenditure column represents enhanced state tax revenues. A negative number in the tax expenditure column represents foregone revenue.

INDIVIDUAL INCOME TAX

Year Enacted: 1933
Statutory Citation: K.S.A. Chapter 79, Article 32

A Kansas resident is required to file an individual income tax return if:

- They are required to file a federal income tax return, or
- Their Kansas adjusted gross income is more than the total of their Kansas standard deduction and exemption allowance.

The Kansas income tax is imposed on the entire income of every resident individual. Nonresidents of Kansas are taxed on income derived from Kansas sources.

Kansas begins its individual income tax calculation with federal adjusted gross income. This connection to the federal tax code adopts many of the tax expenditures that exist at the federal level. Any special provisions allowed by the federal government that reduce adjusted gross income will flow through to the Kansas tax return, thereby resulting in lower Kansas tax collections. The majority of these special provisions at the federal level are not specifically enumerated in this report. This report will provide the cost of several addition/subtraction modifications to federal adjusted gross income. Kansas law allows a taxpayer to claim a standard deduction or itemized deductions and allows for a personal exemption deduction.

For process year 2003, tax year 2002, Kansas income tax was imposed as follows:

Schedule I-Married Filing Joint

If Kansas taxable income is:

Over	But Not Over	The Tax is:
\$0	\$30,000	3.50% of Kansas taxable income
\$30,000	\$60,000	\$1,050 + 6.25% of excess over \$30,000
\$60,000		\$2,925 + 6.45% of excess over \$60,000

Schedule II-Single, Head of Household, or Married Filing Separate

If Kansas taxable income is:

Over	But Not Over	The Tax is:
\$0	\$15,000	3.50% of Kansas taxable income
\$15,000	\$30,000	\$525 + 6.25% of excess over \$15,000
\$30,000		\$1,462.50 + 6.45% of excess over \$30,000

Modifications and deductions have been separately stated according to resident filers and nonresident filers. Nonresident filers of Kansas in many cases have a small percentage of income from Kansas sources. As a nonresident, a taxpayer must apply a nonresident percentage to come up with an actual Kansas tax liability. The tax expenditures presented for nonresident filers apply this percentage in order to provide the reader with truer cost of expenditures associated with these filers.

FIDUCIARY INCOME TAX

The fiduciary of a resident estate or trust must file a Kansas fiduciary income tax return if the estate or trust had any taxable income and/or there is withholding tax due for the nonresident beneficiaries. The fiduciary of a nonresident estate must file a Kansas fiduciary income tax return if the estate or trust had taxable income or gain derived from Kansas source.

Kansas begins its fiduciary income tax calculation with federal taxable income and allows for several addition/subtraction modifications.

For process year 2003, tax year 2002, Kansas fiduciary income tax was imposed as follows:

If Kansas taxable income is:

Over	But Not Over	The Tax is:
\$0	\$15,000	3.50% of Kansas taxable income
\$15,000	\$30,000	\$525 + 6.25% of excess over \$15,000
\$30,000		\$1,462.50 + 6.45% of excess over \$30,000

**INDIVIDUAL AND FIDUCIARY INCOME TAX
RESIDENT TAX FILERS
PROCESS YEAR 2003**

ADDITION MODIFICATIONS

Statutory Reference	Description	Number of Filers	*Tax Expenditure
K.S.A. 79-32,117(b)(i)	State and municipal bond interest not specifically exempt from Kansas income tax.	24,166	\$6,142,000
K.S.A. 79-32,117(b)(iv)	Contributions to all Kansas public employee's retirement systems	116,937	\$8,834,000
K.S.A. 79-32,143	Federal net operating loss carry forward	7,585	\$18,385,000
Various	Other additions to federal adjusted gross income	7,151	\$1,465,000

*Tax expenditure computed using average tax rate of .05

SUBTRACTION MODIFICATIONS

Statutory Reference	Description	Number of Filers	*Tax Expenditure
K.S.A. 79-32,117(c)(i)	Interest on US Government obligations	69,606	(\$8,625,000)
K.S.A. 79-32,117(c)(v)	State income tax refund	202,911	(\$8,852,000)
K.S.A. 79-32,143	Kansas net operating loss carry forward	5,558	(\$18,978,000)
Various	Retirement benefits specifically exempt from Kansas income tax	80,098	(\$66,469,000)
Various	Other subtractions from federal adjusted gross income	14,478	(\$11,334,000)

*Tax expenditure computed using average tax rate of .05

DEDUCTIONS

Statutory Reference	Description	Number of Filers	*Tax Expenditure
K.S.A. 79-32,119; K.S.A. 79-32,120	Standard deduction or Itemized deductions	1,206,776	(\$449,870,000)
K.S.A. 79-32,121	Exemption allowance	1,124,173	(\$294,205,000)

*Tax expenditure computed using average tax rate of .05

A positive number in the tax expenditure column represents enhanced state tax revenues. A negative number in the tax expenditure column represents foregone revenue.

**INDIVIDUAL AND FIDUCIARY INCOME TAX
NONRESIDENT TAX FILERS
PROCESS YEAR 2003**

ADDITION MODIFICATIONS

Statutory Reference	Description	Number of Filers	*Tax Expenditure
K.S.A. 79-32,117(b)(i)	State and municipal bond interest not specifically exempt from Kansas income tax.	6,109	\$2,434,000
K.S.A. 79-32,117(b)(iv)	Contributions to all Kansas public employee's retirement systems	5,088	\$62,000
K.S.A. 79-32,143	Federal net operating loss carry forward	1,000	\$2,140,000
Various	Other additions to federal adjusted gross income	2,480	\$475,000

*Tax expenditure computed using average tax rate of .05

SUBTRACTION MODIFICATIONS

Statutory Reference	Description	Number of Filers	*Tax Expenditure
K.S.A. 79-32,117(c)(i)	Interest on US Government obligations	12,309	(\$1,496,000)
K.S.A. 79-32,117(c)(v)	State income tax refund	64,667	(\$1,629,000)
K.S.A. 79-32,143	Kansas net operating loss carry forward	705	(\$1,209,000)
Various	Retirement benefits specifically exempt from Kansas income tax	3,350	(\$523,000)
Various	Other subtractions from federal adjusted gross income	1,728	(\$706,000)

*Tax expenditure computed using average tax rate of .05

DEDUCTIONS

Statutory Reference	Description	Number of Filers	*Tax Expenditure
K.S.A. 79-32,119; K.S.A. 79-32,120	Standard deduction or Itemized deductions	208,870	(\$24,736,000)
K.S.A. 79-32,121	Exemption allowance	200,692	(\$8,544,000)

*Tax expenditure computed using average tax rate of .05

A positive number in the tax expenditure column represents enhanced state tax revenues. A negative number in the tax expenditure column represents foregone revenue.

**INDIVIDUAL AND FIDUCIARY INCOME TAX
RESIDENT AND NONRESIDENT TAX FILERS
PROCESS YEAR 2003**

TAX CREDITS

Statutory Reference	Description	Number of Filers	Expenditure
K.S.A. 79-32,111	Credit for taxes paid to other states	116,639	(\$211,688,000)
K.S.A. 79-32,111a	Credit for child and dependent care expenses	63,617	(\$ 7,136,000)
K.S.A. 79-32,202	Adoption credit	283	(\$304,000)
K.S.A. 79-32,181a	Agricultural loan interest reduction credit	0	(\$0)
K.S.A. 79-32,201	Alternative-fuel tax credit	10	(\$9,000)
K.S.A. 79-32,153	Business and job development tax credit	124	(\$110,000)
K.S.A. 79-32,160a	Business and job development tax credit	221	(\$2,005,000)
K.S.A. 79-32,206	Business machinery and equipment tax credit	9,525	(\$3,274,000)
K.S.A. 79-32,190	Child day care assistance credit	8	(\$14,000)
K.S.A. 79-32,197	Community service contribution credit	931	(\$2,422,000)
K.S.A. 79-32,176	Disabled access credit	115	(\$208,000)
K.S.A. 79-32,205	Earned income credit	163,711	(\$40,813,000)
K.S.A. 79-32,203	Habitat management credit	*CONFIDENTIAL	*CONFIDENTIAL
K.S.A. 79-32,160a(e); K.S.A. 74-50,132	High performance incentive program credit	118	(\$4,020,000)
K.S.A. 79-32,211	Historic preservation tax credit	32	(\$588,000)
K.S.A. 79-32,207	Plugging an abandoned oil or gas well credit	*CONFIDENTIAL	*CONFIDENTIAL
K.S.A. 79-32,182b	Research and development credit	67	(\$58,000)
K.S.A. 79-32,212	Single city port authority credit	*CONFIDENTIAL	*CONFIDENTIAL
K.S.A. 40-2246	Small employer health insurance contribution credit	58	(\$71,000)
K.S.A. 79-32,204	Swine facility improvement credit	*CONFIDENTIAL	*CONFIDENTIAL
K.S.A. 79-32,210	Telecommunications credit	64	(\$21,000)
K.S.A. 79-32,200	Temporary assistance to families contribution credit	0	(\$0)
K.S.A. 74-8205; 74-8206; 74-8304; 74-8316	Venture and local seed capital credit	*CONFIDENTIAL	*CONFIDENTIAL
K.S.A. 79-32,143	Farm Net Operating Loss	50	(\$75,000)

*CONFIDENTIAL-This information is confidential as there are less than 5 filers. This information is not included in the total.

A positive number in the tax expenditure column represents enhanced state tax revenues. A negative number in the tax expenditure column represents foregone revenue.

CORPORATE INCOME TAX

Year Enacted: 1933
Statutory Citation: K.S.A. Chapter 79, Article 32

All corporations doing business within or deriving income from sources within Kansas that are required to file a federal income tax return, shall also be required to file a Kansas corporate income tax return

Kansas begins its corporate income tax calculation with federal taxable income. This connection to the federal tax code adopts many of the tax expenditures that exist at the federal level. Any special provisions allowed by the federal government that reduce taxable income will flow through to the Kansas tax return, thereby resulting in lower Kansas tax collections. The majority of these special provisions at the federal level are not specifically enumerated in this report. This report will provide the cost of several addition/subtraction modifications to federal taxable income. Kansas law allows certain deductions in arriving at Kansas taxable income.

Corporations not based in Kansas in many cases have a small percentage of income from Kansas sources and use a three factor formula of payroll, sales and property to determine the amount of income apportioned to Kansas. The tax expenditures presented for corporations not based in Kansas have had the apportionment percentage applied in order to provide the reader with truer cost of expenditures associated with these filers.

For process year 2003, tax year 2002, the normal tax for Kansas corporate income tax is imposed at the rate of 4% and a surtax at the rate of 3.35% is imposed on those corporations where the Kansas taxable income is in excess of \$50,000

**CORPORATE INCOME TAX
RESIDENT TAX FILERS
PROCESS YEAR 2003**

ADDITION MODIFICATIONS

Statutory Reference	Description	Number of Filers	*Tax Expenditure
K.S.A. 79-32,138(b)(i) K.S.A. 79-32,117(b)(i)	State and municipal bond interest not specifically exempt from Kansas income tax.	250	\$4,821,000
K.S.A. 79-32,117(b)(iii)	Federal net operating loss deduction	4,001	\$31,125,000
K.S.A. 79-32,117(b)(ii)	Taxes on or measured by income or fees or payments in lieu of income taxes	6,061	\$8,412,000
Various	Other additions to federal adjusted gross income	202	\$1,338,000

*Tax expenditure computed using average tax rate of .065

SUBTRACTION MODIFICATIONS

Statutory Reference	Description	Number of Filers	*Tax Expenditure
K.S.A. 79-32,138(c)(i) K.S.A. 79-32,117(c)(i)	Interest on US Government obligations	323	(\$321,000)
Various	Other subtractions from federal adjusted gross income	1,539	(\$4,739,000)

*Tax expenditure computed using average tax rate of .065

DEDUCTIONS

Statutory Reference	Description	Number of Filers	*Tax Expenditure
K.S.A. 79-32,143	Kansas Net Operating Loss	6,879	(\$71,585,000)

*Tax expenditure computed using average tax rate of .065

A positive number in the tax expenditure column represents enhanced state tax revenues. A negative number in the tax expenditure column represents foregone revenue.

**CORPORATE INCOME TAX
NONRESIDENT TAX FILERS
PROCESS YEAR 2003**

ADDITION MODIFICATIONS

Statutory Reference	Description	Number of Filers	*Tax Expenditure
K.S.A. 79-32,138(b)(i) K.S.A. 79-32,117(b)(i)	State and municipal bond interest not specifically exempt from Kansas income tax.	341	\$263,000
K.S.A. 79-32,117(b)(iii)	Federal net operating loss deduction	1,125	\$11,714,000
K.S.A. 79-32,117(b)(ii)	Taxes on or measured by income or fees or payments in lieu of income taxes	4,432	\$2,174,000
Various	Other additions to federal adjusted gross income	209	\$550,000

*Tax expenditure computed using average tax rate of .065

SUBTRACTION MODIFICATIONS

Statutory Reference	Description	Number of Filers	*Tax Expenditure
K.S.A. 79-32,138(c)(i) K.S.A. 79-32,117(c)(i)	Interest on US Government obligations	368	(\$585,000)
Various	Other subtractions from federal adjusted gross income	725	(\$3,161,000)

*Tax expenditure computed using average tax rate of .065

DEDUCTIONS

Statutory Reference	Description	Number of Filers	*Tax Expenditure
K.S.A. 79-32,143	Kansas Net Operating Loss	1,973	(\$538,000)

*Tax expenditure computed using average tax rate of .065

A positive number in the tax expenditure column represents enhanced state tax revenues. A negative number in the tax expenditure column represents foregone revenue.

**CORPORATE INCOME TAX
RESIDENT AND NONRESIDENT TAX FILERS
PROCESS YEAR 2003**

TAX CREDITS

Statutory Reference	Description	Number of Filers	Tax Expenditure
K.S.A. 79-32,181a	Agricultural loan interest reduction credit	0	(\$0)
K.S.A. 79-32,201	Alternative-fuel tax credit	*CONFIDENTIAL	*CONFIDENTIAL
K.S.A. 79-32,153	Business and job development tax credit	69	(\$1,322,000)
K.S.A. 79-32,160a	Business and job development tax credit	125	(\$3,068,000)
K.S.A. 79-32,206	Business machinery and equipment tax credit	4,638	(\$16,663,000)
K.S.A. 79-32,190	Child day care assistance credit	10	(\$126,000)
K.S.A. 79-32,197	Community service contribution credit	63	(\$319,000)
K.S.A. 79-32,177	Disabled access credit	17	(\$16,000)
K.S.A. 79-32,203	Habitat management credit	0	(\$0)
K.S.A. 79-32,160a(e); K.S.A. 74-50,132	High performance incentive program credit	28	(\$6,462,000)
K.S.A. 79-32,211	Historic preservation tax credit	*CONFIDENTIAL	*CONFIDENTIAL
K.S.A. 79-32,207	Plugging an abandoned oil or gas well credit	0	0
K.S.A. 79-32,182b	Research and development credit	47	(\$564,000)
K.S.A. 79-32,212	Single city port authority credit	*CONFIDENTIAL	*CONFIDENTIAL
K.S.A. 40-2246	Small employer health insurance contribution credit	11	(\$37,000)
K.S.A. 79-32,204	Swine facility improvement credit	0	(\$0)
K.S.A. 79-32,210	Telecommunications credit	23	(\$178,000)
K.S.A. 79-32,200	Temporary assistance to families contribution credit	0	(\$0)
K.S.A. 74-8205; 74-8206; 74-8304; 74-8316	Venture and local seed capital credit	0	(\$0)
K.S.A. 79-32,143	Farm Net Operating Loss	16	(\$67,000)

*CONFIDENTIAL-This information is confidential as there are less than 5 filers. This information is not included in the total.

A positive number in the tax expenditure column represents enhanced state tax revenues. A negative number in the tax expenditure column represents foregone revenue.

PRIVILEGE TAX

Year Enacted: 1963
Statutory Citation: K.S.A. Chapter 79, Article 11

Every national banking association, bank, trust company, federally chartered savings bank, and savings and loan association located or doing business within the state shall be required to file a privilege tax return and pay a tax according to or measured by its net income for the next preceding taxable year.

Kansas begins its privilege tax calculation with federal taxable income. This connection to the federal tax code adopts many of the tax expenditures that exist at the federal level. Any special provisions allowed by the federal government that reduce taxable income will flow through to the Kansas tax return, thereby resulting in lower Kansas tax collections. The majority of these special provisions at the federal level are not specifically enumerated in this report. This report will provide the cost of several addition/subtraction modifications to federal taxable income. Kansas law allows certain deductions in arriving at Kansas taxable income.

For process year 2003, tax year 2002, a tax consisting of a normal tax and a surtax shall be imposed for privilege tax filers. The normal tax shall be an amount equal to 2.25% of Kansas taxable income and a surtax in an amount equal to 2.125% of Kansas taxable income that is in excess of \$25,000 for banks and 2.25% of Kansas taxable income that is in excess of \$25,000 for savings & loans and trust companies.

**PRIVILEGE TAX
PROCESS YEAR 2003
(418 PRIVILEGE TAX FILERS)**

ADDITION MODIFICATIONS

Statutory Reference	Description	Number of Filers	Tax Expenditure
K.S.A. 79-1109	State and municipal bond interest not specifically exempt from Kansas income tax.	331	\$17,395,000
K.S.A. 79-1109 K.S.A. 79-32,138(b) K.S.A. 79-32,117(b)(iii)	Federal net operating loss deduction	31	\$8,705,000
K.S.A. 79-1109	Savings & Loan Bad Debt Deduction included in federal deductions	14	\$9,282,000
Various	Other additions to federal taxable income	90	\$1,398,000

*Tax expenditure computed using average rate of 4%

SUBTRACTION MODIFICATIONS

Statutory Reference	Description	Number of Filers	*Tax Expenditure
Various	Subtractions from federal taxable income	261	(\$2,178,000)

*Tax expenditure computed using average rate of 4%

DEDUCTIONS

Statutory Reference	Description	Number of Filers	*Tax Expenditure
K.S.A. 79-32,143	Kansas Net Operating Loss	41	(\$25,174,000)
K.S.A. 79-1109	Savings and Loan Bad Debt Deduction	21	(\$720,000)

*Tax expenditure computed using average rate of 4%

TAX CREDITS

Statutory Reference	Description	Number of Filers	Tax Expenditure
K.S.A. 79-1126a	Agricultural loan interest reduction credit	0	(\$0)
K.S.A. 79-32,153	Business and job development tax credit	41	(\$148,000)
K.S.A. 79-32,160a	Business and job development tax credit	0	(\$0)
K.S.A. 79-32,206	Business machinery and equipment tax credit	371	(\$776,000)
K.S.A. 79-32,190	Child day care assistance credit	0	(\$0)
K.S.A. 79-32,197	Community service contribution credit	32	(\$262,000)
K.S.A. 79-1117	Disabled access credit	*CONFIDENTIAL	*CONFIDENTIAL
K.S.A. 79-32,160a(e); K.S.A. 74-50,132	High performance incentive program credit	*CONFIDENTIAL	*CONFIDENTIAL
K.S.A. 79-32,211	Historic preservation tax credit	0	(\$0)
K.S.A. 74-8205; 74-8206; 74-8304; 74-8316	Venture and local seed capital credit	0	(\$0)

*CONFIDENTIAL-This information is confidential as there are less than 5 filers. This information is not included in the total.

A positive number in the tax expenditure column represents enhanced state tax revenues. A negative number in the tax expenditure column represents foregone revenue.

KANSAS RETAILERS' SALES TAX

Year Enacted: 1937

Statutory Citation: K.S.A. Chapter 79, Article 36

Kansas imposes a state retailers' sales tax of 5.3%, plus local sales taxes on the following:

- Retail sale, rental or lease of tangible personal property;
- Labor services to install, apply, repair, service, alter, or maintain tangible personal property; and
- Admissions to places providing entertainment, amusement, or recreation in Kansas.

Kansas law allows many exemptions from the imposition of sales tax.

State Sales Tax Exemptions Summary

Statute	Description of Exemption or Exclusion	Recent Revision	FY2004 (\$ in Millions)
Tax Rate			5.3%
Annual Rate of Increase			
3602 (e)	Definition of retail sales, exempting wholesale sales and sales for resale		\$ -
3603 (b)	Taxes telephone and telegraph services except creation WATS and private data lines. Bundling of services added in 2001. Modified pre-paid calling cards - revolved phrase dealing with sold in minutes (no fiscal impact).	Rev 2001 SB 1 Rev 2002 SB 39	\$ 1.217
3603 (e)	Admission to any cultural and historical event which occurs triennially	Revised 1994	Minimal
3603 (f)	Coin operated Laundry Services		\$ 0.309
3603 (g)	Service of renting of rooms by holds or accommodation brokers to federal government or any federal employee in performance of official government duties.	2002 SB39	\$ 0.100
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 1998 SB493	\$ 0.762
3603 (n)	Dues charged by any organization pursuant to paragraph 8 and 9 of 79-201 (veteran & humanitarian organizations) and zoos	1998 SB493	\$ 0.281
3603 (n)	Attributable to veterans	1998 SB493	\$ 0.104
3603 (n)	Attributable to humanitarians	1998 SB493	\$ 0.050
3603 (n)	Attributable to nonprofit zoo.	1998 SB493	\$ 0.127
3603 (o)	Motor vehicles exchanged for corporate stock, corporate transfer to itself and immediate family member sales.		\$ 0.176
3603 (o)	In 2004, changed the way sales tax computed on isolated and occasional sales of vehicles. Estimated to generate \$2 million annually	2004 SB 147	
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	\$ 76.539
3603 (q)	Exemption for Service of repairing, servicing, maintaining custom computer software as described in section 3603 (s)	1988 Amended 2002 SB39	\$ -
3603 (s)	Customized computer software and services for modifying software for single end use and billed as a separate invoiced item. In 2004, amended to tax only prewritten software. Custom software is exempt	1988 Amended 2002 SB39, 2004SB 147	\$ 19.229
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 1999	\$ 2.301 \$ 195.777
3606 (a)	Motor fuels and items taxed by sales or excise tax		
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. (Neutral FN due to Clean Water Fee)	2001 SB 332	\$ 278.597
3606 (c)	Property or services purchased and leasing by elementary or secondary schools and educational institutions		\$ 49.232
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		\$ 100.155
3606 (e)	Property or services purchases by federal government, its agencies or instrumentality's		\$ 4.661
3606 (f)	Property purchased by railroad or public utility for use in the movement of interstate commerce		\$ 13.078
3606 (g)	Sales, repair or modification of aircraft sold for interstate commerce directly through an authorized agent. IN 2004, expanded aircraft exemption for repair, modification plus parts and labor	1998 SB493, 2004 SB 147	\$ 5.467
3606 (h)	Rental of nonsectarian textbooks by elementary or secondary schools		\$ 0.805
3606 (i)	Lease or rental of films, records, tapes, etc. by motion picture exhibitors		\$ 1.438
3606 (j)	Meals served without charge to employees if duties include furnishing or sale of such meals or drinks		\$ 3.186
3606 (k)	Vehicles, trailers or aircraft purchased and delivered out of state to a nonresident		\$ 12.998
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		\$ 1,892.846
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 refunds from the Johnson County Water case sav		\$ 248.350
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.		\$ 139.782
3606 (p)	Sales for prescription drugs	1999 SB 45	\$ 59.239
3606 (q)	Sales of insulin dispensed by pharmacist for treatment of diabetes		\$ 0.457
3606 (r)	Sales of prosthetic or orthopedic appliances prescribed by a doctor. IN 2004, exempted all hearing aids, prats and batteries by licensed providers	Amended 1997, 2004 SB 147	\$ 6.890
3606 (s)	Sales of property or services purchased by a groundwater management district		\$ 0.035
3606 (t)	Sales of farm or aquaculture machinery and equipment, parts and services for repair and replacement		\$ 40.300
3606 (u)	Leases or rentals of property used as a dwelling for more than 28 consecutive days.		\$ 0.614
3606 (v)	Sales of food products purchased by contractor for use in preparing meals for delivery to homebound elderly persons. In 2004, expanded exemption to all personal property purchased by contractor and sales of food products by or on behalf of contractor or organization	2004 SB 147	\$ 0.699
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		\$ 72.178
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		\$ 13.748
3606 (y)	Sales of materials and services used in repairing, maintaining, etc., of railroad rolling stock used in interstate commerce		\$ 0.788
3606 (z)	Property and services purchased directly by a port authority or a contractor therefor.		Minimal

1-17

State Sales Tax Exemptions Summary

Statute	Description of Exemption or Exclusion	Recent Revision	FY2004 (\$ in Millions)
Tax Rate			5.3%
Annual Rate of Increase			
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
3606 (bb)	Used mobile and manufactured homes		\$ 3.733
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. (Enterprise Zone Exemption)		\$ 55.213
3606 (dd)	Property purchased with food stamps issued by US Department of Agriculture		\$ 6.384
3606 (ee)	Lottery tickets and shares made as part of a lottery operated by the State of Kansas		\$ 10.495
3606 (ff)	New mobile or manufactured homes to the extent of 40% of the gross receipts		\$ 2.737
3606 (gg)	Property purchased with vouchers issued pursuant to the federal special supplemental food program for women, infants and children		n/a
3606 (hh)	Medical supplies and equipment purchased by nonprofit skilled nursing home or intermediate nursing care home for providing medical services to residents		\$ 0.877
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	\$ 2.212
3606 (jj)	Property and services, includes leasing of property, purchased for community-based mental retardation facility or mental health center.	2004 SB 147	\$ 2.031
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. In 2004, added exemption for building new facility in Riverton Ks (minimal impact)	1998 HB2584	\$ 97.508
3606(kk)	This is the impact from the changes made in 1998		\$ 2.031
3606 (ll)	Educational materials purchased for distribution to the public at no charge by a nonprofit public health corporation		\$ 0.068
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	\$ 0.805
3606 (nn)	Services rendered by advertising agency or broadcast station		\$ 3.566
3606 (oo)	Property purchased by a community action group or agency to repair or weatherize housing occupied by low income individuals.		Minimal
3606 (pp)	Drill bits and explosives used in the exploration and production of oil or gas		\$ 0.339
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)		\$ 0.332
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)		\$ 0.028
3606 (ss)	Property and services purchased by a public broadcasting station licensed by FCC as a noncommercial educational television or radio station.		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
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 2004 added: Heartstrings Community Foundation, Cystic Fibrosis , Spina Bifida Assn,	1997 SB184, 2001 HB 2029, 2004 SB 147	\$ 0.079
3606 (ww)	Property purchased by the Habitat for Humanity for use within a housing project	1997 SB184	\$ 0.097
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	\$ 0.508
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	\$ 0.477
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	\$ 0.801
3606(aaa)	Property and services purchased by religious organizations and used exclusively for religious purposes	1998 SB493	\$ 14.609
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
3606 (ccc)	Property and services purchases by health care centers and clinics who are serving the medically underserved.	1999 SB 45	\$ 0.318
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
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
3606 (fff)	Material handling equipment, racking systems & 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, and replacement parts.	2000 HB 2011	\$ 5.280
3606 (ggg)	Property and services purchased by or on behalf of the Kansas Academy of Science.	2000 SB 59	Minimal
3606 (hhh)	Property and services purchased by or on behalf of Domestic Violence Shelters as members of the Kansas coalition against Sexual and Domestic Violence	2004 SB 147	
	Total		\$ 3,453.043

Updated through 2004 Legislative changes.

KANSAS MINERAL TAX

Year Enacted: 1983

Statutory Citation: K.S.A. Chapter 79, Article 42

Gas and oil are taxed on the gross value at the time of removal from the earth or water. The tax rate is 8% less property tax credits equal to 3.67%, making the tax rate 4.33% after the credit.

Tax exemptions for oil are based on the average price per barrel, average daily productions, depth of the well, new pools and inactive wells.

Tax exemptions for gas wells are for wells with an average daily production valued at \$87 or less, as used for domestic or agricultural purposes on the production unit, and gas from any new pool.

The state general fund receives 93% of the total collection and counties receive the remaining 7%.

Description	Number of Filers	*Tax Expenditure
Oil	60	(\$22,963,000)
Gas	209	(\$5,467,000)
Special Co. Mineral Production Fund	269	(\$6,371,000)

*Tax expenditure computed using a rate of 4.33%

MOTOR FUEL TAXES

Year Enacted: 1925 – gasoline tax
 1941 – special fuels tax
 1959 – LP gas tax
 1979 – gasohol tax

Statutory Citation: K.S.A. Chapter 79, Article 34

A tax is imposed on the use, sale or delivery of all motor vehicle fuels or special fuels that are used, sold or delivered in this state. Distributors are allowed to deduct a 2.5 percent handling allowance on gasoline and special fuels received. No allowances are made on gasoline and special fuels exported from the state or sold to the federal government or its agencies; nor are allowances made on gasoline or special fuels sold or disposed of to consumers in tank cars, transport, or pipeline lots.

Kansas law provides that, unless specifically exempt from sales tax, sale of motor fuels will be subject to the Kansas sales tax if no Kansas excise tax has been imposed. No motor fuel tax is imposed on gasoline or special fuel for the following transactions:

- export from the state to any other state or territory;

	Gallons	Tax Rate	Tax Expenditure
CY03 Gasoline/Gasohol	315,850,384	\$0.23	(\$72,600,000)
	360,380,996	\$0.24	(\$86,500,000)
CY03 Diesel	103,165,960	\$0.25	(\$25,800,000)
	104,188,162	\$0.26	(\$27,100,000)

- sale to the federal government or its agencies; (combined below)
- sale to a contractor who performs work for the federal government or its agencies;

	Gallons	Tax Rate	Tax Expenditure
CY03 Gasoline/Gasohol	1,172,283	\$0.23	(\$269,625)
	1,402,953	\$0.24	(\$336,709)
CY03 Diesel	889,637	\$0.25	(\$222,409)
	654,110	\$0.26	(\$170,069)

- sale which is aviation fuel;

	Gallons	Tax Rate	Tax Expenditure
CY03 Gasoline/Gasohol	3,867,002	\$0.23	(\$889,410)
	4,110,350	\$0.24	(\$986,484)
CY03 Diesel	25,574,863	\$0.25	(\$6,400,000)
	29,498,520	\$0.26	(\$7,700,000)

- first sale or delivery to a duly licensed distributor who resells to another duly licensed distributor, (No numbers available. This exemption merely insures that double taxation does not occur.);

- sale of indelibly dyed special fuel to be used for nonhighway purposes, and

	Gallons	Tax Rate	Tax Expenditure
CY03 Dyed Diesel	153,054,660	\$0.25	(\$38,300,000)
	168,411,672	\$0.26	(\$43,800,000)

- shrinkage allowance @ 2.5%.

	Gallons	Tax Rate	Tax Expenditure
CY03 Gasoline/Gasohol	16,466,054	\$0.23	(\$3,800,000)
	17,029,344	\$0.24	(\$4,100,000)
CY03 Diesel	4,141,614	\$0.25	(\$1,000,000)
	4,948,368	\$0.26	(\$1,300,000)

KANSAS HOMESTEAD REFUND PROGRAM

Year Enacted: 1970

Statutory Citation: K.S.A. Chapter 79, Article 45

The homestead refund program is a rebate of a portion of the property taxes paid on a Kansas resident's homestead. The refund percentage is based on the total household income. If an individual owns their home, the refund is a percentage of the general property tax. If the individual rents their home, 20% of the rent paid for occupancy is used as the property tax amount. The maximum refund is \$600. As a Kansas resident the entire year, an individual is eligible if the total household income is \$25,000 or less and the individual:

- Was born prior to January 1, 1947, OR
- was blind or totally and permanently disabled all of 2002, OR
- had a dependent child who lived with the individual the entire year and that child was born before January 1, 2002, and was under the age of 18 all of 2002.

In fiscal year 2004, the Kansas Department of Revenue issued \$13,004,000 in homestead refunds to 73,501 homeowners and renters.

KANSAS FOOD SALES TAX REFUND PROGRAM

Year Enacted: 1978

Statutory Citation: K.S.A. Chapter 79, Article 36

The food sales tax refund program offers a refund of the sales tax paid on food. To qualify for the program an individual must have lived in Kansas for the entire year and:

- Was born prior to January 1, 1948, OR
- was blind or totally and permanently disabled all of 2002, OR
- had a dependent child who lived with the individual the entire year and that child was born before January 1, 2002, and was under the age of 18 all of 2002.

The food sales tax refund is computed as follows:

If the qualifying income is:	The refund is:
\$0 to \$12,900	\$72 multiplied by the number of Kansas exemptions.
\$12,901 to \$25,800	\$36 multiplied by the number of Kansas exemptions.
\$25,801 or greater	No refund

In process year 2003, the Kansas Department of Revenue issued \$32,212,000 in food sales tax refunds to 270,000 eligible filers.

KANSAS IMPACT PROGRAM

Year Enacted: 1991

Statutory Citation: K.S.A. Chapter 74, Article 50

The IMPACT act provides for major project investment to provide financial assistance to defray business costs. IMPACT also provides financial assistance for new job training.

The IMPACT act uses withholding revenue for funding projects. In fiscal year 2005, the limit is 1.5% of total withholding receipts and in fiscal year 2006 and after the percentage is 2%.

In fiscal year 2004, the Kansas IMPACT program expended \$10,904,000.



K A N S A S

JOAN WAGNON, SECRETARY

DEPARTMENT OF REVENUE
OFFICE OF THE SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

January 27, 2005

Testimony to the House Economic Development Committee
Joan Wagon

House Bill 2010

Representative Lana Gordon, Chair, and Members of the Committee:

House Bill 2010 would transfer the responsibility for the annual report evaluating the cost effectiveness of certain income tax credits and sales tax exemptions from Kansas, Inc. to the department of revenue. The department supports this bill, with modifications, as shown on the attached balloon amendments.

Our report will initially be based on a sample of corporate income tax returns. The department is in the process of moving corporate income tax to an electronic filing environment. Currently, corporate income tax returns must be filed on paper. We are planning to implement electronic filing of corporate income tax returns for tax year 2005. For corporate income tax returns filed on paper, collection of data from the schedules that businesses use to claim tax credits is a manual process, and we are only able to sample the data. Once all corporate income tax returns are filed electronically, collection of data from the credit schedules will no longer be a manual process and can be accomplished quickly and efficiently. We may contract with outside resources to assist with the report.

The bill, as currently drafted, requires the department to consult with Kansas, Inc. in the development of a questionnaire to be completed by all corporate income taxpayers. The department requests that use of the questionnaire be deleted from the bill. In the past, although all corporate income taxpayers are required by law to complete the questionnaire, the response rate has been extremely poor. Out of some 30,000 to 35,000 corporate income tax returns filed each year, responses to the questionnaires typically number in the 1,000 to 2,000 range. The questionnaires have yielded little, if any, useful information.

We anticipate that the department's annual report to the legislature on tax incentive programs will look similar to the "Analysis of Kansas Corporate Income Tax 2000-2002," dated October 15, 2004, copies of which have been distributed. We intend to update this report annually. It is based on a sample of approximately 200 of the largest corporate income taxpayers, and involved manual review of the returns for those taxpayers. Data collection took several months. Once corporate income tax moves to an electronic filing environment, we

ould be able to timely collect a much larger sample (if not all) of the data available from the returns showing tax credit usage.

The taxpayer information confidentiality laws prohibit the department from disclosing information on the amount of tax credit usage by any one taxpayer. We can aggregate the data when 5 or more taxpayers are included, which enables us to show which particular industries, by NAICS code, are claiming what percentage of various business tax credits. Data can also be aggregated by size of the taxpayer, so that we can show how larger vs. smaller businesses compare in tax credit usage.

The current version of the bill requires the report to include information on usage of the manufacturing machinery and equipment (K.S.A. 79-3606(kk)) sales tax exemption. The department has no mechanism for collecting this data. Retailers do not report on their sales tax returns any breakout of exempt sales by particular sales tax exemption. Businesses do not report to the department purchases of qualifying manufacturing machinery and equipment. Usage could only be estimated and cannot be determined with any degree of accuracy. We request that the requirement to report usage of this sales tax exemption be deleted from the bill.

The current version of the bill also requires the report to include usage of special obligation bonds authorized under K.S.A. 12-1774. These bonds are issued at the local level, and the department has no way to track how many have been issued and by which entities. The department does track the amount of state sales tax that is applied to repay STAR bonds issued pursuant to K.S.A. 12-1774(a)(1)(D). We suggest that this reporting requirement be amended to provide that the department will include in its report the amount of state sales tax revenue used to repay STAR bonds during the reporting period.

HOUSE BILL No. 2010

Hearing in Eco. Dev
1-19 at 1-31
no action

By Joint Committee on Economic Development

12-17

9 AN ACT concerning economic development; relating to an annual report
10 evaluating the cost effectiveness of income-tax credits and sales tax
11 exemptions; production responsibility moved from Kansas, Inc. to the
12 department of revenue; amending K.S.A. 79-1119 and 79-3614 and
13 K.S.A. 2004 Supp. 79-3234 and repealing the existing sections; also
14 repealing K.S.A. 2004 Supp. 74-8017 and 74-99b35.
15

16 *Be it enacted by the Legislature of the State of Kansas:*

17 New Section 1. The secretary of revenue shall prepare an annual
18 report evaluating the ~~cost effectiveness~~ of the various income tax credits
19 and sales tax exemptions enacted to encourage economic development
20 within this state and submit the same to the standing committees on
21 taxation and economic development of the house and assessment and
22 taxation and commerce of the senate at the beginning of each regular
23 session of the legislature. ~~The secretary of revenue, in consultation with~~
24 ~~the president of Kansas, Inc., shall develop a questionnaire on the utili-~~
25 ~~zation of state income tax credits and sales tax exemptions that shall be~~
26 ~~completed by all corporate taxpayers that: (1) Are subject to state income~~
27 ~~tax and (2) utilize any of the state income tax credits and exemptions~~
28 ~~described in subsections (a) through (j) below that shall be submitted to~~
29 ~~the department concurrently with the filing of an annual corporate in-~~
30 ~~come tax return. The completed questionnaires shall be used in the prep-~~
31 ~~aration of such annual report. The questionnaire shall require respon-~~
32 ~~dents to indicate utilization of the following credits, exemptions and bond~~
33 ~~financing:~~

utilization

Such report shall.

state and local sales and transient guest tax revenues distributed for

- 34 (a) Income tax credits authorized under the provisions of the job ex-
- 35 pansion and investment credit act of 1976 and amendments thereto;
- 36 (b) income tax credits for expenditures in research and development
- 37 activities authorized by K.S.A. 79-32,182, and amendments thereto;
- 38 (c) income and financial institutions privilege tax credits for cash in-
- 39 vestment in stock of Kansas Venture Capital, Inc. authorized by K.S.A.
- 40 74-8205 and 74-8206, and amendments thereto;
- 41 (d) income tax credits for cash investment in certified Kansas venture
- 42 capital companies authorized by K.S.A. 74-8304, and amendments
- 43 thereto;

1 (e) income tax credits for cash investment in certified local seed cap-
2 ital pools authorized by K.S.A. 74-8401, and amendments thereto;

3 (f) income tax credits for investment in the training and education of
4 qualified firms' employees authorized by K.S.A. 74-50,132, and amend-
5 ments thereto;

6 (g) sales tax exemptions for property or services purchased for the
7 purpose of and in conjunction with constructing, reconstructing, enlarg-
8 ing or remodeling a business, or retail business meeting the requirements
9 of K.S.A. 74-50,115, and amendments thereto, and machinery and equip-
10 ment for installation at such business or retail business authorized by
11 subsection (cc) of K.S.A. 79-3606, and amendments thereto;

12 ~~(h) sales tax exemptions for machinery and equipment used directly~~
13 ~~and primarily for the purposes of manufacturing, assembling, processing,~~
14 ~~finishing, storing, warehousing or distributing articles of tangible personal~~
15 ~~property in this state intended for resale by a manufacturing or processing~~
16 ~~plant or facility or a storage, warehousing or distribution facility;~~

17 (i) distribution from the special economic revitalization fund pursuant
18 to the provisions of the economic revitalization reinvestment act, K.S.A.
19 2004 Supp. 74-50,136, and amendments thereto; and

20 (j) special obligation bonds authorized by K.S.A. 12-1774, and
21 amendments thereto. STAR Bonds?

22 Sec. 2. K.S.A. 79-1119 is hereby amended to read as follows:79-
23 1119 (a) All reports, statements, lists and returns required under the
24 provisions of article 11 of chapter 79 of the Kansas Statutes Annotated
25 shall be preserved for three (3) years and thereafter until the director of
26 taxation orders them to be destroyed.

27 (b) Except in accordance with proper judicial order, or as provided
28 in subsection (c) of this section, subsection (g) of K.S.A. 17-7511 or 46-
29 1106, it shall be unlawful for the director of taxation, or any deputy, agent,
30 clerk or other officer, employee or former employee of the department
31 of revenue or any other state officer or employee or former state officer
32 or employee to divulge, or to make known in any way, the amount of
33 income or any particulars set forth or disclosed in any report, statement,
34 list, return, federal return or federal return information required under
35 the provisions of article 11 of chapter 79 of the Kansas Statutes Anno-
36 tated; and it shall be unlawful for the director of taxation, or any deputy,
37 agent, clerk or other officer or employee of the department of revenue
38 engaged in the administration of the tax imposed under the provisions of
39 article 11 of chapter 79 of the Kansas Statutes Annotated to engage in
40 the business or profession of tax accounting or to accept employment,
41 with or without consideration, for any person, firm or corporation for the
42 purpose, directly or indirectly, or preparing tax returns or reports re-
43 quired by the laws of the state of Kansas, by any other state or by the

state and local
sales and transient
guest tax revenues
distributed
for repayment of

(a)(1)(D)

February 1, 2005

Testimony to the House Economic Development Committee
Sean Tomb, Research Analyst

House Bill 2010

Representative Lana Gordon, Chair, and Members of the Committee:

House Bill 2010 transfers the responsibility of producing the annual report evaluating the cost effectiveness of sales tax exemptions and income tax credits for economic development from Kansas, Inc. to the Department of Revenue. Kansas, Inc. does not support HB 2010 as currently written and asks the Legislature to create the statutory authority to allow access to the necessary taxpayer information that would allow Kansas, Inc. to perform an independent evaluation of the cost effectiveness of economic development tax incentive programs.

Kansas, Inc. considers its role as the evaluator of economic development programs as important. Kansas, Inc. appreciates the multiple discussions with the Department of Revenue and the Department of Commerce to help determine a valid methodology that is capable of evaluating the economic development tax incentive programs. Given access to the necessary information, Kansas, Inc. could provide an independent assessment of the cost effectiveness of these programs. Currently, Kansas, Inc. is not able to produce this evaluation due to the lack of access to confidential taxpayer information and reliance on a questionnaire, which has had a poor response rate.

The Economic Development Incentive Questionnaire included in the corporate tax booklet was created as an attempt to provide the necessary information to perform the evaluation of the cost effectiveness of economic development tax incentive programs. The questionnaire has been ineffective in providing the necessary information. While corporations are required to submit the questionnaire, there are no penalties for failing to comply. For the tax year 2002 report, Kansas, Inc. received only 31% of the required questionnaires from corporate tax filers participating in economic development income tax credit programs. This poor response rate does not allow Kansas, Inc. to perform a statistically valid evaluation. Kansas, Inc. also had concerns with the information that was provided by questionnaire respondents, as information is self-reported and no mechanism is in place to verify claims.

Kansas, Inc. recognizes the importance of evaluating economic development tax incentive programs to help determine what is and is not working to create jobs, increase investment and lead to economic development in the state. Kansas, Inc. wants to perform this function, but current laws prevent access to the necessary tools to accomplish this task.

In order to properly evaluate the cost effectiveness of economic development tax incentives, Kansas, Inc. needs access to the number of jobs created, wages paid, and investments made as a result of each individual tax incentive program from all taxpayers. This information needs to be provided as a requirement of participating in the tax incentive program. The lack of access to this critical information makes it impossible for Kansas, Inc. to perform a valid evaluation of economic development tax incentives.

1 health care services.

2 *Eleventh.* For all taxable years commencing after December 31, 1998,
3 all property actually and regularly used predominantly to produce and
4 generate electricity or other forms of energy utilizing renewable energy
5 resources or technologies. For purposes of this section, "renewable en-
6 ergy resources or technologies" shall include wind, solar, thermal, pho-
7 tovoltaic, biomass, hydropower, geothermal and landfill gas resources or
8 technologies.

], and the production therefrom.

9 The provisions of this section, except as otherwise more specifically
0 provided, shall apply to all taxable years commencing after December 31,
1 1995.

2 Sec. 2. K.S.A. 2004 Supp. 79-201 is hereby repealed.

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