

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 9:00 A.M. on March 21, 2006 in Room 519-S of the Capitol.

All members were present.

Committee staff present:

Chris Courtwright, Legislative Research Department  
Martha Dorsey, Legislative Research Department  
Gordon Self, Revisor of Statutes  
Rose Marie Glatt, Committee Secretary

Conferees appearing before the committee:

Secretary Joan Wagon, Department of Revenue  
Representative Mario Goico  
Randy Mittner, Executive Officer, Adjutant General's Office  
Annabeth Surbaugh, Chairperson, Johnson County Board of County Commissioners  
Joe Waters, Director, Johnson County Facilities Management  
Sheriff Denning, Johnson County Sheriff  
Marlee Carpenter, KS Chamber of Commerce

Others attending:

See attached list.

The Chairman advised the Committee of the on-going Legislative process regarding Taxation Bills. Room 519-S is reserved for Conference Committees next Monday and Tuesday, however at this time, there are no Taxation Bills in conference, which is a concern for many people involved in the process.

**HB 2983 - Countywide retailers' sales tax for Johnson County for public infrastructure projects.**

Chris Courtwright said that the bill is a county option local sales tax bill. Johnson County would allow Johnson County residents to vote on a sales tax of up to a half cent for needed infrastructure projects.

The Chairman opened the public hearing on **HB 2983.**

Annabeth Surbaugh, Chairperson, Johnson County Board of County Commissioners, said that **HB 2983** responds to increasing space requirements for jails, courts, and other public improvements needed to maintain the quality of life their residents have come to expect. They also support the needed transit improvements for the Kansas City region, as proposed in earlier legislation, however this bill is solely for Johnson County. **HB 2983** gives them the financing mechanism to meet their current and growing demand for public improvements (Attachment 1). She introduced F. Lawrence McAulay, Jr., Director of Legal Services, Hannes Zacharias, Deputy County Manager, and Michael D. Meadors, Director of Parks and Recreation, from Johnson County.

Joe Waters, Director of Facilities for Johnson County, spoke of the challenges in capital projects over the next five years requiring over \$800,000,000 in resources. He described the following projects that are included in the plan: Jail Expansion; Jail Intake Expansion; Crime Lab; Adult Residential Work Sentence Facility; Juvenile Services Building and Juvenile Detention Expansion; New Courthouse; Parks and Recreation; Libraries; Bridges; Roads; Culverts and Assistance; and Transportation. Johnson County has stretched the public resources and **HB 2983** will afford the citizens the opportunity to further diversify those resources through a public vote on an additional sales tax (Attachment 2).

Sheriff Frank Denning, Johnson County Sheriff, described two critical criminal justice projects that must move forward in Johnson County, without delay, to assure public safety of those that work and live in Johnson County (Attachment 3).

CONTINUATION SHEET

MINUTES OF THE House Taxation Committee at 9:00 A.M. on March 21, 2006 in Room 519-S of the Capitol.

The Chairman closed the public hearing on **HB 2983**.

After discussion, hearing no Committee objections to work the bill, the Chairman asked the desire of the Committee.

Representative Huff made a motion to pass out **HB 2983** favorable for passage. Representative Owens seconded the motion. The motion carried.

Gordon Self suggested a technical amendment was in order.

Representative Carlin made a motion to reconsider. Representative Goico seconded. The motion carried.

Representative O'Malley made a technical amendment to place the Johnson County amendments into the correct version of the statutes. Representative Davis seconded the motion. The motion carried.

Representative Huff made a motion to pass out **HB 2983**, as amended, favorable for passage. Representative Owens seconded the motion. The motion carried.

**HB 3017 - Credits for employers who employ certain members of the military**

The Chairman opened the public hearing on **HB 3017** and recognized Representative Goico.

Representative Goico said Representative Lee Tafanelli, had wanted to testify, however, due to time constraints, he would speak for both of them (No written testimony). He briefly reviewed his experiences of serving in the armed forces for 33 years. He said as a commander, he recognized the need to take care of the personnel and their families, especially through the difficult time many veterans experience when they return to civilian life.

**HB 3017** provides a 25% tax credit for employers to hire reservists, who served in active duty and returned without jobs. This bill gives employers an incentive to hire people who may or may not be activated another time. He advised that as they worked the bill, he would offer amendments that would give more specific details to **HB 3017**. He said that this would affect a small number of reservists and added that the fiscal impact would not be large.

Randy Mittner, Executive Officer, Adjutant General's Office, rose in support of **HB 3017**. The Adjutant General requested that he appear to express his support for this type of legislation. He explained several issues that face men and women returning from deployment.

The Chairman closed the public hearing on **HB 3017**. Hearing no objection to work the bill he asked what the Committee would like to do.

Representative Goico made a motion to amend **HB 3017**, to include a cap of \$7,000 for each incident, for a one-year period, and add a three-year sunset. Representative Kelly seconded the motion. The motion carried.

Representative Goico made a motion to pass out **HB 3017**, as amended, favorable for passage. Representative Kelley seconded the motion. The motion carried.

**HB 2618 - Concerning property taxation; relating to exemptions and credits; digital television and radio equipment.**

Representative Brunk reviewed the bill, which had a public hearing on January 26, 2006, and was the result of a federal mandate. The digital part of the bill was very broad and his amendment tightened the statute. The fiscal note would be a loss of revenue of \$170,000 over three fiscal years. If the equipment serves a dual purpose, it would not be subject to this exemption.

CONTINUATION SHEET

MINUTES OF THE House Taxation Committee at 9:00 A.M. on March 21, 2006 in Room 519-S of the Capitol.

Representative Brunk explained a balloon that would insert the date of December 31, 2013, instead of leaving it open ended, and added an accountability piece that would require a report on digital equipment from the Kansas Association of Broadcasters (Attachment 4).

Representative Brunk made a motion to amend his balloon into **HB 2618**. Representative Goico seconded his motion. The motion carried.

Representative Brunk made a motion that the Committee pass out **HB 2618**, as amended, favorable for passage. Representative Siegfroid seconded the motion. The motion carried.

**SB 551 - As amended, would require taxpayers claiming certain tax credits beginning with tax year 2006 to provide information to the Department of Revenue to assist in the evaluation of the effectiveness of the tax credit programs.**

Secretary Wagon, Department of Revenue, explained a joint study comprised of the Department of Revenue and Commerce had occurred last summer to look at the effectiveness of the tax credits (Attachment 5). She introduced Kathleen Smith, Policy Analyst for DOR and David Bybee, Department of Commerce and explained the genesis of the bill and the people who worked on the program.

The bill provides that beginning with tax year 2006, a taxpayer claiming tax credits in the High Performance Incentive Program (HPIP) and the Business and Job Development (B & J) tax credit programs shall provide the needed data for evaluation as a condition for claiming the credits. She explained the spreadsheets attached to her testimony.

A balloon amendment was attached to her testimony that struck language "*applying for certification for such program participation*" and inserted the language "*filing a certificate of intent to invest in a qualified business facility*" on page one, lines 27; 28; 32; 33; 37; 38; 42; 43 and on page two, lines four and five. She called attention to addition language on page two, lines 28 through 30.

It is the intent of the Revenue and Commerce Departments to improve the process to provide an accurate evaluation of which credits are working through the use of multiple indicators.

Marlee Carpenter testified that the Chamber of Commerce had opposed the original version of **SB 551**, however they were neutralized with the amendments. They have not had the opportunity to review all of the amendments at this time (No written testimony).

The Chairman closed the hearing on **SB 551**.

The meeting was adjourned at 10:30 A.M. The next meeting is March 22, 2006.

# HOUSE TAXATION COMMITTEE GUEST LIST

DATE: March 21, 2006

NAME	REPRESENTING
Stuart Little	Johnson County Court.
Hankos Zacharias	Johnson County Court.
Melissa Wangemann	Sec of State
Larry McAuloy	Johnson County
Be Waters	Johnson County
KEN DANIEL	KS SMALL Biz. COM
Hal Hudson	#FIB
John Jeschik	Being
Mailee Carpenter	KS Chamber
Mike Murray	Sprint
LARRY R BAZER	LKW
Erik Santorus	City of Overland Park
Ben Cleaves	DOB
Randy Mettwer	Adjutant General's Dept.
Derek Hein	Hein Law Firm
MERRILL RABER	SELF - NEWTON
Michelle Peterson	Capital Strategies
Harris Lange	Kansas Assn of Broadcasters
Don Murray	Federico Consulting



**BOARD OF COUNTY COMMISSIONERS**  
**JOHNSON COUNTY, KANSAS**

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Testimony in support of HB 2983

presented to the  
House Committee on Taxation

by  
Annabeth Surbaugh  
Chairman, Johnson County Board of County Commissioners

March 21, 2006

\* \* \*

Chairman Wilk and Members of the Committee:

Thank you for the opportunity to testify in support of House Bill 2983, which would allow Johnson County residents to vote on a sales tax of up to a half-cent for needed infrastructure projects.

HB 2983 responds to increasing space requirements for jails, courts, and other public improvements needed to maintain the quality of life our residents have come to expect. Johnson County continues to attract over 10,000 new residents each year, which places an ever-increasing demand on the county for services. The Johnson County Commission has anticipated these needs and has developed a Strategic Facilities Master Plan outlining millions of dollars in building improvements needed over the next two decades, if funding can be secured. Joe Waters, the director of the County's Facilities Management Department, will follow my comments and present specific information on selected projects. It is important to note that these specific building projects are in addition to other critical infrastructure improvements, which include park land acquisition and development, library expansions, as well as basic road, bridge, and other infrastructure work—all of which contribute to retaining and expanding business opportunities throughout the county.

Financing an infrastructure program this ambitious is a significant challenge, even for growing communities like Johnson County. In previous years, the increased assessed valuations on residential and commercial properties could have been used to fuel some of these major building projects. However, since 2001, county valuation increases have fallen significantly short of the double digit increases that were present in the 1990s. In fact, last year Johnson County found it necessary to levy an additional 1.8 mills; of which .82 mills was needed to pay for increased staffing needs (including additional personnel for community corrections) and .75 mills for the construction of a 418-bed expansion to the county jail. We recognize that property taxes may have to increase in the future to pay for increased staffing, but we need to find ways to diversify the tax burden—particularly for basic infrastructure programs—instead of constantly relying on the Johnson County homeowner. A dedicated sales tax would be a good alternative to the continued use of property taxes; however, in order to finance other pressing needs, Johnson County has reached its maximum limit of allowable sales tax under state statute. As a result, we are seeking your assistance in enabling us to put before the voters an additional half-cent sales tax dedicated to infrastructure improvements.

(913) 715-0430

111 SOUTH CHERRY STREET, SUITE 3300  
OLATHE, KANSAS 66061-3486

(913) 715-0440 FAX

House Taxation  
3-21-06  
Attachment 1

I recognize that this committee has already been asked to authorize a half-cent regional sales tax to finance needed transit improvements for the Kansas City region. Please know that we are in support of this legislation and, if the committee chooses to advance that bill, we would welcome the effort. HB 2983, however, is solely for Johnson County and would provide us a tool that would be needed irrespective of the transit issue.

Our capital infrastructure needs will continue to dominate our community-building efforts over the long haul, regardless of whether or not the proposed regional transit tax is enacted. Getting HB 2983 approved is, therefore, critical to give Johnson County the financing mechanism we need to meet our current and, more importantly, our growing demand for public improvements.

We appreciate your careful consideration of our infrastructure needs and urge you to support passage of HB 2983.

Thank you.



**Testimony Before the  
House Committee on Taxation**

**In Support of House Bill 2983**

**Presented on Behalf of  
The Board of County Commissioners  
of Johnson County, Kansas**

**By Joe Waters  
Director of Facilities**

**March 21, 2006**



Good Morning, my name is Joe Waters. I am the Director of Facilities for Johnson County Government, and I appear here today on behalf of the Board of County Commissioners of Johnson County. I appreciate the opportunity to appear before the Committee and to present testimony in support of House Bill 2983.

If enacted, H.B. 2983 will enable Johnson County to place on the ballot for public consideration, a sales tax of up to ½ cent for vital infrastructure capital investments in our community. Our growing population and changing demographics continue to enhance the desirability of our County and State as a place to grow a business and raise a family.

Our challenges in capital projects are significant and our resources are stretched. The County Strategic Facilities Master Plan and our 5 year Capital Improvement Plan call for an investment of \$800,000,000 in buildings, infrastructure and real property acquisition and improvement to meet the challenges of growth and the demands of criminal justice.

Our criminal justice needs are extensive, totaling over \$450,000,000 of the \$800,000,000 total need. The primary projects in the next 5 years are:

- **Jail Expansion** - Large numbers of County inmates are regularly housed in other jurisdictions' facilities due to inadequate detention bed space in Johnson County – 365 as of March 20, 2006. Even after the opening in 2008 of our current 416 bed addition there will still be a significant inmate capacity deficit, therefore an additional 752 bed facility is projected to follow immediately.
- **Jail Intake Expansion** - Major renovation is needed in order to manage the intake and processing of a jail population that today is *4 times* greater than what it was designed to manage.
- **Crime Lab** - This important function is increasingly at the center of the criminal investigation process and important new technologies are assuming an ever-larger role in law enforcement. The lab currently occupies inadequate space in a vulnerable public building today but nearly *5 times the space is needed* in a dedicated, secure laboratory setting in order to meet the needs of law enforcement and the growing expectations of the public in our urban metropolitan setting.
- **Adult Residential Work Sentence Facility** – A 250 bed facility for sentenced individuals is projected that will provide closely supervised rehabilitation programs and work opportunities, similar to the programs already in place for probation clients in our County Corrections Department Adult Residential Centers.
- **Juvenile Services Building and Juvenile Detention Expansion** – Increasing average daily population that exceeds the capacity in our Juvenile Detention program and deteriorating conditions require that additional juvenile beds be constructed. A Juvenile Services building is needed that will house the Juvenile Intake and Assessment Center and detention annex.
- **New Courthouse** - The County Courthouse is significantly overcrowded and compromised by security concerns. Courts-related services have been forced out of the building in recent years due to overcrowding. The building is functionally obsolete, becoming a daily obstacle to the criminal justice process. Additional investment in the building for the courts is ill advised, and a new Courthouse is needed.





As significant as the needs are in criminal justice, demands on other County programs have also stretched our buildings and properties to their limits. \$150,000,000 of the \$800,000,000 total is required in the next 5 years to address these needs, including:

- **Parks & Recreation** – After extensive public input the District adopted a \$192 million dollar Master Action Plan – Map 2020. Over an extended period of time, this plan will bring Johnson County into comparable standards with other communities around the country. The District parks are heavily used and much appreciated by the community. However, significant investment in additional park land, improvements to aging and heavily used facilities and development of park land (including recreation centers) is needed to continue this success into the future.
- **Libraries** – The library system is nationally recognized for excellence and heavily used by our citizens. Funding restrictions have not allowed for the creation of a needed branch library serving western Johnson County or the expansion and improvements to existing libraries that are severely overused today.

Transportation systems in Johnson County are burdened with a constantly increasing demand from private and corporate citizens. The demands on our systems are projected to be \$200,000,000 of the \$800,000,000 total needed in the next 5 years. Major requirements include:

- **Bridges, Roads, Culverts and Assistance** – As Johnson County becomes more developed and more urbanized, public expectations in both the incorporated and unincorporated areas of the County have increased along with the increases in traffic. Funding has not been able to keep pace with the combination of increasing construction costs and increasing expectations of our citizens, business owners and our partner cities.
- **Transportation** – Congestion along Interstate 35 is an increasing hazard, a potential hindrance to economic development and a factor in the attempts in the metropolitan area to deal with air quality non-compliance. With State and Federal support, alternatives are being analyzed to mitigate traffic in the corridor. Specific solutions have not been fully assessed and no decisions have been made, however the scope and magnitude of the work will clearly exceed the County's current resources.

Johnson County Government has stretched the public resources as effectively as possible, H.B. 2983 will afford the citizens the opportunity to further diversify those resources through a public vote on an additional sales tax. I urge this Committee to support H.B. 2983 and urge its passage by the Legislature.

Thank you for your time and will be happy to answer any questions you may have.



OFFICE OF THE  
Johnson County Sheriff

*Courthouse*  
125 N. Cherry  
Olathe, Kansas 66061

Frank Denning  
Sheriff

*Telephone*  
913-791-5800

*Fax*  
913-791-5806

David Burger  
Undersheriff

Kevin Cavanaugh  
Undersheriff

To: Chairperson Wilk, Vice-chairperson Huff, and distinguished members of the House Taxation Committee.

From: Frank P. Denning, Sheriff  
Johnson County Sheriff's Office,  
Olathe, Kansas 66061  
(913) 791-5801

Date: March 21, 2006

Chairperson Wilk and Committee Members,

My name is Frank Denning and I am the Sheriff of Johnson County Kansas. Thank you for allowing me to testify this morning in support of House Bill 2983. I would like to briefly describe two Sheriff's Office capital projects that impact the public safety of those who live and work in Johnson County.

First, the Johnson County Sheriff's Office has an immediate need for additional jail bed space to handle the growing inmate population in Johnson County. Presently the Sheriff's Office has two detention centers with a combined capacity of 533 beds. Our average daily inmate population is routinely above 875 inmates, so this requires that I board out over 340 inmates to a variety of county jails in Kansas. Analysis conducted by Carter Goble Associates in 2005 indicated that Johnson County will require 1,376 inmate beds by the year 2010. Having adequate jail bed space is a fundamental necessity if we are to maintain public safety in our communities.

Second, advancements in DNA analysis have yielded a powerful tool that the criminal justice system uses to identify perpetrators of crimes, and hold them accountable for their criminal conduct. Most of us have read about or heard of crimes being solved through the proper collection of DNA evidence left at the scene of a crime. The Sheriff's Office current criminalistic laboratory is overcrowded and further expansion is not a viable alternative. The Johnson County Sheriff's Office has an urgent need for a new criminalistics laboratory that is properly staffed and equipped to handle the tremendous growth in DNA processing and analysis.



OFFICE OF THE  
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125 N. Cherry  
Olathe, Kansas 66061

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Undersheriff

Kevin Cavanaugh  
Undersheriff

Jail expansion and a new criminalistics laboratory are just two of the critical criminal justice projects that must move forward in Johnson County without delay. The decision to increase sale tax by .5 percent to fund public safety infrastructure should be left up to Johnson County voters. I encourage you to support House Bill 2983 and am happy to stand for any questions you may have regarding my testimony.

A handwritten signature in blue ink that reads "Frank Denning". The signature is stylized and cursive.

Sheriff Frank Denning

## HOUSE BILL No. 2618

By Committee on Taxation

1-17

*; amending K.S.A. 2005 Supp. 79-213 and repealing the existing section.*

9 AN ACT concerning property taxation; relating to exemptions and cred-  
10 its; digital television and radio equipment

11

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

13 Section 1. (a) The following described property, to the extent spec-  
14 ified by this section, shall be exempt from all property or ad valorem taxes  
15 levied under the laws of the state of Kansas:

16 Digital television equipment acquired on or after January 1, 2006, shall  
17 be exempt from assessment until the following December 31 after the  
18 federal communications commission has ended the broadcast of analog  
19 television signals by all commercial television stations in Kansas.

20 (b) Television broadcasters shall receive a credit from the county  
21 treasurer of the county in which the property is located, to apply only  
22 towards payment of the broadcaster's personal property taxes, in an  
23 amount equal to the broadcaster's personal property taxes on digital tel-  
24 evision equipment acquired prior to January 1, 2006, multiplied by one  
25 minus the digital television fraction. The digital television fraction shall  
26 be a fraction the numerator of which is the total number of digital tele-  
27 vision sets in the United States and the denominator of which is an  
28 amount representing the total television sets in the United States as of  
29 the assessment date. The digital television fraction will be determined on  
30 an annual basis based upon sales data reported by the consumer elec-  
31 tronics association or other national organization acceptable to the de-  
32 partment of revenue. The Kansas association of broadcasters shall pro-  
33 vide, by July 1 of each year, to the department an estimate of the digital  
34 television fraction as of the preceding January 1. The department shall  
35 communicate such estimate to each county appraiser. The credit shall not  
36 be applicable to years after the federal communications commission has  
37 ended the broadcast of analog television signals by all full power com-  
38 mercial television stations in Kansas.

39 (c) As used in this section, "digital television equipment" means all  
40 items of tangible personal property that are used directly or indirectly in  
41 broadcasting television shows or commercials through the use of digital  
42 technology including studio broadcast equipment, transmitter and an-  
43 tenna equipment and broadcast towers.

1 Sec. 2. (a) The following described property, to the extent specified  
2 by this section, shall be exempt from all property or ad valorem taxes  
3 levied under the laws of the state of Kansas:

4 Digital radio equipment acquired on or after January 1, 2006, shall be  
5 exempt from assessment until the following December 31 after more than  
6 50% of the radio sets in the United States are capable of receiving the  
7 digital radio signal.

December 31, 2013, or

8 (b) Radio broadcasters shall receive a credit from the county treas-  
9 urer of the county in which the property is located to apply only towards  
10 payment of the radio broadcaster's personal property taxes in an amount  
11 equal to the personal property taxes on the radio broadcaster's digital  
12 radio equipment acquired prior to January 1, 2006, multiplied by one  
13 minus the digital radio fraction. The digital radio fraction shall be a frac-  
14 tion, the numerator of which is the total number of digital radio sets in  
15 the United States and the denominator of which is an amount repre-  
16 senting the total radio sets in the United States as of the assessment date.  
17 The digital radio fraction will be determined on an annual basis based  
18 upon sales data reported by the consumer electronics association or other  
19 national organization acceptable to the department of revenue. The Kan-  
20 sas association of broadcasters shall provide, by July 1 of each year until  
21 more than 50% of the radio sets in the United States are capable of  
22 receiving the digital radio signal, ~~to the department an estimate of the~~  
23 ~~fraction as of the preceding January 1. The department shall communi-~~  
24 ~~cate such estimate to each county appraiser.~~

, whichever comes first.

, to the department an estimate of the digital radio fraction as of the preceding January 1. The department shall communicate such estimate to each county appraiser. The credit shall not be applicable to years after December 31, 2013 or

whichever comes first.

25 (c) As used in this section, "digital radio equipment" means all items  
26 of tangible personal property that are used directly or indirectly in broad-  
27 casting radio programs or commercials through the use of digital tech-  
28 nology including studio broadcast equipment, transmitter and antenna  
29 equipment and broadcast towers.

30 Sec. 3. This act shall take effect and be in force from and after its  
31 publication in the Kansas register.

Sec. 3 (see attached)

### **Proposed Amendment to HB 2618**

(Purpose is to allow county appraisers to remove digital equipment from the tax rolls without having an exemption application filed with the Board of Tax Appeals.)

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Sec 3. K.S.A. 2005 Supp. 79-213 is hereby amended to read as follows: K.S.A. 79-213.

(a) Any property owner requesting an exemption from the payment of ad valorem property taxes assessed, or to be assessed, against their property shall be required to file an initial request for exemption, on forms approved by the board of tax appeals and provided by the county appraiser.

(b) The initial exemption request shall identify the property for which the exemption is requested and state, in detail, the legal and factual basis for the exemption claimed.

(c) The request for exemption shall be filed with the county appraiser of the county where such property is principally located.

(d) After a review of the exemption request, and after a preliminary examination of the facts as alleged, the county appraiser shall recommend that the exemption request either be granted or denied, and, if necessary, that a hearing be held. If a denial is recommended, a statement of the controlling facts and law relied upon shall be included on the form.

(e) The county appraiser, after making such written recommendation, shall file the request for exemption and the recommendations of the county appraiser with the board of tax appeals.

(f) Upon receipt of the request for exemption, the board shall docket the same and notify the applicant and the county appraiser of such fact.

(g) After examination of the request for exemption, and the county appraiser's recommendation related thereto, the board may fix a time and place for hearing, and shall notify the applicant and the county appraiser of the time and place so fixed. A request for exemption pursuant to: (1) Section 13 of article 11 of the Kansas constitution; or (2) K.S.A. 79-201a *Second*, and amendments thereto, for property constructed or purchased, in whole or in part, with the proceeds of revenue bonds under the authority of K.S.A. 12-1740 to 12-1749, inclusive, and amendments thereto, prepared in accordance with instructions and assistance which shall be provided by the department of commerce, shall be deemed approved unless scheduled for hearing within 30 days after the date of receipt of all required information and data relating to the request for exemption, and such hearing shall be conducted within 90 days after such date. Such time periods shall be determined without regard to any extension or continuance allowed to either party to such request. In any case where a party to such request for exemption requests a hearing thereon, the same shall be granted. Hearings shall be conducted in accordance with the provisions of the Kansas administrative procedure act. In all instances where the board sets a request for exemption for hearing, the county shall be represented by its county attorney or county counselor.

(h) Except as otherwise provided by subsection (g), in the event of a hearing, the same shall be originally set not later than 90 days after the filing of the request for exemption with the board.

(i) During the pendency of a request for exemption, no person, firm, unincorporated association, company or corporation charged with real estate or personal property taxes pursuant to K.S.A. 79-2004 and 79-2004a, and amendments thereto, on the tax books in the hands of the county treasurer shall be required to pay the tax from the date the request is filed with the county appraiser until the expiration of 30 days after the board issued its order thereon and the same becomes a final order. In the event that taxes have been assessed against the subject property, no interest shall accrue on any unpaid tax for the year or years in question nor shall the unpaid tax be considered delinquent from the date the request is filed with the county appraiser until the expiration of 30 days after the board issued its order thereon. In the event the board determines an application for exemption is without merit and filed in bad faith to delay the due date of the tax, the tax shall be considered delinquent as of the date the tax would have been due pursuant to K.S.A. 79-2004 and 79-2004a, and amendments thereto, and interest shall accrue as prescribed therein.

(j) In the event the board grants the initial request for exemption, the same shall be effective beginning with the date of first exempt use except that, with respect to property the construction of which commenced not to exceed 24 months prior to the date of first exempt use, the same shall be effective beginning with the date of commencement of construction.

(k) In conjunction with its authority to grant exemptions, the board shall have the authority to abate all unpaid taxes that have accrued from and since the effective date of the exemption. In the event that taxes have been paid during the period where the subject property has been determined to be exempt, the board shall have the authority to order a refund of taxes for the year immediately preceding the year in which the exemption application is filed in accordance with subsection (a).

(l) The provisions of this section shall not apply to: (1) Farm machinery and equipment exempted from ad valorem taxation by K.S.A. 79-201j, and amendments thereto; (2) personal property exempted from ad valorem taxation by K.S.A. 79-215, and amendments thereto; (3) wearing apparel, household goods and personal effects exempted from ad valorem taxation by K.S.A. 79-201c, and amendments thereto; (4) livestock; (5) hay and silage exempted from ad valorem taxation by K.S.A. 79-201d, and amendments thereto; (6) merchants' and manufacturers' inventories exempted from ad valorem taxation by K.S.A. 79-201m and amendments thereto; (7) grain exempted from ad valorem taxation by K.S.A. 79-201n, and amendments thereto; (8) property exempted from ad valorem taxation by K.S.A. 79-201a *Seventeenth* and amendments thereto, including all property previously acquired by the secretary of transportation or a predecessor in interest, which is used in the administration, construction, maintenance or operation of the state system of highways. The secretary of transportation shall at

the time of acquisition of property notify the county appraiser in the county in which the property is located that the acquisition occurred and provide a legal description of the property acquired; (9) property exempted from ad valorem taxation by K.S.A. 79-201a *Ninth*, and amendments thereto, including all property previously acquired by the Kansas turnpike authority which is used in the administration, construction, maintenance or operation of the Kansas turnpike. The Kansas turnpike authority shall at the time of acquisition of property notify the county appraiser in the county in which the property is located that the acquisition occurred and provide a legal description of the property acquired; (10) aquaculture machinery and equipment exempted from ad valorem taxation by K.S.A. 79-201j, and amendments thereto. As used in this section, "aquaculture" has the same meaning ascribed thereto by K.S.A. 47-1901, and amendments thereto; (11) Christmas tree machinery and equipment exempted from ad valorem taxation by K.S.A. 79-201j, and amendments thereto; (12) property used exclusively by the state or any municipality or political subdivision of the state for right-of-way purposes. The state agency or the governing body of the municipality or political subdivision shall at the time of acquisition of property for right-of-way purposes notify the county appraiser in the county in which the property is located that the acquisition occurred and provide a legal description of the property acquired; (13) machinery, equipment, materials and supplies exempted from ad valorem taxation by K.S.A. 79-201w, and amendments thereto; (14) vehicles owned by the state or by any political or taxing subdivision thereof and used exclusively for governmental purposes; (15) property used for residential purposes which is exempted pursuant to K.S.A. 79-201x from the property tax levied pursuant to K.S.A. 72-6431, and amendments thereto; (16) from and after July 1, 1998, vehicles which are owned by an organization having as one of its purposes the assistance by the provision of transit services to the elderly and to disabled persons and which are exempted pursuant to K.S.A. 79-201 *Ninth*; ~~and~~ (17) from and after July 1, 1998, motor vehicles exempted from taxation by subsection (e) of K.S.A. 79-5107, and amendments thereto; *and digital television and digital radio equipment which is exempted from property taxation pursuant to sections 1 and 2 of this act, and amendments thereto.*

(m) The provisions of this section shall apply to property exempt pursuant to the provisions of section 13 of article 11 of the Kansas constitution.

(n) The provisions of subsection (k) as amended by this act shall be applicable to all exemption applications filed in accordance with subsection (a) after December 31, 2001.





# K A N S A S

JOAN WAGNON, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

DEPARTMENT OF REVENUE  
OFFICE OF THE SECRETARY

Testimony to the House Taxation Committee  
Joan Wagon

March 21, 2006  
**Senate Bill 551**

Representative Wilk and Members of the Committee:

Senate Bill 551, as amended, provides that beginning with tax year 2006, a taxpayer claiming tax credits under the High Performance Incentive Program (HPIP) shall provide the following information on the income tax return, as a condition for claiming those credits, if the taxpayer has previously submitted an estimate of this information to the Department of Commerce as part of the certification for HPIP participation:

actual jobs created as a direct result of the expenditures on which such credit claim is based;

additional payroll generated as a direct result of the expenditures on which such credit claim is based;

actual jobs retained as a direct result of the expenditures on which such credit claim is based;

additional revenue generated as a direct result of the expenditures on which such credit claim is based;

additional sales generated as a direct result of the expenditures on which such credit claim is based;

Credits cannot be denied solely on the basis of the information provided. We will coordinate with Department of Commerce, so that Commerce requests the above information during the HPIP certification process, if not already being requested. Attached is a balloon amendment to the bill requested by Department of Commerce to facilitate that process, which we support.

Also under the bill, beginning with tax year 2006, taxpayers claiming tax credits under the High Performance Incentive Program (HPIP) or the Business and Job Development (B&J) Program shall provide the following information on their income tax returns, as a condition for claiming those credits:

total employment and payroll at the end of the tax year in which the credits are claimed.

The High Performance Incentive Program has two components: the Training and Education Credit (training costs exceeding 2% of payroll) is found under K.S.A. 74-50,132, and the Investment Tax Credit (10% of investment in a qualified business facility by qualifying firms) is found under K.S.A. 79-32,160a(e). The Business and Job Development Credit (1% of investment by qualifying firms) can be found under K.S.A. 79-32,153 et seq. and K.S.A. 79-32,160a.

K.S.A. 74-99b35 directs the Department of Revenue to prepare an annual report to the Legislature evaluating the cost effectiveness of various economic development-related income tax credits and sales tax exemptions, beginning in January 2006. We recently presented the first report (attached) to this House Committee on Economic Development, Senate Committee on Assessment and Taxation, and Senate Commerce Committee. We were previously scheduled to present this information to the House Taxation Committee, but time did not permit the presentation. An informal working group known as the Incentives Advisory Group met last June and November, in order to develop a framework for this report. This group consisted of the Secretaries of Revenue and Commerce and staff, Kansas Inc. President and staff, majority and minority legislators from the Senate Committee on Assessment and Taxation, House Tax Committee, Senate Commerce Committee, and House Committee on Economic Development, Legislative Research staff, Legislative Post Audit, and economists Bart Hildreth and Art Hall.

In developing the report framework, the group identified the following Key Performance Indicators as providing information needed to evaluate the business tax incentive programs:

- Jobs Created
- Jobs Retained
- Capital Investment Generated
- Revenue/Sales Generated
- Payroll Generated.

Departments of Revenue and Commerce exchanged data to complete the information columns of the report, but as evidenced by the blank columns shown in the attached report on the HPIP and B&J tax credits, much of the data needed to evaluate these incentive programs is not available. Current tax returns do not require taxpayers to provide this data.

Under prior (but now repealed) legislation, corporate taxpayers were supposed to complete and return questionnaires about their participation in tax credit programs. The Department of Revenue then forwarded the questionnaire responses to Kansas Inc., for completing an evaluation report. Only a small number of corporate taxpayers completed the questionnaires, rendering information on the few completed ones useless for program evaluation purposes.

The group recommended that legislation be proposed requiring taxpayers to disclose needed data for evaluation of the HPIP and B & J tax credit programs, as a condition for claiming the credits. House Bill 551 is the culmination of that recommendation. Unless we have a statutory requirement that a taxpayer claiming the tax credit provide evaluation information as a condition for claiming the credit, we can expect continued difficulty in obtaining this valuable information. We cannot provide a useful report, pursuant to K.S.A. 74-99b35, without it.



Kansas Tax Credits  
Tax Year 2003

5-4

Program Name	Statutory Reference	Description	Number of Filers	Tax Expenditure	Projected Jobs Created	Actual Jobs Created	Projected Jobs Retained	Actual Jobs Retained	Projected Capital Investment Generated	Actual Capital Investment Generated	Projected Revenue/Sales Generated	Actual Revenue/Sales Generated	Projected Payroll Generated	Actual Payroll Generated
Business and Job Development Credit	K.S.A. 79-32,153	Any taxpayer that invests in a qualified business facility and hires at least two employees as a result of that investment may be eligible for an investment tax credit of \$100 for every \$100,000 of investment made and a job creation tax credit of \$100 for every qualified business facility employee.												
	K.S.A. 79-32,160a	Any taxpayer that meets the definition of business in K.S.A. 74-50,114(b), that invests in a qualified business facility and hires a minimum number of employees as a result of that investment may be eligible for an investment tax credit of \$1,000 for every \$100,000 of investment made and a job creation tax credit of at least \$1,500 for every qualified business facility employee.												
Income Taxpayers		Sector 11-Agriculture, Forestry, Fishing and Hunting and Sector 21-Mining	16	\$56,016		89				\$15,812,349				
		Sector 23-Construction	36	\$317,436		190				\$7,367,506				
		Sector 31-33-Manufacturing	163	\$2,081,386		1,390				\$52,889,544				
		Sector 42-Wholesale Trade	20	\$255,624		174				\$13,545,331				
		Sector 44-45-Retail Trade	105	\$1,665,832		10,258				\$746,153,936				
		Sector 48-49-Transportation and Warehousing	10	\$462,952		135				\$24,385,434				
		Sector 52-Finance and Insurance	7	\$37,306		101				\$7,771,651				
		Sector 54-Professional, Scientific, and Technical Services	78	\$997,362		730				\$81,639,937				
Privilege Taxpayers		Sector 52-Finance and Insurance	49	\$118,034		651				\$70,963,648				
<b>Total Business and Job Development Credits</b>			<b>484</b>	<b>\$5,991,948</b>		<b>13,718</b>				<b>\$1,020,529,336</b>				

Kansas Tax Credits  
Tax Year 2003

Program Name	Statutory Reference	Description	Number of Filers	Tax Expenditure
Research and Development Credit	K.S.A. 79-32,182b	A taxpayer with qualifying expenditures in research and development activities conducted within Kansas may be eligible to receive a credit of 6 1/2% of the amount expended for research.		
Income Taxpayers		Sector 31-33-Manufacturing and Sector 48-49-Transportation and Warehousing	37	\$187,086
		Sector 42-Wholesale Trade	18	\$175,382
		Sector 44-45-Retail Trade	5	\$11,357
		Sector 51-Information	6	\$36,808
		Sector 52-Finance and Insurance, Sector 54-Professional, Scientific, and Technical Services, and Sector 55-Management of Companies and Enterprises	6	\$17,954
		Sector 61-Educational Services and Other	5	\$37,474
<b>Total Research and Development Credit</b>			<b>77</b>	<b>\$466,061</b>
Business Machinery and Equipment Credit	K.S.A. 79-32,206	A credit may be allowed based on a percentage of the personal property tax levied and paid on commercial and industrial machinery and equipment classified for property taxation purposes pursuant to section 1 of article 11 of the Kansas Constitution in subclass (5) or (6) of class 2, and machinery and equipment classified for such purposes in subclass (2) of class 2.		
Income Taxpayers			14,715	\$18,450,047
Privilege Taxpayers			343	\$519,765
<b>Total Business Machinery and Equipment Credit</b>			<b>15,058</b>	<b>\$18,969,812</b>

Kansas Tax Credits  
Tax Year 2003

Program Name	Statutory Reference	Description	Number of Filers	Tax Expenditure
Abandoned Well Plugging Credit	K.S.A. 79-32,207	A taxpayer that makes expenditures to plug an abandoned oil or gas well on their land may be eligible for a credit of 50% of the amount expended.		
Income Taxpayers			*CONFIDENTIAL	
<b>Total Abandoned Well Plugging Credit</b>			<b>*CONFIDENTIAL</b>	
Adoption Credit	K.S.A. 79-32,202	<p><b>General Adoption Credit</b> Residents of Kansas who adopt a child can receive a credit of 25% of the adoption credit allowed against the federal income tax liability on the federal return.</p> <p><b>Special Needs/SRS Custody Adoption Credit</b> A \$1,500 credit is available for those Kansas residents that adopt a special needs child or a child in the custody of the secretary of Social and Rehabilitation Services.</p>		
Income Taxpayers			374	\$391,187
<b>Total Adoption Credit</b>			<b>374</b>	<b>\$391,187</b>
Agricultural Loan Interest Reduction Credit	K.S.A. 79-32,181a K.S.A. 79-1126a	A taxpayer which extends or renews an agricultural production loan at least one whole percentage point less than the prime interest rate on loans with equivalent collateral can receive a credit against their tax liability.		
Income Taxpayers			0	\$0
Privilege Taxpayers			*CONFIDENTIAL	
<b>Total Agricultural Loan Interest Reduction Credit</b>			<b>0</b>	<b>\$0</b>

Kansas Tax Credits  
Tax Year 2003

Program Name	Statutory Reference	Description	Number of Filers	Tax Expenditure
Alternative Fuel Tax Credit	K.S.A. 79-32,201	A credit is allowed for any individual, association, partnership, limited liability company, limited partnership, or corporation that makes expenditures for a qualified alternative-fueled motor vehicle licensed in the state of Kansas or that makes expenditures for a qualified alternative-fuel fueling station.		
Income Taxpayers			16	\$12,666
<b>Total Alternative Fuel Tax Credit</b>			<b>16</b>	<b>\$12,666</b>
Child Day Care Assistance Credit	K.S.A. 79-32,190	A taxpayer may be eligible for a credit if they pay for child day care services for its employees children, locate child day care services for the employees children, or provide facilities and necessary equipment for child day care services for its employees children.		
Income Taxpayers			20	\$47,799
Privilege Taxpayers			0	\$0
<b>Total Child Day Care Assistance Credit</b>			<b>20</b>	<b>\$47,799</b>
Community Service Contribution Credit	K.S.A. 79-32,197	Any business firm which contributes to an approved community service organization engaged in providing community services may be eligible to receive a tax credit of at least 50% of the total contribution made.		
Income Taxpayers			1,298	\$2,671,448
Privilege Taxpayers			35	\$480,040
<b>Total Community Service Contribution Credit</b>			<b>1,333</b>	<b>\$3,151,488</b>

Kansas Tax Credits  
Tax Year 2003

Program Name	Statutory Reference	Description	Number of Filers	Tax Expenditure
Disabled Access Credit	K.S.A. 79-32,175 K.S.A. 79-1117	Individual and business taxpayers that incur certain expenditures to make their property accessible to the disabled may be eligible to receive a credit.		
Income Taxpayers			130	\$159,868
Privilege Taxpayers			*CONFIDENTIAL	
<b>Total Disabled Access Credit</b>			<b>130</b>	<b>\$159,868</b>
Habitat Management Credit	K.S.A. 79-32,203	An income tax credit is allowed for a property owner that pays property taxes and assessments on property designated as a critical habitat.		
Income Taxpayers			*CONFIDENTIAL	
<b>Total Habitat Management Credit</b>			<b>*CONFIDENTIAL</b>	
Historic Preservation Credit	K.S.A. 79-32,211	An income tax credit is allowed for expenditures incurred in the restoration and preservation of a qualified historic structure.		
Income Taxpayers			77	\$1,547,705
Privilege Taxpayers			8	\$891,000
<b>Total Historic Preservation Credit</b>			<b>85</b>	<b>\$2,438,705</b>
Single City Port Authority Credit	K.S.A. 79-32,212	An income tax credit is allowed equal to 100% of the amount attributable to the retirement of indebtedness authorized by a single city port authority established before January 1, 2002.		
Income Taxpayers			*CONFIDENTIAL	
<b>Total Single City Port Authority Credit</b>			<b>*CONFIDENTIAL</b>	



Kansas Tax Credits  
Tax Year 2003

Program Name	Statutory Reference	Description	Number of Filers	Tax Expenditure
Small Employer Health Benefit Plan Credit	K.S.A. 40-2246	An income tax credit is allowed for any small employer establishing a small employer health benefit plan for the purpose of providing a health benefit plan.		
Income Taxpayers			87	\$130,491
<b>Total Small Employer Health Benefit Plan Credit</b>			<b>87</b>	<b>\$130,491</b>
Swine Facility Improvement Credit	K.S.A. 79-32,204	An income tax credit of 50% of the cost incurred is allowed for a taxpayer making required improvements to a qualified swine facility.		
Income Taxpayers			0	\$0
<b>Total Swine Facility Improvement Credit</b>			<b>0</b>	<b>\$0</b>
Telecommunications Credit	K.S.A. 79-32,210	A credit for property tax paid by telecommunications companies is allowed on property initially acquired and first placed in service after January 1, 2001 that has an assessment rate of 33%. The credit is equal to the amount of property taxes timely paid for the difference between an assessment level of 25% and the actual assessment of 33%.		
Income Taxpayers			146	\$444,837
<b>Total Telecommunications Credit</b>			<b>146</b>	<b>\$444,837</b>
Temporary Assistance to Families Contribution Credit	K.S.A. 79-32,200 K.S.A. 39-7,132	Any individual, corporation, partnership, trust, estate and other legal entity who enters into an agreement with the Secretary of Social and Rehabilitation Services to provide financial support to a person who receives Temporary Assistance for Families (TAF) is allowed a credit of 70% of the amount of financial assistance given.		
Income Taxpayers			0	\$0
<b>Total Temporary Assistance to Families Contribution Credit</b>			<b>0</b>	<b>\$0</b>

Kansas Tax Credits  
Tax Year 2003

Program Name	Statutory Reference	Description	Number of Filers	Tax Expenditure
Venture Capital Credits and Local Seed Capital Credits	K.S.A. 74-8205 K.S.A. 74-8304 K.S.A. 74-8401 K.S.A. 74-8316	A 25% tax credit shall be allowed for those taxpayers that invest in stock issued by Kansas Venture Capital, Inc., certified Kansas venture capital companies, certified local seed capital pools, or Sunflower Technology Venture, LP.		
Income Taxpayers			5	\$26,863
Privilege Taxpayers			0	\$0
<b>Total Venture Capital Credits and Local Seed Capital Credits</b>			<b>5</b>	<b>\$26,863</b>
*CONFIDENTIAL - This information is confidential as there are less than 5 filers. This information is not included in the total.				

SENATE BILL No. 551

By Committee on Commerce

2-13

10 AN ACT concerning tax credits; relating to reporting requirements as a  
11 condition of claiming certain tax credits; amending K.S.A. 74-50,132  
12 and K.S.A. 2005 Supp. 79-32,153 and 79-32,160a and repealing the  
13 existing sections.

14  
15 *Be it enacted by the Legislature of the State of Kansas:*

16 New Section 1. (a) For tax years commencing after December 31,  
17 2005, any taxpayer claiming credits pursuant to K.S.A. 74-50,132, 79-  
18 32,153 or 79-32,160a, and amendments thereto, ~~shall~~, as a condition for  
19 claiming and qualifying for such credits, **shall** provide the following in-  
20 formation as part of the tax return, in which such credits are claimed,  
21 which shall be used by the department of **revenue** in evaluating the  
22 effectiveness of such tax credit programs, pursuant to K.S.A. 74-99b35,  
23 and amendments thereto:

24 (a) (1) Actual jobs created as a direct result of the expenditures on  
25 which such credit claim is based, **if the taxpayer has previously sub-**  
26 **mitted an estimate of such number of actual jobs created to the**  
27 **department of commerce as a part of applying for certification for**  
28 **such program participation;**

29 (b) (2) additional payroll generated as a direct result of the expend-  
30 itures on which such credit claim is based, **if the taxpayer has previ-**  
31 **ously submitted an estimate of such amount of additional payroll**  
32 **generated to the department of commerce as a part of applying for**  
33 **certification for such program participation;**

34 (c) (3) actual jobs retained as a direct result of the expenditures on  
35 which such credit claim is based, **if the taxpayer has previously sub-**  
36 **mitted an estimate of actual jobs retained to the department of com-**  
37 **merce as a part of applying for certification for such program**  
38 **participation;**

39 (d) (4) additional revenue generated as a direct result of the expend-  
40 itures on which such credit claim is based, **if the taxpayer has previ-**  
41 **ously submitted an estimate of such amount of additional revenue**  
42 **generated to the department of commerce as a part of applying for**  
43 **certification for such program participation;**

filing a certificate  
of intent to invest  
in a qualified  
business facility

filing a certificate  
of intent to invest  
in a qualified  
business facility

1     ~~(e)~~ (5) additional sales generated as a direct result of the expenditures  
2 on which such credit claim is based, **if the taxpayer has previously**  
3 **submitted an estimate of additional sales generated to the depart-**  
4 **ment of commerce as a part of applying for certification for program**  
5 **participation;** and

6     ~~(f)~~ (6) total employment and payroll at the end of the tax year in  
7 which the credits are claimed.

8     **(b) Such credits specified in subsection (a) shall not be denied**  
9 **solely on the basis of the information provided by the taxpayer pur-**  
10 **suant to subsections (a)(1) through (a)(6).**

11     Sec. 2. K.S.A. 74-50,132 is hereby amended to read as follows: 74-  
12 50,132. (a) For taxable years commencing after December 31, 1997, a  
13 qualified firm shall be entitled to a credit against the tax imposed by the  
14 Kansas income tax act, the premium tax or privilege fee imposed pursuant  
15 to K.S.A. 40-252, and amendments thereto or the privilege tax as meas-  
16 ured by net income of financial institutions imposed pursuant to chapter  
17 79, article 11 of the Kansas Statutes Annotated in an amount equal to the  
18 portion of the qualified business facility cash investment in the training  
19 and education of the firm's employees that exceeds 2% of the firm's total  
20 payroll costs. The maximum amount of the credit that may be claimed  
21 by a single corporate taxpayer in any single tax year under this section  
22 shall not exceed \$50,000. Tax credits earned by a qualified business under  
23 this section must be claimed in their entirety in the tax year eligible.

24     **(b) For tax years commencing after December 31, 2005, any taxpayer**  
25 **claiming credits pursuant to this section shall, as a condition for claiming**  
26 **and qualifying for such credits, shall provide information pursuant to**  
27 **section 1, and amendments thereto, as part of the tax return in which**  
28 **such credits are claimed. Such credits shall not be denied solely on**  
29 **the basis of the contents of the information provided by the taxpayer**  
30 **pursuant to section 1, and amendments thereto.**

31     Sec. 3. K.S.A. 2005 Supp. 79-32,153 is hereby amended to read as  
32 follows: 79-32,153. (a) For taxable years commencing after December 31,  
33 1997, any taxpayer who shall invest in a qualified business facility, as  
34 defined in subsection (b) of K.S.A. 79-32,154, and amendments thereto,  
35 shall be allowed a credit for such investment, in an amount determined  
36 under subsection (b) against the tax imposed by the Kansas income tax  
37 act, the premium tax or privilege fees imposed pursuant to K.S.A. 40-  
38 252, and amendments thereto or the privilege tax as measured by net  
39 income of financial institutions imposed pursuant to chapter 79, article  
40 11 of the Kansas Statutes Annotated for the taxable year during which  
41 commencement of commercial operations, as defined in subsection (f) of  
42 K.S.A. 79-32,154, and amendments thereto, occurs at such qualified busi-  
43 ness facility, and for each of the nine succeeding taxable years. No credit