

## MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE

The meeting was called to order by Chairman Barbara Allen at 10:40 A.M. on February 20, 2006 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  
Judy Swanson, Secretary

Conferees appearing before the committee:

Others attending:

See attached list.

**SB 365, enacting the Kansas estate tax act** was discussed. Senator Bruce reviewed the sub-committee report which included tax brackets and rates. (Attachment 1) He reported the proposed bill would be revenue neutral. The estate tax will expire in 2010, and raises the estate tax in the upper brackets to make up for the loss in the lower brackets. Steve Stotts, KDOR, said they based the proposed figures on 2004 and 2005 tax years. The bill gives favorable treatment to farmers because it is based on land use, not land value.

Allie Devine, Kansas Livestock Association, reported KLA supports the sub-committee report as long as the agriculture valuation and the sunset provision stay in the bill. Marlee Carpenter, Kansas Chamber of Commerce, said she was unsure of the Chamber's position on the bill. Joan Wagnon, Secretary of KDOR, will bring figures to the Committee tomorrow on how the current estate tax law would compare to the law proposed in **SB 365**.

Discussion was held on **SB 465, increasing income tax credit for adoption of certain Kansas children**. Gordon Self presented proposed amendments to the bill. (Attachment 2) He also distributed the language in the Internal Revenue Code which clarifies who qualifies as "special needs" children under Federal law. (Attachment 3)

Senator Schmidt made a motion to amend SB 465 as suggested in the balloon and to further amend the bill on page 2, by striking the five-year limitation on the carry forward provision and make it an unlimited carry forward provision. Senator Jordan seconded the motion, and the motion passed.

Senator Schmidt then moved to recommend SB 465, as amended, favorable for passage. Senator Bruce seconded the motion, and the motion carried.

Mark Beck, Director of Property Valuation Department, made clarifications concerning **SB 311, tax levy authority for governing bodies of technical colleges and school districts**. He said the bill does not give technical colleges bonding authority, as they already have this authority under current law, although the bonds cannot be secured by property taxes. There are nine technical colleges who currently levy taxes. Senators expressed concern this issue should be a part of a larger interim study, especially since adult basic education is such a needed training.

Senator Pine moved to table SB 311 and recommend the issue for interim study. Senator Schmidt seconded the motion.

Senator Donovan made a substitute motion to recommend SB 311 favorable for passage. There was no second to the motion.

Senator Pine's original motion passed.

Senator Donovan moved to approve the Minutes of the February 15 and February 16 Committee meetings. Senator Schmidt seconded the motion, and the motion passed.

Being no further business, the Committee adjourned at 11:40 a.m.

SENATE  
ASSESSMENT & TAXATION COMMITTEE

GUEST LIST

DATE: 2-20-06

NAME	REPRESENTING
Jim Weisgerber	HPDR
Steve Spotts	"
Chuck Henry	Unified Government
Randall Allen	Ks. Assn. of Counties
Mary Ellen Baker	Wichita Area Tech. College
Don Moler	LKM
Therese Barget	Ks. CATH. CONF
David R. Corbin	K DOR
Steven Brunkan	K DOR
Roger Hamm	KDOR
<del>Mary Baker</del>	KDOR
Erik Sartorius	City of Overland Park
Estelle Montgomery	Hein Law Firm
Richard Smalley	Kennedy Assoc.
BRAD HARRELSON	KFB
Marlee Carpenter	Ks Chamber
Allie Davis	Ks. Lincoln Assoc.
MIKE Taylor	Unified Gov/Wyandotte County

J.P. SMALL

KOCH INDUSTRIES

MEMORANDUM

February 9, 2006

To: Senate Assessment and Taxation Committee  
From: Subcommittee on Estate Taxation (SB 356, SB 365)  
Re: Subcommittee Report

Background

The subcommittee on estate tax was charged with reviewing the issues associated with SB 356, which would repeal the Kansas estate tax, effective July 1, 2006; and SB 365, which would create a stand-alone Kansas estate tax no longer tied directly to federal law that would maintain a permanent revenue stream of approximately \$52.0 million per year. As you know, Senator Vratil and others spoke to the full Committee about the need to look at both options because of the administrative complexities associated with the current law. (The current Kansas estate tax is tied mainly to a now-defunct version of the federal law which had been in effect on December 31, 1997.)

Receipts from the current Kansas law are expected to decrease to zero by FY 2012 as a result of a provision adopted in 2002. According to the Department of Revenue, estate tax receipts are expected at the following levels:

(\$ in millions)

FY 2007	\$52.0
FY 2008	\$43.0
FY 2009	\$32.0
FY 2010	\$15.0
FY 2011	\$ 5.0
FY 2012 and thereafter	\$ 0.0

Subcommittee Recommendations

\* The subcommittee recommends that SB 365 be amended with a set of estate tax brackets and rates for tax years 2007-2009 that would provide the same amount of revenues as anticipated under current law. The attached brackets were provided by the Department of Revenue to accomplish that goal. The bill would be amended such that the effective date would be January 1, 2007.

\* The subcommittee further recommends that the Kansas estate tax act expire, effective for estates of decedents dying on and after January 1, 2010.

\* The subcommittee notes that while the fiscal impact of these changes would be revenue-neutral relative to current law, the final three years that the tax would be in effect would be far easier for tax practitioners and for the Department of Revenue under the stand-alone provisions of SB 365 (which decouple the Kansas tax from federal law) than under current law.

**Kansas Estate Tax Brackets and Rates**  
**SB 365**

**Tax Year 2007**

Taxable Estate Brackets			Tax Rate
\$ 750,000	\$ 1,000,000		0.0%
\$ 1,000,000	\$ 2,000,000		3.0%
\$ 2,000,000	\$ 5,000,000	\$ 30,000	6.0%
\$ 5,000,000	\$ 10,000,000	\$ 210,000	8.0%
\$ 10,000,000	Over	\$ 610,000	10.0%

**Tax Year 2008**

Taxable Estate Brackets			Tax Rate
\$ 750,000	\$ 1,000,000		0.0%
\$ 1,000,000	\$ 2,000,000		1.0%
\$ 2,000,000	\$ 5,000,000	\$ 10,000	2.0%
\$ 5,000,000	\$ 10,000,000	\$ 70,000	5.0%
\$ 10,000,000	Over	\$ 320,000	7.0%

**Tax Year 2009**

Taxable Estate Brackets			Tax Rate
\$ 750,000	\$ 1,000,000		0.0%
\$ 1,000,000	\$ 2,000,000		0.5%
\$ 2,000,000	\$ 5,000,000	\$ 5,000	1.0%
\$ 5,000,000	\$ 10,000,000	\$ 35,000	2.0%
\$ 10,000,000	Over	\$ 135,000	3.0%

**Tax Year 2010**

Taxable Estate Brackets			Tax Rate
\$ 750,000	\$ 1,000,000		0.0%
\$ 1,000,000	\$ 2,000,000		0.0%
\$ 2,000,000	\$ 5,000,000	\$ -	0.0%
\$ 5,000,000	\$ 10,000,000	\$ -	0.0%
\$ 10,000,000	Over	\$ -	0.0%

# SENATE BILL No. 465

By Committee on Assessment and Taxation

1-27

9 AN ACT concerning income taxation; relating to credits; adoption of cer-  
10 tain children; amending K.S.A. 79-32,202 and repealing the existing  
11 section.

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

14 Section 1. K.S.A. 79-32,202 is hereby amended to read as follows:  
15 79-32,202. (a) For all taxable years commencing after December 31, 1996  
16 2005, and in addition to the credit provided in subsection (b), there shall  
17 be allowed as a credit against the tax liability of a resident individual  
18 imposed under the Kansas income tax act an amount equal to: (1) 25%  
19 of the amount of the credit allowed against such taxpayer's federal income  
20 tax liability pursuant to section 23 determined without regard to subsec-  
21 tion (c) thereof of the federal internal revenue code; (2) in addition to  
22 subsection (a)(1), 25% of the amount of such federal income tax credit, if  
23 the child adopted by the taxpayer was a resident of Kansas prior to such  
24 lawful adoption; and (3) and in addition to subsections (a)(1) and (a)(2),  
25 25% of the amount of such federal income tax credit, if the child adopted  
26 by the taxpayer is at least eight years but less than 17 years a child with  
27 special needs, ~~as described in subsection (b), a child who is from a mi-~~  
28 ~~nority group or children from the same sibling group,~~ and the child was  
29 a resident of Kansas prior to such lawful adoption, for the taxable year in  
30 which such credit was claimed against the taxpayer's federal income tax  
31 liability.

32 (b) For all taxable years commencing after December 31, 1996, there  
33 shall be allowed as a credit against the tax liability of a resident individual  
34 imposed under the Kansas income tax act an amount equal to \$1,500 for  
35 the taxable year in which occurs the lawful adoption of a child in the  
36 custody of the secretary of social and rehabilitation services or a child  
37 with special needs, whether or not such individual is reimbursed for all  
38 or part of qualified adoption expenses or has received a public or private  
39 grant therefor. As used in this subsection, terms and phrases shall have  
40 the meanings ascribed thereto by the provisions of section 23 of the fed-  
41 eral internal revenue code. No credit shall be allowed under subsection  
42 (a) for any qualified adoption expenses incurred in the adoption of a child  
43 described by this subsection.

as defined in section 23 of the federal internal revenue code

Assessment & Taxation  
Date 2-20-06  
Attachment # 2

Assessor  
Date 2-21-06  
Attachment # 2  
Taxation

1 (c) The credit allowed by subsections (a) and (b) shall not exceed the  
2 amount of the tax imposed by K.S.A. 79-32,110, and amendments thereto,  
3 reduced by the sum of any other credits allowable pursuant to law. If the  
4 amount of such tax credit exceeds the taxpayer's income tax liability for  
5 such taxable year, the amount thereof which exceeds such tax liability may  
6 be carried over for deduction from the taxpayer's income tax liability in  
7 the next succeeding taxable year or years until the total amount of the tax  
8 credits has been deducted from tax liability, except that no such tax credit  
9 shall be carried over for deduction after the fifth taxable year succeeding  
10 the taxable year in which the credit was claimed.

11 Sec. 2. K.S.A. 79-32,202 is hereby repealed.

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

(Potential amendment to five-year carry forward provision)

2-2

2-2

**SB 311**

2-3

County	City	Name	USD/Com Coll	Amount	Levy
Lyon	Emporia	Flint Hills Technical College	253	80891.65	0.000502
Sedgwick	Wichita	Wichita Area Technical College	259	1,159,569.80	0.000500
Franklin	Ottawa	Ottawa USD 290 - Adult Ed Center	290	47,869.38	0.000500
Saline	Salina	Salina Adult Education Center	305	190,039.08	0.000499
Riley	Manhattan	Manhattan USD 383 - Adult Learning Center	383	143,986.97	0.000429
Pottawatomie	Manhattan	Manhattan USD 383 - Adult Learning Center	383	19,453.27	0.000429
Geary	Manhattan	Manhattan USD 383 - Adult Learning Center	383	449.84	0.000429
Wabaunsee	Manhattan	Manhattan USD 383 - Adult Learning Center	383	49.43	0.000429
Douglas	Lawrence	Lawrence USD 497 - Adult Learning Center	497	132,759.69	0.000149
Leavenworth	Lawrence	Lawrence USD 497 - Adult Learning Center	497	595.58	0.000149
Jefferson	Lawrence	Lawrence USD 497 - Adult Learning Center	497	17.46	0.000149
Shawnee	Topeka	Kaw Area Technical College	501	318,876.89	0.000501
Ford	Dodge City	DCCC - Adult Learning Center	DCCC	58,086.29	0.000263
Neosho	Chanute	NCCC - Adult Education Center	NCCC	7,114.30	0.000079

- 72-4472 Wichita Area Technical College
- 72-4473 Flint Hills Technical College
- 72-4474 North Central Technical College
- 72-4475 Manhattan Area Technical College
- 72-4476 Northeast Kansas Technical College
- 72-4477 Northwest Kansas Technical College

- (B) which are not incurred in violation of State or Federal law or in carrying out any surrogate parenting arrangement,
- (C) which are not expenses in connection with the adoption by an individual of a child who is the child of such individual's spouse, and
- (D) which are not reimbursed under an employer program or otherwise.

➤➤➤ *Caution: Code Sec. 23(d)(2), below, was amended by P.L. 107-16. For sunset provision, see P.L. 107-16, §901, in the amendment notes.*

- (2) **ELIGIBLE CHILD.**—The term "eligible child" means any individual who—
- (A) has not attained age 18, or
- (B) is physically or mentally incapable of caring for himself.
- (3) **CHILD WITH SPECIAL NEEDS.**—The term "child with special needs" means any child if—
- (A) a State has determined that the child cannot or should not be returned to the home of his parents,
- (B) such State has determined that there exists with respect to the child a specific factor or condition (such as his ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps) because of which it is reasonable to conclude that such child cannot be placed with adoptive parents without providing adoption assistance, and
- (C) such child is a citizen or resident of the United States (as defined in section 217(h)(3)).

#### Amendments

#### • 2001, Economic Growth and Tax Relief Reconciliation Act of 2001 (P.L. 107-16)

##### P.L. 107-16, §202(d)(1):

Amended Code Sec. 23(d)(2). Effective for tax years beginning after 12-31-2001. Prior to amendment, Code Sec. 23(d)(2) read as follows:

- (2) **ELIGIBLE CHILD.**—The term "eligible child" means any individual—
- (A) who—
- (i) has not attained age 18, or
- (ii) is physically or mentally incapable of caring for himself, and
- (B) in the case of qualified adoption expenses paid or incurred after December 31, 2001, who is a child with special needs.

P.L. 107-16, §901(a)-(b), provides:

#### SEC. 901. SUNSET OF PROVISIONS OF ACT.

- (a) **IN GENERAL.**—All provisions of, and amendments made by, this Act shall not apply—
- (1) to taxable, plan, or limitation years beginning after December 31, 2010, or
- (2) in the case of title V, to estates of decedents dying, gifts made, or generation skipping transfers, after December 31, 2010.
- (b) **APPLICATION OF CERTAIN LAWS.**—The Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 shall be applied and administered to years, estates, gifts, and transfers described in subsection (a) as if the provisions and amendments described in subsection (a) had never been enacted.

#### [Sec. 23(e)]

- (e) **SPECIAL RULES FOR FOREIGN ADOPTIONS.**—In the case of an adoption of a child who is not a citizen or resident of the United States (as defined in section 217(h)(3))—
- (1) subsection (a) shall not apply to any qualified adoption expense with respect to such adoption unless such adoption becomes final, and
- (2) any such expense which is paid or incurred before the taxable year in which such adoption becomes final shall be taken into account under this section as if such expense were paid or incurred during such year.

#### [Sec. 23(f)]

##### (f) **FILING REQUIREMENTS.**—

- (1) **MARRIED COUPLES MUST FILE JOINT RETURNS.**—Rules similar to the rules of paragraphs (2), (3), and (4) of section 21(e) shall apply for purposes of this section.
- (2) **TAXPAYER MUST INCLUDE TIN.**—
- (A) **IN GENERAL.**—No credit shall be allowed under this section with respect to any eligible child unless the taxpayer includes (if known) the name, age, and TIN of such child on the return of tax for the taxable year.

(B) **OTHER METHODS.**—The Secretary may, in lieu of the information referred to in subparagraph (A), require other information meeting the purposes of subparagraph (A), including identification of an agent assisting with the adoption.

#### [Sec. 23(g)]

- (g) **BASIS ADJUSTMENTS.**—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

Internal Revenue Code

Assessment & Taxation  
Date 2-20-06 Sec. 23(g)  
Attachment # 3