

MINUTES OF THE HOUSE SOCIAL SERVICES BUDGET COMMITTEE

The meeting was called to order by Chairman Bob Bethell at 3:30 P.M. on March 8, 2007 in Room 514-S of the Capitol.

All members were present except:

Dick Kelsey- excused

Pat George- excused

Peggy Mast- excused

Committee staff present:

Amy Deckard, Kansas Legislative Research Department

Amy VanHouse, Kansas Legislative Research Department

Nobuko Folmsbee, Office of Revisor of Statutes

Kay Dick, Committee Assistant

Conferees appearing before the committee:

Phyllis Kelly, Exe. Director, Kansas Adult Care Executives

Camille Nohe, Assistant Attorney General, Board of Adult Care Home Administrators

Richard Cram, Department of Revenue

Rebecca Floyd, KDFFA

Others attending:

See attached list.

Chairman Bethell called the meeting to order at 3:30 p.m.

The Chair Recognized Rebecca Floyd from Kansas Development Finance Authority. She appeared before the committee to clarify and answer question regarding **HB 2547**, that was heard on March 7, 2007. Following her explanation and calcification, she stated KDFFA would make it as financially feasible as possible if **HB 2547** passed. (Attachment 1)

Hearing opened on HB 2237 - Adult care home administrators licensure by reciprocity.

Chairman Bethell asked Amy VanHouse to explain **HB 2237**- Adult care home administrators licensure by reciprocity. This bill will allow The Board of Adult Care Home Administrators could bring a licence to an Care Home Administrator from another jurisdiction if the either requirement from the jurisdiction they are in is equivalent to the Kansas requirements or during the five years prior that they have met the minimum professional experience that are established by the board, and they pay a reciprocity license fee.

The Chair recognized proponent Phyllis Kelly, Exe. Director, Kansas Adult Care Executives. Ms. Kelly appeared before the Committee to give testimony on **HB 2237** stating that for the past three years, this KACE, KAHSA and KHCA have been in collaboration with the Board of Adult Care Home Administrators to update and improve the quality of training for adult care home administrators. Ms Kelly went on to say that **HB 2237** will allow the profession and industry to move forward to provide nursing homes qualified Administrators to begin work as soon as they are needed. (Attachment 2)

Chairman Bethell recognized Camille Nohe, General Counsel for the Board of Adult Care Home Administrators, to give testimony in support of **HB 2237**. She echoed the other proponents in her statements. (Attachment 3)

The Chairman pointed out written testimony on **HB 2237** from Debra Zehr, Kansas Association of Homes and Services for the Aging. (Attachment 4)

Hearing was closed on HB 2237.

Hearing opened on HB 2387 - Establishing the health care for seniors fund to be financed by sales and compensating use taxes imposed on sales of personal property purchased through the use of electronic means of communications.

CONTINUATION SHEET

MINUTES OF THE House Social Services Budget Committee at 3:30 P.M. on March 21, 2007 in Room 514-S of the Capitol.

Amy Deckard, Kansas Legislative Research Department, briefed members on the components of **HB 2387** giving background and history of establishing the health care for seniors fund and how it is to be financed.

Richard Cram, Department of Revenue, testified in opposition to **HB 2387**. He stated that the one concern is how implement this bill. The way it is drafted there is no way to rack the amount of taxable sales conducted via electronic means. He said that the Department of Revenue suggests that the proposal be amended to provide that a specific percentage of state sales tax revenue, or a specific dollar amount be deposited in the health care for seniors fund. (Attachment 5)

Hearing was closed on HB 2387.

Discussion and Action on HB 2423 - Task force on obesity prevention and management.

Representative Hawk made a motion to pass out HB 2423. Representative Rhoades seconded the motion. HB 2423 passed out of committee favorably.

Discussion and Action on HB 2535 - Department on aging, license fees for adult care homes, state licensure fee fund.

Representative Ballard made the motion to pass HB 2535. It was seconded by Representative Crum. Vote was taken and motion carried.

The Chair adjourned the meeting at 4:20 p.m.

Fundamentals of Municipal Bonds

Kansas Development Finance Authority
Rebecca Floyd, General Counsel

I. Municipal Bonds

A. Basics

Bond Definition: a bond is a financial instrument backed by a contractual agreement between an issuer and an investor. The issuer of the bond agrees by contract to repay principal and interest to the owner of the bond over a period of time (typically 15-25 years).

1. **Use:** municipal bonds are issued by state and local governments or by their political subdivisions such as authorities and special districts to fund infrastructure and capital projects needs. The distinguishing feature of state and local municipal bonds is that the interest income on municipal bonds is exempt from federal income taxes—i.e., a subsidy of the federal government to allow state/local governments a way to affordably finance their capital programs (§103(a) of the Internal Revenue Code [“IRC”]). The tax-exempt feature of municipal bonds makes them attractive to individuals and other buyers in higher marginal tax brackets. The tax exemption enables state and local governments to borrow from the capital markets at significantly lower interest rates than those prevailing in the taxable markets such as the corporate bond market. (example: current tax-exempt rates as of 02/2003 are in the 3-5% range)
2. **Debt Service:** Debt service refers to the, usually, semi-annual payments of principal and interest on the bonds. The debt service is comprised of an underlying revenue stream, dependent on what type of bonds are issued e.g. revenues from a parking garage or dormitory are pledged as debt service, or a tax-levy may be pledged if general obligation bonds are issued.
3. **Tax-Exemption:** In order to qualify as a tax-exempt bond, the issuer and the purpose of the bond issue must meet certain requirements i.e. the issuer must be a governmental entity and the bonds must be issued for a governmental purpose. The objective of the issuer (e.g., K DFA) is to raise capital at the lowest cost.
4. **Issuer:** K DFA was created by the 1987 Kansas legislature to operate as a statewide multipurpose finance authority. K DFA was created for the purposes of enhancing the ability of state agencies, political subdivisions, and other public and private sector entities to access the capital markets with the goal of raising capital at the lowest possible cost. K DFA is the most active issuer of municipal and private activity bonds in the State of Kansas, and is recognized nationwide as a

sophisticated issuer whose paper is in demand and garners extremely competitive rates.

Other issuers include local governmental units such as cities and counties.

B. Governmental & Private Activity Bonds

1. The Tax Reform Act of 1986 distinguishes between 2 types of municipal bonds:
 - (a) **Governmental Bonds:** Bonds issued the proceeds of which are used for qualified governmental/public purposes. These bonds are tax-exempt and typically generically called municipal bonds. The 2 basic categories of municipal bonds are:
 - **General Obligation:** Bonds backed by the full faith and credit of an issuer with taxing power. The State of Kansas is generally prohibited by the Kansas Constitution from issuing GO debt, with some minor exceptions.
 - **Revenue Bonds:** Bonds backed by an underlying revenue stream usually directly related to the project, e.g., lease payments, revenues generated by the facility financed (hospital revenues, utility revenues, rental revenues, parking revenues, tobacco settlement receipts, etc). All the bonds issued by KDFFA on behalf of the State are revenue bonds.

Project Examples: hospitals, highways, schools, bridges, sewers, jails, parks, government buildings and equipment, etc.) Private entities may not significantly use, control or own the facilities financed. Governmental bonds benefit the general public in contrast to Private Activity Bonds which benefit private persons/activities.

- (b) **Private Activity Bonds ("PABs"):** Bonds issued the proceeds of which are used to benefit private persons or activities. These bonds fail three tests for tax-exemption: Either the (1) The Private Business Use Test; and (2) The Private Security or Payment Test or (3) The Private Financing Test. These bonds are taxable, unless they are issued as qualified private activity bonds meaning the proceeds are used for projects and activities that may have private characteristics, but are nevertheless deemed to be eligible for tax-exempt bond financing.

Private Business Use Test: In general, the private business use test is met if private business use of a facility financed with bonds exceeds 10% of the proceeds of the issue. Private business means users other than a state or local governmental unit, including the federal government.

Private Security or Payment Test: The private security or payment test is met if more than 10% of the payment of principal and interest on a bond is directly or indirectly secured by property used in a trade or business, or derived from payments related to property used in a trade or business, whether or not such property is financed with the proceeds of tax-exempt bonds.

Private Financing Test: Bonds become private activity bonds and lose their tax-exemption, unless they are qualified private activity bonds, if more than the lesser of 5% or 5 million of the proceeds are used to make loans to nongovernmental persons.

Project Examples of Qualified (tax-exempt) Private Activity Bonds: (1) exempt facility bonds: airports; docks & wharves; mass-commuting facilities; water & sewage facilities; solid waste disposal facilities; qualified residential rental projects; utilities.;(2) Qualified mortgage bonds – Multi-family mortgage revenue bonds for people of low & moderate income, and the single –family mortgage revenue bond program that makes available below-market interest rate mortgages to first-time home buyers. Kansas is now the only state in the country who does not have a statewide single family mortgage bond program.; (3) Qualified Redevelopment Bonds and Enterprise Zone bonds. Infrastructure projects which involved redevelopment of blighted areas, enterprise zones, etc. (4) Qualified 501(c)(3) Bonds: “qualified hospital bonds” and “qualified non-hospital bonds”. (5) Qualified Exempt Small Issues: Bonds issued for qualified manufacturing projects and the Beginning Farmer program. (6) Qualified Student Loan Bonds.

C. Arbitrage Rebate Requirements

1. **Arbitrage Bond** defined: An arbitrage bond is any bond issued as part of an issue any portion of the proceeds of which are reasonably expected (at the time of the issuance of the bond) to be used directly or indirectly to acquire higher yielding investments or replace funds which were used directly or indirectly to acquire higher yielding investments. (§ 148 (a) IRC)

Translation: the general rule is that bond proceeds may not be invested at a yield higher than the yield borne by the bonds. If the investment earnings rate is higher, then that spread or "arbitrage" must be rebated back to the federal government. To avoid arbitrage and possible associated penalties, bond proceeds which will not be expended immediately are invested in "Guaranteed Investment Contracts" in yield restricted investments. Also, in order to maintain the tax-exempt status of tax-exempt bonds, proceeds must be invested in other tax-exempt obligations. Conversely, the proceeds of taxable bonds are not subject to arbitrage restrictions, and may be invested in taxable obligations.

2. Exceptions to Arbitrage Rebate requirements:

(a). Bonafide Debt Service Funds: Excluded from the rebate computation during a bond year are investment earnings on bonafide debt service funds to the extent such earnings are less than \$100,000 during such bond year. This test is deemed satisfied to the extent the average annual debt service does not exceed \$2.5 million.

(b). Spending Exceptions to Rebate—6 month exception: an issue is treated as meeting the rebate requirement if the gross proceeds of a bond issue are allocated to expenditures for the governmental purpose of the bond issue within 6 months of the issuance date.

18 month exception: An issue is treated as meeting the 18 month exception if all at least 15 % of the proceeds are spent within 6 months of the issuance date; 60 % of the proceeds are spent within 12 months; and 100 % within 18 months.

D. Hedge Bond Prohibition

1. A bond will not be tax-exempt if it is a Hedge Bond. Hedge Bonds are bonds issued to "lock-in" a perceived low interest cost when proceeds are not actually needed for their intended governmental purpose. The Hedge Bond rules are separate and in addition to rules governing PABs, arbitrage, and rebate.
2. A bond is a hedge bond unless:

- The issuer reasonably expects, on the date of issuance, at least 85% of the issuer's spendable proceeds will be used within 3 years to carry out the governmental purpose of the issuance; and
- Not more than 50% of the proceeds are invested on nonpurpose investments having a yield that is substantially guaranteed for 4 or more years.

II. KDFA & Finance Transaction Basics

A. KDFA

1. KDFA was created by the Kansas Legislature pursuant to (K.S.A. 74-8901 et seq., as a state-wide multipurpose issuer to assist State entities and other public and private enterprises throughout the state access the long term capital markets at the lowest possible cost.
2. KDFA is the most active issuer in the state of Kansas, averaging 12-25 debt issues a year, including notes, bonds, leases, and other certificates of indebtedness. KDFA is recognized as a sophisticated conduit issuer, whose debt is widely sought by institutional and retail market investors resulting in extremely competitive pricing advantages to borrowers.
3. KDFA assists borrowers by serving as an "in-house" financial advisor, will work closely with the borrower's own banker and finance team, or at the request of a borrower, will assist the borrower in its selection of a finance team.
4. KDFA works closely with the borrower and finance team professionals to develop the appropriate finance structure and marketing strategies for a particular debt issue, assists in identifying the necessary disclosure issues, and serves as an ongoing guide and resource to the borrower as the borrower deals with long-term post-issuance compliance responsibilities.
5. Amendments to the KDFA Act in 2004, expanded the Authority's issuing authorization to allow KDFA to issue bonds for county hospitals also for the first time.

B. Finance Transaction Basics

1. The finance team for a bond transaction generally includes the following principal participants: Borrower, Conduit Issuer (e.g., KDFA or another governmental entity) Bond Counsel, Trustee and an Underwriter/Investment Banker.

Issuer: This is the governmental entity that is borrowing money by issuing bonds. The federal tax laws require that the issuer be a state or political subdivision, including municipal entities, independent instrumentalities and authorities on behalf of a state or political subdivision.

Borrower: In conduit revenue bond financings, the issuer issues the bonds not for its own use, but to re-lend the bond proceeds to a private party which uses the bond proceeds to finance, e.g. an affordable housing project, hospital, manufacturing project, educational or government facility, etc.

Bond Counsel: Bond counsel is a law firm with nationally recognized expertise with respect to municipal bond transactions. Investors will not buy tax-exempt municipal bonds unless there is an opinion of a recognized law firm to the effect that the bonds are validly issued and the interest on the bonds is tax-exempt. Bond counsel must be experienced with all aspects of structuring a tax-exempt or taxable financing, and has duty to advise the issuer and underwriter on all legal aspects of the bond issue.

Underwriter (Investment Banker): The underwriter is an investment banking organization whose business is to help structure bond issues and purchase and resell the bond issues on behalf of the issuer. Underwriters are subject to the jurisdiction of the Securities and Exchange Commission, and underwriters of municipal bonds are also governed by the federal Municipal Securities Rulemaking Board.

Bond transactions will often include the following additional parties:

Credit Enhancer: This is a third party which is providing the credit support for the bond issue upon which the investors are primarily relying. A credit enhancer might be an insurance company which may insure an entire bond issue (e.g., MBIA, AMBAC) a mortgage insurer (e.g. FHA), a bank which issues a letter of credit that effectively guarantees the bond or the mortgage, or a guarantor such as FNMA or GNMA.

Rating Agencies: The rating agencies are nationally recognized organizations which rate the credit worthiness of bonds. The two primary rating agencies are Standard & Poor's Ratings Services, and Moody's Investor's Services. Fitch is a third nationally recognized rating agency. For a fee, the rating agencies assign various types of credit worthiness ratings to bond issues. Investors and even underwriters, tend to rely upon the ratings provided by these organizations in assessing the credit quality of the bonds, and investors rely on them to determine the resulting interest rate the investors will require to purchase the bonds.

Mortgage Banker: FHA, FNMA, FHLMC and GNMA financings usually involve a mortgage banker, whose role is to handle the mortgage origination process and service the mortgage.

2. The Bond Transcript is generally comprised of the following basic documents:

Trust Indenture: The agreement between the Issuer and the bank serving as Bond Trustee. This document sets forth all of the important terms, provisions, and covenants which establish the parameters for the bonds and provide certain assurances of payment and protections to the bondholders.

Financing Agreement: The agreement between the Issuer and the Borrower. It may be a Loan Agreement, Lease-Purchase Agreement, or just a Promissory Note and Mortgage. The Financing Agreement includes the terms and provisions for the loan of the bond proceeds, the Borrower's agreement to repay the loan in amounts and at times sufficient to enable the Issuer to repay the bonds; security for the Borrower's repayment, and other project specific information.

Bond Purchase Agreement: This is the agreement between the Issuer and the Underwriter, setting forth the terms and conditions under which the Issuer agrees to sell the bonds to the Underwriter, and the Underwriter agrees to purchase the bonds from the Issuer.

Official Statement: The Official Statement is dated the date the bonds are sold and contains the final terms of the bonds. Under federal securities laws, the Issuer and the Borrower are obligated to disclose in this document and the predicate **Preliminary Official Statement ("POS")** all information that a "reasonable investor" would consider material in deciding whether to purchase a bond. The POS which is distinguished by the use of "red herring" language

on the cover, is complete except for interest rates and maturities. Once sold, these items are completed and the final Official Statement is circulated.

Bonds: The bonds are interest bearing promises to pay a specified sum of money on a specific date to the bondholder. The form of the bonds is contained in the Indenture.

Continuing Disclosure Agreement: The agreement wherein the Issuer and the Borrower agree to provide ongoing disclosure of various financial and other information as required by Ruler 15c2-12.

Investment Agreement: Also sometimes referred to as the Guaranteed Investment Contract or "GIC", this is the agreement between the Issuer and a financial institution in which bond proceeds are invested at a fixed rate and term, subject to withdrawal at various times, per the terms of the agreement.

Regulatory Agreement: Also referred to as a land use agreement, used in rental housing conduit issues, this is an agreement executed by the Borrower and recorded with the mortgage to ensure compliance with federal tax law requirements, principally addressing the income limits for tenants.

Arbitrage or Tax Compliance Certificate: The Arbitrage Certificate is executed to establish, for federal tax purposes, the Issuer's reasonable expectations surrounding the issuance of the bonds at the time of their issuance.

Legal Opinions: The opinion of Bond Counsel regarding the tax-exempt (or taxable) status of interest on the bonds. The opinion also states that the bonds are legal and binding obligations of the Issuer, and the source of payment or security for the bonds. Opinions are also typically delivered by the Underwriter's Counsel and the Issuer's Counsel or General Counsel.

KANSAS ADULT CARE EXECUTIVES ASSOCIATION (KACE)
Oral and Written Testimony to the Social Services Budget Committee
March 8, 2007
(Proponent)

Testimony on HB 2237. An Act concerning adult care home administrators; relating to license reciprocity; amending K.S.A. 65-3505 and repealing the existing section.

Chairman Bethell and Members of the Committee:

I am Phyllis Kelly, Executive Director of the Kansas Adult Care Executives Association (KACE). Our Association represents over 250 adult care home executives in nursing homes and assisted living facilities throughout Kansas. I appear before you today in support of HB 2237.

For the past three years, KACE and our sister Associations, KAHSA and KHCA, have worked collaboratively with the Board of Adult Care Home Administrators (BACHA) to update and improve the quality of training for adult care home administrators. Dawn Veh, Chair of BACHA and the facilitator for the Administrator-in-Training Review Team testified before this Committee on January 25 to inform you about the work that has been completed on this project.

One of the necessary steps that must be taken in the revision of the training and licensure process is the reciprocity for persons licensed as an adult care home administrator in another state. Dawn Veh has provided written testimony today which summarizes the proposed reciprocity language. This language was developed with the guidance of the Attorney General's Office and is comparable to other reciprocity requirements for similar groups in Kansas.

We urge you to support HB 2237. It will allow the profession and industry to move forward to provide Kansas nursing homes qualified Administrators to begin work as soon as they are needed.



Kathleen Sebelius, Governor
Roderick L. Bremby, Secretary

DEPARTMENT OF HEALTH
AND ENVIRONMENT

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Division of Health

BOARD OF ADULT CARE HOME ADMINISTRATORS

Testimony Regarding Licensure by Reciprocity Board of Adult Care Home Administrators House Bill No. 2237 to the House Social Services Budget Committee

**Presented by Camille Nohe, General Counsel for the
Board of Adult Care Home Administrators
March 8, 2007**

Chairperson Bethell and members of the committee, I am Camille Nohe, Assistant Attorney General, and I serve as general counsel to the Board of Adult Care Home Administrators. On behalf of the Board, I am pleased to have the opportunity to discuss the proposed amendments to the Kansas Adult Care Home Administrators licensing law.

House Bill No. 2237 amends K.S.A. 65-3505 which establishes the criteria for renewal and reinstatement of licensure as an adult care home administrator. It also establishes the criteria for licensure through reciprocity for persons licensed in another state as an adult care home administrator. The proposed language would allow an individual licensed in another state as an adult care home administrator to apply for a reciprocal license in Kansas as long as the requirements of the other state are substantially the equivalent of those in Kansas, or the applicant demonstrates continuous licensure as an administrator during the five years immediately preceding application to Kansas with at least the minimum professional experience as established by rules and regulations of the board, and the individual has not had disciplinary actions of a serious nature brought by a licensing board or agency. This is based on the model enacted for the Behavioral Sciences Regulatory Board by the 2003 Legislature in order to facilitate a greater degree of mobility for licensees.

The Board of Adult Care Home Administrators supports this proposed legislation.

Thank you again for the opportunity to appear before this committee. I will be happy to respond to any questions the committee may have on this topic.

To: Bob Bethell, Chair, Social Services Budget Committee
From: Debra H. Zehr, President, KAHSA
Date: March 6, 2007

Testimony in Support of HB 2237

The Kansas Association of Homes and Services for the Aging (KAHSA) represents 160 not-for-profit nursing homes, retirement communities, hospital long-term care units, assisted living facilities, senior housing and community service providers serving over 20,000 older Kansans every day.

We ask for your support of House Bill 2237, which would allow adult care home administrators to be licensed by reciprocity. This would allow qualified persons who are licensed in other states to be considered qualified and licensed in Kansas – and be able to begin work in Kansas more quickly.

There is an average turnover rate of 32% among nursing home administrators in Kansas (a little lower than this in not-for-profit homes and a bit higher in for-profits.) This bill would help adult care homes fill vacancies more quickly. As you probably know, staff turnover is a major factor that negatively impacts quality of care. This is most obvious at the direct care level, but gaps in consistent leadership can result in negative outcomes for Elders as well.

Your action to pass this bill can make a real difference in the lives of Kansas Elders.

Thank you for your favorable consideration of HB 2237. I would be happy to answer questions, as would John Peterson or Bill Brady, KAHSA's "on the ground" people at the Statehouse.

Testimony to the House Social Services Budget Committee

Richard Cram

March 8, 2007

Department Concerns with House Bill 2387

Representative Bethell, Chair, and Members of the Committee:

House Bill 2387 creates the health care for seniors fund and would credit an amount not to exceed 2% or \$2 million from sales and use tax receipts on sales of tangible personal property at retail conducted by electronic means of communication. The department cannot track the amount of taxable sales conducted via electronic means. Retailers are not required to report sales tax data containing that information on their returns. Retailers report total taxable sales per reporting period. Sales are not broken out to show those conducted electronically or by other means. Our fiscal note, which is a "ball park" estimate, is attached.

Taxable retail sales over the Internet or telephone can only be grossly estimated by extrapolation from U.S. Census data on national e-commerce sales. Determining whether new business sales are due to electronic commerce or in-store sales cannot be estimated with any precision. We suggest that the proposal be amended to provide that a specific percentage of state sales tax revenue, or a specific dollar amount, be deposited in the health care for seniors fund. We cannot implement this bill as drafted.

MEMORANDUM

To: Mr. Duane Goossen, Director
Division of Budget

From: Kansas Department of Revenue

Date: 02/21/2007

Subject: House Bill 2387
Introduced as a House Bill

Brief of Bill

House Bill 2387, as Introduced, creates the health care for senior fund. The proposal would credit an amount not to exceed 2% or \$2 million from both sales and use tax from sales of tangible personal property at retail conducted through the use of electronic means of communication. Electronic means of communications is defined to include internet, telephone, or other electronic means or communications as determined by the secretary of revenue, including any catalog sales effectuated through any such means. The department of revenue is to determine the amount on the 10th day of each month and relay to the state treasurer for crediting to the health care for seniors fund. The proposal also requires the director of accounts and reports to transfer interest earnings into the fund.

The Act would be effective July 1, 2007.

Fiscal Impact

This fiscal note is only addressing the transfers of sale and use tax funds and not the transfers performed by the director of accounts and reports on interest earnings. The proposal is estimated to result in the loss of \$1.714 million in fiscal year 2008, all of which would be out of the state general fund. The department cannot track the dollar amount of taxable sales that are conducted through electronic means, which would include Internet, fax and telephone orders. Retailers are not required to provide sales tax that would provide that information to the department. The only statistics that are available are national e-commerce statistics as produced by the U.S. Census. Their data does not include telephone sales as part of the e-commerce statistics. Therefore, for purposes of preparing a fiscal impact estimate for sales tax, U.S. Census data on e-commerce retail activity is used, and that amount is doubled to account for sales over the telephone.

The U.S. Census issues updated data on a quarterly basis. For the 3rd quarter of 2006, the U.S. Census estimated that e-commerce accounted for 2.8% of all retail activity. If we double that amount to add in telephone sales, we would attribute 5.6% of all retail sales in Kansas as sales conducted through electronic means. For fiscal year 2008, total state sales tax collections are

estimated to be \$1.745 billion and 75% of those collections, or \$ 1.31 billion, are estimated from the sale of tangible personal property. Of that amount, 5.6% represents \$73.4 million. The proposal would require 2% to be deposited into the health care for seniors fund, or \$1.47 million, annually. As e-commerce continues to grow as an overall percentage of the economy, it can be anticipated the amount of sales tax attributed to sales through electronic means will increase 5% annually.

For the compensating use tax, the census data would also have to be used. For fiscal year 2008, state use tax revenues are estimated to be \$290 million, with \$217.5 million from the sale of tangible personal property. Using the same methodology, the amount for the health fund for seniors from the use tax would be \$244,000 in fiscal year 2008.

	Total	Sales	Use
FY 2008	\$ 1.714	\$ 1.470	\$ 0.244
FY 2009	\$ 1.863	\$ 1.598	\$ 0.265
FY 2010	\$ 2.024	\$ 1.736	\$ 0.288
FY 2011	\$ 2.200	\$ 1.887	\$ 0.313
FY 2012	\$ 2.340	\$ 2.000	\$ 0.340

Administrative Impact

None.

Administrative Problems and Comments

As taxable retail sales over the Internet or telephone can only be estimated and cannot be tracked with any precision, and determining whether a new businesses sales are due to electronic commerce or in-store sales can not be estimated with any precision, it is recommended that the proposal be amended to provide that a specific percentage of state sales tax revenue, or a specific dollar amount, be deposited in the health care for seniors fund.

Taxpayer/Customer Impact

Legal Impact

Approved By:

Joan Wagon

Joan Wagon
Secretary of Revenue