

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 9:00 A.M. on February 9, 2007 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, Office of Revisor of Statutes  
Richard Cram, Department of Revenue  
Rose Marie Glatt, Committee Secretary

Conferees appearing before the committee:

Representative Mark Treaster  
Susie Christopher, First Call For Help, Inc.  
April Holman, Kansas Action for Children  
Bruce Larkin, KDOR

Others attending:

See attached list.  
The Chairman called for bill introductions.

Representative Siegfried made a motion to introduce a bill regarding property taxation relating to exemptions on certain houses. Representative Kinzer seconded the motion. The motion carried.

Representative Wilk made a motion for the introduction of a bill pertaining to the Governor's Corporate Income Tax Reduction portion of her bill. Representative Carlson seconded the motion. The motion carried.

Representative Kinzer made a motion to introduce a bill regarding double taxation involving the attachment of fire districts on annexation by cities. Representative Siegfried seconded the motion. The motion carried.

**HB 2256 - Sales tax exemption for First Call for Help, Inc.**

Chris Courtwright, Legislative Research Department, said the bill would provide a sales tax exemption for both the purchases and sales of First Call For Help, Inc. There are a number of non-profit groups that have this exemption and First Call for Help, Inc. would be added to the group through this legislation. The fiscal note is less than \$10,000.

The Chairman opened the public hearing on **HB 2256**.

Representative Treaster, chief sponsor of the bill, said this group is utilized so that services are not duplicated and the needy are directed to the organization(s) that are best suited to help in an efficient manner. The fiscal note is small because this group sells nothing to the people they help and operate solely on donations. He concluded by saying this group was as worthy of the sales tax exemption as any currently in that select group (Attachment 1).

Representative Treaster called attention to the written testimony of Susie Christopher, First Call For Help, Inc. in support of the bill. Attached was a summary of the programs they operated and the people they served in 2006 (Attachment 2).

The Chairman noted that written testimony had been received and distributed from April Holman, Kansas Action for Children, in opposition to the bill. It stated that their opposition was not specific to First Call for Help, Inc., but was instead a reflection of their general concern about the erosion of the sales tax base (Attachment 3).

The Chairman closed the hearing on **HB 2256**.

The Chairman acknowledged visitors in the audience. Representative Kinzer introduced his son

## CONTINUATION SHEET

MINUTES OF THE House Taxation Committee at 9:00 A.M. on February 9, 2007 in Room 519-S of the Capitol.

Pearce, and Hailey, his daughter, on school break from Olathe.

Chris Courtwright, distributed a memorandum on the Local Ad Valorem Tax Reduction Fund (LAVTRF) (Attachment 4). He explained the history of the program up to the current date. He reviewed a table on the amount of LAVTRF distributions that are scheduled to be made under the partial restoration provision; and the amount of LAVTRF distributions that would occur if future Legislatures opted to restore the funding to the fixed percentage of sales and use tax receipts.

The Chairman directed the Committee's attention to HB 2171. A balloon was distributed (Attachment 5). Mr. Cram said that the Department had worked with Marlee Carpenter, KS Chamber of Commerce, to address two issues:

1) The limitation placed on consumers being able to come directed to the Department to claim a refund. In response to that concern, on page 9, Section 5 all the changes previously made by the Department were deleted and replaced with New Section 5, located on last page of the balloon. On page 9, line 3, language was deleted pertaining to remittance, and additional language was added pertaining to penalties on line 5. On page 3, paragraph (c), lines 9 through 11, language was deleted that referred to the limitation of direct consumer refund claims and inserted language *as required herein*.

2) The other Chamber concern pertained to the three-year statute of limitation and the time frame requirement. In response to their concern on page 3, new Section 2, language was amended to line 39 granting additional time for claimant to respond with a complete refund application. Language that addressed that same change was added to page 4, line 7 and page 5, line 34. The Chairman advised the committee that leadership had met with Marlee Carpenter and there was consensus by all parties on the changes in the bill.

Representative Owens made the motion that the balloon be adopted. Representative Treaster seconded the balloon. The motion carried.

Bruce Larkin, KDOR, distributed a spreadsheet on KDOR Sales and Use Tax Refunds - FY 06. He explained the number of full time employees; total number of claims processed; average days to process; dollar amount requested; tax amount and interest refunded; and the current number of cases (Attachment 6).

Representative Crum made a motion to move **Substitute for HB 2171** out, favorable for passage. Representative Whitham seconded. The motion carried.

A memorandum was distributed from Art Hall, Executive Director, Center for Applied Economics, KU School of Business, regarding his considerations on House Concurrent Resolution 5006 (Attachment 7).

Representative Carlson distributed a biography on Maurice McTigue, Distinguished Visiting Scholar & Director, Government Accountability Project (Attachment 8). He will present an informative analysis of economic reforms in New Zealand to the House Taxation Committee on Tuesday, February 13<sup>th</sup>, 2007.

An informational sheet on the current House and Senate 2007 Tax Credit Bills, prepared by Chris Courtwright, Legislative Research Department, was distributed. This was in response to a Committee request at the February 8<sup>th</sup> meeting (Attachment 9).

Also, in response to a committee request on February 8, two charts from KDOR, regarding data on Kansas Tax Credits, were distributed (Attachment 10). The first spreadsheet includes: Alphabetical list of programs; Descriptions; Non-refundable or refundable; Fiscal year limitation; Transferability, and Sunsets. The second spreadsheet, (data on Kansas Tax Credits, FY 2004) includes: Tabulation of the amount of credits; Number of claims for each credit, and NAICS Titles and Descriptions of Industries. Due to the complexity of the two charts, Mr. Cram agreed to re-work the data compiling it on one document.

The meeting was adjourned at 10:50 a.m. The next meeting is February 13, 2007.

# TAXATION COMMITTEE

DATE: FEBRUARY 9

NAME	REPRESENTING
STAN FROWNFELTER (PGA)	Rep. DIST 31 <sup>ST</sup>
Michelle Peterson	Capitol Strategies
Lindsay Douglas	Hein Law Firm
Martin Hama	Hawaii's Careful Reps
Ron Seiber	Hein Law Firm

STATE OF KANSAS

**MARK TREASTER**

REPRESENTATIVE, 101ST DISTRICT

COMMITTEE ASSIGNMENTS  
TAXATION  
TRANSPORTATION  
ECONOMIC DEVELOPMENT  
WILDLIFE & PARKS  
RULES AND REGULATIONS



TOPEKA

DOCKING STATE OFFICE BUILDING  
7TH FLOOR  
TOPEKA, KANSAS 66612  
(785) 296-6838  
treaster@house.state.ks.us

Testimony HB 2256

Chairman Wilk and esteemed fellow members of the Tax Committee. I appreciate the opportunity to testify before the committee today in favor of HB 2256 which would give the agency First Call for Help a sales tax exemption. First Call for Help is a 501(c)(3) organization located in Hutchinson whose purpose corresponds to its name. It is a United Way agency that receives funding from the Reno County United Way. This is the place where people who are desperate for assistance are referred by members of the clergy and others in the community to receive services. This group is utilized so that services are not duplicated and the needy are directed to the organization(s) that are best suited to help in an efficient manner. My church collects clothes baskets containing personal items such as soap, toilet paper, and detergent to give to First Call for distribution to those they serve. First Call is asking for a tax exemption because they are aware that other groups like the Food Bank and Homeless Shelter, to which they refer people, already have this exemption. The fiscal note is small because this group sells nothing to the people they help and do not have fund raisers where they sell to the public to raise money. They operate on donations and they give everything away. One of their activities is to collect Christmas presents for teenagers, which they give away in December to those children who may not receive any other gifts. If this group is not deserving of a sales tax exemption, then I would suggest that we end all sales tax exemptions. I am sorry that no one from First Call was able to testify because they could have described their mission much better than I could, but with few paid staff, and a volunteer board, it did not work for anyone to come to Topeka today. Thank you for the opportunity to testify to you and I would be glad to answer any questions.



FIRST CALL FOR HELP  
PO BOX 2315  
400 WEST 2<sup>ND</sup> STE A  
HUTCHINSON, KS 67504

February 9, 2007

Re: Bill#HB2256

Dear Chairman Wilk and Members of the Tax Committee,

The following is my written testimony as it is not possible for me to be in Topeka in person.

First Call For Help, Inc. is a non-profit 501 (c) (3). We have been in operation for the past 24 years serving our community in Reno County with our office located at 400 West 2<sup>nd</sup> Ste A in Hutchinson, Ks. We operate several programs in our agency that require us to purchase goods that we in turn give at no cost to people in need in our community. First Call works closely with other organizations in our community such as food banks, homeless shelters, battered women's shelters and such and we share many of the same clients. We are aware that many of these other organizations are sales tax exempt. Our programs such as "Operation Back to School", Teen Christmas, and our Personal Hygiene Room served the poorest in our community last year. The cost of First Call For Help purchasing these items in 2006 was \$11,067.49. The public who went out and purchased items for these programs in 2006 totaled \$55,027.51. I have enclosed a brief summary of the programs that we operate and the people we served last year. Your consideration for a sales tax exemption certificate would allow us to serve more indigent people in our community.

Respectfully,

Susie Christopher, Director  
First Call For Help, Inc.

**HS TAXATION COMMITTEE  
2-9-2007  
ATTACHMENT 2**

## FIRST CALL FACTS 2006

400 West 2<sup>nd</sup> STE A

phone: 669-0159

### Who We Are:

First Call For Help is a Reference & Referral Agency linking available services to those in need in Reno County. First Call also acts as a clearinghouse for all churches in Reno County to help cut down on abuse and duplication of services.

### Programs:

We facilitate the Caps For Kids program providing stocking caps for children and adults in our community, schools, Early Ed, Head Start, and others.

In 2006 we gave out **959** caps.

We operate a Personal Hygiene Room giving out personal items such as shampoo, toilet paper, laundry soap, toothpaste, bath soap, etc. to those in need every 30 days.

In 2006 we gave out **3,275** bags of personals.

In 2006 we held our 12th annual Teen Christmas where groups, individuals, and organizations buy a gift for a teen who would otherwise not receive a gift for Christmas.

In 2006 we were able to provide **499** teens with gifts.

In August of 1995 we began a program called

Operation Back To School and we were able to provide

backpacks filled with school supplies to students who could not afford to buy them.

We now supply children from pre-school thru High School. In August of 2006 we provided **1,293** children in grades K through 12 and pre-school with school supplies.

In October of 2003 we started the MAP (medicine assistance program) program.

In 2006 we paid for medicine for 383 people at a cost of \$13,628.25.

IN 2006 we served **13,115** men, women, and children in Reno County

**WE CONTINUE TO SERVE. . . THANKS TO YOUR HELP**

**AND SUPPORT!!!**

Susie Christopher, Director

## FISCAL FOCUS

Budget and Tax Policy in  Perspective

April Holman  
Legislative Testimony  
House Bill 2256  
House Taxation Committee  
February 9, 2007

Good morning Chairman Wilk and members of the Committee. On behalf of Kansas Action for Children (KAC), I would like to thank you for this opportunity to testify on House Bill 2256.

KAC is a not-for-profit child advocacy organization that has been in existence since 1979. KAC promotes policies that aid family economic stability because instability creates stress and the potential for harm to children through less consistent medical care, fewer opportunities for early learning and the potential for lower performance in school.

Our opposition to HB 2256 is not specific to First Call for Help, Inc., but is instead a reflection of our general concern about the erosion of the sales tax base. The sales tax is a key source of revenue to the State General Fund (SGF), which is in turn a key source of funding for state government and for programs and services vital to children and families. The number of sales tax exemptions in Kansas has more than doubled in the past 15 years, resulting in a significant reduction in possible SGF revenues.

We believe that instead of adopting more exemptions to the sales tax, a comprehensive modernization of the Kansas tax system is needed. Recent reports from the Kansas Department of Revenue show that Kansas taxes disproportionately impact the poor and that both the sales tax and property tax bases have been eroded significantly in recent years. This has resulted in tax shifts as well as revenue shortfalls and the need in some years to increase tax rates. In order to address these issues as well as the changing nature of the Kansas economy, we believe that a comprehensive plan should be created for modernizing Kansas taxes. If we can update and improve the efficiency of our tax system the need for exemptions will not longer be an issue.

To: House Taxation Committee  
 From: Chris W. Courtwright, Principal Economist  
 Re: LAVTRF Background

This memorandum is in response to the request to provide some brief background and history on the LAVTRF program.

Dating back to the enactment of the sales tax in the 1930s, a portion of state sales tax receipts has been earmarked for transfer to local taxing subdivisions to provide property tax relief.

The modern-era formula was written in 1965, when the fund was formally named the Local Ad Valorem Tax Reduction Fund (LAVTRF). KSA 79-2959 provides that 3.63 percent of sales and compensating use tax receipts deposited in the SGF be transferred to the LAVTRF.

But an executive order issued late in 2002 in response to the state's budget crisis suspended the LAVTRF transfers, followed by 2003 legislation which subsequently ratified this policy decision. The Governor has proposed that the suspension of the transfers remain in place in every subsequent year, and the Legislature has subsequently agreed.

If the 2007 Legislature opted to not suspend the transfers, an estimated \$74.1 million would be transferred in FY 08, based on the current consensus estimates.

The law provides for distributions on January 15 and July 15 proportionately among all counties, 65 percent on the basis of population and 35 percent on the basis of assessed tangible valuation (except that a grandfather clause prevents any county from receiving less money distributed on the basis of population than it did in 1979). Within each county, the secondary distribution formula allocates money to each property tax levying subdivision (including the county but excluding unified school districts) proportionately based on taxes levied in the preceding year. Each subdivision's share must be credited to one or more tax levy funds of general application, except bond and interest funds.

Partial restoration of LAVTRF transfers beginning in FY 2010 was one of the forms of mitigation against property tax shifts provided in the 2006 legislation that enacted the property tax exemption for business machinery and equipment.

The table below shows the amount of LAVTRF distributions that are scheduled to be made under the partial restoration provision; and the amount of LAVTRF distributions that would occur if future Legislatures opted to restore the funding to the fixed percentage of sales and use tax receipts.

(\$ in millions)

	<i>new</i>	<i>old</i>
	<u>LAVTRF</u>	<u>LAVTRF</u>
<i>FY 2008</i>	<i>\$0.0</i>	<i>\$74.1</i>
<i>FY 2009</i>	<i>\$0.0</i>	<i>\$74.8</i>
<i>FY 2010</i>	<i>\$13.5</i>	<i>\$76.7</i>
<i>FY 2011</i>	<i>\$27.0</i>	<i>\$79.7</i>
<i>FY 2012</i>	<i>\$40.5</i>	<i>\$82.7</i>
<i>FY 2013</i>	<i>\$54.0</i>	<i>\$85.9</i>
<i>FY 2014</i>	<i>\$54.0</i>	<i>\$89.1</i>
<i>FY 2015</i>	<i>\$54.0</i>	<i>\$92.5</i>
<i>FY 2016</i>	<i>\$54.0</i>	<i>\$96.1</i>



## HOUSE BILL No. 2171

By Committee on Taxation

1-23

9 AN ACT concerning sales taxation; relating to refund claims; require-  
10 ments and procedures; penalties; amending K.S.A. 2006 Supp. 79-  
11 3609, 79-3615, 79-3650 and 79-3702 and repealing the existing  
12 sections.  
13

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

15 New Section 1. (a) As used in K.S.A. 79-3601 et seq., and amend-  
16 ments thereto, "refund claim" means an application for the refund of  
17 sales tax, penalty or interest submitted in writing on a form prescribed  
18 by the department that has been completed and is accompanied by all  
19 information and documentation needed to verify and process the claim.  
20 A refund application that is incomplete or is not documented as required  
21 by this section shall not be considered to be a refund claim. The term  
22 "refund claim" may include a claim for payment, a credit or an entitle-  
23 ment to a deduction. The refund claim may be required by the depart-  
24 ment to be filed electronically. Each agent or representative filing a re-  
25 fund application on behalf of another shall submit a power of attorney  
26 that authorizes the agent or representative to act on behalf of the  
27 applicant.

28 (b) (1) Any person who is registered with the department as a retailer  
29 and who reported and remitted sales tax to the department that was not  
30 owed, was remitted in error or was an overpayment may apply for a refund  
31 of such taxes remitted by such retailer to the department.

32 (2) Each registered retailer shall have a continuing duty to correct  
33 any errors in sales tax returns filed with the department and to enable  
34 purchasers to obtain refunds of taxes that were overpaid or paid in error.

35 (3) Each refund application filed by an entity that files sales tax re-  
36 turns shall be treated as an application to adjust or amend the return.  
37 The amended tax return shall be subject to verification by examination  
38 of the taxpayer's records.

39 (4) Each application for a refund claim shall contain all the infor-  
40 mation required in this section and shall be accompanied by all additional  
41 documentation prescribed in this section that is needed to determine the  
42 validity of the application and to verify and process the application. Each  
43 such refund application that contains insufficient information or docu-

1 mentation to verify and process the application shall be returned to the  
2 applicant with directions to file a new and complete application. If an  
3 application for a refund claim has been returned by the department as  
4 incomplete, no application for refund claim shall be considered to have  
5 been filed until a new application is submitted that contains sufficient  
6 information and is supported by sufficient documentation to verify and  
7 process the application as a refund claim.

8 (5) The application for a refund claim shall include the following  
9 information:

10 (A) If applicable, an amended return for each period for which a  
11 refund is sought, which shall contain the retailer's current name, mailing  
12 address, employee identification number and Kansas sales tax registration  
13 number;

14 (B) the name and telephone number of the person whom the de-  
15 partment should contact if additional information is needed;

16 (C) an explanation of the reason why a refund is due. If applicable,  
17 the explanation shall include a detailed and factual description of how the  
18 items sold were used by the consumer;

19 (D) if tax has been refunded to the consumer, the amount, the name  
20 of the refund recipient, and an explanation of how the refund was made,  
21 whether by cash, check, credit or other means;

22 (E) a schedule listing each invoice in chronological order that in-  
23 cludes the name and address of the purchaser, a description of the items  
24 sold, the date of purchase, the invoice number, the amount subject to tax,  
25 the amount of tax collected, the reporting period for the tax, the location  
26 of the sale and a detailed statement of usage of the item purchased. If  
27 the applicant or such applicant's agent maintains records or prepares the  
28 schedule in an electronic, machine-sensible format, all schedules sub-  
29 mitted to support the refund application shall be provided in an elec-  
30 tronic, machine-sensible format in addition to the paper document;

31 (F) the signature of the payee and the signature of the retailer; and

32 (G) any additional information required by the application form that  
33 is needed to verify and process the refund application.

34 (6) The refund claim shall include the following documentation:

35 (A) If applicable, a properly completed exemption certificate from  
36 the consumer;

37 (B) if the retailer has refunded taxes to the consumer, a canceled  
38 check or irrevocable credit memo issued by the retailer showing that the  
39 retailer has credited or refunded the tax previously collected from the  
40 consumer, a written agreement that the refund shall be jointly issued to  
41 the retailer and the consumer or other proof of repayment; and

42 (C) all invoices pertaining to the schedule required to be submitted  
43 under paragraph (b)(5)(E) and any other documentation needed to verify

1 and process the refund application being made in the schedule, which  
2 may include credit memos, contracts, job cost records, tax accrual work-  
3 sheets with refund items identified, charts of account and any other docu-  
4 mentation, including employment data for claims related to the provi-  
5 sions of subsection (cc) of K.S.A. 79-3606, and amendments thereto.

as required herein

6 (c) A consumer may apply directly to the department for a refund if  
7 the consumer meets the requirements of subsection (a) of K.S.A. 79-3650,  
8 and amendments thereto, and submits an application and supporting docu-  
9 mentation ~~together with an affidavit that verifies that the consumer paid~~  
10 ~~the tax directly to the department or the retailer that collected the tax is~~  
11 ~~no longer in business and is unavailable to refund the tax.~~ In order to be  
12 considered complete for processing and verification purposes, each con-  
13 sumer-filed refund claim shall include the following information:

← Delete this language

14 (A) The consumer's name, current mailing address and telephone  
15 number; the retailer's name, last known mailing address and telephone  
16 number;

17 (B) the information referenced in subsection (b)(5)(B), (C), (E) and  
18 (G);

19 (C) a description of the items purchased, the date of purchase, the  
20 location of the purchase, the invoice number; the amount subject to tax  
21 and the amount of tax paid; and

22 (D) the signature of the applicant.

23 (d) The documentation provided with each consumer-filed refund  
24 claim shall include a copy of each of the following:

25 (A) The information referenced in subsection (b)(6)(A) and (C); and

26 (B) a written statement signed by the consumer stating that the con-  
27 sumer has not and will not seek a duplicate refund from the retailer.

28 (e) No refund or credit shall be allowed by the director without suf-  
29 ficient proof submitted by the applicant for a refund claim that the tax  
30 sought to be refunded was paid to the department.

31 (f) The provisions of this section shall be part of and supplemental to  
32 the Kansas retailers' sales tax act.

33 New Sec. 2 (a) (1) An application for a refund claim that is incom-  
34 plete, not supported by the required documentation or otherwise fails to  
35 meet the requirements specified in section 1, and amendments thereto,  
36 whether submitted to the department or to a retailer, shall not be con-  
37 sidered a valid refund claim for the purpose of any of the following:

38 (A) Tolling the statute of limitations provisions of K.S.A. 79-3609, and  
39 amendments thereto; or

40 (B) commencing the running of the 120-day provision of subsection  
41 (d) of K.S.A. 79-3609, and amendments thereto, for payment of refunds  
42 without interest.

43 (2) If an application for a refund claim is incomplete, not supported

[Handwritten box containing lines 40-43 of the text above]

[Handwritten box containing the following text: , except that for any refund application returned to the applicant for failing to meet the requirements of section 1, the applicant shall have 60 days from the date of the department's written notice to file with the department a complete refund application meeting the requirements of section 1.]

, and that the applicant shall have 60 days from the date of the department's written notice to file a complete refund application satisfying the requirements of section 1.

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4

1 by the required documentation or otherwise fails to meet the require-  
2 ments specified in section 1, and amendments thereto, the substance or  
3 merits of the incomplete refund application shall not be reviewed by the  
4 department, and the incomplete application shall be returned to the ap-  
5 plicant. At the time, the applicant shall be notified in writing of the ac-  
6 tions, corrections, information or additional documentation that are  
7 needed to complete the application. The applicant also shall be provided  
8 with a written description of the method by which an informal conference  
9 may be requested pursuant to K.S.A. 79-3226, and amendments thereto,  
10 to request a review of the determination that the refund application is  
11 incomplete. Each review of the department's determination that the tax-  
12 payer submitted a refund application that was incomplete, not supported  
13 by the required documentation, or otherwise failed to meet the require-  
14 ments specified in section 1, and amendments thereto, shall be limited  
15 to determining whether the refund application, as originally submitted,  
16 complied with the requirements of section 1, and amendments thereto,  
17 by providing sufficient information and documentation to allow the re-  
18 fund application to be verified and processed. If, upon review at the  
19 informal conference, it is determined that the refund application failed  
20 to meet the requirements specified in section 1, and amendments thereto,  
21 when submitted so that the refund application could not be verified and  
22 processed, the applicant shall be required to file a new refund application  
23 for the refund being sought.

24 (b) Each application for refund that meets the requirements specified  
25 in section 1, and amendments thereto, so that it can be verified and  
26 processed shall be reviewed by the department as a refund claim and its  
27 validity determined. Each applicant shall be notified in writing of the  
28 department's determination and, if the refund claim is denied in whole  
29 or in part, shall be provided with a written description of the method by  
30 which an informal conference pursuant to K.S.A. 79-3226, and amend-  
31 ments thereto, may be requested. Each denial of a refund claim by the  
32 department shall be final, unless the applicant timely requests an informal  
33 conference pursuant to K.S.A. 79-3226, and amendments thereto. Once  
34 an informal conference is requested, an informal conference shall be held  
35 by the secretary or designee, and a written final determination shall be  
36 issued by the secretary or designee, in accordance with K.S.A. 79-3226,  
37 and amendments thereto. The written final determination shall constitute  
38 a final agency action subject to administrative review by the Kansas board  
39 of tax appeals, as provided in K.S.A. 74-2438, and amendments thereto.

40 (c) The provisions of this section shall be part of and supplemental  
41 to the Kansas retailers' sales tax act.

42 Sec. 3. K.S.A. 2006 Supp. 79-3609 is hereby amended to read as  
43 follows: 79-3609. (a) Every person engaged in the business of selling tan-

1 gible personal property at retail or furnishing services taxable in this state,  
2 shall keep records and books of all such sales, together with invoices, bills  
3 of lading, sales records, copies of bills of sale and other pertinent papers  
4 and documents. Such books and records and other papers and documents  
5 shall, at all times during business hours of the day, be available for and  
6 subject to inspection by the director, or the director's duly authorized  
7 agents and employees, for a period of three years from the last day of the  
8 calendar year or of the fiscal year of the retailer, whichever comes later,  
9 to which the records pertain. Such records shall be preserved during the  
10 entire period during which they are subject to inspection by the director,  
11 unless the director in writing previously authorizes their disposal. Any  
12 person selling tangible personal property or furnishing taxable services  
13 shall be prohibited from asserting that any sales are exempt from taxation  
14 unless the retailer has in the retailer's possession a properly executed  
15 exemption certificate provided by the consumer claiming the exemption.  
16 Any retailer asserting a claim that certain sales are exempt who does not  
17 have the required exemption certificates in possession shall acquire such  
18 certificates within 60 days after receiving notice from the director that  
19 such certificates are required. If such certificates are not obtained within  
20 the period set forth herein, the sales shall be deemed to be taxable sales  
21 under this act.

22 (b) The amount of tax imposed by this act is to be assessed within  
23 three years after the return is filed, and no proceedings in court for the  
24 collection of such taxes shall be begun after the expiration of such period.  
25 In the case of a false or fraudulent return with intent to evade tax, the  
26 tax may be assessed or a proceeding in court for collection of such tax  
27 may be begun at any time, within two years from the discovery of such  
28 fraud. No assessment shall be made for any period preceding the date of  
29 registration of the retailer by more than three years except in cases of  
30 fraud. No refund or credit shall be allowed by the director after three  
31 years from the *due date of payment of the tax as provided in this act the*  
32 *return for the reporting period as provided by K.S.A. 79-3607, and*  
33 *amendments thereto, unless before the expiration of such period a claim*  
34 *therefor is filed by the taxpayer, and no suit or action to recover on any*  
35 *claim for refund shall be commenced until after the expiration of six*  
36 *months from the date of filing a such claim satisfying the requirements*  
37 *specified by section 1, and amendments thereto, therefor with the direc-*  
38 *tor. A refund claim shall not be deemed filed unless such claim is complete*  
39 *as required by section 1, and amendments thereto. For all mailed returns,*  
40 *including refund claims, each return or refund claim shall be presumed*  
41 *to have been filed with the department on the postmark date of such*  
42 *return or refund claim or if such date is illegible, the date three days prior*  
43 *to the date such return or refund claim is received.*

except as otherwise provided in section 2,

1 (c) Before the expiration of time prescribed in this section for the  
2 assessment of additional tax or the filing of a claim for refund, the director  
3 is hereby authorized to enter into an agreement in writing with the tax-  
4 payer consenting to the extension of the periods of limitations for the  
5 assessment of tax or for the filing of a claim for refund, at any time prior  
6 to the expiration of the period of limitations. The period so agreed upon  
7 may be extended by subsequent agreements in writing made before the  
8 expiration of the period previously agreed upon. In consideration of such  
9 agreement or agreements, interest due in excess of 48 months on any  
10 additional tax shall be waived.

11 (d) ~~For all taxable periods subject to assessment on January 1, 1998,~~  
12 ~~including periods subject to an agreement to extend the statute of limi-~~  
13 ~~tations, and for all taxable periods commencing after December 31, 1997,~~  
14 Interest at the rate prescribed by K.S.A. 79-2968, and amendments  
15 thereto, shall be allowed on any overpayment of tax computed from the  
16 ~~due filing date of the return if it was timely filed and accompanied by the~~  
17 ~~tax due or, if the return was not timely filed, from the date of payment~~  
18 ~~claiming the refund, except that no interest shall be allowed on any such~~  
19 ~~refund if the same is paid within 60 120 days after the filing date of the~~  
20 ~~return claiming the refund or the date of payment, as the case requires~~  
21 ~~whichever is later, provided that such return or refund claim satisfies the~~  
22 ~~requirements specified by section 1, and amendments thereto, at the time~~  
23 ~~the return or refund claim is received.~~

24 (e) Notwithstanding any other provision of this section or the provi-  
25 sions of the Kansas compensating tax act:

26 (1) (A) Any claim for refund of tax imposed by the Kansas retailers'  
27 sales tax act or the Kansas compensating tax act based upon the provisions  
28 of subsection (kk) of K.S.A. 79-3606 in existence prior to its amendment  
29 by this act which is without dispute shall be allowed, but, with respect to  
30 any claim exceeding \$10,000, the refund associated therewith shall not  
31 be paid until after 510 days from the date such claim was filed and shall  
32 not include interest from such date. As used in this subparagraph, a claim  
33 for refund without dispute shall not include any claim the basis for which  
34 is a judicial or quasi-judicial interpretation of such subsection occurring  
35 after the effective date of this act.

36 (B) Any refund of tax resulting from a final determination or adju-  
37 dication with regard to any claim submitted or to be submitted for refund  
38 of tax imposed by the Kansas retailers' sales tax act or the Kansas com-  
39 pensating tax act based upon the provisions of subsection (kk) of K.S.A.  
40 79-3606 in existence prior to its amendment by this act not described by  
41 subparagraph (A) shall, with respect to any refund exceeding \$50,000, be  
42 paid in equal annual installments over 10 years commencing with the year  
43 of such final determination or adjudication. Interest shall not accrue dur-

1 ing the time period of such payment.

2 (2) No claim for refund of tax imposed by the Kansas retailers' sales  
3 tax act or the Kansas compensating tax act based upon the application of  
4 the provisions of subsection (n) of K.S.A. 79-3606 pursuant to its inter-  
5 pretation by the court of appeals of the state of Kansas in its opinion filed  
6 on August 13, 1999, in the case entitled In re appeal of Water District  
7 No. 1 of Johnson County shall be allowed for tax paid prior to the effective  
8 date of this act. The provisions of this subsection shall not be applicable  
9 to Water District No. 1 of Johnson county.

10 Sec. 4. K.S.A. 2006 Supp. 79-3615 is hereby amended to read as  
11 follows: 79-3615. (a) If any taxpayer shall fail to pay the tax required under  
12 this act at the time required by or under the provisions of this act, there  
13 shall be added to the unpaid balance of the tax, interest at the rate per  
14 month prescribed by subsection (a) of K.S.A. 79-2968 and amendments  
15 thereto from the date the tax was due until paid.

16 (b) For all taxable years ending prior to January 1, 2002, if any tax-  
17 payer due to negligence or intentional disregard fails to file a return or  
18 pay the tax due at the time required by or under the provisions of this  
19 act, there shall be added to the tax a penalty in an amount equal to 10%  
20 of the unpaid balance of tax due.

21 (c) For all taxable years ending prior to January 1, 2002, if any person  
22 fails to make a return, or to pay any tax, within six months from the date  
23 the return or tax was due, except in the case of an extension of time  
24 granted by the secretary of revenue or the secretary's designee, there  
25 shall be added to the tax due a penalty equal to 25% of the unpaid balance  
26 of such tax due. Notwithstanding the foregoing, in the event an assess-  
27 ment is issued following a field audit for any period for which a return  
28 was filed by the taxpayer and all of the tax was paid pursuant to such  
29 return, a penalty shall be imposed for the period included in the assess-  
30 ment in the amount of 10% of the unpaid balance of tax due shown in  
31 the notice of assessment. If after review of a return for any period in-  
32 cluded in the assessment, the secretary or secretary's designee determines  
33 that the underpayment of tax was due to the failure of the taxpayer to  
34 make a reasonable attempt to comply with the provisions of this act, such  
35 penalty shall be imposed for the period included in the assessment in the  
36 amount of 25% of the unpaid balance of tax due.

37 (d) For all taxable years ending after December 31, 2001, if any tax-  
38 payer fails to file a return or pay the tax if one is due, at the time required  
39 by or under the provisions of this act, there shall be added to the tax an  
40 additional amount equal to 1% of the unpaid balance of the tax due for  
41 each month or fraction thereof during which such failure continues, not  
42 exceeding 24% in the aggregate, plus interest at the rate prescribed by  
43 subsection (a) of K.S.A. 79-2968, and amendments thereto, from the date

1 the tax was due until paid. Notwithstanding the foregoing, in the event  
2 an assessment is issued following a field audit for any period for which a  
3 return was filed by the taxpayer and all of the tax was paid pursuant to  
4 such return, a penalty shall be imposed for the period included in the  
5 assessment in an amount of 1% per month not exceeding 10% of the  
6 unpaid balance of tax due shown in the notice of assessment. If after  
7 review of a return for any period included in the assessment, the secretary  
8 or secretary's designee determines that the underpayment of tax was due  
9 to the failure of the taxpayer to make a reasonable attempt to comply  
10 with the provisions of this act, such penalty shall be imposed for the  
11 period included in the assessment in the amount of 25% of the unpaid  
12 balance of tax due.

13 (e) If any taxpayer, with fraudulent intent, fails to pay any tax or make,  
14 render or sign any return, or to supply any information, within the time  
15 required by or under the provisions of this act, there shall be added to  
16 the tax a penalty in an amount equal to 50% of the unpaid balance of tax  
17 due.

18 (f) Penalty or interest applied under the provisions of subsections (a)  
19 and (d) shall be in addition to the penalty added under any other provi-  
20 sions of this section, but the provisions of subsections (b) and (c) shall be  
21 mutually exclusive of each other.

22 (g) Whenever the secretary or the secretary's designee determines  
23 that the failure of the taxpayer to comply with the provisions of subsec-  
24 tions (a), (b), (c) and (d) of this section was due to reasonable causes, the  
25 secretary or the secretary's designee may waive or reduce any of the  
26 penalties and may reduce the interest rate to the underpayment rate  
27 prescribed and determined for the applicable period under section 6621  
28 of the federal internal revenue code as in effect on January 1, 1994, upon  
29 making a record of the reasons therefor.

30 (h) In addition to all other penalties provided by this section, any  
31 person who willfully fails to make a return or to pay any tax imposed  
32 under the Kansas retailers' sales tax act, or who makes a false or fraudulent  
33 return, or fails to keep any books or records prescribed by this act, or  
34 who willfully violates any regulations of the secretary of revenue, for the  
35 enforcement and administration of this act, or who aids and abets another  
36 in attempting to evade the payment of any tax imposed by this act, or  
37 who violates any other provision of this act, shall, upon conviction thereof,  
38 be fined not less than \$500, nor more than \$10,000, or be imprisoned in  
39 the county jail not less than one month, nor more than six months, or be  
40 both so fined and imprisoned, in the discretion of the court.

41 (i) No penalty assessed hereunder shall be collected if the taxpayer  
42 has had the tax abated on appeal, and any penalty collected upon such  
43 tax shall be refunded.



No such penalty shall be imposed if the retailer collected the tax but did not remit it.

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9

1 (j) A person applying to the department for a refund of any tax im-  
2 posed under the Kansas retailers' sales tax act that was not previously  
3 collected by the retailer ~~and reported and remitted to the department~~, or  
4 that the retailer has already refunded to such person, shall be subject to  
5 a penalty of 50% of the amount of any such tax sought to be refunded.

6 Sec. 5. K.S.A. 2006 Supp. 79-3650 is hereby amended to read as  
7 follows: ~~79-3650. (a) A refund request may be filed directly by a consumer~~  
8 ~~or purchaser if the consumer or purchaser: (1) paid the tax directly to the~~  
9 ~~department, (2) or provides evidence that the retailer refused or was no~~  
10 ~~longer in business and was unavailable to refund the tax, (3) provides~~  
11 ~~evidence that the retailer did not act upon its refund request in a timely~~  
12 ~~manner as provided in subsection (b), or, (4) provides a notarized state-~~  
13 ~~ment to the department from the retailer that the retailer: (A) Will not~~  
14 ~~claim a refund of the same tax included in the purchaser's or consumer's~~  
15 ~~refund request, (B) agrees to provide to the consumer or purchaser any~~  
16 ~~information or documentation in the retailer's possession needed for sub-~~  
17 ~~mission to the department to support or prove the refund claim, (C) has~~  
18 ~~remitted to the state the tax sought to be refunded, and (D) has not taken~~  
19 ~~or will not take a credit for such tax. A retailer providing false information~~  
20 ~~in any such statement shall be subject to penalties prescribed by K.S.A.~~  
21 ~~79-3615(h), and amendments thereto.~~

22 ~~—(b) at the time the refund was sought. Otherwise, a consumer or pur-~~  
23 ~~chaser seeking a refund of overpaid or erroneously paid sales taxes shall~~  
24 ~~claim the refund from the seller. Such seller shall file an amended return~~  
25 ~~seeking such refund with the director within the time period prescribed~~  
26 ~~in K.S.A. 79-3609, and amendments thereto, and pursuant to the require-~~  
27 ~~ments of section 1, and amendments thereto. A cause of action against the~~  
28 ~~seller for the over-collected sales or use taxes does not accrue until a~~  
29 ~~purchaser has provided written notice to a seller and the seller has had~~  
30 ~~60 days to respond. Such notice to the seller must contain the information~~  
31 ~~necessary to determine the validity of the request. In connection with a~~  
32 ~~purchaser's request from a seller for over-collected sales or use taxes, a~~  
33 ~~seller shall be presumed to have a reasonable business practice, if in the~~  
34 ~~collection of such sales or use taxes, the seller uses either a provider or a~~  
35 ~~system, including a proprietary system, that is certified by the state and~~  
36 ~~has remitted to the state all taxes collected less any deductions, credits~~  
37 ~~or collection allowances. If the director of taxation finds upon proper~~  
38 ~~showing that a consumer or purchaser submitted a refund request to a~~  
39 ~~retailer that was not acted upon by the retailer in a timely manner, the~~  
40 ~~director shall extend the time for filing the request with the department~~  
41 ~~beyond the three year limitation period that is otherwise provided by the~~  
42 ~~time attributed to the delay caused by the retailer.~~

43 Sec. 6. K.S.A. 2006 Supp. 79-3702 is hereby amended to read as

Remove amendments to K.S.A. 79-3650  
in Section 5 and substitute the attachment

1 follows: 79-3702. For the purposes of this act: (a) "Purchase price" means  
2 the consideration paid or given or contracted to be paid or given by any  
3 person to the seller of an article of tangible personal property for the  
4 article purchased. The term shall include, in addition to the consideration  
5 paid or given or contracted to be paid or given, the actual cost of trans-  
6 portation from the place where the article was purchased to the person  
7 using the same in this state. If a cash discount is allowed and taken on  
8 the sale it shall be deducted in arriving at the purchase price.

9 (b) The meaning ascribed to words and phrases in K.S.A. 79-3602,  
10 and amendments thereto, insofar as is practicable, shall be applicable  
11 herein unless otherwise provided. The provisions of K.S.A. 79-3601 to  
12 79-3625, inclusive, 79-3650, *section 1 and section 2*, and amendments  
13 thereto, relating to enforcement, collection and administration, insofar as  
14 practicable, shall have full force and effect with respect to taxes imposed  
15 under the provisions of this act.

16 (c) "Use" means the exercise within this state by any person of any  
17 right or power over tangible personal property incident to the ownership  
18 of that property, except that it shall not include processing, or the sale of  
19 the property in the regular course of business, and except storage as  
20 hereinafter defined.

21 (d) "Storage" means any keeping or retaining in this state for any  
22 purpose except sale in the regular course of business or subsequent use  
23 solely outside this state of tangible personal property purchased from a  
24 retailer.

25 (e) "Storage" and "use" do not include the keeping, retaining or ex-  
26 exercising of any right or power over tangible personal property shipped or  
27 brought into this state for the purpose of subsequently transporting it  
28 outside the state for use thereafter solely outside the state, or for the  
29 purpose of being processed, fabricated, or manufactured into, attached  
30 to or incorporated into, other tangible personal property to be transported  
31 outside the state and thereafter used solely outside the state.

32 (f) "Property used in processing" means: (1) Any tangible personal  
33 property which, when used in fabrication, compounding, manufacturing  
34 or germination, becomes an integral part of the new article resulting from  
35 such fabrication, compounding, manufacturing, or germination, and in-  
36 tended to be sold ultimately at retail; (2) fuel which is consumed in cre-  
37 ating power, heat, or steam for processing or for generating electric  
38 current.

39 (g) "Retailer" means every person engaged in the business of selling  
40 tangible personal property for use within the meaning of this act, except  
41 that, when in the opinion of the director it is necessary for the efficient  
42 administration of this act to regard any salesperson, representatives,  
43 truckers, peddlers or canvassers as the agents of the dealers, distributors,

1 supervisors, employers or persons under whom they operate or from  
2 whom they obtain the tangible personal property sold by them, irrespec-  
3 tive of whether they are making sales on their own behalf or on behalf of  
4 such dealers, distributors, supervisors, employers, or persons, the director  
5 may so regard them and may regard the dealers, distributors, supervisors,  
6 employers, or persons as retailers for the purposes of this act.

7 (h) (1) "Retailer doing business in this state" or any like term, means:  
8 (A) Any retailer having or maintaining in this state, permanently, tem-  
9 porarily, directly or indirectly through a subsidiary, agent or representa-  
10 tive, an office, distribution house, sales house, warehouse or other place  
11 of business;

12 (B) any retailer having an employee, independent contractor, agent,  
13 representative, salesperson, canvasser or solicitor operating in this state  
14 either permanently or temporarily, under the authority of the retailer or  
15 its subsidiary, for the purpose of selling, delivering, installing, assembling,  
16 servicing, repairing, soliciting sales or the taking of orders for tangible  
17 personal property;

18 (C) any retailer, including a contractor, repair person or other service  
19 provider, who enters this state to perform services that are enumerated  
20 in K.S.A. 79-3603 and amendments thereto, and who is required to secure  
21 a retailer's sales tax registration certificate before performing those  
22 services;

23 (D) any retailer deriving rental receipts from a lease of tangible per-  
24 sonal property situated in this state;

25 (E) any person having a franchisee or licensee operating under its  
26 trade name if the franchisee or the licensee is required to collect the tax  
27 under the Kansas retailers' sales tax act;

28 (F) any person regularly maintaining a stock of tangible personal  
29 property in this state for sale in the normal course of business; and

30 (G) any retailer who has any other contact with this state that would  
31 allow this state to require the retailer to collect and remit tax under the  
32 provisions of the constitution and laws of the United States.

33 (2) A retailer shall be presumed to be doing business in this state if:

34 (A) Both of the following conditions exist:

35 (i) The retailer holds a substantial ownership interest in, or is owned  
36 in whole substantial part by, a retailer maintaining a sales location in  
37 Kansas; and

38 (ii) the retailer sells the same or a substantially similar line of products  
39 as the related Kansas retailer and does so under the same or a substantially  
40 similar business name, or the Kansas facilities or Kansas employees of the  
41 related Kansas retailer are used to advertise, promote or facilitate sales  
42 by the retailer to consumers.

43 (B) The retailer holds a substantial ownership interest in, or is owned

1 in whole or in substantial part by, a business that maintains a distribution  
2 house, sales house, warehouse or similar place of business in Kansas that  
3 delivers property sold by the retailer to consumers.

4 (C) For purposes of paragraphs (A) and (B):

5 (i) "Substantial ownership interest" means an interest in an entity that  
6 is not less than the degree of ownership of equity interest in an entity  
7 that is specified by Section 78p of Title 15 of the United States Code, or  
8 any successor to that statute, with respect to a person other than a director  
9 or officer; and

10 (ii) "ownership" means and includes both direct ownership, and in-  
11 direct ownership through a parent, subsidiary or affiliate.

12 (3) The processing of orders electronically, by fax, telephone, the in-  
13 ternet or other electronic ordering process, does not relieve a retailer of  
14 responsibility for collection of the tax from the purchaser if the retailer  
15 is doing business in this state pursuant to this section.

16 (i) "Director" means the director of taxation.

17 Sec. 7. K.S.A. 2006 Supp. 79-3609, 79-3615, 79-3650 and 79-3702  
18 are hereby repealed.

19 Sec. 8. This act shall take effect and be in force from and after its  
20 publication in the statute book.

for an amount equal to or exceeding \$50.00

**79-3650. Direct refunds of sales tax, when; over-collected sales or use taxes.** (a) A refund request may be filed directly by a consumer or purchaser if the consumer or purchaser: (1) Paid the tax directly to the department; (2) provides evidence that the retailer refused or was unavailable to refund the tax; (3) provides evidence that the retailer did not act upon its refund request in a timely manner as provided in subsection (b), or; (4) provides a notarized statement to the department from the retailer that the retailer: (A) Will not claim a refund of the same tax included in the purchaser's or consumer's refund request; (B) agrees to provide to the consumer or

purchaser any information or documentation in the retailer's possession needed for submission to the department to support or prove the refund claim; (C) has remitted to the state the tax sought to be refunded; and (D) has not taken or will not take a credit for such tax. A retailer providing false information in any such statement shall be subject to penalties prescribed by K.S.A. 79-3615(h), and amendments thereto.

(b) A cause of action against the seller for the over-collected sales or use taxes does not accrue until a purchaser has provided written notice to a seller and the seller has had 60 days to respond. Such notice to the seller must contain the information necessary to determine the validity of the request. In connection with a purchaser's request from a seller for over-collected sales or use taxes, a seller shall be presumed to have a reasonable business practice, if in the collection of such sales or use taxes, the seller uses either a provider or a system, including a proprietary system, that is certified by the state and has remitted to the state all taxes collected less any deductions, credits or collection allowances. If the director of taxation finds upon proper showing that a consumer or purchaser submitted a refund request to a retailer that was not acted upon by the retailer in a timely manner, the director shall extend the time for filing the request with the department beyond the three year limitation period that is otherwise provided by the time attributed to the delay caused by the retailer.

**KDOR Sales and Use Tax Refunds - FY06**

	FTE	Total # Processed	# Received From Consultants	Average Days to Process	Amt Requested	Tax Amt Refunded	# of Cases With Interest	Interest Paid	Interest Saved	Current # of Cases	Current Claims	Cases Older than 60 Days	# of Cases Appealed	Cost To Process Refunds
Received Through Field Audit	0.5	9	confidential	?	\$391,710	\$324,546	5	\$21,191	\$37,056	?	?	?	?	?
Large Refund Cases >= \$100,000*	2	21	16	42	\$19,749,752	\$13,010,688	confident	\$813,060	\$2,092,855	5	\$2,850,000	0	?	?
Customer Relations Refunds	6	1357	950	?	\$3,897,885	\$2,764,696	60	\$62,035	\$442,351	88	\$242,763	0	?	?
	8.5	1387	966	42	\$24,039,347	\$16,099,930	65	\$896,286	\$2,572,262	93	\$3,092,763	0	?	?
Refunds processed by Admin. Appeals						\$794,641		\$57,105						
Totals		2266	1638			\$16,894,571		\$953,391						

\* Each case may contain several vendors, estimated number of vendors associated with 21 cases is **879**.

### Comment on House Concurrent Resolution No. 5006

Submitted for Consideration to the House Committee on Taxation, February 8, 2007

Art Hall, Executive Director  
Center for Applied Economics, KU School of Business

HCR 5006 establishes a constraint on the escalation of taxable property values by limiting the growth of appraised value to the rate of inflation—until a property is improved or sold. If implemented, HCR 5006 would make a positive contribution toward adding greater taxpayer predictability to the property tax system of Kansas. It would also change—but not resolve—an inherent tax-policy conflict built into a property tax system: the tension between the wealth-tax elements of a property tax and the taxpayer “fairness” elements of a property tax.

Property tax systems have three fundamental components: (1) assessment rates, (2) tax rates (mills), and (3) the property appraisal process. In Kansas, assessment rates are enumerated in the state’s Constitution and mill levies are set by state or local legislative processes. From a taxpayer perspective, the appraisal process represents the component that generates the most uncertainty. Property appraisal—and especially mass appraisal—is an inherently difficult task that relies on human judgment augmented by imperfect data gathered from real estate markets with fragmented information.

The practice of mass appraisal has a long (and storied) history in Kansas. HCR 5006 implicitly—and correctly—challenges people to question whether this practice has become either anachronistic or undesirable, and should thereby become a subordinate feature of the Kansas property tax system.

To provide an analytical structure for assessing this question, attached to this comment is a list of ten guiding principles for sound tax policy promulgated by the American Institute of Certified Public Accountants. The list, chosen for its thoughtfulness and easy accessibility, conforms to a long-established set of standards used in the field of public finance. The core items on the list that relate to HCR 5006 are: Equity and Fairness, Certainty, and Convenience of Payment. Let us explore these interrelated items in turn:

- *Equity and Fairness:* Similarly situated taxpayers should be taxed similarly.

A tax base that requires accurate appraisals for determining “similarly situated” taxpayers can become “inaccurate,” despite diligence on the part of property tax appraisers, as data from the Kansas Department of Revenue illustrates. For example, the mass appraisal industry sets acceptable standards of deviation from “true market value” for property valuation. For any given property, it is possible for these deviations to compound over time. This outcome is less of a practical problem in liquid markets with a high turnover rate and more of a problem in illiquid markets with a low turnover rate. The ability for taxpayers to challenge property tax

appraisals helps correct for deviations on the “high side” of the market. HCR 5006, despite its virtues in other elements of tax policy, may also create a situation whereby “similarly situated” taxpayers are not taxed similarly; the dissimilarity has the potential to become significant and protracted. Imagine a new residential subdivision or business park. Taxpayer A and Taxpayer B purchase identical properties at the same time, at an identical price. The procedure established by HCR 5006 avoids the possibility of the appraisal process creating divergent values between the two properties. However, suppose Taxpayer B sells after 10 years, and the property sells for a value equal to purchase price times twice the compound rate of inflation. At that moment, HCR 5006 requires that the Taxpayer B property be revalued at the (fair market) sale price. Taxpayer A and the new Taxpayer B are now similarly situated taxpayers from a property-value perspective, but Taxpayer B owns a higher property tax base, and thus a dissimilar property tax liability.

This outcome will vary across markets. In areas with a higher rate of property turnover, it will be less important. In markets with a lower rate of property turnover, it will be more important.

- *Certainty:* The tax rules should clearly specify when the tax is to be paid, how it is to be paid, and how the amount to be paid is to be determined.

HCR 5006 will improve taxpayer Certainty with regard to the tax consequences of property purchases, regardless of the Equity and Fairness arguments discussed above. True, taxpayers know that the mass appraisal process helps determine the amount of their current and future property tax liabilities. However, the inflation-oriented constraints created by HCR 5006 provide more clarity and predictability than the mass appraisal process adapting to evolving market conditions. HCR 5006 eliminates the various elements of market-risk and human judgment in the appraisal process and replaces it with one unknown: the growth rate of CPI-U, which is primarily a function of U.S. Federal Reserve monetary policy decisions.

- *Convenience of Payment:* A tax should be due at a time or in a manner that is most likely to be convenient for the taxpayer.

The wealth-tax element of the property tax is arguably the primary reason property taxes consistently poll as the least popular form of taxation. This notion relates specifically to convenience of payment when one expands the notion of “convenience” to include possession of the cash necessary to discharge a tax liability.

The appraisal process is the administrative feature that (imperfectly) helps to maintain the Equity and Fairness feature of the property tax. However, escalating appraisals, even if fully representative of underlying market processes, can drive property tax liabilities beyond taxpayers’ ability to pay. Solvency does not ensure liquidity. The need to sell (or borrow against) a property in order to discharge a tax liability creates a different type of fairness issue. HCR 5006 would essentially eliminate any appraisal-driven Convenience of Payment problem created by the wealth-tax element of the



property tax.

American Institute of Certified Public Accountants  
Guiding Principles of Good Tax Policy

1. *Equity and Fairness.* Similarly situated taxpayers should be taxed similarly.
2. *Certainty.* The tax rules should clearly specify when the tax is to be paid, how it is to be paid, and how the amount to be paid is to be determined.
3. *Convenience of Payment.* A tax should be due at a time or in a manner that is most likely to be convenient for the taxpayer.
4. *Economy in Collection.* The costs to collect a tax should be kept to a minimum for both the government and taxpayers.
5. *Simplicity.* The tax law should be simple so that taxpayers understand the rules and can comply with them correctly and in a cost-efficient manner.
6. *Neutrality.* The effect of the tax law on a taxpayer's decisions as to how to carry out a particular transaction or whether to engage in a transaction should be kept to a minimum.
7. *Economic Growth and Efficiency.* The tax system should not impede or reduce the productive capacity of the economy.
8. *Transparency and Visibility.* Taxpayers should know that a tax exists and how and when it is imposed upon them and others.
9. *Minimum Tax Gap.* A tax should be structured to minimize noncompliance.
10. *Appropriate Government Revenues.* The tax system should enable the government to determine how much tax revenue will likely be collected and when.

Source: American Institute of Certified Public Accountants, "Guiding Principles of Good Tax Policy: A Framework for Evaluating Tax Proposals," 2001, pp. 9-10.  
[http://www.aicpa.org/download/members/div/tax/Tax\\_Policy\\_stmt1.pdf](http://www.aicpa.org/download/members/div/tax/Tax_Policy_stmt1.pdf)

Tuesday, February 13th , 2007 Mr. Maurice McTigue, a Scholar at the Mercatus Center of George Mason University will be presenting an informative analysis of economic reforms in New Zealand to the House Taxation Committee at 9:00 am in room 519 South. At noon he will make different presentation to KLEAR members and guests, in the upper level of the Celtic Fox restaurant.

Attached below is a short biography of Mr. McTigue. Mr. McTigue will be in Topeka just for the day. If you are even remotely interested in expanding your horizons I believe you will enjoy Mr. McTigues' presentation. He will draw upon lessons from the reforms that led New Zealand to an economic turnaround to show the role the tax reform and accountability can and should play in the public sector.

Maurice McTigue

Distinguished Visiting Scholar & Director, Government Accountability Project, and Vice President

mmctigue@gmu.edu

#### Biography

Maurice McTigue joined the Mercatus Center in 1997 as a Distinguished Visiting Scholar following an illustrious career as a New Zealand Member of Parliament, Cabinet Minister and Ambassador. Prior to his arrival in the United States, McTigue led an ambitious and extremely successful effort to restructure New Zealand's public sector and to revitalize its stagnant economy in the 1984-94 period. He entered the New Zealand Parliament in 1985 and served as the National Party's Junior Whip. As Spokesman for Works, Irrigation, Transport and Fisheries, McTigue was closely involved in the deregulation of labor markets, deregulation of the transportation industry, and restructuring of the fishing industry through the creation of conservation incentives. In 1990, McTigue was appointed Minister of Employment and Associate Minister of Finance, holding primary financial responsibility for student loans, school funding, public transit, occupational licensing, and the restructuring of employment programs.

In 1991, McTigue accepted the positions of Minister of State Owned Enterprises, Minister of Railways, and Minister of Works and Development, and assumed Chairmanship of the Cabinet's powerful Expenditure Control Committee. In each Ministry, he applied results-based criteria to help clarify the organization's mission, analyze performance, and prioritize activities accordingly. In 1993, McTigue was appointed Minister of Labour and Minister of Immigration, continuing the application of results-based principles to employment law, occupational safety and health regulations, and immigration. In April 1994, he moved to Canada as New Zealand's Ambassador; concurrently, he served as non-residential High Commissioner to Jamaica, Barbados, Trinidad and Tobago, and Guyana.

In a ceremony at Buckingham Palace in 1999, Queen Elizabeth II bestowed upon McTigue the prestigious Queen's Service Order, in recognition of his public service. This is one of the highest honors attainable for civil service in New Zealand.

As director of the Government Accountability Project at Mercatus, Maurice McTigue is sharing the lessons of his practical experience with policymakers in the United States. He works with

officials in the Administration, members of Congress, officials from over 23 federal agencies and state governments on applying the principles of transparency and accountability in the public sector. In 2003, he was appointed to the Office of Personnel Management Senior Review Committee, formed to make recommendations for new Human Resources systems at the then newly created Department of Homeland Security. McTigue has provided extensive strategic-level advice to the Office of Management and Budget on a wide range of management issues, including the development of a results-based program assessment tool. He frequently speaks at conferences on performance issues and testifies before congressional committees on issues of government reform.

We hope to see you! Thanks

Rep. Richard Carlson  
Vice-Chairman  
House Taxation Committee.

Sincerely,  
Richard Carlson  
Representative, 61st District

**2007 Tax Credit Bills -- A Work in Progress**

HB 2004	Rural business development
HB 2037	Certain energy efficiency improvements
HB 2101	Certain services by volunteer firefighters or volunteer EMS providers.
HB 2102	Health care professionals contributing time to community service organizations.
HB 2139	Contributions to educational institutions for programs designed to train licensed medical professionals.
HB 2222	Hybrid motor vehicles
HB 2226	Certain education expenses
HB 2362	certain expenditures related to living organ donations.
HB 2371	certain expenditures related to living organ donations.
HB 2439	film production tax credit act
HB 2467	tax credit for certain property taxes paid
HB 2476	certain energy income tax credits
HB 2170	investment credit act and the Kansas jobs credit act
SB 59	Certain education expenses
SB 140	Hybrid motor vehicles
SB 172	Fees paid to public schools for textbooks and workbooks
SB 213	investment credit act and the Kansas jobs credit act
SB 215	credit for contributions to community colleges for capital improvements
SB 312	Increase the earned income tax credit
SB 327	Renewable fuels; income tax credits
SB 331	tax credits and grant program for renovation, preservation or operation of certain historic sites

Kansas Tax Credits

Program Name	Description	Nonrefundable or Refundable Credit	Fiscal Year Limitation	Transferability	Sunset
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.	Nonrefundable	\$250,000 for any one fiscal year First come, first served	No	None
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. An additional 25% shall be allowed for those adopting a child that is a Kansas resident and an 25% for those adopting a child with special needs.</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>	Nonrefundable	None	No	None
Agricultural Loan Interest Reduction Credit-K.S.A. 79-32,181a and 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.	Nonrefundable	None	No	Prior to July 1, 2004
Agritourism Liability Insurance Credit-K.S.A. 74-50,173	An income tax credit shall be allowed in an amount equal to 20% of the cost of liability insurance paid by a registered agritourism operator that operates an agritourism activity.	Nonrefundable	None	No	Prior to January 1, 2008
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.	Nonrefundable	None	No	None

HS TAXATION COMMITTEE  
2-9-2007  
ATTACHMENT 10

Kansas Tax Credits

10-2

Program Name	Description	Nonrefundable or Refundable Credit	Fiscal Year Limitation	Transferability	Sunset
<b>Angel Investor Credit-K.S.A. 74-8133</b>	A 50% income tax credit shall be allowed to any angel investor that makes a cash investment in the qualified securities of a qualified Kansas business.	Nonrefundable	\$2,000,000 for any one fiscal year. KTEC allocates no more than \$2M per year.	Yes	Prior to January 1, 2017
<b>Assistive Technology Contribution Credit-K.S.A. 65-7107</b>	An 25% income tax credit shall be allowed to any person or entity who makes a contribution to an individual development account reserve fund to be used to purchase assistive technology	Any credit amount that exceeds the tax liability shall be lost.	\$6,250 in any one fiscal year. KATCO allocates no more than \$6,250 per year	No	None
<b>Business and Job Development Credit-K.S.A. 79-32,153 and K.S.A. 79-32,160a</b>	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.  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.	Nonrefundable	None	No (except for certain transfers between related taxpayers)	None
<b>Business Machinery and Equipment Credit-K.S.A. 79-32,206</b>	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.	Refundable	None	No	None

Kansas Tax Credits

10-3

Program Name	Description	Nonrefundable or Refundable Credit	Fiscal Year Limitation	Transferability	Sunset
Cellulosic Alcohol Plant Credit-2006 SB 303	A taxpayer that makes a qualified investment in a refinery shall be allowed a credit equal to 10% of the taxpayer's qualified investment on the first \$250,000,000 invested and 5% of the taxpayer's qualified investment that exceeds \$250,000,000.	Nonrefundable	None	No	None
Center for Entrepreneurship Credit-K.S.A. 74-99c09	A tax credit shall be allowed for a contributor making a contribution to the Kansas Center for Entrepreneurship. The credit is 75% of the total amount of cash donated.	Nonrefundable	\$2,000,000 for any one fiscal year. Commerce allocates no more than \$2M per year.	No	None
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.	Refundable	\$3,000,000 for any one fiscal year. First come, first served.	No	None
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.	Refundable	\$4,130,000 for any one fiscal year. Commerce allocates no more than \$4.13M per year.	Yes	None
Disabled Access Credit-K.S.A. 79-32,175 and 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.	Nonrefundable Refundable for individuals that have a liability of less than \$2,250	None	No	None
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.	Nonrefundable	None	No	Prior to January 1, 2003



Kansas Tax Credits

10-4

Program Name	Description	Nonrefundable or Refundable Credit	Fiscal Year Limitation	Transferability	Sunset
<b>High Performance Incentive Program-K.S.A. 74-50,132 K.S.A. 79-32,160a(e)</b>	<p>A qualified firm making a cash investment in the training and education of its employees can receive a credit equal to the portion of the investment in the training and education that exceeds 2% of the businesses total payroll costs.</p> <p>A credit is available for those qualified firms that make an investment in a qualified business facility. The investment credit is 10% of the qualified business facility investment which exceeds \$50,000.</p>	<p>Nonrefundable- Investment Credit</p> <p>Any credit amount that exceeds the tax liability shall be lost-Training and Education Credit</p>	<p>None</p>	<p>No (except for certain transfers between related taxpayers)</p>	<p>None</p>
<b>Historic Preservation Credit-K.S.A. 79-32,211</b>	<p>An income tax credit is allowed for expenditures incurred in the restoration and preservation of a qualified historic structure.</p>	<p>Nonrefundable</p>	<p>None</p>	<p>Yes</p>	<p>None</p>
<b>Individual Development Account Credit-K.S.A. 74-50,208</b>	<p>A 50% tax credit shall be allowed for any program contributor that contributes to an individual development account reserve fund.</p>	<p>Refundable</p>	<p>\$500,000 in any one fiscal year.</p> <p>Commerce allocates no more than \$500K per year.</p>	<p>No</p>	<p>None</p>
<b>Integrated Coal Gasification Power Plant Credit-2006 SB 303</b>	<p>A taxpayer that makes a qualified investment in a refinery shall be allowed a credit equal to 10% of the taxpayer's qualified investment on the first \$250,000,000 invested and 5% of the taxpayer's qualified investment that exceeds \$250,000,000.</p>	<p>Nonrefundable</p>	<p>None</p>	<p>No</p>	<p>None</p>
<b>Law Enforcement Training Center Credit-2006 HB 2122</b>	<p>A 50% tax credit shall be allowed for a business firm that contributes cash to the Kansas Law Enforcement Training Center.</p>	<p>Nonrefundable</p>	<p>None</p>	<p>No</p>	<p>None</p>
<b>Mathematics and Science Teacher Employment Credit-K.S.A. 79-32,215</b>	<p>An income tax credit shall be allowed to any business firm which has entered into a partnership agreement to employ a Kansas mathematics or science teacher during times that school is not in session. The credit is 25% or 30% if the teacher is teaching in a school district located in a rural community, underserved area or underperforming urban area.</p>	<p>Any credit amount that exceeds the tax liability shall be lost.</p>	<p>\$500,000 for any one fiscal year and no more than \$125,000 in any one congressional district per fiscal year.</p> <p>First come, first served.</p>	<p>No</p>	<p>Prior to January 1, 2008</p>

Kansas Tax Credits

10-5

Program Name	Description	Nonrefundable or Refundable Credit	Fiscal Year Limitation	Transferability	Sunset
<b>National Guard &amp; Reserve Employer Credit-2006 SB 432</b>	An income tax credit shall be allowed for employing a member of the Kansas army and air national guard or a member of a Kansas unit of the reserved forces of the United States who was federally activated and deployed on or after August 7, 1990. The credit is 25% of the amount paid as salary or compensation, not to exceed \$7,000 for each member employed.	Nonrefundable	None	No	Prior to January 1, 2009
<b>Nitrogen Fertilizer Plant Credit-2006 SB 303</b>	A taxpayer that makes a qualified investment in a refinery shall be allowed a credit equal to 10% of the taxpayer's qualified investment on the first \$250,000,000 invested and 5% of the taxpayer's qualified investment that exceeds \$250,000,000.	Nonrefundable	None	No	None
<b>Petroleum Refinery Credit-2006 SB 303</b>	A taxpayer that makes a qualified investment in a refinery shall be allowed a credit equal to 10% of the taxpayer's qualified investment on the first \$250,000,000 invested and 5% of the taxpayer's qualified investment that exceeds \$250,000,000.	Nonrefundable	None	No	None
<b>Qualifying Pipeline Credit-2006 SB 303</b>	A taxpayer that makes a qualified investment in a refinery shall be allowed a credit equal to 10% of the taxpayer's qualified investment on the first \$250,000,000 invested and 5% of the taxpayer's qualified investment that exceeds \$250,000,000.	Nonrefundable	None	No	None
<b>Regional Foundation Credit-K.S.A. 74-50,154</b>	Any taxpayer that contributes to an organization designated as a regional foundation may be eligible to receive a tax credit of 75% of the total amount contributed.	Refundable	FY 2005-\$2,500,000 FY 2006-\$2,500,000 FY 2007-\$2,000,000  Commerce allocates no more than fiscal limitation per year.	Yes	Prior to January 1, 2008
<b>Research and Development Credit-K.S.A. 79-32,182b</b>	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.	Nonrefundable	None	No	None

Kansas Tax Credits

10-6

Program Name	Description	Nonrefundable or Refundable Credit	Fiscal Year Limitation	Transferability	Sunset
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.	Any credit amount that exceeds the tax liability shall be lost.	\$500,000 for any one fiscal year.  First come, first served.	No	Prior to January 1, 2022
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.	Refundable	None	No	None
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.	Nonrefundable	None	No	None
Telecommunications & Railroad Credit-K.S.A. 79-32,210 and K.S.A. 79-32,206	<p>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%.</p> <p>A credit shall be allowed in an amount equal to 20% of the property tax levied for property tax year 2005 and 2006 and 25% for property tax year 2007 upon railroad machinery and equipment classified for property taxation purposes pursuant to section 1 of article 11 of the Kansas constitution in subclass (3) of class 2.</p>	Refundable	None	No	None
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.	Any credit amount that exceeds the tax liability shall be lost.	None	No	None

Kansas Tax Credits

10-7

Program Name	Description	Nonrefundable or Refundable Credit	Fiscal Year Limitation	Transferability	Sunset
<b>Venture Capital Credits and Local Seed Capital Credits-</b> 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.	Nonrefundable	No funds available.	No	None

Kansas Tax Credits  
Tax Year 2004

10-8

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
High Performance Incentive Program	K.S.A. 74-50,132	A qualified firm making a cash investment in the training and education of its employees can receive a credit equal to the portion of the investment in the training and education that exceeds 2% of the businesses total payroll costs.												
	K.S.A. 79-32,160a(e)	A credit is available for those qualified firms that make an investment in a qualified business facility. The investment credit is 10% of the qualified business facility investment which exceeds \$50,000.												
Income and Privilege Taxpayers		Sector 11- Agriculture, Forestry, Fishing and Hunting, Sector 22- Utilities, and Sector 31-33- Manufacturing	50	\$10,859,374	377	332	1,832		\$253,792,021	\$111,358,238				
		Sector 42-Wholesale	8	\$579,741	17	51	6		\$7,666,464	\$1,359,274				
		Sector 44-45-Retail Trade, Sector 48-49-Transportation and Warehousing, and Sector 51-Information	9	\$510,549	107	35	-		\$21,326,865	\$10,886,796				
		Sector 52-Finance and Insurance, Sector 53-Real Estate and Rental and Leasing, Sector 55-Management of Companies and Enterprises, and Sector 56-Administrative and Support and Waste Management	14	\$2,657,211	134	24	-		\$11,357,646	\$7,523,902				
		Sector 54-Professional, Scientific, and Technical Services	10	\$862,176	163	92	10		\$14,498,920	\$5,191,064				
<b>Total High Performance Incentive Program Credits</b>			<b>91</b>	<b>\$15,469,051</b>	<b>798</b>	<b>534</b>	<b>1848</b>		<b>\$308,641,916</b>	<b>\$136,319,274</b>				

Kansas Tax Credits  
Tax Year 2004

10-9

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	24	\$183,091		78				\$4,113,149				
		Sector 23-Construction	34	\$256,127		83				\$6,890,367				
		Sector 31-33-Manufacturing	268	\$4,490,509		2,390				\$128,475,909				
		Sector 42-Wholesale Trade	33	\$912,344		308				\$10,255,353				
		Sector 44-45-Retail Trade	110	\$3,108,874		2,378				\$199,876,036				
		Sector 48-49-Transportation and Warehousing	21	\$267,748		109				\$5,067,403				
		Sector 52-Finance and Insurance	14	\$200,025		199				\$3,987,103				
		Sector 54-Professional, Scientific, and Technical Services	129	\$1,884,319		686				\$36,567,631				
Privilege Taxpayers		Sector 52-Finance and Insurance	65	\$201,872		269				\$27,240,376				
<b>Total Business and Job Development Credits</b>			<b>698</b>	<b>\$11,504,909</b>		<b>6,500</b>				<b>\$422,473,327</b>				

**NAICS Titles and Descriptions of Industries**

1D-1D

Sector	Title	Description
Sector 11	Agriculture, Forestry, Fishing and Hunting	Establishments primarily engaged in growing crops, raising animals, harvesting timber, and harvesting fish and other animals from a farm, ranch or their natural habitats.
Sector 21	Mining	Establishments that extract naturally occurring mineral solids, such as coal and ores; liquid minerals, such as crude petroleum; and gases, such as natural gas. The term mining is used in the broad sense to include quarrying, well operations, beneficiating (e.g., crushing, screening, washing, and flotation), and other preparation customarily performed at the mine site, or as a part of mining activity.
Sector 22	Utilities	Establishments engaged in the provision of the following utility services: electric power, natural gas, steam supply, water supply, and sewage removal.
Sector 23	Construction	Establishments primarily engaged in the construction of buildings or engineering projects (e.g., highways and utility systems). Establishments primarily engaged in the preparation of sites for new construction and establishments primarily engaged in subdividing land for sale as building sites also are included in this sector.
Sector 31-33	Manufacturing	Establishments engaged in the mechanical, physical, or chemical transformation of materials, substances, or components into new products.
Sector 42	Wholesale Trade	Establishments engaged in wholesaling merchandise, generally without transformation, and rendering services incidental to the sale of merchandise.
Sector 44-45	Retail Trade	Establishments engaged in retailing merchandise, generally without transformation, and rendering services incidental to the sale of merchandise.
Sector 48-49	Transportation and Warehousing	Industries providing transportation of passengers and cargo, warehousing and storage for goods, scenic and sightseeing transportation, and support activities related to modes of transportation.
Sector 51	Information	Establishments engaged in the following processes: (a) producing and distributing information and cultural products, (b) providing the means to transmit or distribute these products as well as data or communications, and (c) processing data.
Sector 52	Finance and Insurance	Establishments primarily engaged in financial transactions (transactions involving the creation, liquidation, or change in ownership of financial assets) and/or in facilitating financial transactions.
Sector 53	Real Estate and Rental and Leasing	Establishments primarily engaged in renting, leasing, or otherwise allowing the use of tangible or intangible assets, and establishments providing related services.
Sector 54	Professional, Scientific, and Technical Services	Establishments that specialize in performing professional, scientific, and technical activities for others. Activities performed include: legal advice and representation; accounting, bookkeeping, and payroll services; architectural, engineering, and specialized design services; computer services; consulting services; research services; advertising services; photographic services, translation and interpretation services; veterinary services; and other professional, scientific, and technical services.

**NAICS Titles and Descriptions of Industries**

10-11

Sector	Title	Description
Sector 55	Management of Companies and Enterprises	Comprises (1) establishments that hold the securities of (or other equity interests in) companies and enterprises for the purpose of owning a controlling interest or influencing management decisions or (2) establishments (except government establishments) that administer, oversee, and manage establishments of the company or enterprise and that normally undertake the strategic or organizational planning and decisionmaking role of the company or enterprise.
Sector 56	Administrative and Support and Waste Management and Remediation Services	Establishments performing routine support activities for the day-to-day operations of other organizations. Activities performed include: office administration, hiring and placing of personnel, document preparation and similar clerical services, solicitation, collection, security and surveillance services, cleaning, and waste disposal services.
Sector 61	Educational Services	Establishments that provide instruction and training in a wide variety of subjects.
Sector 62	Health Care and Social Assistance	Establishments providing health care and social assistance for individuals.
Sector 71	Arts, Entertainment, and Recreation	Establishments that operate facilities or provide services to meet varied cultural, entertainment, and recreational interests of their patrons. This sector comprises (1) establishments that are involved in producing, promoting, or participating in live performances, events, or exhibits intended for public viewing; (2) establishments that preserve and exhibit objects and sites of historical, cultural, or educational interest; and (3) establishments that operate facilities or provide services that enable patrons to participate in recreational activities or pursue amusement, hobby, and leisure time interests.
Sector 72	Accommodation and Food Services	Establishments providing customers with lodging and/or preparing meals, snacks, and beverages for immediate consumption.
Sector 81	Other Services (except Public Administration)	Establishments engaged in providing services not specifically provided for elsewhere in the classification system. Establishments in this sector are primarily engaged in activities, such as equipment and machinery repairing, promoting or administering religious activities, grantmaking, advocacy, and providing dry-cleaning and laundry services, personal care services, death care services, pet care services, photofinishing services, temporary parking services, and dating services.
Sector 92	Public Administration	Establishments of federal, state, and local government agencies that administer, oversee, and manage public programs and have executive, legislative, or judicial authority over other institutions within a given area.



Kansas Tax Credits  
Tax Year 2004

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 23-Construction and Sector 31-33-Manufacturing	52	\$177,402
		Sector 42-Wholesale Trade	19	\$298,135
		Sector 44-45-Retail Trade and Sector 48-49-Transportation and Warehousing	8	\$8,411
		Sector 51-Information	7	\$10,663
		Sector 52-Finance and Insurance and Sector 54-Professional, Scientific, and Technical Services	11	\$27,885
		Sector 56-Administrative and Support and Waste Management and Remediation Services, Sector 62-Health Care and Social Assistance, Sector 72-Arts, Entertainment, and Recreation, and Sector 81-Other Services	14	\$52,388
<b>Total Research and Development Credit</b>			<b>111</b>	<b>\$574,884</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			14,768	\$20,322,632
Privilege Taxpayers			347	\$589,714
<b>Total Business Machinery and Equipment Credit</b>			<b>15,115</b>	<b>\$20,912,346</b>

Kansas Tax Credits  
Tax Year 2004

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			7	\$23,461
<b>Total Abandoned Well Plugging Credit</b>			<b>7</b>	<b>23,461</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			543	\$556,154
<b>Total Adoption Credit</b>			<b>543</b>	<b>\$556,154</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>*CONFIDENTIAL</b>	
Agritourism Liability Insurance Credit	K.S.A. 74-50,173	An income tax credit shall be allowed in an amount equal to 20% of the cost of liability insurance paid by a registered agritourism operator that operates an agritourism activity.		
Income Taxpayer			25	\$6,783
<b>Total Agritourism Liability Insurance Credit</b>			<b>25</b>	<b>6,783</b>

Kansas Tax Credits  
Tax Year 2004

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			26	\$115,530
<b>Total Alternative Fuel Tax Credit</b>			<b>26</b>	<b>\$115,530</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			19	\$34,114
Privilege Taxpayers			0	\$0
<b>Total Child Day Care Assistance Credit</b>			<b>19</b>	<b>\$34,114</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			1,232	\$3,364,317
Privilege Taxpayers			28	\$438,768
<b>Total Community Service Contribution Credit</b>			<b>1,260</b>	<b>\$3,803,085</b>

Kansas Tax Credits  
Tax Year 2004

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			142	\$188,381
Privilege Taxpayers			0	\$0
<b>Total Disabled Access Credit</b>			<b>142</b>	<b>\$188,381</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			113	\$1,139,423
Privilege Taxpayers			12	\$2,299,149
<b>Total Historic Preservation Credit</b>			<b>125</b>	<b>\$3,438,572</b>
Regional Foundation Credit	K.S.A. 74-50,154	Any taxpayer that contributes to an organization designated as a regional foundation may be eligible to receive a tax credit of 50% of the total amount contributed.		
Income Taxpayers			*CONFIDENTIAL	
Privilege Taxpayers			*CONFIDENTIAL	
<b>Total Regional Foundation Credit</b>			<b>*CONFIDENTIAL</b>	

Kansas Tax Credits  
Tax Year 2004

Program Name	Statutory Reference	Description	Number of Filers	Tax Expenditure
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>	
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			104	\$117,657
<b>Total Small Employer Health Benefit Plan Credit</b>			<b>104</b>	<b>\$117,657</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			143	\$972,486
<b>Total Telecommunications Credit</b>			<b>143</b>	<b>\$972,486</b>

Kansas Tax Credits  
Tax Year 2004

Program Name	Statutory Reference	Description	Number of Filers	Tax Expenditure
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>
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			*CONFIDENTIAL	
Privilege Taxpayers			0	\$0
<b>Total Venture Capital Credits and Local Seed Capital Credits</b>			<b>*CONFIDENTIAL</b>	
*CONFIDENTIAL - This information is confidential as there are less than 5 filers. This information is not included in the total.				

Kansas Tax Credits  
Tax Year 2004

Program Name	Statutory Reference	Description	Number of Filers	Tax Expenditure
<b>SUMMARY</b>				
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.	7	\$23,461
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>	543	\$556,154
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.	*CONFIDENTIAL	
Agritourism Liability Insurance Credit	K.S.A. 74-50,173	An income tax credit shall be allowed in an amount equal to 20% of the cost of liability insurance paid by a registered agritourism operator that operates an agritourism activity.	25	\$6,783
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.	26	\$115,530
Business and Job Development Credit	K.S.A. 79-32,153 K.S.A. 79-32,160a	<p>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.</p> <p>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.</p>	698	\$11,504,909
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.	15,115	\$20,912,346
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.	19	\$34,114
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.	1,260	\$3,803,085
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.	142	\$188,381
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.	*CONFIDENTIAL	

Kansas Tax Credits  
Tax Year 2004

Program Name	Statutory Reference	Description	Number of Filers	Tax Expenditure
High Performance Incentive Program	K.S.A. 74-50,132 K.S.A. 79-32,160a(e)	A qualified firm making a cash investment in the training and education of its employees can receive a credit equal to the portion of the investment in the training and education that exceeds 2% of the businesses total payroll costs.  A credit is available for those qualified firms that make an investment in a qualified business facility. The investment credit is 10% of the qualified business facility investment which exceeds \$50,000.	91	\$15,469,051
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.	125	\$3,438,572
Regional Foundation Credit	K.S.A. 74-50,154	Any taxpayer that contributes to an organization designated as a regional foundation may be eligible to receive a tax credit of 50% of the total amount contributed.	*CONFIDENTIAL	
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.	111	\$574,884
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.	*CONFIDENTIAL	
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.	104	\$117,657
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.	0	\$0
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%.	143	\$972,486
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.	0	\$0
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.	*CONFIDENTIAL	
<b>TOTAL</b>			<b>18,409</b>	<b>\$57,717,413</b>