

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE

The meeting was called to order by Chairman Barbara Allen at 10:40 A.M. on January 10, 2007 in Room 519-S of the Capitol.

All members were present except:

Greta Goodwin- excused

Les Donovan- excused

Pat Apple- excused

Committee staff present:

Chris Courtwright, Kansas Legislative Research

Martha Dorsey, Kansas Legislative Research

Gordon Self, Revisor of Statutes Office

Jason Thompson, Revisor of Statutes Office

Judy Swanson, Secretary

Conferees appearing before the committee:

Others attending:

See attached list.

Chairman Allen welcomed Committee members to the first meeting of the 2007 Legislative Session. Guidelines for conferees appearing before the Committee were distributed. (Attachment 1)

Senator Schmidt made a motion to introduce a bill which would create a tax credit to Kansas families for Kansas students attending Kansas colleges. Senator Lee seconded the motion, and the motion passed.

Chris Courtwright, Legislative Research, reviewed the Report of the Special Committee on Assessment and Taxation. (Attachment 2) The Special Committee recommended questions relating to justification of any new sales tax exemptions should be answered by all parties seeking sales tax exemption legislation. The Committee also recommended the repeal of seldom-used income tax credits.

Homestead expansion was recommended by the Special Committee. The Committee suggested legislation be introduced to reduce "rent constituting property taxes paid" from 20 to 15 percent, while simultaneously increasing the maximum refund amount for both homeowners and renters from \$600 to \$700.

Martha Dorsey, Legislative Research, further reviewed the Special Committee Report. County local sales tax was discussed during the interim. However, no recommendations for change were made. Motor fuel taxation along the Kansas border was discussed by the Special Committee, but no legislative recommendation was made to proceed with changing the current method of taxation. The interim committee suggested instead a study be conducted to include all border taxes, including those for cigarettes and food sales.

Being no further business, the meeting was adjourned at 11:25 a.m.

SENATE
ASSESSMENT & TAXATION COMMITTEE

GUEST LIST

DATE: 1-10-07

NAME	REPRESENTING
Matt Bryant	interning for DelCenter
Derek Hein	Hein Law Firm
Martha Lee Smith	KMHA
Kipp Reeser	GBBA
Ed May	LGR
Vette Dennis	Ks Livestock Assoc.
Harriet Lange	Ks Assn of Broadcasters
Keele W Davis	KDPT
TERRY FORDYTH	KNEA
Michael Hooper	Kearney & Assoc.
Bruce Larkia	KPOR
Richard Crane	"

**GUIDELINES FOR CONFEREES APPEARING BEFORE THE
SENATE ASSESSMENT & TAXATION COMMITTEE
2007**

1. Cellular phone and pagers with audible tones must be turned off or disabled while in the committee room.
2. Individuals wishing to appear and provide verbal testimony before the committee should **notify** the committee secretary at least **24 hours** in advance of the hearing.
3. Testimony should be in **written form** with 20 copies made available to the committee secretary. **Please try to have the testimony in by 5:00 p.m. the day before testifying, or make arrangements with the committee secretary.**
4. Conferees should not read their testimony. Rather, testimony should be presented in summary fashion. Conferees should introduce themselves, identify on whose behalf they appear, identify whether they appear as a proponent, opponent, or interested neutral party and should, as briefly as possible, stat the reason(s) for their position.
5. If suggestions for amendments(s) are to be offered, a proposed draft of the amendments(s) must be provided to staff in writing.
6. When the conferee is, or represents, the sponsor of the measure under consideration, the conferee should be prepared to brief the committee on the specific provisions of the legislation.
7. Conferees should address their remarks during testimony to committee members and staff only.
8. When the number of hearings and/or conferees scheduled warrant time limitations, the Chairman may limit testimony to a specific number of minutes.
9. Testimony shall relate to the subject matter of the measure under consideration.
10. The Chairman reserves the right to take such action as may be necessary to prevent disruptive behavior in the committee room during hearings and deliberations.
11. There shall be no recording, audibly, photographically or otherwise, of committee deliberations and/or voting except by the committee secretary.

January 9, 2007

Assessment & Taxation
Date 1-10-07
Attachment # 1

Report of the Special Committee on Assessment and Taxation to the 2007 Kansas Legislature

CHAIRPERSON: Representative Kenny Wilk

VICE-CHAIRPERSON: Senator Barbara Allen

RANKING MINORITY MEMBER: Representative Tom Thull

OTHER MEMBERS: Senators Les Donovan, Greta Goodwin, Janis Lee, Roger Pine, Derek Schmidt, and Dennis Wilson; and Representatives Anthony Brown, Barbara Craft, Nile Dillmore, Oletha Faust-Goudeau, John Grange, Jerry Henry, Mitch Holmes, Tim Owens, and Virgil Peck

STUDY TOPICS

- City Development Excise Taxes
- County Local Sales Tax
- Homestead Expansion
- Motor Fuel Taxation Along the Kansas Border
- State Board of Tax Appeals Qualifications and Employment
- Residential Property Tax Valuation Cap
- State and Local Tax Policy
- Tax Incidence and Tax Base Erosion
- "Truth in Taxation" Local Budget Law

December 2006

Special Committee on Assessment and Taxation

CITY DEVELOPMENT EXCISE TAXES

CONCLUSIONS AND RECOMMENDATIONS

The Committee recommends no further expansion of city development excise tax authority at this time. The seven cities with the tax authority pursuant to the grandfather clause should continue to report to the League of Kansas Municipalities and the Legislature with respect to what impact the taxes have on growth and development.

Should the issue of extending the authority to additional cities be revisited in the future, the Committee recommends that the Legislature consider provisions similar to those embodied in 2004 legislation that would require reporting of development costs; the rational basis for imposition; and how the revenues are expended.

Proposed Legislation: None.

BACKGROUND

In the wake of a 1996 Kansas Court of Appeals Decision (*Home Builders Ass'n v. City of Overland Park*), a number of cities successfully imposed development excise taxes, which are generally imposed on the act of platting real property and expressed in cents per square foot of residential and/or commercial development.

Over the next decade, several pieces of legislation were considered but not adopted that would have made the development excise tax authority visible statutorily and would have imposed certain requirements on cities imposing the taxes. The most recent of these was considered by the 2004 Legislature, HB 2834, which would have required cities to prepare a document detailing development costs and the rational basis for the tax and its rate prior to imposition or modification of an existing tax; and an annual report detailing revenues generated and how they are expended. A subcommittee of the House Taxation Committee, as well as the full Committee, subsequently recommended the issue be studied during the 2004 interim. The 2004 Special Committee noted in its report,

“The Committee encourages cities to keep meeting with proponents of HB 2834 in order to provide assurances about the appropriate use of development excise taxes. The Committee notes that the use of such taxes in the future may well be restricted or curtailed by the Legislature as it addresses the broader questions of uniformity and city taxing authority in general.”

That restriction ultimately was enacted in 2006, when SB 55 (which also restored city sales tax uniformity) prohibited all cities not levying development excise taxes as of January 1, 2006, from imposing excise taxes. A grandfather clause authorizes any cities that had development excise taxes in effect on that date to retain the authority. Any proposed development excise tax rate increases in the grandfathered cities is now subject to a mandatory election requirement.

A July survey by the League of Kansas Municipalities identified at least seven cities which apparently had development excise taxes in effect as of January 1 and are subject to the grandfather provisions: Shawnee,

DeSoto, Basehor, Olathe, Overland Park, Tonganoxie, and Mulvane. Assuming that these are the only seven cities allowed to retain or reimpose development excise taxes, the other 620 incorporated cities in the state are prohibited from doing so. Nevertheless, a number of other cities recently have expressed interest in having development excise taxes as a potential revenue tool, including Osawatomie, Eudora, Bonner Springs, Lawrence, and Ottawa.

The conference committee on SB 55 also had asked that the issue of extending the development excise tax authority to all cities be studied during the interim. The Legislative Coordinating Council therefore approved a request for the Special Committee to study whether the development excise tax authority should be expanded to all cities. The Committee is charged to recommend whether all cities, especially those in fast-growing areas, could benefit from having this tax option at their disposal.

COMMITTEE ACTIVITIES

At the September meeting, the Committee held a public hearing on the issue. Proponents for expanding the authority to all cities included the League of Kansas Municipalities, the Unified Government of Wyandotte County, Bonner Springs, and Lawrence. The proponents generally argued that all cities should at least have the option of imposing the tax, provided it would be via a vote of the people. Opponents of additional city development excise taxes included the Kansas Building Industry Association, the Kansas City Home Builders' Association, and the Small Business Coalition. The opponents said that residential construction was an increasingly important factor in the economy; and that additional excise taxes had the capacity to seriously retard economic growth.

At the conclusion of the public hearing, the Chair asked both the proponents and opponents to coordinate efforts and report back at the October meeting as to what sort of other development finance mechanisms were being utilized by cities other than excise taxes. The request was to include impact fees, as well as, other innovative approaches being utilized by cities in Kansas and in other states. Some of the information specified in the request included where the money is used (relative to the benefit district); whether annual reports are filed or available; what the rates are; what the tax base is (whether expressed in cents per square foot like the excise tax); how often cities change rates; and whether different rates are used for different developments.

At the October meeting, staff summarized information received from the League of Kansas Municipalities and Kansas Building Industry Association about the extent to which fees and finance mechanisms are utilized by cities in Kansas and other states as an alternative to development excise taxes. The traditional methodology in Kansas involves the establishment of special benefit districts (pursuant to KSA 12-6a01 et seq) that levy special assessments against each new parcel of development with the revenues earmarked directly for infrastructure within the district.

The Committee subsequently approved a motion to not allow any further expansion of development excise tax authority and asked staff to prepare a draft committee report for review at the November meeting.

CONCLUSIONS AND RECOMMENDATIONS

The Committee notes that the Legislature, in general and House Tax Committee, in particular have spent a great deal of time in recent years discussing the development excise tax issue. The

compromise relative to the enactment of 2006 SB 55 and the grandfather clause was reached only after a great deal of difficulty.

The Committee also finds that the establishment of special benefit districts, which provide for the direct earmarking of special assessments, has served cities well as an effective infrastructure finance tool.

The Committee, therefore, recommends no further expansion of city development excise tax authority at this time. The seven cities with the tax authority pursuant to the grandfather clause should continue to report to the League of Kansas Municipalities and

the Legislature with respect to what impact the taxes have on growth and development.

Should the issue of extending the authority to additional cities be revisited in the future, the Committee recommends that the Legislature consider provisions similar to those embodied in 2004 legislation that would require reporting of development costs; the rational basis for imposition; and how the revenues are expended. In the meantime, cities are encouraged to keep working with developers and the building industry on other innovative infrastructure finance mechanisms.

Assessment & Taxation
Date

Assessment & Taxation
Date 1-10-07
Attachment # 2-4

Special Committee on Assessment and Taxation

COUNTY LOCAL SALES TAX

CONCLUSIONS AND RECOMMENDATIONS

The Committee makes no recommendation at this time.

Proposed Legislation: None.

BACKGROUND

County Tax Rates

In 1970, the Legislature granted local sales tax authority to cities and counties. Since that time, and prior to 1996, cities and counties maintained the same general level of taxing authority. Cities and counties were authorized to levy a tax up to a normal maximum of 2.0 percent, subject to several exceptions. Sales taxes of up to 1.0 percent were to be used for general purposes, but the additional special taxing authority (up to 1.0 percent) normally was required to be used only for the financing of "health care services." A city could impose a special tax earmarked for health care only if the county had no such tax. Moreover, any such special city tax expired immediately upon the imposition of a county health care sales tax. In addition to the special health care tax, some counties were authorized individually to impose a special sales tax for roads or jails or other county facilities or specific purposes such as economic development.

The change in 1996 was not a statutory one. During that year, the Kansas Court of Appeals ruled, in *Home Builders Association v. City of Overland Park*,¹ that the local retailers' sales tax (KSA 12-187 *et seq.*) was a nonuniform enactment. In so doing, the

Court rendered the Entire Local Sales Tax Act nonuniform for cities. Since cities' constitutional home rule authority allows them to opt out of statutory requirements that are not uniform,² several cities chose to impose additional sales taxes. Counties do not possess the same constitutional home rule authority; therefore, they remained subject to existing statutory requirements.

Because of the 1996 Court of Appeals ruling and the subsequent decisions of several cities to opt out of statutory sales tax limits, the 2006 Legislature passed SB 55. The 2006 bill was designed to restore uniformity to local sales tax provisions relating to cities by reducing the number of classes of cities to one. In response to the cities that had enacted sales tax provisions in excess of those allowed statutorily, city sales tax limitations also were increased and made applicable to all cities. All cities in the new, single class were granted authority to levy sales taxes of up to 2 percent for general purposes and up to 1 percent for special purposes (for a maximum rate of 3 percent).

² A constitutional amendment adopted in 1960 (Article 12, Section 5) explicitly granted the Legislature the power to uniformly limit or prohibit taxation by cities and to establish up to four classes of cities for that purpose. As indicated in the text, local sales taxes subsequently were not authorized by the Legislature until the early 1970s.

Home Builders Association of Greater Kansas City, et al., v. City of Overland Park, Kansas, 22 Kan. App. 2d 649, 921 P.2d 234.

Any special purpose taxes levied would be required to sunset after 10 years.

During the SB 55 debate and discussion, the issue of county local sales taxes was raised. Ultimately, however, the county sales taxes were not addressed in the bill. The Special Committee on Assessment and Taxation has been charged to review the role local sales taxes play in financing county governments and make any recommendations deemed appropriate.

The following table provides summary information regarding sales tax rates for all purposes—including general as well as special or dedicated purposes, such as health care—among the 85 Kansas counties that impose a tax. Twenty counties do not impose a sales tax.

Total County Rate	Number of Counties
2.25	1*
2.00	6
1.75	1
1.50	3
1.40	1
1.25	5
1.15	3
1.10	1
1.0	54
.75	1
.50	7
.25	1
.15	1**

* Sherman County has the highest tax rate.

** Hodgeman County has the lowest rate. The county's tax is imposed countywide, but all revenues are dedicated to the Horsethief Reservoir project.

Tax Distribution

As part of its general charge to review county local sales taxes, the Special Committee on Assessment and Taxation has the option to consider the issue of tax distribution.

KSA 12-192 provides for the distribution of countywide retailers' sales tax. The statute generally requires counties to share countywide sales tax revenues with the cities located within their boundaries, if these revenues derive from a general countywide tax.

The regular distribution formula for general sales tax is proportional, based on population and actual tax dollars levied. Several exceptions to this formula exist within the same statute, including one that authorizes specific counties to retain all the revenues (and not share with cities) when the tax is a special one earmarked for the construction of county roads or jails or other county facilities or for specific programs or services. A countywide health care tax may be used for city health care facilities as well as county ones.

The issue of distribution can generate controversy. In 2006, the Legislature considered HB 2983, which would have allowed Johnson County to impose an additional one-half-cent special countywide tax for public infrastructure. As a special tax, all revenues would have stayed with the county. The proposed tax would have been permanent. The bill passed the House Committee on Taxation with technical amendments but was stricken from the House Calendar, thus receiving no further action. A separate public hearing on the matter in the Senate Assessment and Taxation Committee resulted in no resolution of continuing differences of opinion with respect to how an alternative distribution formula might be crafted.

POSTTEXT & INFORMATION
* INFORMATION

Assessment & Taxation
Date 1-10-07
Attachment # 2-6

COMMITTEE ACTIVITIES

At the September meeting, staff briefed the Committee on the history of county and city local sales tax authority and distribution in Kansas. Randall Allen, Executive Director of the Kansas Association of Counties, asked the Committee to consider recommending legislation to raise the total cap on countywide sales tax authority to a higher level, such as 3.0 percent for both general and special purposes. He further recommended this legislation address the allocation of revenue generated by any new countywide sales tax by requiring the board

of county commissioners to make this determination and notify voters of its decision in the authorizing resolution containing the ballot question.

At the November meeting, the Committee reviewed policy options.

CONCLUSIONS AND RECOMMENDATIONS

The Committee has no recommendations at this time.

Assessment & Taxation
Date
Attachment #

Special Committee on Assessment and Taxation

HOMESTEAD EXPANSION

CONCLUSIONS AND RECOMMENDATIONS

The Committee believes that further expansion of the Homestead Program is warranted. The Committee therefore recommends the introduction of legislation that would reduce "rent constituting property taxes paid" from 20 to 15 percent while simultaneously increasing the maximum refund amount for both home owners and renters from \$600 to \$700; and would facilitate electronic filing.

The Committee further finds that an asset test would be appropriate and recommends the introduction of legislation that would exclude from the Program persons with assets in excess of \$250,000.

The Committee applauds the ongoing administrative efforts of the Department of Revenue and recommends the introduction of legislation that would authorize the denial of claims by certain renters who have failed to adequately document their sources of income.

Proposed Legislation: The Committee recommends the introduction of three bills on this topic.

BACKGROUND

Kansas in 1970 enacted the Homestead Property Tax Refund Act, KSA 79-4501 et seq, which is best characterized as the "circuit-breaker" style of property tax relief program. A "circuit breaker" is a form of property tax relief in which the benefit is dependent on income or other criteria and the amount of property taxes paid. The moniker developed as analogy to the device that breaks an electrical circuit during an overload, just as the property tax relief benefit begins to accrue once a person's property taxes have become overloaded relative to his or her income.

The first property tax circuit breaker was enacted by Wisconsin in 1964. Kansas became the sixth state with such a program in 1970. According to the National Conference of State Legislatures (NCSL), 34 states currently have some form of circuit breaker program. Of these states, 27 (including Kansas) also allow renters to

participate in the programs (based on the assumption that landlords are passing increased property taxes along in the form of higher rent).

The current Kansas program requires participants to meet both an income and a demographic test. The former test requires that household income be not more than \$27,600; the latter requires that at least one person in the household be (1) age 55 or above; (2) a dependent under age 18; (3) blind; or (4) otherwise disabled. Renters are eligible based on the statutory assumption that 20 percent of their rent is equivalent to property taxes paid.

The program was recently expanded in 2006 HB 2583, a bill which also provided a property tax exemption for most new acquisitions of commercial and industrial machinery and equipment. An amendment approved by the Kansas House earlier in the 2006 session would have provided for an even larger expansion of the Homestead Act.

Several legislators requested an interim study following the conclusion of the 2006 session. The Legislative Coordinating Council subsequently approved the request for the Special Committee to review the need to further expand the Homestead Property Tax Refund Program. The Committee is charged with specifically recommending whether fixed-income seniors need additional property tax relief as a result of tax shifts brought about by faster annual residential valuation increases attributed to the more rapid economic growth expected as a result of the recently enacted machinery and equipment exemption. As part of the study, the Department of Revenue also has asked to present several administrative issues with respect to the program for the Committee to consider.

Impact of 2006 Expansion

The Kansas Department of Revenue reports that during calendar year 2005, it processed and paid 76,097 Homestead claims totaling \$17.119 million, or an average of about \$225 per refund. The 2006 amendments expanding the program are anticipated to increase its size by \$3.5 million, or about \$20.6 million per year.

The Department also indicates that the new law will have the following impact on the following three hypothetical taxpayers:

- (1) Elderly couple with \$23,000 in household income and \$1,100 property tax liability. This claimant will now be entitled to a refund of \$150 (\$72 under pre-2006 law).
- (2) Single mom with two young children and \$16,000 in household income and \$750 in property tax liability. This claimant will now be entitled to a refund of \$360 (\$240 under pre-2006 law).
- (3) Disabled renter with \$9,000 in household income and paying \$450 per month in rent. This claimant will now

be entitled to a refund of \$528 (\$408 under pre-2006 law).

The maximum refund available under any circumstances to a claimant is \$600, and the minimum refund is \$30.

COMMITTEE ACTIVITIES

At the September meeting, staff briefed the Committee on the background of the Homestead Property Tax Refund Act, which enacted in 1970. Staff also distributed materials on how property tax relief programs are structured in all 50 states.

Bruce Larkin, Department of Revenue, presented a number of statistics for the Homestead Program and reviewed a number of administrative issues of concern, including the extent to which certain large refunds are made available to renters. The Committee subsequently asked for various bill drafts and fiscal impact estimates to be prepared regarding the Department of Revenue's suggestions.

At the October meeting, Mr. Larkin returned with those fiscal impact estimates and bill drafts. One proposal, which is revenue-neutral, would reduce "rent constituting property taxes paid" for renters from 20 to 15 percent while simultaneously increasing the maximum refund amount available for both home owners and renters from \$600 to \$650. A second proposal would expand the size of the program by \$1.4 million by increasing the maximum refund amount for only home owners (but not renters) from \$600 to \$700. A third proposal would eliminate a requirement that a statement be provided from the county treasurer showing property taxes levied (unless so requested by the Department of Revenue) so as to facilitate the electronic filing of claims. A fourth proposal would provide an asset test such that persons who own or control assets in excess of \$250,000 would not be eligible for the program. A fifth proposal would authorize the

Department of Revenue to deny claims of taxpayers who are renters reporting income that is 150 percent or less of their annual gross rental amount when such income amounts have not been verified.

A conferee representing AARP said that the Homestead Program should be modified to restore and preserve the value of its refunds, since refund amounts had not been growing as fast as the property tax burden on senior citizens.

A conferee representing Kansas Action for Children also supported further expansion, provided that the additional benefits were also made available to households with children under age 18.

At the November meeting, the Committee reviewed its work at the previous two meetings and made final policy decisions.

CONCLUSIONS AND RECOMMENDATIONS

The Committee believes that further expansion of the Homestead Program is warranted. But the Committee expresses its concern that, based on data provided by the Department of Revenue, the statutory assumption that 20 percent of rent is equivalent to property taxes paid appears to be overstated. The Committee also wishes to help facilitate the electronic filing of claims.

The Committee, therefore, recommends the introduction of legislation that would

reduce "rent constituting property taxes paid" from 20 to 15 percent while simultaneously increasing the maximum refund amount for both home owners and renters from \$600 to \$700; and would facilitate electronic filing by eliminating, under most circumstances, a requirement that a statement be provided from county treasurer showing property taxes levied.

The Committee further finds that an asset test would be appropriate to assure that the Homestead Program is targeted to those Kansans otherwise lacking in the means to pay their property taxes.

The Committee, therefore, recommends the introduction of legislation that would exclude from the program persons with assets in excess of \$250,000. The Committee notes that the definition of "assets" will need to be debated by the 2007 Legislature, including the possibility of excluding from the asset test the equity in the taxpayer's principal place of residence.

Finally, the Committee further applauds the efforts of the Department of Revenue to assure that Homestead refunds are paid to only those who are entitled and in only the appropriate amounts.

The Committee, therefore, recommends the introduction of legislation that would authorize the Department to deny claims of taxpayers who are renters reporting income that is 150 percent or less of their annual gross rental amount, unless additional information is provided by the taxpayers.

Assessment & Taxation
Date 1-10-07
Attachment # 2-10

Special Committee on Assessment and Taxation

MOTOR FUEL TAXATION ALONG THE KANSAS BORDER

CONCLUSIONS AND RECOMMENDATIONS

The Committee recommends a study be conducted as was originally requested of Kansas, Inc. in September 2006, when the Committee Chairperson requested a broad-based examination of fiscal impacts of border zone taxes in general.

Proposed Legislation: None.

BACKGROUND

The Legislative Coordinating Council has authorized the Committee to review the concept for those retailers or communities along the state border of imposing a motor fuels tax that is no more than \$0.01 above the motor fuel tax in the adjoining state; study recent similar legislation in Arkansas and 2006 HB 2822; and study the economic impact of encouraging the purchase of motor fuels in Kansas as opposed to those purchases being made in adjoining states.

Comparison of Motor Fuel Tax Rates: Kansas and Neighboring States

In Kansas communities that border other states, some business owners have complained that motor fuel business is lost because prices at the pump are lower in the bordering states. A primary reason for this cost differential is a difference in motor fuel tax rates.

A review of state motor fuel tax rates in and around Kansas shows Kansas' rates are higher than three of its four border states. The following table depicts these states' motor fuel tax rates as of January 1, 2006.

State	Gas/Gasohol Rate	Diesel Rate
Kansas	\$0.24*	\$0.2600
Missouri	\$0.1755	\$0.1755
Oklahoma	\$0.1700	\$0.1400
Colorado	\$0.2200	\$0.2050
Nebraska	\$0.2700	\$0.2700

* Kansas E85 tax rate as of January 1, 2007 - \$0.17 (pursuant to Laws 2006, Ch. 81, Sec. 2).

Source: Federation of Tax Administrators, "Motor Fuel Excise Tax Rates: January 1, 2006."

Legislative Efforts: 2006 HB 2822; Other States

The 2006 Legislative Session saw the introduction of HB 2822, which would have allowed an alternative motor fuel tax rate at retailers in border communities that meet the following requirements:

- The retailer must be located within 3,000 feet of a state line; or
- The retailer must be located within the city limits of a Kansas city that adjoins the state line.

(Note: The bill's sponsor had drafted an amendment to allow also those retailers located within the city limits of a Kansas city if the city limits are within 3,000 feet of the state line. The amendment also would have controlled for annexation with respect to cities near the state line.)

noted & assigned
Date
assigned

The alternative tax rate would have been 0.1 cent per gallon above the lawful rate charged in the adjoining state on motor-vehicle fuel or special fuels, not to exceed the regular Kansas rate. It would have applied only to retail sales to actual consumers. The bill as drafted included diesel as well as gasoline products.

HB 2822, which was heard in the House Transportation Committee but went no further, was modeled generally after an existing law in Arkansas. The Arkansas law, which has been in existence for at least 28 years, allows a lower tax rate on gasoline sold in "cities, incorporated towns, or planned communities" that border on a state line, sold within 800 feet of the shore line of a navigable lake where the opposite shore line is beyond the Arkansas state line, or sold within 800 feet of the Arkansas terminal of a bridge, the center of which is the state line. The lower tax rate cannot be more than 0.1 cent per gallon above the adjoining state's rate.

Allowing alternative motor fuel tax rates at a state's borders appears to be uncommon. The Federation of Tax Administrators (FTA) conducted an electronic-mail survey of states in August 2006. In that survey, the states were asked whether they possessed a different motor vehicle fuel or special fuel tax rate along their borders. Of the 22 states, plus Quebec, that responded to the survey as of the end of August, only one state (Arkansas) and Quebec reported having a border zone tax. The other states responding include Alaska, California, Colorado, Florida, Georgia, Idaho, Illinois, Louisiana, Maryland, Mississippi, Missouri, Montana, Nebraska, Nevada, New Jersey, New York, North Carolina, Texas, West Virginia³, Wisconsin, and Wyoming.

³ A similar proposal was reportedly introduced in a recent West Virginia legislative session, but it did not pass.

COMMITTEE ACTIVITIES

At the September meeting, staff provided a background briefing on the issue. Representatives of Kansas' motor fuels retailing industry, who lived near the border of a state with lower motor fuels taxes, testified in favor of HB 2822. An official from the Arkansas Oil Marketers Association provided information about the Arkansas law and its implementation. The Secretaries of Revenue and Transportation appeared in opposition to the bill. The Committee discussed the potential effects of a motor fuels border tax, as well as border tax differentials for other items such as cigarettes and food. The Committee Chairperson requested that Kansas, Inc. develop a scope statement to study the broader issue of border taxes in general.

At the October meeting, the First Assistant Revisor summarized the constitutional issues involved in the motor fuels border tax issue. His comments included the following:

- A border tax law which provides for a lower motor fuel tax rate for fuel sold in the border zone, in some relationship to motor fuel sold across the border, raises several constitutional questions in relation to retailers in the home state whose businesses lie outside the border zones. Arkansas has long had such a law. The Arkansas Supreme Court upheld the constitutionality of the law. Arguments were raised as to violations of the equal protection, due process, and abridgement of the privilege and immunities provisions in the Arkansas and United States Constitutions. If the Kansas border tax law were written in a manner largely similar to the Arkansas law, and if the Arkansas Supreme Court decision would be valid precedent upon which the Kansas Supreme Court could rely in an action challenging a Kansas border tax law on similar grounds, the border tax law would be upheld. However, any determination of

constitutional issues in Kansas would first involve an analysis of the specific language proposed and involve the specifics of Kansas Constitutional law, case law and statutory law.

- In addition, an additional Kansas Constitutional issue of an unlawful delegation of legislative authority would be raised with regard to any automatic changes in Kansas motor fuel tax rates which do not involve a specific legislative action by the Kansas Legislature. HB 2822 contemplated such automatic changes but could be written in a different manner to avoid such constitutional concerns at the expense of a slower response in motor fuel tax rates in Kansas when the motor fuel tax rate of the adjoining state is changed.

Also at the October meeting, staff provided a copy of the letter that had been written to Kansas, Inc. on behalf of the Committee Chairperson, as well as the initial response provided by Kansas, Inc., which reported the organization's progress to date on the scope statement and projected a scope statement completion date in November (for the final Committee meeting). The President of Kansas, Inc. appeared and responded to questions and concerns. During the discussion, some members noted their concern that the study was too broad as originally conceived. The Committee Chairperson revised the request for the scope statement to include only studying the issue of gasoline tax at the border. The

original sponsor of HB 2822, Representative Virgil Peck, voiced his preference for a pilot program for a gasoline border tax, and he offered the two pilot locations of Coffeyville and Atchison.

Finally, testimony on potential administrative and legal issues was supplied by Richard Cram, Director of Policy and Research for the Kansas Department of Revenue.

At the November meeting, the Committee discussed policy options and recommendations.

CONCLUSIONS AND RECOMMENDATIONS

The Committee recommends that a study be conducted as broadly as was originally requested of Kansas, Inc. in September 2006. The study should determine (a) the fiscal impacts related to border communities, and Kansas communities near the border communities, if a border tax were authorized in Kansas border communities; and (b) the state's current and future tax revenue collections if a border zone tax were authorized. The study is to cover not only motor fuels taxes, but rather address all such border taxes, including those for cigarettes and food sales. The Committee recommends the Secretary of Revenue continue to work with Kansas, Inc. on how best to accomplish the study. The Secretary of Revenue is requested to report the entities' progress to the House Committee on Taxation in January 2007.

Assessment & Taxation
Date 1-10-07
Attachment # 2-13

Special Committee on Assessment and Taxation

STATE BOARD OF TAX APPEALS QUALIFICATIONS AND EMPLOYMENT

CONCLUSIONS AND RECOMMENDATIONS

The Committee recommends introduction of legislation expanding the Board to five members, from three as currently required, with certain qualifications. The Committee strongly emphasizes that each SBOTA member is currently required by law to devote full time to the duties of his or her office. Finally, because of questions regarding the existence of disciplinary proceedings for SBOTA members, the Committee requests that the Chairman, with the assistance of the First Assistant Revisor, draft a letter requesting an Attorney General Opinion to clarify a number of issues relating to conflicts of interest and the discipline related to such.

Proposed Legislation: The Committee proposes one bill.

BACKGROUND

Pursuant to the Legislative Coordinating Council, the Special Committee on Assessment and Taxation is charged with reviewing the existing statutory requirements regarding qualifications of State Board of Tax Appeals (SBOTA) members; and the appropriateness of allowing SBOTA members to retain other employment in areas that could create the potential for conflicts of interest.

History of SBOTA Membership and Qualifications

The Kansas State Board of Tax Appeals (SBOTA) was created in 1957. At that time, it was a three-member board. In 1969, the Board was expanded to five members. In 2003, HB 2005 reduced the Board's membership from five to three members.

The number of SBOTA members is but one aspect of the issue of handling tax appeals in Kansas. SBOTA and tax appeals issues have long been the subject of debate and study. The Legislature has examined the possibility of restructuring SBOTA at least twice in the past 12 years. At the center of this effort, structure, function, and membership qualifications have been

examined.

In 1995, the Special Committee on Assessment and Taxation rejected the idea of replacing the Board with a state tax court. This proposal was first broached in 1995 SB 40, which would have established the tax court as an independent agency within the executive branch. The court's functions would have been divided into three divisions, including a small claims division, a property tax appeals board (ptab), and the regular tax court division. A taxpayer's choice of venue among these divisions would affect the ability of the taxpayer to appeal a decision. Although SB 40 did not pass, the Legislature, in 1995 SB 19, tightened SBOTA membership qualifications and granted the Governor the authority to appoint the chairperson.

The Special Committee on Assessment and Taxation studied the subject again in 1997. The interim study was sandwiched between two sets of bills; sparked by two bills from 1997 and resulting in another bill in 1998.

The two 1997 bills would have changed SBOTA, its structure and its functions. SB 348 from that year would have abolished the Board and transferred all of its powers,

duties, functions, property, and personnel to a new Kansas Tax Review Commission. SB 161 from 1997 would have made a number of changes in the property valuation appeals process, including replacing locally-appointed hearing officers (authorized at the time) with SBOTA hearing officers and requiring certain appeals (including those involving multi-family residential and agricultural land) to go directly to the full SBOTA.

In response to the two 1997 bills, the Special Committee on Assessment and Taxation was charged with reviewing the Governor's proposal to abolish SBOTA and transfer its powers, duties, functions, property, and personnel to a new Kansas Tax Appeals Commission (TAC), which would include a small claims division. The Committee agreed to introduce the Governor's proposal "without recommendation."

The 1998 bill (HB 2602) died, but changes were legislated in HB 2684 to tighten SBOTA membership qualifications, make its members subject to the Code of Judicial Conduct, and make published decisions of Kansas appellate courts binding on the Board.

As mentioned previously, the 2003 Legislature reduced SBOTA membership from five to three members as part of a budget savings package. The Legislature also revised member qualifications to reflect current law.

Current Membership and Qualifications

KSA 74-2433 delineates membership qualifications and requirements for the board. The statute is outlined in matrix format in Attachment A.

As shown in that attachment, the Board now consists of three members, two of whom have specific, individual qualifications. One must be a lawyer

engaged in active Kansas practice, and one must be a certified public accountant engaged in active practice. The third member has no specific qualification requirements. All three members must, however, have legal, accounting or appraisal training or experience and must be "selected with special reference to training and experience for the duties imposed by the act." Additionally, all three are subject to the Supreme Court rules of judicial conduct applicable to all judges of the district court.

Outside Employment and Conflicts of Interest

KSA 74-2433 does not contain specific employment limitations. However, as mentioned previously, SBOTA members are subject to the Code of Judicial Conduct contained in the Supreme Court Rules.

The Code of Judicial Conduct contains a number of broad statements (canons), under which are specific requirements (rules). The Canons are as follows:

- Canon 1 directs judges to uphold the integrity and independence of the judiciary.
- Canon 2 requires a judge to avoid impropriety and the appearance of impropriety.
- Canon 3 directs a judge to perform the duties of judicial office impartially and diligently.
- Canon 4 requires a judge to conduct the judge's extra-judicial activities so as to minimize the risk of conflict with judicial obligations.
- Canon 5 requires a judge to refrain from inappropriate political activity.

Assessment & Taxation
Date 1-10-07
Attachment # 2-15

COMMITTEE ACTIVITIES

At the October meeting, staff provided a background briefing on SBOTA membership and qualifications as well as laws addressing SBOTA members' outside employment. Rebecca Crotty, SBOTA chairperson, testified, the agency had recently eliminated its case backlog. She also stated the current three-member board was preferable to having five members, as State law had required from 1969 to 2003. Committee members questioned SBOTA officials regarding complaints of alleged conflicts of interest and lack of full-time service on the part of one SBOTA member, and whether increasing membership from three to five members would help the Board avoid potential conflicts of interest as well as maintain efficiency. The SBOTA chairperson stated that the SBOTA member in question had resigned his post. A draft scope statement for a Legislative Post Audit was distributed, as requested by the Chairperson and Vice-Chairperson of the Special Committee on Assessment and Taxation. The scope statement outlined a study to examine the facts related to the complaint allegations. The Secretary of Revenue also appeared to support SBOTA and its function. Others testified in favor of maintaining the requirement that one member be a certified public accountant.

At the November meeting, the Committee centered its concern and discussion largely around the issue of what could be construed as a conflict of interest with respect to SBOTA. Committee members discussed KSA 74-2434, which requires SBOTA members to "devote full time" to their duties. The Committee questioned whether mechanisms exist for dealing with violations of the law regarding items such as conflicts of interest in general, and specifically regarding outside employment that could be construed as a conflict of interest. Members questioned whether non-lawyer members of SBOTA could be disciplined under the Code of Judicial Conduct or under KSA Chapter 60,

Article 12, dealing with forfeiture of public office. They discussed the issue of whether any member would be required to divest himself or herself from currently held interests that may be construed to be, or appear to be, a conflict of interest *vis a vis* SBOTA duties. Finally, they questioned whether the Board of Accountancy has authority to discipline certified public accountant members for SBOTA-related violations.

CONCLUSIONS AND RECOMMENDATIONS

The Committee expresses concern, regarding the potential that violations of certain SBOTA requirements dealing with full-time employment and conflicts of interest may have existed, by issuing the following recommendations:

The Committee recommends introduction of legislation expanding the Board to five members, from three, as currently required. The legislation should be drafted to include requirements regarding Congressional district representation and other requirements that approximate the law as it existed when it previously required a five-member board. The Committee recommends this legislation begin in the Senate.

The Committee strongly emphasizes that each SBOTA member is currently required by law to devote full time to the duties of his or her office.

Because of questions regarding the existence of disciplinary proceedings for SBOTA members, the Committee requests that the Chairman, with the assistance of the First Assistant Revisor, draft a letter requesting an Attorney General Opinion to clarify the following:

- The mechanism(s) under which a SBOTA member may be disciplined for violations related to full-time employment and conflicts of interest.

These may include, but are not necessarily limited to, the following:

- Whether the Kansas Supreme Court Code of Judicial Conduct can be applied only to lawyer members.
- KSA Chapter 60, Article 12, dealing with forfeiture of public office.
- Laws governing SBOTA members who are also members of the State Board of Accountancy.
- Removal for cause by the Governor pursuant to KSA 74-2433.
- To the extent the requirements of the Code of Judicial Conduct may be enforced upon any particular member, whether the canons of the Code require a member to divest himself or herself from interests that relate to his or her SBOTA duties.

Assessment & Taxation
Date 1-10-07
Attachment # 2-19

ATTACHMENT A

SBOTA Membership Qualifications and Requirements
KSA 74-2433

	Specific Qualifications	General Qualifications	General Requirements
Lawyer	Regularly admitted to practice law in Kansas. Engaged for at least five years in active law practice as a lawyer or judge in any Kansas court.	Not more than two of the same political party. No more than one member appointed from any one Kansas Congressional district. Kansas resident. Selected with special reference to training and experience for the duties imposed by the act. Individuals with legal, accounting or appraisal training and experience.	Cannot exercise any SBOTA power, duty, or function until confirmed by the Senate. Subject to the Supreme Court rules of judicial conduct applicable to all judges of the district court. Board is bound by the doctrine of <i>stare decisis</i> * limited to published decisions of an appellate court other than a district court. (*To abide by, or adhere to, decided cases Source: Black's Law Dictionary) Terms of four years and until their successors are appointed and confirmed (expire on January 15 of the last year unless otherwise provided). Complete specified appraisal course requirements.
Certified Public Accountant (CPA)	Engaged for at least five years in active practice as a CPA.	Same	Same
Third member	None	Same	Same

Special Committee on Assessment and Taxation

RESIDENTIAL PROPERTY TAX VALUATION CAP

CONCLUSIONS AND RECOMMENDATIONS

The Committee finds that a residential valuation cap would tend to shift property taxes away from real estate where values are increasing rapidly and on to other real estate where values are not increasing at the rate of the cap. The Committee further finds that a property tax system with a valuation cap could be especially onerous for young families entering the housing market for the first time.

Proposed Legislation: None.

BACKGROUND

Among the constitutional amendments under consideration by the House Taxation Committee in 2006 was HCR 5027, a measure that would have limited the annual property valuation increases for most residential parcels to the rate of inflation. The House Committee and Chairperson Wilk asked the Legislative Coordinating Council (LCC) to refer the issue for further study.

The LCC subsequently charged the Special Committee with reviewing the policy implications of 2006 HCR 5027 and making whatever recommendations are deemed appropriate to the 2007 Legislature. Specifically, the Special Committee is asked to recommend whether the proposed amendment or something similar should be reintroduced for consideration in 2007.

Property Tax Constitutional Amendments Since 2000

Section 1 of Article 11 of the *Kansas Constitution* directs the Legislature to provide for a uniform and equal basis of valuation and rate of taxation of all property subject to taxation. Decisions of the Kansas Supreme Court have equated this taxation provision with the equal protection doctrine contained in our Bill of Rights. In this state, uniform and equal basis of valuation is

expressed by the adoption of fair market value in valuation of property for tax purposes. Exceptions to this uniform and equal basis of valuation must be contained in the Constitution. Attempts by the Legislature to provide exceptions to the uniform and equal basis of valuation through statutory means would likely be constitutionally invalid. The Constitution does provide for exceptions to such basis of valuation and grants the authority of the Legislature to provide for exceptions to such valuation basis for recreational vehicles, motor vehicles, mineral products, money, mortgages, notes and other evidence of debt, and grain.

Specified limitations on valuation growth or the grant of authority for the Legislature to prescribe limitations on valuation growth need to be contained in amendments to the Constitution. Any such propositions to amend the Constitution should be expressed as exceptions to the uniform and equal basis of valuation and are often expressed as exceptions to fair market value. Numerous such proposed constitutional amendments have been introduced in the Senate and House, especially since 2000.

These proposed amendments may be grouped into two basic categories. The first category involves general authority granted

to the Legislature to exercise such authority upon its own volition; and the second category involves a constitutional directive to the Legislature to enact legislation with some specificity written into the Constitution.

With regard to the first category, these propositions would add language to the Constitution to grant the Legislature authority to statutorily limit increases in valuation of property. (No specific limitations would be written into the Constitution.) Examples in this category are:

- (1) Authority for the Legislature to place limitations upon increases in valuation of any class or subclass of real property. (2000 HCR 5031 by Tanner and others; 2001 HCR 5026 by Glasscock and others; and 2002 HCR 5045 by Edmonds); and
- (2) Authority for the Legislature to place limitations upon increases in valuation of real property used for residential purposes. (2004 HCR 5031 by Gatewood and Faber; 2004 SCR 1620 by Umbarger and others).

The second category of proposed amendments provide specific language to be written into the Constitution that would require the Legislature to enact legislation to: provide limitations on increases of valuation of certain property owned by certain taxpayers; provide limitations on increases of valuation measured against various consumer price indexes; or specify requirements as to determination of valuation of certain real property. To a large extent, all of these constitutional amendments constitute exceptions to the uniform and equal basis of valuation through modification of the fair market value standard contained in law. Examples in this category are:

- (1) Amendments to require the Legislature to provide by law to limit the increase in valuation of single-family residential real

property with a valuation of < \$250,000 when owned and the principal residence of a Kansas resident 65 years of age or older on January 1 of any tax year. The Legislature is granted authority to enact adjustments in the age and valuation requirements (2004 HCR 5032 by Tafanelli, Wilk and others). A similar variation places the residence valuation limitation at < \$100,000 and is otherwise identical (2005 HCR 5008 by Huff and others). Finally, a 2005 SCR contained the same provisions as 2004 HCR 5032, except there was no valuation ceiling. Residential property of any value would qualify for the valuation limitation. This proposed constitutional amendment did require that the residential property owner must have owned the subject property for at least 10 years (2005 SCR 1605 by Haley).

- (2) There were two variations of constitutional limitations of specific increases in valuation. Rather than prescribing a percentage expressed in the Constitution or requiring the percentage to be provided by statute, such limitations are to be measured against consumer price indexes. The first proposed amendment limited percentage increases in valuation of all real property to the increase in the consumer price index – real estate (2000 HCR 5035 by House Committee on Federal and State Affairs). The other proposed amendment limited percentage increases in valuation of real property used for residential purposes to the average increase of the consumer price index – urban (2006 HCR 5027 by House Committee on Taxation).
- (3) There were two proposed constitutional amendments that provided that the Legislature shall enact legislation to require that the appraised valuation of real property used for residential purposes is to be adjusted to an amount equal to the average of the appraised value of such real property when sold

and the sales price of such real property when sold (2004 HCR 5042 by House Committee on Taxation; 2005 HCR 5009 by F. Miller).

Other Approaches to Property Tax Relief

The Legislature in recent years also has analyzed a number of other mechanisms designed to provide property tax relief to certain classes of property or targeted at selected groups of taxpayers. Among the other forms of property tax relief discussed include increased state aid to local units of government (restoration of demand transfers); expansion of Homestead Property Tax Refund Program (subject of another 2006 interim study); whether some form of the tax lid law should be reimposed on local units of government (subject of another 2006 interim study); property tax deferral programs; and whether the \$20,000 "homestead" exemption from the mandatory school district general fund property tax levy should be expanded or extended to all property taxes.

As to the latter two issues, the National Conference of State Legislatures (NCSL) reports that 24 states and the District of Columbia have property tax deferral programs, with many of them targeted specifically to benefit elderly taxpayers. Legislation was approved by the Kansas House but not the Senate in 1990 that would have established a Kansas deferral program for certain low income taxpayers who were age 65 and above. The issue was subsequently studied by the 1990 Special Committee on Assessment and Taxation, which made no recommendations on the proposal. NCSL also reports that 33 states (including Kansas) and the District of Columbia have some form of "homestead" program wherein a portion of the valuation of certain residential properties is exempt from property taxation.

2006 HCR 5027

As mentioned previously, HCR 5027 would have limited the annual property valuation increases for most residential parcels to the rate of inflation. Exceptions would have been provided for new or newly improved residential real property (which would have been valued in the initial year based upon the valuation of similar properties); and for residential real property which had been sold in the previous year (which would have been valued at the sales price).

If adopted by the voters, the amendment would have had an indeterminate fiscal impact to the state to the extent that less revenues would have been raised by the 21.5 mills in state property tax levies.

A similar proposal was last studied by the Special Committee in 1999. That Special Committee declined to recommend a constitutional amendment limiting growth in assessed valuation, noting that such a proposal could cause:

- a tax shift away from real estate where values are increasing rapidly and on to other real estate where values are not increasing at the rate of the cap;
- a tax shift which could increase the tax burden borne by young families entering the housing market for the first time; and
- a tax shift away from real estate and on to personal property, especially oil and gas and commercial and industrial machinery and equipment.

HCR 5027 would have been placed on the November 7, 2006, general election ballot, had it been approved by the necessary two-thirds majority of both legislative chambers. Had it been subsequently adopted by the voters, it would have been effective beginning in tax year 2007. One set of policy decisions the

Committee would need to consider before reintroducing a similar amendment would relate to the revised date of election and potential implementation date.

COMMITTEE ACTIVITIES

At the October meeting, staff reviewed a number of constitutional amendments considered since 2000 that would have provided exceptions to uniform and equal valuation of certain real estate.

Staff also compared and contrasted those proposals with HCR 5027 and with other property tax relief mechanisms under consideration in Kansas and in other states.

The Director of Property Valuation explained to the Committee how local property taxes and budgets are set; and how property taxes tend to shift when the tax base is narrowed or when certain classes or subclasses of property are granted tax-favored treatment.

During the public hearing, no proponents appeared to request the

reintroduction of HCR 5027. Opponents included the League of Kansas Municipalities and Kansas Association of Counties.

CONCLUSIONS AND RECOMMENDATIONS

The Committee finds that a residential valuation cap such as the one proposed in 2006 HCR 5027 would tend to shift property taxes away from real estate where values are increasing rapidly and on to other real estate where values are not increasing at the rate of the cap. The Committee further finds that a property tax system with a valuation cap could be especially onerous for young families entering the housing market for the first time.

The Committee notes that these conclusions are strikingly similar to those made by the 1999 Special Committee on Assessment and Taxation.

The Committee therefore declines to reintroduce a proposed valuation cap constitutional amendment for consideration in 2007.

Assessment & Taxation
Date 1-10-07
Attachment # 2-23

Special Committee on Assessment and Taxation

STATE AND LOCAL TAX POLICY

CONCLUSIONS AND RECOMMENDATIONS

The Committee expresses its concern about the recent trend of legislation that would earmark future sales, income, and property tax streams for funds other than the State General Fund (SGF). The Committee recommends that the withholding tax in particular no longer be allowed to be diverted away from the SGF, except as a last resort relative to retention of an existing business. The Committee further expresses its concern about the erosion of all major tax bases, especially the sales tax base. The Committee strongly recommends that certain specific questions relating to justification of any new exemptions be answered by all parties seeking sales tax exemption legislation. The Committee also strongly recommends that the leadership of the standing tax committees develop rules that would prohibit advancement of any sales tax exemption legislation until these questions have been answered satisfactorily by proponents.

The Committee notes that the top corporation income tax bracket may represent an economic development disincentive and encourages the 2007 Kansas Legislature to consider reducing that rate as part of a broader restructuring of the corporation income tax. That restructuring also should include simplification of the "high performance" income tax credit program be simplified; and the creation of broader availability for investment income tax credits in general. The Committee recommends the repeal of seldom-used income tax credits.

The Committee further recommends a corporation franchise tax exemption for certain assets of subsidiary corporations.

The Committee finds that one of the biggest future challenges involves local governmental service delivery systems and public angst over the property taxes associated therewith.

The Committee asks the Property Valuation Division to conduct a study of townships and report back to the tax and local government committees with respect to how many townships are actively levying property taxes and the range of activities being funded.

The Committee also recommends that the Legislature act as a facilitator to the discussion of local service delivery restructuring by enacting legislation that would repeal any and all statutory barriers to restructuring. The Secretary of Revenue should compile an exhaustive list of all such barriers and submit it to the tax and local government committees during the first week of the 2007 session.

The Committee further recommends that a tool be developed to evaluate the possibility of multi-jurisdictional service-delivery systems by quantifying potential property tax savings associated with such entities. This tool, which would be developed under the auspices of the KACIR, would be made available free-of-charge to local units of government wishing to explore realignment of certain services, including infrastructure maintenance, health, vehicle registration, reappraisal, elections, and deed registration. Access to such information would allow local units of government and their taxpayers to make well-informed decisions about how to proceed.

A second model should also be developed by KACIR that would help estimate the amount of property tax relief that could be provided if the funding of certain public safety functions were to be assumed by the state. One proposal would empower citizens within each of the 31 judicial districts to abolish county attorneys and replace that system with state-funded district attorneys. Data should continue to be compiled prior to the start of the session regarding county attorney budgets and mill levy equivalencies, and the tax and judiciary committees should jointly review the data. Legislation should subsequently be introduced that would allow citizens within the judicial districts to hold elections that would change their prosecutorial model. The model also should continue to be adapted to help quantify property tax relief associated with having additional state funding of other public safety functions, including corrections.

Proposed Legislation: None.

BACKGROUND

The 2005 Special Committee on Assessment and Taxation, as part of a broad topic entitled, "Analysis of State and Local Tax Policy," received a report from Secretary Wagon on a number of studies that had been commissioned by the Department of Revenue and the Kansas Advisory Commission on Intergovernmental Relations (KACIR), including studies of sales and property tax base erosion; tax incidence; and the rapid expansion of state and local governmental debt. That Committee anticipated "the importance of the need to give these reports in-depth review and therefore requests that the Legislative Coordinating Council (LCC) again approve a Special Committee on Assessment and Taxation to study the same state and local tax policy topic during the summer and fall of 2006."

The LCC subsequently agreed to renew the broad-based state and local tax study, charging the 2006 Special Committee with studying and projecting the future of Kansas tax policy for the next 10 to 20 years. As a follow-up to a 2005 interim study, the 2006 Committee was further asked to review the current state and local tax structure, focusing on the shifts in reliance on sales, property, and income taxes since 1990. The Committee was asked to review which tax structure components would be most equitable to the taxpayers of Kansas; and

would improve Kansas' competitiveness with other states.

Other 2005 Recommendations

In addition to recommending that a new study be empaneled to receive the studies being prepared by the Department of Revenue and KACIR, the 2005 Special Committee made a number of other findings and recommendations in three areas – state and local tax policy linkage; long-run growth and the SGF; and business tax recommendations.

State and Local Tax Policy Linkage

- The Committee recommended that the context within which the Legislature views state tax policy and potential changes should always include consideration of the implications on local tax policy, especially property taxes.
- The Committee strongly encouraged the 2006 Legislature to provide property tax relief by authorizing the restoration of sales tax demand transfers to local units of government. If it was determined that the demand transfer program needed to be restructured, the Committee recommended that special emphasis be placed on providing additional funds for local units in rural areas.

- The Committee also asked that the standing tax committees monitor the implications of the growing regional differences in local sales tax rates.

Long-Run Growth and the SGF

- The Committee made a finding that the overall elasticity of tax receipts, especially SGF tax receipts, appeared to be declining to the point that the ability of the state to fund ongoing and necessary expenditures without periodic tax increases has been imperilled. The Committee expressed its concern about the recent trend of legislation to earmark future sales, income, and property tax revenue streams from specific industries or businesses, including legislation associated with the development of sales-tax-and revenue bonds and the neighborhood revitalization program.
- The Committee, therefore, recommended that a more rigorous fiscal review be applied to future legislation seeking to earmark revenues historically placed in the SGF and asked that all such bills be referred to the standing tax committees.
- Because of the proliferation of legislation associated with the diversion of revenues, the Committee asked that the standing tax and appropriations committees' work with staff at the Division of Budget and the Legislative Research Department to develop a new monthly receipts report that disaggregates taxes and other receipts relative to the amount placed in the SGF compared to the amount placed in all other funds.
- Also because of the concern over long-run state revenue growth issues, the Committee further recommended that the 2006 Legislature memorialize Congress to minimize all federal preemption of state taxing authority.

Business Tax Recommendations

- The Committee expressed its concern about the volatility of corporation income tax receipts over the last decade. The Committee therefore recommended that the Department of Revenue report to the standing tax committees on policy options regarding modernization and structural changes to the tax that would help assure that it continues to be a viable revenue source well into the future.
- The Committee recommended that the Legislature attempt to provide a property tax exemption for commercial and industrial machinery and equipment and notes that options under consideration would include a full statutory exemption; expansion of the existing income tax credit to 100 percent; or a constitutional amendment authorizing the Legislature to phase in a full exemption over a period of years.

COMMITTEE ACTIVITIES

At the September meeting, the Committee received the KACIR studies, which were conducted by the Kansas Public Finance Center, a part of the Hugo Wall School of Urban and Public Affairs at Wichita State University.

Dr. John Wong presented a study on tax incidence. Among the principal findings was a conclusion that the Kansas individual income tax is modestly progressive; and that such progressivity does not completely offset the regressivity of the other major tax sources.

Dr. Wong then presented a study on sales tax base erosion, noting that economic and technological changes in recent years had joined legislatively enacted exemptions as the major sources of erosion. He said that one study had estimated that extending the tax to all "readily taxable" services could

increase revenue by over \$500 million. He added that the main arguments for inclusion of additional services in the sales tax base included:

- the sales tax should be as broadly applicable to consumer expenditures as possible;
- taxation of services would reduce the regressivity of the sales tax;
- revenues would be more responsive to rising levels of personal income; and
- administration of the tax would be simplified if the tax were extended to those services entered in conjunction with the sales of tangible personal property.

Dr. Glenn Fisher presented a study on property tax base erosion, stating that the Kansas property tax is evolving largely into a real estate tax, due at least in part to the increased propensity of the Legislature to exempt personal property. He said that given the importance of the tax for local government revenue, any major changes in the property tax system would likely be controversial and potentially painful.

Dr. Bart Hildreth presented a study on the extent to which Kansas local government debt has been increasing over the last 15 years. He said that policy choices for those concerned about the mounting local debt burden included enacting tighter limits; promoting debt coordination; and enhancing transparency to enable taxpayer "comparison" shopping.

The Chair subsequently offered an invitation to all communities across Kansas to attend the October meeting and outline their service deliveries and revenue needs in their respective regions. Communities were invited to determine how an ideal local funding package might look and to bring any and all innovative approaches forward to the Committee.

At the October meeting, Secretary Wagon delivered her perspective on the past, present, and future of Kansas state and local tax policy. She said that if the Legislature continued to allow erosion of the major tax bases, there would be higher tax rates; less equity among various groups of taxpayers; less competitiveness and more taxpayer discontent; and more special interest groups' requesting exemptions - creating a vicious cycle.

She said that the KACIR studies had indicated that Kansas state and local tax policy faces a number of serious challenges in addition to tax base erosion, including over-reliance on the property tax; declining elasticity of major tax sources; and increasing demands on state and local governmental services.

Secretary Wagon said that tax base erosion had been occurring because of the enactment of a number of exemptions and tax credits; and because of economic shifts in consumption and business practices, many relating to new technologies. She also said that the authorization of sales tax and revenue (STAR) bonds and the propensity of the Legislature to earmark future revenue streams threatened the elasticity of tax receipts relative to the State General Fund (SGF). She said that once a special practice or tax treatment had been established, it was often difficult for the Legislature to backtrack and stop that process. Faced with a similar situation more than three decades ago, the "Hodge Committee" in the early 1970s formed a special commission to review tax policies and make decisions on which special exemptions, exceptions, and credits should be restructured or totally eliminated.

The Secretary said that she hoped the Committee would strongly recommend that the Legislature, in the future, protect the withholding tax and not allow any other circumstances wherein major tax sources could be diverted from the SGF. The Secretary subsequently outlined a variety of

policy options for the Committee to consider, including modernizing the corporation income tax structure by adjusting the rate structure and the apportionment formula; simplifying various business-related tax credits and repealing those which are seldom used; developing criteria for evaluating future sales tax exemption requests; eliminating the franchise tax imposed on the assets of certain subsidiary corporations; and continuing the discussion about restructuring local government finance.

Conferees representing AARP and Kansas Action for Children said that Kansas should consider a number of equity issues, including the ability to pay, when looking at major tax structure issues.

The Executive Director of the League of Kansas Municipalities said that cities could reduce reliance on property taxes if they were granted additional authority to levy local income, earnings, motor fuel, and excise taxes. He also said that the Legislature could remove impediments that discourage local units from combining for the purpose of streamlining the delivery of local governmental services.

A conferee representing the Kansas Association of Counties agreed, stating that all levels of government needed to nurture a culture of cross-jurisdictional collaboration.

A representative of the Unified Government of Wyandotte County and Kansas City, Kansas, said that the entity strongly supported a local option earnings tax which could be used to further reduce property taxes.

A conferee representing the Kansas Chamber of Commerce and Industry stated that the business machinery and equipment property tax exemption was extremely helpful to many Kansas businesses; and that some form of corporation franchise tax relief would continue to help those businesses stimulate the economy.

Following a discussion of local revenue needs, the Committee began an extensive discussion of local and regional service delivery structures. The Chair stated that the number of local units of government in Kansas was the highest in the nation in per capita terms and wondered aloud whether the more than 4,000 taxing entities in the state represented the most efficient structure for delivering services. Representative Jerry Henry suggested that one of the universities or the KACIR attempt to build a model for analyzing a multi-county service delivery system with an emphasis on efficiency and not on politics. The Chair said that he would try to have Secretary Wagnon, prior to the November meeting, coordinate discussions about that idea with local units of government and other stakeholders. Secretary Wagnon said that she would bring the topic up for discussion on November 1 at the KACIR summit in Salina. Senator Derek Schmidt and Senator Greta Goodwin also volunteered to establish a working group that would explore the possibility of relieving local property taxpayers of the burden of supporting most public safety functions by moving most funding for such functions to the state level.

At the November meeting, the Committee reviewed its work at the previous two meetings and made final policy decisions.

CONCLUSIONS AND RECOMMENDATIONS

Long-Run Growth and SGF Receipts

The Committee again expresses its concern (just as it did in 2005) about the recent trend of legislation that would earmark future sales, income, and property tax streams for funds other than the SGF.

The Committee recommends that the withholding tax, in particular, no longer be allowed to be diverted away from the SGF, except as a last resort relative to retention of an existing business. The Committee

encourages the Legislature to first attempt to utilize any and all other tools at its disposal in business retention or business attraction efforts.

The Committee further expresses its concern about the erosion of all major tax bases, especially the sales tax base. The Committee strongly recommends that certain specific questions relating to justification of any new exemptions be answered by all parties seeking sales tax exemption legislation (see Tax Incidence and Tax Base Erosion topic for more details).

The Committee also strongly recommends that the leadership of the standing tax committees develop rules that would prohibit advancement of any sales tax exemption legislation until these questions have been answered satisfactorily by proponents.

Business Tax Recommendations

The Committee notes that the top corporation income tax bracket of 7.35 percent may well represent an economic development disincentive and, therefore, encourages the 2007 Kansas Legislature to consider reducing that rate as part of a broader restructuring of the corporation income tax. As part of that restructuring, the Committee also recommends that the "high performance" income tax credit program be simplified; and that the availability of investment income tax credits in general be broadened. The Committee recommends the repeal of seldom-used income tax credits.

The Committee further recommends a corporation franchise tax exemption for certain assets of subsidiary corporations which have been subject to taxation previously as assets of parent corporations.

Local Governmental Service Delivery and Property Taxes

The Committee finds that one of the biggest challenges facing policymakers over

the next decade involves local and regional governmental service delivery systems and public angst over the property taxes associated with those services and systems.

The Committee notes that townships by far appear to represent the largest number of taxing subdivisions in the state. The Committee asks the Property Valuation Division to conduct a study of townships and report back to the tax and local government committees with respect to how many townships are actively levying property taxes and how many are not; and what are the range of activities being funded by the townships.

The Committee also recommends that the debate regarding potential restructuring of local service delivery systems be driven by local needs and local issues and not by state mandates. The Legislature may best act as a facilitator to this discussion by enacting legislation that would repeal any and all statutory barriers and impediments to local governmental service restructuring. The Secretary of Revenue, in conjunction with the League of Kansas Municipalities and Kansas Association of Counties, should compile an exhaustive list of all such statutory impediments and submit it to the tax and local government committees during the first week of the 2007 Legislative Session.

The Committee further recommends that a tool be developed to evaluate the possibility of multi-jurisdictional service-delivery systems by quantifying potential property tax savings and budget reductions associated with such entities. This tool, which would be developed under the auspices of the KACIR by the Hugo Wall School of Urban and Public Affairs at Wichita State University in conjunction with input from the Kansas Association of Counties and League of Kansas Municipalities, would be made available free-of-charge to local units of government wishing to explore realignment of certain local services.

As part of the development of the aforementioned tool, the KACIR should seek the capacity to compare and contrast potential changes in Kansas with other successful examples of local service realignments from around the nation.

Local services and functions that potentially could be reviewed would include infrastructure maintenance, health, vehicle registration, reappraisal, elections, and deed registration. Access to such information would allow local units of government and their taxpayers to make their own well-informed decisions about how to proceed with the discussion.

A second model also should be developed by KACIR and the Hugo Wall School of Urban and Public Affairs that would help estimate the amount of property tax relief that could be provided if the

funding of certain public safety functions were to be assumed by the state. One proposal discussed during the interim would empower citizens within each of the 31 judicial districts to abolish county attorneys and replace that system with state-funded district attorneys. Data should continue to be compiled prior to the start of the 2007 session regarding county attorney budgets and mill levy equivalencies, and the tax and judiciary committees should jointly review the data. Legislation should subsequently be introduced that would allow citizens within the judicial districts to hold elections that would change their prosecutorial model in this manner. The model also should continue to be adapted to help quantify the potential property tax relief associated with having additional state funding of other public safety functions, including corrections.

Assessment & Taxation
Date 1-10-07
Attachment # 2-29

Special Committee on Assessment and Taxation

TAX INCIDENCE AND TAX BASE EROSION

CONCLUSIONS AND RECOMMENDATIONS

The Committee expresses its concern about the erosion of all major tax bases, especially the sales tax base. The Committee strongly recommends that certain specific questions relating to justification of any new exemptions be answered by all parties seeking sales tax exemption legislation.

The Committee further strongly recommends that the leadership of the standing tax committees develop rules that would prohibit advancement of any sales tax exemption legislation until these questions have been answered satisfactorily by proponents.

Finally, the Committee recommends that the standing committees consider tax incidence and progressivity-regressivity issues with respect to all major state and local tax policy changes.

Proposed Legislation: None.

BACKGROUND

The 2005 Special Committee on Assessment and Taxation, as part of a broad topic entitled, "Analysis of State and Local Tax Policy," received a report from Secretary Wagon on a number of studies that had been commissioned by the Department of Revenue and the Kansas Advisory Commission on Intergovernmental Relations (KACIR), including studies of sales and property tax base erosion; and on tax incidence. That Committee anticipated "the importance of the need to give these reports in-depth review" and requested that the reports be submitted and reviewed by another Special Committee established by the Legislative Coordinating Council (LCC) during the summer and fall of 2006.

The LCC subsequently agreed and charged the 2006 Special Committee with reviewing the latest research on tax incidence of the major tax sources, including the policy considerations of moving to a flat-rate income tax. The Committee also was asked to study erosion of sales and property tax bases as part of the review of tax incidence.

COMMITTEE ACTIVITIES

At the September meeting, the Committee received the KACIR studies, which were conducted by the Kansas Public Finance Center, a part of the Hugo Wall School of Urban and Public Affairs at Wichita State University.

Dr. John Wong presented a study on tax incidence. Among the principal findings was a conclusion that the Kansas individual income tax is modestly progressive; and that such progressivity does not completely offset the regressivity of the other major tax sources.

Dr. Wong then presented a study on sales tax base erosion, noting that economic and technological changes in recent years had joined legislatively enacted exemptions as the major sources of erosion. He said that one study had estimated that extending the tax to all "readily taxable" services could increase revenue by over \$500 million. He added that the main arguments for inclusion of additional services in the sales tax base included:

- the sales tax should be as broadly applicable to consumer expenditures as possible;
- taxation of services would reduce the regressivity of the sales tax;
- revenues would be more responsive to rising levels of personal income; and
- administration of the tax would be simplified if the tax were extended to those services rendered in conjunction with the sales of tangible personal property.

Dr. Glenn Fisher presented a study on property tax base erosion, stating that the Kansas property tax is evolving largely into a real estate tax, due at least in part to the increased propensity of the Legislature to exempt personal property. He said that given the importance of the tax for local government revenue, any major changes in the property tax system would likely be controversial and potentially painful.

At the October meeting, Secretary Wagnon made a number of comments with respect to tax base erosion. She said that if the Legislature continued to allow erosion of the major tax bases, there would be higher tax rates; less equity among various groups of taxpayers; less competitiveness and more taxpayer discontent; and more special interest groups' requesting exemptions—creating a vicious cycle.

She also said that tax base erosion had been occurring because of the enactment of a number of exemptions and tax credits; and because of economic shifts in consumption and business practices, many relating to new technologies. She also said that the authorization of sales tax and revenue (STAR) bonds and the propensity of the Legislature to earmark future revenue streams threatened the elasticity of tax receipts relative to the State General Fund

(SGF). She said that once a special practice or tax treatment had been established, it was often difficult for the Legislature to backtrack and stop that process. Faced with a similar situation more than three decades ago, the "Hodge Committee" in the early 1970s formed a special commission to review tax policies and make decisions on which special exemptions, exceptions, and credits should be restructured or totally eliminated.

The Secretary suggested that the following criteria be considered when evaluating future sales tax exemption requests:

- (1) Does this exemption help maintain the sales tax as a final tax on consumption?
- (2) Does this exemption help make the tax more easily administered, or would it lead to confusion over why one organization or entity is taxed while another is not?
- (3) Who is the principal beneficiary? What would be lost if the exemption were not to be granted?
- (4) Does this exemption establish an unfair competitive advantage for one entity over another?
- (5) Is this exemption targeted to a broad class of taxpayers or a narrow group? If the latter, why should all members of the broad class not be included? If the exemption were to be granted, what other groups would look at the precedent and asked to be added to the exemption?
- (6) What is the public benefit for granting the exemption? Does it outweigh the loss of revenue for the general activities of the state?

Conferees representing AARP and Kansas Action for Children agreed that erosion of the major tax bases needed to stop; and said that a number of exemptions

enacted in recent years had made the overall state and local tax structure more regressive.

Also at the October meeting, the Committee received information from the Department of Revenue on the potential impact on certain taxpayers of moving to a revenue-neutral single income tax ("flat") rate income tax structure. Replacing the current individual income tax rates with a 5.10 percent rate would in the aggregate be revenue-neutral, according to the information. The following table summarizes the average impact per return for taxpayers in various Kansas adjusted gross income (KAGI) brackets:

	<u>KAGI Brackets</u>	<u>Average Dollar Change</u>
\$	0 \$ 10,000	\$ 15.39
	10,000 20,000	83.26
	20,000 30,000	126.29
	30,000 50,000	206.89
	50,000 75,000	166.19
	75,000 100,000	(45.84)
	100,000 200,000	(562.79)
\$	200,000 Over \$	(3,915.13)

At the November meeting, the Committee reviewed its work at the previous two meetings and made final policy decisions.

CONCLUSIONS AND RECOMMENDATIONS

The Committee expresses its concern about the erosion of all major tax bases, especially the sales tax base. The Committee strongly recommends that the following questions be asked of and answered by all parties seeking sales tax exemption legislation:

- (1) Does this exemption help maintain the sales tax as a final tax on consumption?
- (2) Does this exemption help make the tax more easily administered, or would it lead to confusion over why one organization or entity is taxed while another is not?
- (3) Who is the principal beneficiary? What would be lost if the exemption were not to be granted?
- (4) Does this exemption establish an unfair competitive advantage for one entity over another?
- (5) Is this exemption targeted to a broad class of taxpayers or a narrow group? If the latter, why should all members of the broad class not be included? If the exemption were to be granted, what other groups would look at the precedent and asked to be added to the exemption?
- (6) What is the public benefit for granting the exemption? Does it outweigh the loss of revenue for the general activities of the state?

The Committee further recommends that the leadership of the Senate Assessment and Taxation Committee and the House Taxation Committee develop committee rules that would prohibit advancement of any sales tax exemption legislation until these questions have been answered satisfactorily by proponents of such legislation.

Finally, the Committee recommends that the standing tax committees consider tax incidence and progressivity-regressivity issues with respect to all major state and local tax policy changes.

Assessment & Taxation
Date 1-10-07
Attachment # 2-32

Special Committee on Assessment and Taxation

“TRUTH IN TAXATION” LOCAL BUDGET LAW

CONCLUSIONS AND RECOMMENDATIONS

The Committee finds that the decision made in 1999 to abolish the tax lid in favor of the truth in taxation lid represented an appropriate choice of no longer seeking to micro-manage local units of government.

The Committee further notes that no report surfaced of any local unit having violated the truth in taxation provisions.

The Committee encourages the Department of Revenue to establish a comprehensive “truth in taxation” website that could make a variety of federal, state, and local tax information available to taxpayers.

Proposed Legislation: None.

BACKGROUND

Property Tax Lid: 1989-1999

The Legislature in 1985 enacted an aggregate property tax limitation (tax lid) that was effective beginning with tax year 1989 so as to coincide with the implementation of property tax reappraisal and classification (see KSA 79-5021 et seq). Because of the significant expansion in statewide assessed valuation anticipated as a result of reappraisal, the Legislature wanted a limitation on overall property taxes imposed by taxing subdivisions (many of whom otherwise could have received a windfall if mill levy rates were not rolled back). Numerous individual statutory fund levy limits, therefore, were suspended and replaced with the aggregate tax lid mechanism (see KSA 79-5022), which was applied to total property tax dollars levied in lieu of the mill levy rates.

The tax lid provided generally prohibited local units from levying property taxes in greater amounts than a “base” year (choice of either 1988 or 1989), subject to a number of exemptions and exceptions relative to

property taxes levied for special purposes. Property taxes levied as a result of new improvements to real estate and added personal property were exempt from the computation, as were taxes levied as a result of added territory or a service that had been transferred from another governmental unit. Other exemptions from the formula included property taxes levied for public building commissions; judgments, settlements and expenses for protection against liability; employer contributions for workers compensation, unemployment insurance, health care costs, employee benefit plans, and employee retirement and pension programs; district court operations; payment of out-district tuition to community colleges and Washburn; certain juvenile delinquency and crime prevention programs; rebates granted to property owners in conjunction with neighborhood revitalization programs; expenses necessary to interface with the state criminal justice information system; certain mental health services; and revenues to replace reductions in motor vehicle taxes.

Local units seeking to levy more in taxes beyond amounts not authorized by the aforementioned exemptions and exceptions

had authority pursuant to KSA 79-5036 to exempt themselves from all or a portion of the remaining restrictions of the tax lid by approving charter ordinances or resolutions. Such ordinances or resolutions were then subject to various publication and protest petition requirements, under which a certain percentage of the electorate could force an election on the question of the proposed tax lid exemptions (and efforts to increase property taxes beyond a certain point).

The tax lid was extended a number of times throughout the 1990s, with the last extension coming in 1997 (see 1997 SB 7). Under that legislation, the tax lid was extended for an additional two years -- until July 1, 1999—at which time it was allowed to expire (see KSA 79-5038). Local units of government traditionally opposed re-extension of the tax lid, generally arguing that local officials with authority to levy property taxes were elected just like members of the Legislature; that local units of government had a better idea of the demand for local services from the public and did not need to be micro-managed by statewide legislation; and that the tax lid appeared somewhat hypocritical in that its provisions did not apply to the state mill levies for building funds and school district general funds.

Truth in Taxation Lid: 1999-Present

Cognizant of the imminent expiration of the aggregate tax lid, the 1999 Legislature sought to replace it with a different mechanism known as “truth in taxation.” The legislation was crafted amid ongoing concerns over confusion regarding the extent to which local units may or may not have been increasing property taxes. The fact that mill levy rates in and of themselves did not necessarily represent an accurate measure for annual changes in property taxes (the other big variable being changes in assessed valuation) caused the legislation to be drafted with an emphasis on requiring local units to acknowledge to the press and the public when taxes were being increased.

The provisions of the truth in taxation lid, enacted in SB 45, provide that taxing subdivisions (defined more narrowly than the 1989 tax lid to exclude unified school districts and community colleges) are prohibited, absent adoption of a resolution or ordinance so acknowledging, from approving appropriations or budgets funded from property tax increases, except with regard to increases attributable to new improvements to real estate; certain added personal property valuation; property located within added jurisdictional territory; property which has changed in use; and for payment of principal and interest upon bonded indebtedness, temporary notes, and no-fund warrants (see KSA 79-2925b).

The acknowledgment resolutions and ordinances are not subject to protest petition but instead represent an official record for the benefit of the press and the public of certain property tax increases approved by local governing bodies, notwithstanding what may be happening with mill levies.

The legislation also finally repealed the many of hundreds of different statutory fund levy limits. (Absent this provision, the individual fund levy limits which had been suspended since 1989 would have been reactivated once the aggregate lid sunset on July 1, 1999.)

The truth in taxation provisions have not been modified since they were enacted in 1999.

2006 Interim Study

Because of ongoing concerns over increased property taxes, interim study requests were received from Rep. Wilk, Senator Allen, and Senator Brownlee to review the truth in taxation provisions and determine whether they were functioning adequately as a replacement mechanism for the old tax lid law.

The Legislative Coordinating Council subsequently approved the request and

charged the Special Committee to study the current "truth in taxation" property tax law that local governments have operated under since the late 1990's. The Committee is asked further to determine if local governments are complying with the "truth in taxation" provisions and if the provisions should be modified; or whether portions of the previous local government property tax lid law should be revived.

COMMITTEE ACTIVITIES

At the October meeting, staff briefed the Committee on the history of the property tax lid and the truth in taxation lid provisions.

No conferees appeared to advocate any changes in the current truth in taxation provisions or a restoration of the property tax lid. Representatives of the League of Kansas Municipalities and the Kansas Association of Counties appeared in opposition to restoration of the property tax lid. Both conferees said that the current truth in taxation provisions appeared to be working well.

During discussion, a number of Committee members noted that the public might be more aware of the acknowledgment resolutions passed by local governing bodies if they were posted on the Internet instead of being published in official newspapers. The Chair said that the Division of Property Valuation might be a logical agency to maintain a website that granted public access to information about local budgets and property tax increase resolutions.

The Committee also discussed asking Secretary Wagnon to explore the feasibility of establishing a comprehensive "truth in taxation" website that could make a variety of federal, state, and local tax information available to taxpayers.

At the November meeting, the Committee reviewed its work at the previous two meetings and made final policy decisions.

CONCLUSIONS AND RECOMMENDATIONS

The Committee finds that the decision made in 1999 to abolish the tax lid in favor of the truth in taxation lid represented an appropriate choice of no longer seeking to micro-manage local units of government from the Statehouse.

The Committee further notes that no report surfaced of any local unit having violated the truth in taxation provisions over the past seven years.

The Committee makes no recommendation, at this time, regarding the issue of whether, as an alternative to, or in addition to, publication in official newspapers, local acknowledgment resolutions and ordinances should be published on the Internet.

Finally, the Committee encourages the Department of Revenue to establish a comprehensive "truth in taxation" website that could make a variety of federal, state, and local tax information available to taxpayers.

Assessment & Taxation
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