

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE

The meeting was called to order by Chairman Barbara Allen at 10:40 A.M. on February 7, 2007 in Room 519-S of the Capitol.

All members were present except:

Derek Schmidt- excused

Committee staff present:

Chris Courtwright, Kansas Legislative Research Department

Martha Dorsey, Kansas Legislative Research Department

Gordon Self, Office of Revisor of Statutes

Judy Swanson, Committee Assistant

Conferees appearing before the committee:

Richard Cram, KDOR

Joan Wagnon, Secretary of KDOR

Marlee Carpenter, Kansas Chamber

Others attending:

See attached list.

Chris Courtwright presented a summary of the Tax Subcommittee report on tax reductions. (Attachment 1) Based on the current status of the state's revenue and expenditure forecasts, \$15 million in tax relief is close to the maximum amount of tax relief the Legislature should consider. The subcommittee believes some form of Franchise tax relief should be one of the Legislature's highest priorities, and the tax "cliff" issue should be addressed. The subcommittee recommends the exemption threshold be raised from \$100,000 to \$500,000 and the tax cliff be eliminated. The subcommittee recommends an initial step in providing a tax exemption for Social Security benefits be taken by exempting from the income tax social security benefits received by both single and joint filers with federal adjusted gross income of \$50,000 and below. These recommendations would have a fiscal impact in FY 2008 of \$15.9 million. Tax credit and incentive restructuring issues will be addressed in both the Commerce and Tax Committees. Chris Courtwright and Richard Cram are working together to come up with a five-year profile of the fiscal note on these proposals, and will have this information available to the Tax Committee next week.

Alan Conroy, Director of Kansas Legislative Research Department, reviewed a summary of State General Fund receipts, expenditures and balances, as they would apply to the Governor's State of the State budget recommendations. (Attachment 2) During discussion, Mr. Conroy said last year's fiscal growth was close to 10%, which is above average. Projections for the overall economy this year seem to be lower than 10%. The Governor's budget numbers have not yet been amended to reflect the Governor's recent recommendation for university deferred maintenance. Senator Apple requested information for a budget profile reflecting a five-year phase-out of the Franchise tax and three-year phase-out of the Social Security tax. Senator Lee further requested a budget profile reflecting a five-year phase-out of the Social Security tax.

SB 115--Revocation of retailer's sales tax registration certificate in certain circumstances and prescribing certain unlawful acts related thereto

SB 126--Criminal classification and penalty for sales of tangible personal property or services without a tax registration certificate

Hearing was opened with Richard Cram, KDOR, testifying in support of both bills. (Attachment 3) He said these proposals will help KDOR in collecting outstanding sales tax liabilities, and will provide an additional tool to enhance KDOR's sales tax collection efforts. During discussion, Secretary of KDOR Joan Wagnon said the Federal government has precedence over the state on a tax lien. She said KDOR communicates with local governments to make sure businesses are registered with KDOR for a sales tax license. KDOR has 58 field agents who assist businesses with tax payment plans. These bills were requested by the interim Budget Committee. Senator Bruce said the maximum penalty for a Class A misdemeanor is a fine up to \$2500 and up to one-year in jail. Senator Bruce said sentencing is very difficult to apply to a corporation, but there are ways to apply the punishment to the person in charge of the company. KDOR has no objection to combining

CONTINUATION SHEET

MINUTES OF THE Senate Assessment and Taxation Committee at 10:40 A.M. on February 7, 2007 in Room 519-S of the Capitol.

SB 115 and **SB 126**. Mr. Cram will work with Gordon Self on amendatory language in these bills, and bring an amendment back to the Tax Committee for approval. If this bill is enacted, all businesses would be treated more like the car dealers, with regard to delinquent outstanding sales tax liabilities. Marlee Carpenter, Kansas Chamber, has concerns with some of the timelines in **SB 115**, and will submit written testimony to the Committee at a later date. The hearing was closed.

An overview of the IMPACT program, which is used for training and capital requirements of major business expansions, was distributed. (Attachment 4)

Senator Donovan moved to approve the Minutes of the January 30, January 31 and February 1 Committee meetings. Senator Jordan seconded the motion, and the motion carried.

Being no further business, the meeting adjourned at 11:48 a.m. The next meeting will be February 8.

SENATE
ASSESSMENT & TAXATION COMMITTEE

GUEST LIST

DATE: 2-7-07

NAME	REPRESENTING
David R. Cobin	KDOR
Richard Cron	"
<u>DONALD A. SCOTT</u>	KSCPA
Melissa Wagemana	Sec of State
Jesse Borjon	Sec. of State
Ben Cleaves	D&B
Ed Warner	KS GOVT CONSULTING
Derck Hein	Hein Law Firm
Michael White	Senate President's office
Mark Tallman	KASB
Bill Thompson	Commerce
Robyn Norton	KMCA
RONALD RICHY	ME
Bernie Koch	Wichita Chamber
BRAD HANRELSON	KFB

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February 7, 2007

To: Senate Assessment and Taxation Committee
From: Chris W. Courtwright, Principal Economist
Re: Subcommittee Report on Tax Reductions (SB 29, SB 50, SB 213)

This memorandum reflects the actions of the subcommittee established last week to review a number of the tax reduction policy options before the 2007 Legislature, especially those embodied in SB 29, SB 50, and SB 213. Generally, the main areas of tax relief proposed in those bills relate to the individual income tax (potential exemption for Social Security benefits in SB 29); corporation franchise tax (SB 50 and SB 213); corporation income tax (SB 213); and tax credit and tax incentive restructuring (SB 213).

FY 2008 Target: \$15 Million in Tax Relief

The subcommittee makes a finding that, based on the current status of the state's revenue and expenditure forecasts, \$15 million in tax relief is close to the maximum amount of tax relief that the legislature should consider for FY 2008. The subcommittee notes that if the revenue picture appears to brighten in the foreseeable future, any additional resources should be earmarked for enhancing the tax relief package. The subcommittee also asks that the full Committee review policy options associated with phasing in future tax cuts for FY 2009 and thereafter, depending on multi-year SGF profiles and what they show relating to the projected ending balance under certain scenarios.

Franchise Tax Relief

The subcommittee believes that providing some form of franchise tax relief should be one of the highest priorities of the 2008 Legislature. The subcommittee also believes that the tax "cliff" issue should be addressed. The tax "cliff" problem would be resolved if the structure of the franchise tax is changed to authorize computation of the tax to start with only the amount of net worth in excess of the exemption threshold level (as opposed to the total amount of net worth). As such, the subcommittee recommends that the exemption threshold be raised from \$100,000 to \$500,000; and that the tax cliff be eliminated. This proposal would provide a tax benefit to an estimated 22,000 entities, as opposed to the 16,000 entities which would have received tax relief under the Governor's franchise tax proposal.

Social Security Tax Relief

The subcommittee believes that providing a tax exemption for Social Security benefits (as do most states) should be a priority. The subcommittee therefore recommends that an initial step

be taken towards elimination of the Kansas tax on benefits by exempting from the income tax altogether benefits received by both single and joint filers with federal adjusted gross income of \$50,000 and below.

Fiscal Impact: Franchise and Social Security

The subcommittee's recommendations regarding the aforementioned provisions would have a fiscal impact in FY 2008 of \$15.9 million—\$10.5 million attributable to the franchise tax cut; and \$5.4 million attributable to the social security tax cut.

Tax Credit and Incentive Restructuring

Recalling that the tax credit and tax incentive restructuring recommendations of the Governor embodied in SB 213 were designed to be revenue-neutral, the subcommittee finds that some additional changes (which will involve some slightly negative fiscal impact) may be necessary to allow small and medium-sized businesses to continue to participate in the programs. The subcommittee notes that Secretary Wagnon is continuing to work with the business community on a revised proposal that would reduce certain thresholds for the investment tax credit, job credit, and opportunity zone programs, as well as reinstating the high performance incentive program training and education tax credits. One policy option reviewed in the subcommittee relating to all these issues would have a fiscal impact in FY 2008 of \$4.5 million.

Commerce

Governor's State of the State - FY 2010 Projected

Tax Reductions As Recommended by the Governor

Governor's Recommended Receipts in FY 2007 and FY 2008; 4.0 Percent Growth in FY 2009 and FY 2010

\$466.2 million in New K-12 Funding FY 2007 - FY 2009 - SB 549

FY 2007 and FY 2008 Expenditures as Recommended by the Governor

STATE GENERAL FUND RECEIPTS, EXPENDITURES AND BALANCES
FY 2006 (actual)-FY 2010 (projected)
In Millions

00011103V - FY 2010

	Actual FY 2006	Governor's Revised FY 2007	Governor's Recommended FY 2008	Governor's Projected FY 2009	Projected FY 2010
Beginning Balance	\$ 478.7	\$ 733.6	\$ 779.1	\$ 451.2	\$ 112.4
Governor's Recommended Tax Reductions	0.0	0.0	(12.8)	(29.5)	(36.6)
Receipts (November 2006 Consensus) - 4.0 Percent Growth in	5,394.4	5,592.3	5,700.4	5,899.7	6,131.3
Governor's Net Receipt Adjustments	0.0	39.3	(0.4)	13.8	0.0
Adjusted Receipts	5,394.4	5,631.6	5,687.2	5,884.0	6,094.7
Total Available	\$ 5,873.1	\$ 6,365.2	\$ 6,466.3	\$ 6,335.2	\$ 6,207.0
K-12 Additional Funding - \$466.2 Million Over Three Years	-	194.5	149.0	122.7	-
Less All Other Expenditures	5,139.4	5,391.6	5,866.1	6,100.1	6,335.6
Total Expenditures	5,139.4	5,586.1	6,015.1	6,222.8	6,335.6
Ending Balance	\$ 733.6	\$ 779.1	\$ 451.2	\$ 112.4	\$ (128.6)
Ending Balance as a Percentage of Expenditures	14.3%	13.9%	7.5%	1.8%	-2.0%
Receipts Above Expenditures	255.0	45.5	(327.9)	(338.8)	(240.9)

- 1) Actual FY 2006 expenditures and FY 2007 expenditures are as approved by the 2006 Legislature, plus "shifting" of \$22.9 million in expenditures from FY 2006 to FY 2007, plus supplemental funding, mainly for social services caseloads and school finance estimates, as recommended by the Governor.
- 2) FY 2007 and FY 2008 receipts reflect the estimates of the Consensus Revenue Estimating Group as of November 3, 2006, as adjusted for the Governor's recommendations. Adjustments include the State Highway Fund payment for the Highway Patrol, increased Lottery receipts, an Avian Flu transfer, a State Emergency Fund transfer, and other net adjustments. The Governor does recommend tax reductions of \$12.8 million in FY 2008 (corporate franchise tax exemption threshold and a reduction on the corporation income surtax).
- 3) FY 2009 base receipts assume a 4.0 percent growth; and expenditures include out-year significant obligations (i.e., SRS and Aging caseloads, KPERS and KDOT bonds, etc.) Others areas of government are frozen at the FY 2007 level.
- 4) \$466.2 million in new K-12 Funding FY 2007 - FY 2009 - SB 549.
- 5) FY 2008 and FY 2009 expenditures as recommended by the Governor.
- 6) FY 2010 expenditures would include on-going obligations such as social services caseloads, KPERS and school finance, and partial restoration of the LAVTRF.

Prepared at the Request and Direction of Senator Dwayne Umbarger
 Kansas Legislative Research Department
 January 11, 2007

DU011107A -FY 2010

Tax Reductions As Recommended by the Governor
Governor's Recommended Receipts in FY 2007 and FY 2008; 4.0 Percent Growth in FY 2009
\$466.2 million in New K-12 Funding FY 2007 - FY 2009 - SB 549
FY 2007 and FY 2008 Expenditures as Recommended by the Governor
Receipts Above the Estimate Through December, 2006 - \$60.4 million

Governor's State of the State - FY 2010 Projected
Receipts Above the Estimate Through December, 2006

STATE GENERAL FUND RECEIPTS, EXPENDITURES AND BALANCES
FY 2006 (actual)-FY 2010 (projected)
 In Millions

	Actual FY 2006	Governor's Revised FY 2007	Governor's Recommended FY 2008	Governor's Projected FY 2009	Projected FY 2010
Beginning Balance	\$ 478.7	\$ 733.6	\$ 839.5	\$ 572.0	\$ 293.6
Governor's Recommended Tax Reductions	0.0	0.0	(12.8)	(29.5)	(36.6)
Receipts (November 2006 Consensus) - 4.0 Percent Growth in FY 09 and	5,394.4	5,592.3	5,700.4	5,899.7	6,131.3
Governor's Net Receipt Adjustments	0.0	39.3	(0.4)	13.8	0.0
Receipts Above the Estimate Through December, 2006	0.0	60.4	60.4	60.4	60.4
Adjusted Receipts	5,394.4	5,692.0	5,747.6	5,944.4	6,155.1
Total Available	\$ 5,873.1	\$ 6,425.6	\$ 6,587.1	\$ 6,516.4	\$ 6,448.6
K-12 Additional Funding - \$466.2 Million Over Three Years - SB 549	-	194.5	149.0	122.7	-
Less All Other Expenditures	5,139.4	5,391.6	5,866.1	6,100.1	6,335.6
Total Expenditures	5,139.4	5,586.1	6,015.1	6,222.8	6,335.6
Ending Balance	\$ 733.6	\$ 839.5	\$ 572.0	\$ 293.6	\$ 113.0
Ending Balance as a Percentage of Expenditures	14.3%	15.0%	9.5%	4.7%	1.8%
Receipts Above Expenditures	255.0	105.9	(267.5)	(278.4)	(180.5)

- 1) Actual FY 2006 expenditures and FY 2007 expenditures are as approved by the 2006 Legislature, plus "shifting" of \$22.9 million in expenditures from FY 2006 to FY 2007, plus supplemental funding, mainly for social services caseloads and school finance estimates, as recommended by the Governor.
- 2) FY 2007 and FY 2008 receipts reflect the estimates of the Consensus Revenue Estimating Group as of November 3, 2006, as adjusted for the Governor's recommendations. Adjustments include the State Highway Fund payment for the Highway Patrol, increased Lottery receipts, an Avian Flu transfer, a State Emergency Fund transfer, and other net adjustments. The Governor does recommend tax reductions of \$12.8 million in FY 2008 (corporate franchise tax exemption threshold and a reduction on the corporation income surtax). Plus receipts above the estimate through December, 2006 - \$60.4 million.
- 3) FY 2009 base receipts assume a 4.0 percent growth; and expenditures include out-year significant obligations (*i.e.*, SRS and Aging caseloads, KPERS and KDOT bonds, etc.) Others areas of government are frozen at the FY 2007 level.
- 4) \$466.2 million in new K-12 Funding FY 2007 - FY 2009 - SB 549.
- 5) FY 2008 and FY 2009 expenditures as recommended by the Governor; FY 2009 as projected by the Governor.
- 6) FY 2010 expenditures would include on-going obligations such as social services caseloads, KPERS and school finance, and partial restoration of the LAVTRF.

Prepared at the Request and Direction of Senator Dwayne Umbarger
 Kansas Legislative Research Department
 February 06, 2007

DU020607A -FY 2010

Assessment & Taxation
 Date 2-7-07
 Attachment #2-5

Senate Republican Leadership Option

Tax Reductions of \$15 million in FY 2008
 Governor's Recommended Receipts in FY 2007 and FY 2008; 4.0 Percent Growth in FY 2009
 \$466.2 million in New K-12 Funding FY 2007 - FY 2009 - SB 549
 \$60 million in Discretionary Spending in FY 2008 - FY 2010
 Keeping Education Promises Trust Fund (Senate Version)
 Receipts Above Estimate (\$60.4 million) Through December, 2006

STATE GENERAL FUND RECEIPTS, EXPENDITURES AND BALANCES
FY 2006 - FY 2010
 In Millions

	Actual FY 2006	Revised FY 2007	Projected FY 2008	Projected FY 2009	Projected FY 2010
Beginning Balance	\$ 478.7	\$ 733.6	\$ 839.5	\$ 529.2	\$ 356.9
	0.0	0.0	0.0	0.0	0.0
Receipts (November 2006 Consensus) - 4.0 Percent Growth in	5,394.4	5,592.3	5,700.4	5,899.7	6,131.3
Keeping Promises Education Trust Fund	0.0	0.0	(122.7)	122.7	0.0
Governor's Net Receipt Adjustments	0.0	39.3	(0.4)	13.8	13.8
Tax Reductions	0.0	0.0	(15.0)	(17.0)	(19.0)
Receipts Above the Estimate Through December, 2006	0.0	60.4	60.4	62.8	65.3
Adjusted Receipts	5,394.4	5,692.0	5,622.7	6,082.0	6,191.4
Total Available	\$ 5,873.1	\$ 6,425.6	\$ 6,462.2	\$ 6,611.2	\$ 6,548.2
K-12 Additional Funding - \$466.2 Million Over Three Years	-	194.5	149.0	122.7	-
Discretionary Spending	-	-	60.0	120.0	180.0
Less All Other Expenditures	5,139.4	5,391.6	5,724.0	6,011.6	6,247.1
Total Expenditures	5,139.4	5,586.1	5,933.0	6,254.3	6,427.1
Ending Balance	\$ 733.6	\$ 839.5	\$ 529.2	\$ 356.9	\$ 121.1
Ending Balance as a Percentage of Expenditures	14.3%	15.0%	9.0%	5.8%	1.9%
Receipts Above Expenditures	255.0	105.9	(310.3)	(172.3)	(235.7)

2/7/2007 10:12 AM
 Assessment & Taxation
 Date 2-7-07
 Attachment #2-5

2/7/2007
10:13 AM
Assessment & Tax
Date 2-7-07
Attachment # 276

- 1) Actual FY 2006 expenditures and FY 2007 expenditures are as approved by the 2006 Legislature, plus "shifting" of \$22.9 million in expenditures from FY 2006 to FY 2007, plus supplemental funding, mainly for social services caseloads and school finance estimates, as recommended by the Governor.
- 2) FY 2007 and FY 2008 receipts reflect the estimates of the Consensus Revenue Estimating Group as of November 3, 2006, as adjusted for the Governor's recommendations. Adjustments include the State Highway Fund payment for the Highway Patrol, increased Lottery receipts, an Avian Flu transfer, a State Emergency Fund transfer, and other net adjustments. Tax reductions of \$15.0 million in FY 2008. Plus receipts above the estimate through December, 2006 - \$60.4 million.
- 3) FY 2009 base receipts assume a 4.0 percent growth; and expenditures include out-year significant obligations (*i.e.*, SRS and Aging caseloads, KPERS and KDOT bonds, etc.)
- 4) \$466.2 million in new K-12 Funding FY 2007 - FY 2009 - SB 549.
- 5) FY 2008 through FY 2010 expenditures include \$60.0 million annually in discretionary spending.
- 6) FY 2010 expenditures would include on-going obligations such as social services caseloads, KPERS and school finance, and partial restoration of the LAVTRF.

Prepared at the Request and Direction of Senator Dwayne Umbarger
Kansas Legislative Research Department
February 6, 2007

DU020607C -FY 2010

ASSESSMENT & TAX
DATE 2-7-07
ATTACHMENT # 276

Testimony to the Senate Committee on Assessment and Taxation

Richard Cram

February 7, 2007

Senate Bills 115 and 126

Senator Allen, Chair, and Members of the Committee:

Senate Bill 115, introduced by the Legislative Budget Committee, amends K.S.A. 79-3608 to allow the secretary of revenue to suspend or revoke the sales tax registration certificate of a retailer due to nonpayment of the sales tax or failing to file a return. The registration may be suspended or revoked if the taxpayer is found in default for a period of at least 60 days and after 10 days' notice and a hearing in accordance with the Kansas Administrative Procedures Act. The certificate would not be reinstated until all tax, penalty and interest is paid. The proposal also makes it a class A nonperson misdemeanor crime for a person to be engaged as a retailer once the registration certificate has been suspended or revoked.

Senate Bill 126, introduced by the Senate Ways and Means Committee, is a companion bill, amending K.S.A 79-3608 to make operating a retail business without a registration certificate a class A nonperson misdemeanor crime.

During testimony to the Legislative Budget Committee last fall on the success of the Department's collection and compliance efforts, Secretary Joan Wagnon testified that many other states have provisions in their sales tax administration laws authorizing revocation of sales tax licenses or registration when a registered retailer is delinquent in the payment of sales tax or filing of returns. At least 16 other states have these provisions. Kansas currently has no such express statutory provisions. The Committee requested that the Department suggest legislation to add such provisions to Kansas law. Senate Bill 115 contains that suggested language, modeled after a similar provision in Missouri law.

These proposals will assist the Department in collecting outstanding sales tax liabilities and will provide an additional tool in the Department's inventory to enhance its collection efforts: the sales tax registration revocation process. The Department can proceed to revoke a delinquent retailer's sales tax registration, following notice and hearing. Once the registration is revoked, the retailer can no longer lawfully engage in sales or purchase inventory using a resale exemption certificate until delinquent tax, penalty and interest are paid.

Overview of IMPACT

The IMPACT program can be used to respond to the training and capital requirements of major business expansions. It can also be used to address job retention projects provided certain statutory requirements are met. IMPACT has two major components; SKILL (State of Kansas Investment in Lifelong Learning) and MPI (Major Project Investment). The SKILL funds can be used to pay for expenses related to training, and MPI can be used for other expenses related to the training project such as purchase or relocation of equipment, building costs, etc.

IMPACT is financed through tax exempt, public purpose bonds issued by the Kansas Development Finance Authority. These bonds are retired over a 10 year period through the revenue received from up to two percent of statewide employer withholding taxes.

History/Amendments

- The program was developed and implemented in 1990 and allowed a dedicated funding stream of 1 percent of statewide withholding taxes.
- July 1996, MPI was added as the second component to allow for flexibility. MPI was limited to 10 percent of total award.
- July 2002, Capital Investment threshold to access IMPACT as a job retention tool is reduced from \$100 million to \$50 million
- July 2003, withholding cap was increased to 1.5 percent
- July 2005, withholding cap was increased to 2 percent
- July 2005, MPI limit increased to 20 percent of award and Capital Investment threshold removed.
- July 2007, MPI threshold suspended until FY09

What is the Capacity?

As of December 2006, the capacity of the program is \$37,436,000. Currently we are operating at approximately 50 percent capacity.

Examples of Projects

We currently have 24 open IMPACT projects with awards ranging from \$7 million to \$200,000. MPI awards range from 0 to 95 percent. The largest project ever funded was \$32 million to train 9,200; it involved the Sprint Headquarters Campus and was later revised downward to \$25 million to train 7,200. The smallest project was approximately \$200,000.

Important Enhancements for Commerce

- Flexibility to use program funds in creative ways to recruit and/or retain businesses.
- Expanded ability to pay up-front cost for non-training related activities. Currently the 20% MPI threshold is suspended and we have successfully retained and/or recruited several businesses because of this flexibility.
 - Applebee's
 - Headquarters Operation, MPI @ 80%, Retain 483 and Created 96 Positions
 - Capital One
 - Headquarters Operation, MPI @ 48%, Retain 159 and Create 741 Positions
 - Invista
 - Global Headquarters, MPI @ 59%, Create 206 Positions