

Approved: _____
4-27-07 Date

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE

The meeting was called to order by Chairman Barbara Allen at 10:45A.M. on March 19, 2007 in Room 519-S of the Capitol.

All members were present.

Committee staff present:

Chris Courtwright, Kansas Legislative Research Department
Martha Dorsey, Kansas Legislative Research Department
Gordon Self, Office of Revisor of Statutes
Nancy Kirkwood, Committee Assistant

Conferees appearing before the committee:

Senator Peggy Palmer
Roger Werholtz, Department of Corrections

Others attending:

See attached list.

Hearing on HB 2264 - exclusion of social security benefits from Kansas adjusted gross income for income tax liability purposes

Chairperson Allen welcomed Senator Peggy Palmer to the Committee, appearing in support of **HB 2264**. Senator Palmer testified eliminating the income tax on Social Security benefits is one of the priority agenda items for the Senate Republicans this session (Attachment 1). If enacted, **HB 2264** would allow seniors on fixed incomes greater independence and security.

The Chair requested Chris Courtwright, Legislative Research, give a brief review to the Committee on **HB 2264**. There are three major provisions in the bill: 1) complete 100% subtraction modification for Social Security benefits. The House passed this bill. 2) House floor amendment, expansion of the Homestead program, would allow taxpayers to exclude Social Security benefits from the definition of income for the purpose of qualifying for the Homestead program. 3) House floor amendment, expansion of the Earned Income Tax Credit (EITC) program.

Jim Snyder appeared before the Committee in support of **HB 2264** (Attachment 2). He stated there are 400,000 persons over the age of 65 in the state of Kansas, many who would receive help through tax benefit from the passage of **HB 2264**.

There being no others present to testify on **HB 2264**, the Chair closed the hearing.

Hearing on SB 382 - sales tax exemption for contractors constructing or reconstructing facilities at state correctional institutions or privately constructed correctional institutions contracted for state use and ownership.

Chris Courtwright gave a brief review of **SB 382**.

Chairperson Allen opened the hearing on **SB 382**, and recognized Roger Werholtz, Kansas Department of Corrections (KDOC) to the Committee. Roger appeared in support of **SB 382**, stating that the capacity expansion of major construction projects of KDOC over the last decade has been bond-financed. This bill would allow the KDOC to forego financing the cost of the sales tax (Attachment 3).

Written testimony in opposition to **SB 382** was distributed from April Holman, Kansas Action for Children (Attachment 4).

The Kansas Department of Revenue (KDOR) presented a balloon with two recommended technical changes (Attachment 5).

CONTINUATION SHEET

MINUTES OF THE Senate Assessment and Taxation Committee at 10:45A.M. on March 19, 2007 in Room 519-S of the Capitol.

Chairperson Allen asked for others to testify on **SB 382**, and there being none, the hearing was closed.

Discussion and possible action:

Chairperson Allen turned the Committee's attention to the utility bills the Committee had worked on previously.

Gordon Self reviewed **HB 2038**, Nuclear power plants; application of siting act; property tax exemption.

Senator Derek Schmidt made a motion to amend **HB 2038**, as previously amended by the Committee, to include the provisions of **HB 2405**, Income tax credits and grant program for development of certain historic sites. Senator Pine seconded the motion, and the motion carried.

Senator Derek Schmidt moved to further amend **HB 2038**, as amended, to include the provisions of **HB 2476**, Transfer of specified real property in Johnson county, property tax consequences. Senator Donovan seconded the motion. The motion carried.

Senator Schmidt made a motion to pass **HB 2038** out of committee favorably, as amended, and for the Revisor to have discretion to make it a substitute bill. Senator Donovan seconded the motion. The motion carried.

Senator Apple made a motion to pass **SB 291**, Excise tax on certain sexually explicit businesses, favorable for passage. Senator Bruce seconded the motion. The motion carried.

Chairperson Allen brought the Committee's attention to **HB 2419**. Gordon Self reviewed **HB 2419**, the carbon dioxide reduction act. **HB 2419** generally provides incentives for capturing carbon dioxide and storage, and provides for regulation of underground storage of carbon dioxide.

Senator Lee made a motion to pass **HB 2419** favorably. Senator Donovan seconded the motion. The motion carried.

Further discussion on **HB 2240**, Sales taxation; sales tax exemptions; services for rebuilding of public utility facilities was held. There were concerns brought to the Committee regarding the deletion of the word "repair" in the KDOR's amendment.

Chairperson Allen informed the Committee it would not be working **HB 2240** today.

Information on the FEMA Public Assistance Grant Program was furnished to the Committee in a handout.

Approval of minutes

Senator Donovan moved to approve the minutes of the March 13 and 14 meetings. Senator Schmidt seconded the motion. The motion carried.

Chairperson Allen informed the Committee it would be meeting tomorrow, March 20, with the intention of working the bills heard today. The meeting adjourned at 11:45 a.m.

SENATE
ASSESSMENT & TAXATION COMMITTEE

GUEST LIST

DATE: March 19, 2009

| NAME | REPRESENTING |
|-------------------|----------------------|
| Mark Schreiber | Westco Energy |
| Steve Miller | Sunflower Electric |
| Wes Ashen | Aquila |
| Joie Snyder | Self |
| Whitney Danna | Coffey Co Commission |
| Michelle Peterson | Capitol Strategies |
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State of Kansas
Senate Chamber



PEGGY R. PALMER
Sixteenth District

Testimony Supporting House Bill 2264
Elimination of Income Tax on Social Security Benefits

The Senate Taxation Committee
by Senator Peggy Palmer

March 19, 2007

Good Morning. Thank you for the opportunity to testify in support of House Bill 2264.

Eliminating the income tax on Social Security benefits is one of the legislative agenda items for the Senate Republicans this session. If passed, \$18.9 million would be returned to Kansas Seniors. Last week the House sent a strong message to treat pensions equally. With a bipartisan vote of 81 nays, they rejected the amendment to means test at \$50,000.

Current Kansas law applies the state income tax to Social Security benefits that are taxable at the federal level. Up to 85% of these benefits are subject to state and federal income tax. Retirees already face federal taxes on their Social Security at the federal level and Kansas currently imposes an additional state income tax on those benefits.

- **Social Security benefits are applied at the state level in only 8 states.**
- **Kansas is 1 of 8 states that apply the state income tax to Social Security benefits: Kansas, Minnesota, Missouri, Nebraska, New Mexico, North Dakota, Rhode Island and Vermont. (Missouri has introduced legislation this year to eliminate this tax.)**

(See Attachment) This explains how the Federal Government calculates and taxes benefits. It is fair to note that Social Security benefits are adjusted, the less money you put into the system the higher percentage you get returned to you. Whereas, wealthier workers who contributed will have an even lower return on investment. So those that want to see seniors with a minimal income from retirement plans to pay more in taxes on Social Security benefits, they must realize this is already adjusted.

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- **Social Security Benefits are not taxed in 36 states**
 27 States do not tax Social Security at the state level
 9 States do not tax because they do not have an income tax:
 Alaska, Florida, Nevada, New Hampshire, South Dakota, Tennessee,
 Texas, Washington and Wyoming
- **Consistency, Fairness, Simplicity**
 There are also relevant precedents for excluding Social Security retirement benefits from Kansas income taxes. Kansas' income taxes are currently exempt from Kansas Retirement Benefits for:

Military
 Civil Service
 State and Local Governments (KPERS)
 Railroad
 Regents (TWIA)

Public pensions from the federal and state/local government are not taxed in our state. Social Security benefits are taxed. This is unfair and a significant flaw that has existed in our laws since the 1980's. This is discrimination against folks who spend their careers in the private sector and do not receive a government pension from the federal government or KPERS. It is not a healthy state policy to penalize retirees after they have worked, paid taxes and contributed to the state economy. This legislation will correct that problem.

- **Population Retention and growth**
 Eliminating the State income tax on Social Security is a positive growth policy and will be a start in retaining our population and the baby boomers.

Other facts to consider that illustrate the need to give Kansas' retired citizens a fair shake:

- Kansas fully taxes private pensions, out-of-state government and Roth IRA's
 (many states do not tax private pensions)
- Some states tax state government pensions (i.e. KPERS)
 (Kansas does not)
- Kansas does not means test any of the current retirement pensions

- Kansas property taxes are the highest in the Region and Kansans pay more in property taxes than the average American, despite having lower average incomes than the average American

| | |
|--------------|---------|
| Kansas | \$1,187 |
| U.S. Average | \$1,086 |
| Colorado | \$1,026 |
| Missouri | \$ 747 |
| Nebraska | \$1,148 |
| Oklahoma | \$ 465 |

- Kansas ranks 44th with a D+ Grade in Friendliness toward Retirees
- Gasoline taxes are the second highest in the region and 50% higher than Oklahoma and Missouri

This legislation will eliminate state income tax on Social Security benefits and provide consistency, fairness, and simplicity and is a positive growth policy for the State of Kansas.

Passage of this bill will allow Seniors on fixed incomes greater independence and security, help them to cover ever-increasing inflation costs, and allow them to reinvest and continue to give back to the communities in which they are a vital part.

Thank you and I encourage the House Tax Committee to move House Bill 2264 out for favorable passage.

I will be happy to stand for questions.

Respectfully,



Peggy Palmer
Kansas State Senator
16th District

LETTERS

Taxes factor into retirement

As the time quickly approaches for us to make some decisions about retirement, and where to retire, the question arises: Why retire in Kansas? Our list of places to retire will, of course, consider many factors, including a mild climate, abundant natural beauty and no state income tax on Social Security.

Since a fair portion of our retirement income will be coming from Social Security, the tax issue takes on a significant importance. It is critical to note that there are many states that do not tax Social Security income, and that one neighboring state, Iowa, is phasing out its tax on Social Security income. We have read that there may be some legislation forthcoming to address this issue in both Kansas and Missouri.

Legislators need to keep in mind that the first question people ask you when you mention retirement is: Are you staying here? Retired people are not bound to a location by employment. Since the number of people in the retirement group is growing, it should seem obvious to any Kansas state legislator that it makes no sense to encourage a decrease in state population.

William C. Buechele
Shawnee

HOUSE BILL 2264
SENATE ASSESSMENT & TAXATION COMMITTEE
MARCH 19, 2007

Madame Chair, members of the Committee, I am Jim Snyder and I am in favor of passage of House Bill 2264. It would be easy just to say that anyone who is benefiting from Social Security Payments definitely are in favor of ANYTHING which might preclude these from any type of taxation. But that's really not the whole story.

For instance, I paid into Social Security for 51 years before I drew one penny from it. I worked all that time and even was fortunate enough to pay my bills, pay into Social Security and also build up my IRA and 401K programs as well. So, when I retired in 1999, I had Social Security and a small amount with KPERS (having worked my final 8 years with the State), along with some dividends. So, I had a fair income when I retired....especially since my home was paid for and I had no other long-term debts.

I might add, though, that since then, my property taxes have increased 38 percent, my utilities have gone up somewhat, my Plan 65 medical insurance has increased 50 percent and my Medicare has gone up 35 percent....that's just in 7 years. The only increase I have seen in income between age 65 and age 70 1/2 was about \$50 per month from Social Security.

Then, I reached the magical age of 70 1/2. So, suddenly my income increased—because of the mandatory payout—so that now my federal income tax began to require taxation on a portion of my social security benefits...and naturally, this filtered down to the State Income Tax as well.

What this means is, that Social Security recipients might not have any taxes on social security monies upon retirement, but if they have any deferred income, they might get hit later in life. So, if House Bill 2264 is approved into law, you will have helped stop at least the State's part of this.

I thank you for your consideration.

Testimony on SB 382
to
The Senate Assessment and Taxation Committee

By Roger Werholtz
Secretary
Kansas Department of Corrections

March 19, 2007

The Department of Corrections supports the provisions of SB 382. SB 382 amends K.S.A. 79-3606 to exempt from sales tax, the purchase of tangible personal property and services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling state correctional institutions including a privately constructed correctional institution contracted for state use and ownership. SB 382 would provide the same exemption from sales tax to state owned correctional facilities as is currently provided to construction projects for public and private nonprofit hospitals, and public and private schools. In regard to correctional institutions, the sales tax exemption would be available only to correctional institutions owned by the state.


Since the eligibility criteria for the sales tax exemption relative to correctional institutions is state ownership of the institution, privately constructed correctional institutions would be eligible for the sales tax exemption only if the institution is for state use and is owned by the state. Thus, irrespective of whether the correctional institution is the result of a direct contract between the state and a construction company or as a result of a contract between the state and a private entity which in turn contracts with a construction company, as long as the correctional institution is owned by the state, the materials and services for construction would be exempt from sales tax.

The rationale for SB 382 is contingent upon state ownership of the correctional institution and involves the state saving the expense of paying the financing costs that arise if sales tax is assessed on the project. The fiscal benefit to the state is derived from the fact that while state sales tax goes to the state, if the construction project is paid for by bond financing or the contractor finances his or her material purchases including the payment of sales tax, the state ends up paying the financing charges on funds that it pays itself.

The construction costs incurred in the relocation of the Reception and Diagnostic Unit to the El Dorado Correctional Facility illustrates the potential savings that the state could achieve through a sales tax exemption. The construction cost of the RDU project was \$15.9 million which was financed through a twenty year bond resulting in a total cost of \$29.8 million. At a sales tax rate of 7%, sales tax on materials and services would be \$1,113,000. However, by not paying sales tax on that project and thus not having to bond finance the sales tax expense, the state would save \$2,087,000 of its debt service costs. The savings to tax payers by not financing the payment of sales taxes to state and local government would be substantial.

The sales tax exemption savings afforded by SB 382 would not be limited to major construction or expansion projects. The sales tax exemption provided by SB 382 would also apply to renovation projects for existing state correctional institutions.

FISCAL FOCUS

Budget and Tax Policy in  Perspective

April Holman
Legislative Testimony
Senate Bill 382
Senate Committee on Assessment and Taxation
March 19, 2007

Good morning Madam Chair and members of the Committee. On behalf of Kansas Action for Children (KAC), I would like to thank you for this opportunity to testify.

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

Our opposition to Senate Bill 382 is not specific to contractors building correctional facilities, but is instead a reflection of our general concern about the erosion of the sales tax base. The sales tax is a key source of revenue to the State General Fund (SGF), which is in turn a key source of funding for state government and for programs and services vital to children and families. The number of sales tax exemptions in Kansas has more than doubled in the past 15 years, resulting in a significant reduction in possible SGF revenues.

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

KDOR balloon

Session of 2007

SENATE BILL No. 382

By Committee on Ways and Means

3-14

9 AN ACT concerning sales taxation; relating to exemptions; state correc-
10 tional institutions and privately constructed correctional institutions
11 contracted for state use and ownership; amending K.S.A. 2006 Supp.
12 79-3606 and repealing the existing section.

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

15 Section 1. K.S.A. 2006 Supp. 79-3606 is hereby amended to read as
16 follows: 79-3606. The following shall be exempt from the tax imposed by
17 this act:

18 (a) All sales of motor-vehicle fuel or other articles upon which a sales
19 or excise tax has been paid, not subject to refund, under the laws of this
20 state except cigarettes as defined by K.S.A. 79-3301 and amendments
21 thereto, cereal malt beverages and malt products as defined by K.S.A. 79-
22 3817 and amendments thereto, including wort, liquid malt, malt syrup
23 and malt extract, which is not subject to taxation under the provisions of
24 K.S.A. 79-41a02 and amendments thereto, motor vehicles taxed pursuant
25 to K.S.A. 79-5117, and amendments thereto, tires taxed pursuant to
26 K.S.A. 65-3424d, and amendments thereto, drycleaning and laundry serv-
27 ices taxed pursuant to K.S.A. 65-34,150, and amendments thereto, and
28 gross receipts from regulated sports contests taxed pursuant to the Kansas
29 professional regulated sports act, and amendments thereto;

30 (b) all sales of tangible personal property or service, including the
31 renting and leasing of tangible personal property, purchased directly by
32 the state of Kansas, a political subdivision thereof, other than a school or
33 educational institution, or purchased by a public or private nonprofit hos-
34 pital or public hospital authority or nonprofit blood, tissue or organ bank
35 and used exclusively for state, political subdivision, hospital or public hos-
36 pital authority or nonprofit blood, tissue or organ bank purposes, except
37 when: (1) Such state, hospital or public hospital authority is engaged or
38 proposes to engage in any business specifically taxable under the provi-
39 sions of this act and such items of tangible personal property or service
40 are used or proposed to be used in such business, or (2) such political
41 subdivision is engaged or proposes to engage in the business of furnishing
42 gas, electricity or heat to others and such items of personal property or
43 service are used or proposed to be used in such business;

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1 furnishing or remodeling facilities, it shall obtain from the state and fur-
 2 nish to the contractor an exemption certificate for the project involved,
 3 and the contractor may purchase materials for incorporation in such pro-
 4 ject. The contractor shall furnish the number of such certificate to all
 5 suppliers from whom such purchases are made, and such suppliers shall
 6 execute invoices covering the same bearing the number of such certifi-
 7 cate. Upon completion of the project the contractor shall furnish to the
 8 political subdivision, district described in subsection (s), hospital or public
 9 hospital authority, school ~~or~~, educational institution *or department of cor-*
 10 *rections* *[in the case of a state correctional institution including a privately*
 11 *constructed correctional institution contracted for state use and owner-*
 12 *ship]* concerned a sworn statement, on a form to be provided by the di-
 13 rector of taxation, that all purchases so made were entitled to exemption
 14 under this subsection. As an alternative to the foregoing procedure, any
 15 such contracting entity may apply to the secretary of revenue for agent
 16 status for the sole purpose of issuing and furnishing project exemption
 17 certificates to contractors pursuant to rules and regulations adopted by
 18 the secretary establishing conditions and standards for the granting and
 19 maintaining of such status. All invoices shall be held by the contractor for
 20 a period of five years and shall be subject to audit by the director of
 21 taxation. If any materials purchased under such a certificate are found
 22 not to have been incorporated in the building or other project or not to
 23 have been returned for credit or the sales or compensating tax otherwise
 24 imposed upon such materials which will not be so incorporated in the
 25 building or other project reported and paid by such contractor to the
 26 director of taxation not later than the 20th day of the month following
 27 the close of the month in which it shall be determined that such materials
 28 will not be used for the purpose for which such certificate was issued, the
 29 political subdivision, district described in subsection (s), hospital or public
 30 hospital authority, school ~~or~~, educational institution *or the privately con-*
 31 *structed correctional institution]* concerned shall be liable for tax on all
 32 materials purchased for the project, and upon payment thereof it may
 33 recover the same from the contractor together with reasonable attorney
 34 fees. Any contractor or any agent, employee or subcontractor thereof,
 35 who shall use or otherwise dispose of any materials purchased under such
 36 a certificate for any purpose other than that for which such a certificate
 37 is issued without the payment of the sales or compensating tax otherwise
 38 imposed upon such materials, shall be guilty of a misdemeanor and, upon
 39 conviction therefor, shall be subject to the penalties provided for in sub-
 40 section (g) of K.S.A. 79-3615, and amendments thereto;
 41 (e) all sales of tangible personal property or services purchased by a
 42 contractor for the erection, repair or enlargement of buildings or other
 43 projects for the government of the United States, its agencies or instru-

← delete
bracketed
text

contractor
contracted with
the department
of corrections
for a
correctional
institution

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