Approved: February 19, 2008
Date

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 13, 2008 in Room 519-S of the Capitol.

All members were present except:
Derek Schmidt- excused

Committee staff present:
Gordon Self, Office of Revisor of Statutes
Chris Courtwright, Kansas Legislative Research Department
Scott Wells, Office of Revisor of Statutes
Ryan Hoffman, Kansas Legislative Research Department
Judy Swanson, Committee Assistant

Conferees appearing before the committee:
Richard Cram, Kansas Department of Revenue (KDOR)
Tony Folsom, KDOR, Property Valuation Department
Kevin Solter, KDOR, State Appraiser

Others attending:
See attached list.

Richard Cram, Kansas Department of Revenue (KDOR), presented an update on the recently approved Congressional stimulus package. (Attachment 1) The individual relief portion of the Federal package is $600 to $1200 per person/family.

The business provision of the stimulus package provides an additional one-time first-year depreciation deduction of 50% of the asset cost, and for the remaining 50% of the asset cost, the business can take additional depreciation under the MACRS–the federal income tax code depreciation rules. This stimulus package also increases expensing allowance to small businesses from $128,000 to $250,000. Because the calculation of Kansas taxable income begins with federal adjusted gross income for individuals and federal taxable income for corporations, the depreciation deductions allowed under the federal income tax laws are already taken into account in determining the businesses's Kansas taxable income.

Mr. Cram stated the Center on Budget and Policy Priorities estimated the business tax cuts in the stimulus package would cost Kansas approximately $87 million. (Attachment 2) Senator Donovan brought the Committee's attention to the other side of the issue, noting the offsetting increase in investments to the State was not being considered. When individuals who get "free" money spend it, assuming they spend only half of their rebate, it would bring millions of dollars to the state in sales tax. Mr. Cram said the new revenue might be taken into consideration at the consensus budget meeting. The "free" money will not be taxable income, but rather a rebate from the federal government for tax purposes. Mr. Cram also noted that businesses that invest in more equipment or add more employees as a result of this stimulus package were not considered in the KDOR fiscal note.

In response to Senator Lee, David Corbin, KDOR, said he estimated between 40% and 60% of the last stimulus package taxpayers received from the federal government was reinvested in the economy.

A bill introduced by Senator Francisco to decouple the State of Kansas from the Federal bonus tax schedule for tax year 2008 will be considered by the Committee next week.

Tony Folsom, KDOR, presented a follow-up report on the public utility property valuation, allocation and distribution. (Attachment 3) Public utility property in Kansas is valued on the value the operating business will bring in the business market under open market conditions. It is the value of the operating business that imputes value to the tangible and intangible assets of the company which then form the basis for the ad valorem tax of public utility property in Kansas. Business values are primarily based on the income stream the business can be expected to produce over time. The property that is being valued is appraised as a whole. The determination of the value of an enterprise as a whole is without regard to the value of the individual assets making up the enterprise.

The goal of KDOR is to arrive at a single number for the conclusion of value. The income approach is generally considered to be the dominant indicator of value for utility companies. KDOR then allocates the appropriate portion of the unitary value to the state, and apportions or distributes the state's value to taxing subdivisions. For multi-state utilities the goal of allocation is to assign a reasonable portion of the unit value to each state.

Kevin Solter, State Appraiser, said if a company is located in several states, each state determines its own individual valuation by state statute. During discussion about business appraisals in counties, Mr. Solter said counties sometimes find it difficult to get good income information from businesses for the purpose of conducting appraisals.

SB 471–electronic filing of tax returns and reports was re-referred to the Committee. Richard Cram said Secretary of Revenue Joan Wagnon had conferred with Senator Wagle and agreed to a suggested amendment which would resolve Senator Wagle's concerns. (Attachment 4)

Senator Lee moved to amend **SB 471** as presented by KDOR and to further amend on page 2, line 34, by lowering from 90% to 75%. Senator Hensley seconded the motion, and the motion passed.

Senator Lee moved to recommend **SB 471** as amended favorable for passage. Senator Hensley seconded the motion. The motion passed.

Committee discussion was held on **SB 497–creating the Kansas investment credit act and the Kansas jobs credit act**. Senator Lee expressed support for the Opportunity Zone portion of the bill. Senator Bruce commented he would like to have the HPIP portion streamlined. Senator Jordan felt there were still too many concerns about **SB 497** to work the bill. Senator Donovan was concerned about the elimination of retail establishments, and he did not think the bill simplified the programs very much. Chairman Allen requested Committee members see her personally with suggestions on the bill.

Senator Donovan moved to approve the minutes of the February 6 Committee meeting, and to correct the February 7 Committee meeting minutes on page 1 by adding "for the tax year 2008" after "federal bonus tax", then approve them. Senator Hensley seconded the motion, and the motion passed.

Being no further business the meeting adjourned at 11:25 a.m. The next meeting will be February 14.

SENATE
ASSESSMENT & TAXATION COMMITTEE

GUEST LIST

DATE: 02-13-08

NAME	REPRESENTING
Jacquelyn Koehler	Kansas, Inc.
KEVIN GREGG	KMCA
Shahira Stafford	KS Grain + Feed Assn.
John Frederick	Boeing
Keri Shultz	State
Bill Waters	PVD KDOR
Ben Cleeves	DOR
Karl Peterjohn	KS Taxpayers Network

KANSAS
DEPARTMENT OF REVENUE

Kathleen Sebelius, Governor
Joan Wagnon, Secretary

www.ksrevenue.org

Testimony to the Senate Committee on Assessment and Taxation

Richard Cram

February 13, 2008

H.R. 5140 Briefing

Senator Barbara Allen, Chair, and Members of the Committee:

Business Provisions

Congress recently approved a stimulus package, H.R. 5140 (expected to be signed by the President today) that on top of the modified accelerated cost recovery system (MACRS—the federal income tax code depreciation rules), provides an addition one-time first-year depreciation deduction of 50% of the asset cost. For the remaining 50% of the asset cost, the business can take additional depreciation under the MACRS. The Joint Committee on Taxation explains this provision as follows:

> Assume that in 2008, a taxpayer purchases new depreciable property and places it in service. The property's cost is $1,000, and it is five-year property subject to the half-year convention. The amount of additional first-year depreciation allowed under the provision is $500. The remaining $500 of the cost of the property is deductible under the rules applicable to five-year property. Thus, 20 percent, or $100, is also allowable as a depreciation deduction in 2008. The total depreciation deduction with respect to the property for 2008 is $600. The remaining $400 cost of the property is recovered under the otherwise applicable rules for computing depreciation.

This same stimulus package also increases the Section 179 expensing allowance to small businesses from $128,000 to $250,000.

Because the calculation of Kansas taxable income begins with federal adjusted gross income for individuals and federal taxable income for corporations, the depreciation deductions allowed under the federal income tax laws are already taken into account in determining the business's Kansas taxable income. The Joint Committee on Taxation estimates that these 2 provisions will negatively impact federal income tax revenues by $44.8 billion in fiscal year 2008. The Center on Budget and Policy Priorities estimates this will translate to a $2.9 billion revenue loss to the states, including a negative $87 million impact on Kansas, unless action is taken to "decouple" from this federal enactment.

Individual Taxpayer Provisions

H.R. 5140 also provides individual taxpayer relief as follows:

(1) a "recovery rebate credit" of tax of $600 ($1,200 for joint returns) phasing out when adjusted gross income exceeds $75,000 ($150,000 for joint returns);

(2) $300 ($600 for joint returns) for certain low income individuals and those on social security or receiving veterans benefits;

(3) $300 per dependent child.

The Joint Committee on Taxation estimates that the individual taxpayer relief provisions will reduce federal revenues by a negative $106.7 billion. Assuming that about 1% of this amount would be attributable to Kansas, individual income taxpayers in Kansas should receive approximately $1 billion in recovery rebate credit checks this spring.

JOINT COMMITTEE ON TAXATION
February 8, 2008
JCX-17-08

ESTIMATED BUDGET EFFECTS OF THE
"ECONOMIC STIMULUS ACT OF 2008,"
AS PASSED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE ON FEBRUARY 7, 2008

Fiscal Years 2008 - 2018

[Billions of Dollars]

Provision	Effective	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2008-13	2008-18
I. Recovery Rebates and Incentives for Business Investment														
1. 2008 Recovery Rebate for Individuals - $600 single filer ($1,200 for joint filers); plus $300 per qualifying child for the child tax credit; credit reduced by 5% of so much of the taxpayer's adjusted gross income as exceeds $75,000 ($150,000 for joint filers) [1]; and treatment of the U.S. Possessions [2]...	tyba 12/31/07	-106.7	-10.0	---	---	---	---	---	---	---	---	---	-116.7	-116.7
2. Disregard rebate income for purposes of means tested Federal programs [3]....................................	DOE	*No Budgetary Effect*												
3. Appropriations to carry out recovery rebates..........	DOE	-0.2	-0.1	---	---	---	---	---	---	---	---	---	-0.3	-0.3
4. Social Security Administration Funding [3]...........	DOE	[4]	[4]	---	---	---	---	---	---	---	---	---	[4]	[4]
5. Increase Section 179 Expensing and Phaseout Amounts for 2008 ($250,000 and $800,000)..........	tyba 12/31/07	-0.9	-0.6	0.5	0.3	0.2	0.2	0.1	0.1	---	---	---	-0.3	-0.1
6. 50% Bonus Depreciation for Property Placed in Service in 2008 [5]..	[6]	-43.9	-5.6	11.2	8.5	7.4	5.8	3.6	2.3	1.3	1.0	1.0	-16.7	-7.4
Total of Recovery Rebates and Incentives for Business Investment		**-151.7**	**-16.3**	**11.7**	**8.8**	**7.6**	**6.0**	**3.7**	**2.4**	**1.3**	**1.0**	**1.0**	**-134.0**	**-124.5**
II. Housing GSE and FHA Loan Limits - Temporary Conforming Loan Limit Increase for Fannie Mae and Freddie Mac [3]..................	**DOE**	**[4]**	---	---	---	---	---	---	---	---	---	---	**[4]**	**[4]**
NET TOTAL		**-151.7**	**-16.3**	**11.7**	**8.8**	**7.6**	**6.0**	**3.7**	**2.4**	**1.3**	**1.0**	**1.0**	**-134.0**	**-124.5**

Joint Committee on Taxation

NOTE: Details may not add to totals due to rounding. The date of enactment is assumed to be March 1, 2008.

Legend for "Effective" column: tyba = taxable years beginning after
DOE = date of enactment

tyba = taxable years beginning after

[Footnotes for JCX-17-08 appear on the following page]

1-7

Footnotes for JCX-17-08:

[1] Some taxpayers will receive a refundable credit equal to $300 ($600 for joint filers) plus $300 per qualifying child if the sum of the their earned income, Social Security income, VA disability income, and VA dependent indemnity compensation equals at least $3,000. Only taxpayers with a valid Social Security number may receive the credit.

[2] Includes the following outlay effects:

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2008-13	2008-18
a. Stimulus rebate for individuals...	36.8	3.6	---	---	---	---	---	---	---	---	---	40.4	40.4
b. Treatment of the U.S. Possessions [7].....................................	1.0	0.3	---	---	---	---	---	---	---	---	---	1.3	1.3

[3] Estimate provided by Congressional Budget Office. Estimate is preliminary and subject to change.

[4] Increase in outlays of less than $50 million.

[5] Estimate shown after interaction with section 179 provision.

[6] Effective for property placed in service after December 31, 2007, in taxable years ending after such date.

[7] Estimated outlay effects as a result of U.S. possessions provision provided by the Joint Committee on Taxation in consultation with the Congressional Budget Office.

JOINT COMMITTEE ON TAXATION
February 8, 2008
JCX-18-08

DISTRIBUTIONAL EFFECTS OF
A PROVISION TO PROVIDE TAX CREDITS FOR INDIVIDUAL TAXPAYERS AS CONTAINED IN
THE "ECONOMIC STIMULUS ACT OF 2008,"
AS PASSED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE ON FEBRUARY 7, 2008 (1)

Calendar Year 2008

INCOME CATEGORY (2)	CHANGE IN FEDERAL TAXES (3)		FEDERAL TAXES (3) UNDER PRESENT LAW		FEDERAL TAXES (3) UNDER PROPOSAL		Average Tax Rate (4)	
							Present Law	Proposal
	Millions	Percent	Billions	Percent	Billions	Percent	Percent	Percent
Less than $10,000........	-$4,856	-117.5%	$4	0.2%	-$1	(5)	3.7%	-0.6%
$10,000 to $20,000....	-$10,112	-72.7%	$14	0.7%	$4	0.2%	3.7%	1.0%
$20,000 to $30,000....	-$9,617	-24.0%	$40	1.9%	$31	1.5%	9.2%	7.0%
$30,000 to $40,000....	-$10,274	-15.2%	$67	3.2%	$57	2.9%	12.1%	10.2%
$40,000 to $50,000....	-$9,921	-11.3%	$88	4.2%	$78	3.9%	14.3%	12.7%
$50,000 to $75,000....	-$21,652	-8.6%	$252	12.0%	$230	11.5%	16.3%	14.9%
$75,000 to $100,000....	-$16,014	-6.3%	$254	12.1%	$238	11.9%	18.4%	17.2%
$100,000 to $200,000...	-$20,199	-3.3%	$608	28.9%	$588	29.4%	22.4%	21.7%
$200,000 and over........	-$50	(5)	$776	36.9%	$776	38.8%	25.8%	25.8%
Total, All Taxpayers....	**-$102,696**	**-4.9%**	**$2,103**	**100.0%**	**$2,001**	**100.0%**	**19.6%**	**18.6%**

Source: Joint Committee on Taxation
Details may not add to total due to rounding.

(1) Distributes the effect of the tax credit for tax year 2008. Does not include amounts paid in rebates to individuals not eligible for the credit in tax year 2008. Taxpayers eligible for the credit because they receive VA disability income or VA DIC income are not included in the analysis. For this particular proposal, the distributional analysis does not include all behavioral effects.
(2) The income concept used to place tax returns into income categories is adjusted gross income (AGI) plus: [1] tax-exempt interest, [2] employer contributions for health plans and life insurance, [3] employer share of FICA tax, [4] worker's compensation, [5] nontaxable social security benefits, [6] insurance value of Medicare benefits, [7] alternative minimum tax preference items, and [8] excluded income of U.S. citizens living abroad. Categories are measured at 2006 levels.
(3) Federal taxes are equal to individual income tax (including the outlay portion of the EIC), employment tax (attributed to employees), and excise taxes (attributed to consumers). Corporate income tax is not included due to uncertainty concerning the incidence of the tax. Individuals who are dependents of other taxpayers and taxpayers with negative income are excluded from the analysis. Does not include indirect effects.
(4) The average tax rate is equal to Federal taxes described in footnote (3) divided by income described in footnote (2).
(5) Less than 0.05%.

DISTRIBUTIONAL EFFECTS BY FILING STATUS OF
A PROVISION TO PROVIDE TAX CREDITS FOR INDIVIDUAL TAXPAYERS AS CONTAINED IN
THE "ECONOMIC STIMULUS ACT OF 2008,"
AS PASSED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE ON FEBRUARY 7, 2008 (1)

Calendar Year 2008

INCOME CATEGORY (2)	NUMBER OF RETURNS AFFECTED AND CHANGE IN FEDERAL TAXES (MILLIONS OF RETURNS AND DOLLARS)							
	Single Returns		Joint Returns		H of H Returns		Total Returns	
	Returns	Dollars	Returns	Dollars	Returns	Dollars	Returns	Dollars
Less than $10,000.........	8.8	-$2,845	1.1	-$723	2.0	-$1,288	11.8	-$4,856
$10,000 to $20,000....	16.2	-$5,858	2.1	-$1,782	3.6	-$2,472	22.0	-$10,112
$20,000 to $30,000....	9.1	-$4,554	2.5	-$2,199	3.6	-$2,864	15.2	-$9,617
$30,000 to $40,000....	7.7	-$4,252	3.3	-$3,311	3.2	-$2,711	14.2	-$10,274
$40,000 to $50,000....	6.3	-$3,701	3.8	-$4,148	2.3	-$2,072	12.4	-$9,921
$50,000 to $75,000....	8.7	-$5,187	11.2	-$13,824	3.1	-$2,642	23.0	-$21,652
$75,000 to $100,000....	2.5	-$1,096	10.4	-$14,237	1.0	-$681	14.0	-$16,014
$100,000 to $200,000...	0.1	-$32	15.2	-$20,146	0.1	-$22	15.4	-$20,199
$200,000 and over.........	(3)	-$1	0.1	-$49	(3)	(4)	0.1	-$50
Total, All Taxpayers.....	**59.4**	**-$27,525**	**49.7**	**-$60,419**	**19.0**	**-$14,752**	**128.0**	**-$102,696**

Source: Joint Committee on Taxation
Details may not add to total due to rounding.

(1) Distributes the effect of the tax credit for tax year 2008. Does not include amounts paid in rebates to individuals not eligible for the credit in tax year 2008. Taxpayers eligible for the credit because they receive VA disability income or VA DIC income are not included in the analysis. For this particular proposal, the distributional analysis does not include all behavioral effects.

(2) The income concept used to place tax returns into income categories is adjusted gross income (AGI) plus: [1] tax-exempt interest, [2] employer contributions for health plans and life insurance, [3] employer share of FICA tax, [4] worker's compensation, [5] nontaxable social security benefits, [6] insurance value of Medicare benefits, [7] alternative minimum tax preference items, and [8] excluded income of U.S. citizens living abroad. Categories are measured at 2006 levels.
Individuals who are dependents of other taxpayers and taxpayers with negative income are excluded from the analysis.

(3) Less than 50,000.

(4) Decrease of less than $500,000.

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Revised January 30, 2008

BUSINESS TAX CUTS IN STIMULUS PACKAGE WOULD COST STATES BILLIONS OF DOLLARS

By Nicholas Johnson and Iris J. Lav

States stand to lose billions of dollars in revenue under the business tax cuts in the stimulus package that the Bush Administration and House leaders announced January 25. Some 36 states would likely lose a total of about $2.9 billion in revenue from the "bonus depreciation" and investment "expensing" provisions, due to the linkages between federal and state tax codes. (For state-by-state data, see below.) Under a slightly smaller stimulus package that has been proposed in the Senate, states would lose proportionately less (about $2.2 billion). Some of the states that stand to lose revenue under the House or Senate packages, or both, already face significant fiscal problems from the weakening economy.

Revenue Loss Would Reduce Economic Benefits of Stimulus

Such revenue losses would make any economic stimulus package less effective. That is, they would force states to cut services even more deeply and/or to raise taxes to an even greater degree than they would otherwise need to close their budget gaps. Unlike the federal government, states cannot run deficits; they must balance their budgets.

When states must cut programs to balance their budgets, they lay off workers, reduce payments to contractors, cut reimbursements to providers, or reduce benefit payments to individuals. This reduces the amount of money that people and firms have to spend and thereby reduces demand for private-sector goods and services. Tax increases have a similar effect. As a result, some of the added economic activity that arises from the business tax breaks in the stimulus package would be offset in part by states' actions to compensate for the revenue loss.

Most State Tax Codes Tied to Federal Code

The revenue loss would occur for this reason: nearly all of the 47 states with corporate and/or personal income taxes (counting the District of Columbia as a state) base their taxes on the federal definition of income. When the federal government creates a new tax deduction or exemption or expands an existing one, this change typically flows through to the state tax calculation as well.

Assessment & Taxation
Date 2-12-08
Attachment # 2

- Some 25 states are expected to lose revenue as a result of bonus depreciation, which allows corporations to claim a tax deduction for up to half of the cost of new investments in 2008 right away rather than spreading out the cost over several years. A preliminary estimate, based on a review of each state's tax code, suggests the bonus depreciation provision in the House package (apparently the product of negotiations among the Speaker, the Minority Leader and the President) could cost those 25 states $2.9 billion. The bonus depreciation proposal in the Senate (which would spread the deduction over a longer period than the House proposal and hence cost the federal government $36.6 billion in 2008 and 2009, compared to $49.5 billion for the House proposal) would cost states proportionately less, $2.2 billion. See the table below for state-by-state estimates of revenue losses.[1]

- At least 32 states would be expected to lose revenue due to the increase in Section 179 expensing included in both the House and Senate packages. (Section 179 expensing allows many smaller and mid-sized businesses to deduct all the costs of new investments right away, rather than spreading them out over several years.) The cost to those states would total about $200 million. For the states that would be affected by this provision, see the table below.

- A few states also would lose revenue under the Senate's "net operating loss carryback" proposal, allowing businesses to claim refunds of taxes paid over the last five years if they experience losses this year. The states likely would include Alaska, Georgia, Missouri, and Oklahoma, and perhaps others.

Many States Already Facing Budget Problems

These federal changes would not affect *every* state. A few states do not have income taxes; others have separated their tax codes from the federal code with regard to these types of provisions. A few states would be affected by one change but not the other.

Nonetheless, the breadth and high potential cost to affected states should give federal policymakers pause. So should the fact that many of these states already face substantial fiscal problems as a result of the economic downturn. **Already, 28 states are projecting budget deficits and, in the 19 states that have quantified their deficits for the upcoming fiscal year, they total at least $32 billion.** That total will rise when additional states make estimates.

Because states have balanced budget requirements, they will be cutting spending and raising taxes to close these gaps — actions that can deepen the country's economic problems — *irrespective* of any business tax cuts Congress may enact as part of a stimulus package. But the business tax cuts now under discussion would increase the depth of the budget cuts or the amount of tax increases states would have to enact. **If these tax cuts become part of the enacted stimulus package, the provision of federal fiscal relief to the states will become even more urgent.**

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1 A previous version of this analysis estimated that 30 states would lose revenue due to bonus depreciation, with total revenue loss of nearly $4 billion. However, the House and Senate proposals are drafted in such a way that four states that originally appeared to be affected (Connecticut, Illinois, Massachusetts, and Pennsylvania) in fact will not be affected, and a fifth state (Vermont) will be affected to a smaller degree. (Specifically, the House proposal revises Section 168(k) of the Internal Revenue Code rather than creating a new section of code; this revision allows those five states to continue their current policy of rejecting Section 168(k) deductions — thereby avoiding revenue loss from bonus depreciation — without new state legislation.)

STATES LIKELY TO LOSE REVENUE FROM HOUSE BONUS DEPRECIATION AND SECTION 179 EXPENSING PROPOSALS
All Figures in Millions of Dollars

State	Potential Revenue Loss from Bonus Depreciation	Potential Revenue Loss From Expensing	Total
Alabama	$83	$3	$87
Alaska	15	1	16
Arizona	-	-	-
Arkansas	-	-	-
California	-	-	-
Colorado	104	5	109
Connecticut	-	7	7
Delaware	42	1	44
Florida	224	2	226
Georgia	-	10	10
Hawaii	-	-	-
Idaho	-	2	2
Illinois	-	12	12
Indiana	-	6	6
Iowa	-	-	-
Kansas	84	3	87
Kentucky	-	-	-
Louisiana	106	4	110
Maine	28	-	28
Maryland	-	-	-
Massachusetts	-	13	13
Michigan	162	8	170
Minnesota	-	-	-
Mississippi	-	2	2
Missouri	94	5	100
Montana	27	1	28
Nebraska	40	2	42
Nevada	-	-	-
New Hampshire	-	-	-
New Jersey	-	-	-
New Mexico	42	1	44
New York	795	40	835
North Carolina	275	12	287
North Dakota	16	0.4	17
Ohio	144	-	144
Oklahoma	85	3	89
Oregon	103	6	109
Pennsylvania	-	12	12
Rhode Island	28	-	28
South Carolina	-	4	4
South Dakota (bank tax only)	7	-	7
Tennessee	-	1	1
Texas	-	-	-
Utah	67	3	70
Vermont	7	1	8
Virginia	-	12	12
Washington	-	-	-
West Virginia	72	2	74
Wisconsin	-	-	-
Wyoming	-	-	-
D.C.	39	2	41
Total	$2,691	$187	$2,878

States in italics are projecting deficits. See text for list of states affected by Senate "net operating loss" provision

Estimates assume a federal bonus depreciation plan that costs the federal government $50 billion in fiscal years 2008 and 2009, as has been proposed in the House of Representatives. Estimates were derived by scaling the $50 billion figure to the individual state level using state and federal corporate income tax collections data for FFY2007. States with revenue loss are those that under current state law would conform automatically to the revenue change, and/or that have conformed routinely to bonus depreciation changes in the past.

Sources: Commerce Clearing House State Tax Guide; state tax departments; CBPP review of state statutes.

2-3

KANSAS
DEPARTMENT OF REVENUE

Kathleen Sebelius, Governor
Joan Wagnon, Secretary

www.ksrevenue.org

MEMORANDUM

TO: Honorable Barbara Allen, Chairperson
Senate Committee on Assessment and Taxation

FROM: Tony R. Folsom, Deputy Director

DATE: February 13, 2008

RE: Public Utility Property Valuation, Allocation and Distribution

Market Value

Ad valorem is Latin for "according to value." K.S.A. 79-503a provides most of this state's property with its definition of market value. Market value for pubic utilities is defined in K.S.A. 79-5a04. Essentially, the two definitions are the same, although the valuation processes and the market are substantially different. First, consider according to what value? The answer for commercial, industrial and residential real estate in Kansas is according to the asset value of the property in the real estate market; that is, what the property would sell for under open market conditions. The answer for public utility property is the value the operating business will bring in the business market under open market conditions. Thus, it is the value of the operating business which imputes value to the tangible and intangible assets of the company which then forms the basis for the ad valorem tax of public utility property in Kansas.

Business values are primarily based on the income stream the business can be expected to produce over time. The public utility valuation process will also give some consideration to the asset costs the accountants have placed on the company books and some consideration to how the stock and debt markets view the company. Since a utility is an integrated business, that is, each part of the operation is essential to the operation of the whole, the value sought is the value of the whole operating unit. The terms unit value, unitary valuation concept and unitary method of valuation of property all describe this concept. Essentially they mean that the property being valued is appraised as a whole.

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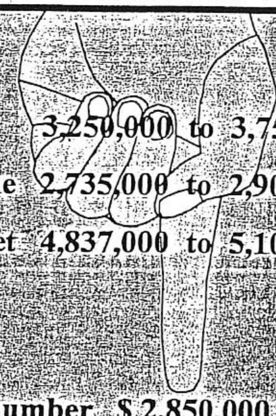
The essence of the unitary valuation concept is the determination of the value of an enterprise as a whole without regard to the value of the individual assts making up the enterprise. As its starting premise, the concept assumes that it is meaningless to consider the value of a mile of track, a substation or a reel of cable standing apart from the entire operating system. The unit value of the enterprise may be either more or less than the total value of the individual assets making up the whole. Presumably, if each asset were sold separately, the total price received would be substantially less than the value of the enterprise as a going concern.

When the division of property valuation values a utility property, it looks at three types of value indicators: (1) Income indicators such as a capitalized income, discounted cash flow, or equity residual; (2) cost indicators such as original cost, depreciated cost, trended cost, replacement cost and reproduction cost; and (3) Market indicators such as stock and debt and/or actual sales. Each indicator is reviewed in light of its accuracy, validity and appropriateness to the company being valued and an estimate of the market value is made. That unit value forms the basis for assessment by the state.

Allocation and Distribution

After the division has completed the valuation of all of the operating property of the utility as a unit, the next task is to allocate this value to Kansas, if the utility is an interstate enterprise, and then to each taxing jurisdiction within the state. This is a most challenging task. If it is impossible to add up the values of the individual items of property to determine the unit value of the whole, it is equally impossible to determine the values of the individual items of property by breaking down the value of the unit. The method that is used in Kansas to allocate value to the state and to distribute value to the taxing subdivisions is a ratio of the original cost to the estimate of market value. See K.S.A. 79-5a25. This allocation and distribution method can have a significant impact upon the amount and shifting of value when companies add or delete significant portions to their operations, merge with other companies or break up into functional segments. It cannot be emphasized too much that apportionment of unit values to taxing subdivisions are assignments of value, not valuation in and of themselves.

The goal is to arrive at a single number for the conclusion of value



Cost 3,250,000 to 3,750,000

Income 2,735,000 to 2,907,000

Market 4,837,000 to 5,100,000

A Single number $ 2,850,000 estimate

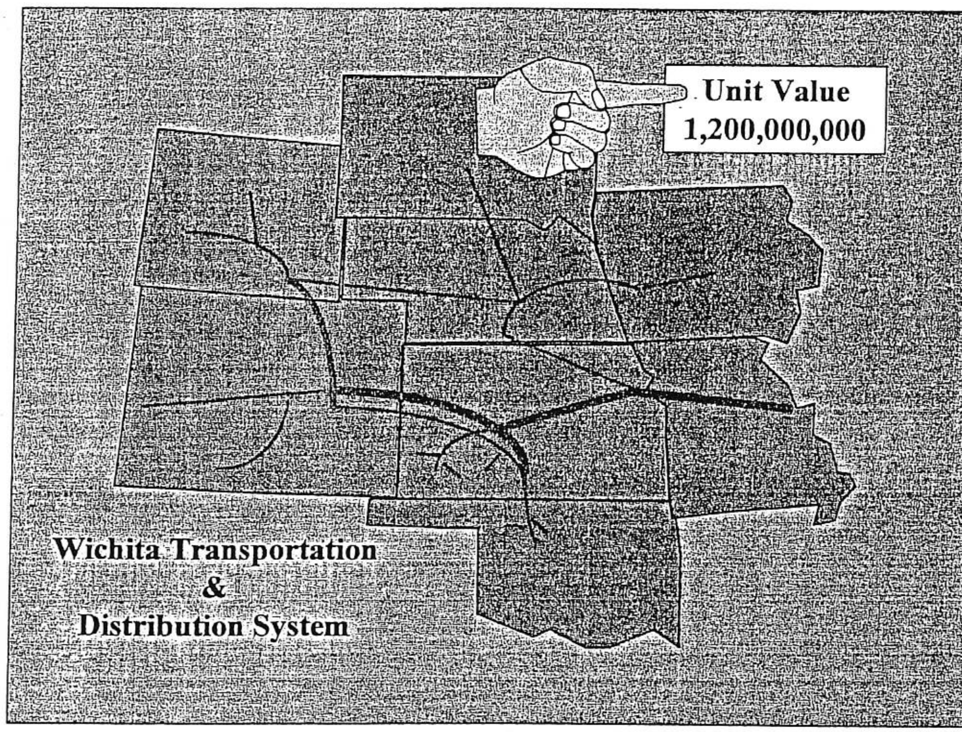
The most probable price at which property will exchange

What is the best indicator of value?

- New Companies little income history, cost may be more reliable
- Reliability of stock and debt is related to the market volatility and the level of company association with the financial instruments
- The income approach is generally considered to be the dominant indicator of value for utility companies

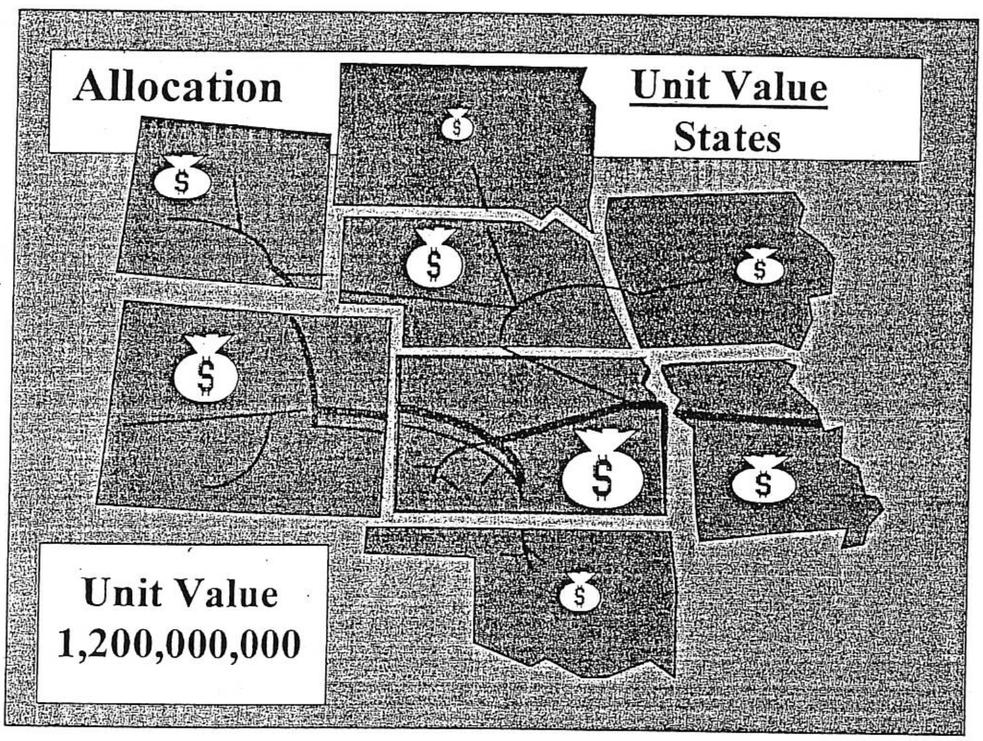
Remaining steps in the Unit Value Process

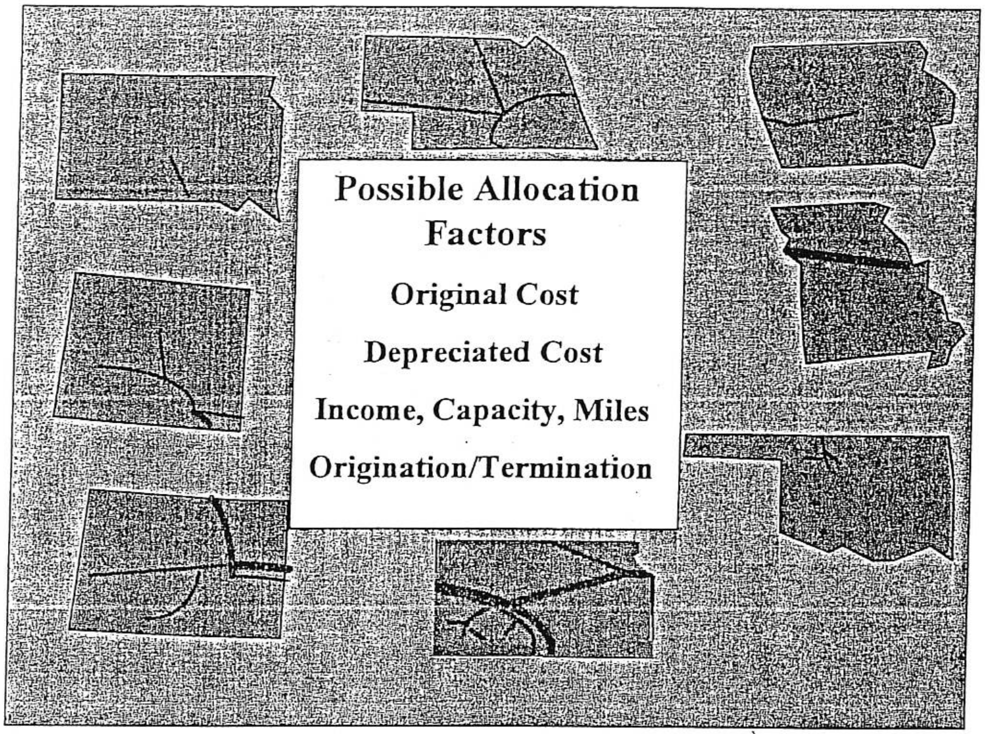
- *We have made* ***single value unit estimate***
- **Allocate** the appropriate portion of the unitary value **to the state**
- **Apportion or distribute** the state's value to **taxing subdivisions**



The goal of allocation is to assign a reasonable portion of the unit value to each State

- Some States have precise formulas
- Availability of factors can be troublesome
- Factor most likely to be available is some form of cost
- Income and use factors are often used

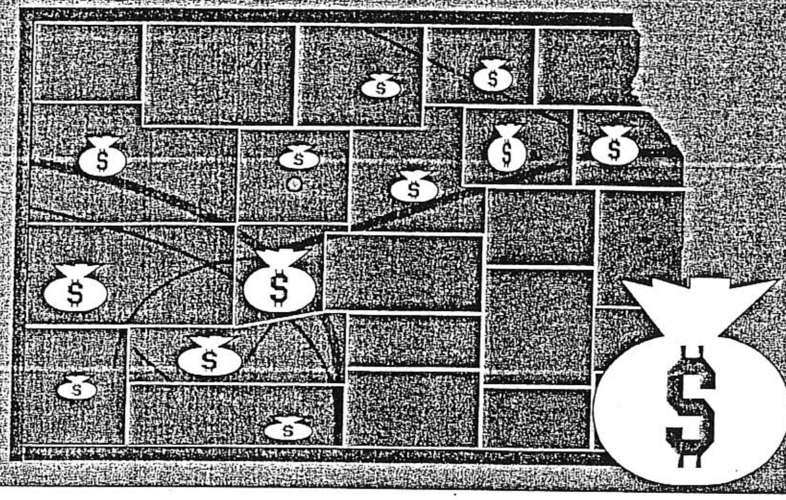




Remaining steps in the Unit Value Process

- *We have made* ***single value unit estimate***
- ***Allocate*** *the appropriate portion of the unitary value* ***to the state***
- **Apportion or distribute** the state's value to **taxing subdivisions**

We have Allocated $ to the State we must now Distribute or Apportion $ within the State



The goal of distribution is to assign a portion of the State's value to each taxing jurisdiction

- Some States have precise formulas
- Apportionment can be small but important
- Factor most likely to be available is some form of cost
- Apportionment factors enjoy integrity and numerical accuracy

Things to remember about Distribution

- Apportionment/distribution of unit values to taxing districts are assignments of value - not valuations themselves
- The market value of a fractional portion of the unit cannot be determined by apportionment
- An apportioned/distributed value is an assignment of the unit and would be market value only by coincidence
- Sales of segments of the unit usually bear no relationship to the value of the whole unit

State

County

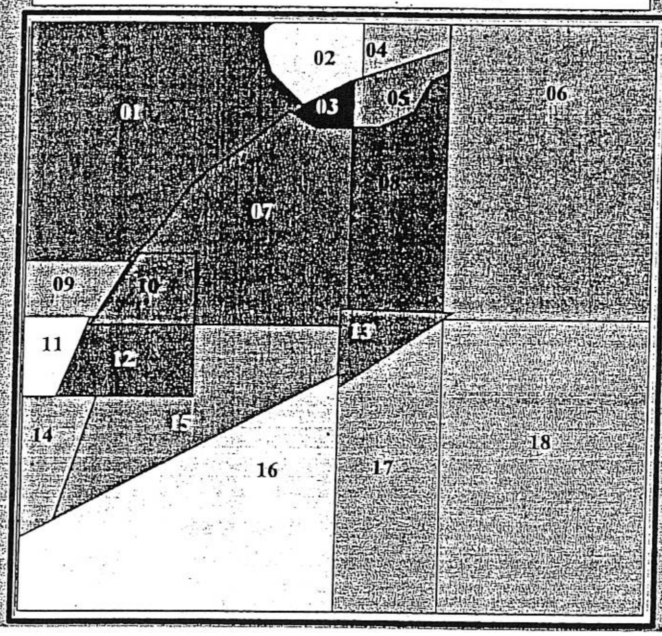
School
SD #1, 2, 3, 4

Fire District
FD #A, B, C, D

City
CY# I & II

Township
Library
Watershed
Sewer &
a dozen more

Distribution by Taxing Unit



Session of 2008

SENATE BILL No. 471

By Committee on Assessment and Taxation

1-24

AN ACT concerning taxation; relating to electronic filing of returns and reports; amending K.S.A. 79-3220 and K.S.A. 2007 Supp. 75-5151 and repealing the existing sections.

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

New Section 1. (a) The secretary of revenue may require ~~an individual,~~ ***a*** business or other legal entity to file any tax return prepared other than by a paid preparer by electronic means whenever the department of revenue permits electronic filing. ~~Unless otherwise specifically provided by statute~~ ***Subject to the requirements specified in K.S.A. 79-3220, and amendments thereto***, the secretary of revenue may require a paid preparer to file some or all of the tax returns by electronic means whenever the department of revenue permits electronic filing. — delete

(b) As used in this act: (1) "Electronic means" means computer generated electronic or magnetic media, web based applications or similar electronic, magnetic or computer based methods or applications;

(2) "paid preparer" means any person or business that prepares tax returns for compensation or employs or authorizes one or more persons to prepare such returns. The number of returns prepared per year shall be determined by including all returns prepared by the person or business, and by all employees or agents of the person or business, whether prepared at one location or multiple locations; and

(3) "tax returns" means returns or reports filed for any tax administered by the department of revenue including, but not limited to, income tax, sales and use tax, motor fuel tax, mineral tax and other excise taxes.

Sec. 2. K.S.A. 2007 Supp. 75-5151 is hereby amended to read as follows: 75-5151. The secretary of revenue may require, consistent with sound cash management policies, that any taxpayer whose total sales tax liability exceeds ~~$100,000~~ *$32,000* in any calendar year, any taxpayer whose total withholding tax liability exceeds ~~$100,000~~ *$32,000* in any calendar year, and any person owing any taxes or fees in connection with any return, report or document other than for sales tax or withholding tax liability, shall remit their tax liability by electronic funds transfer no later than the date required for such remittance except that the secretary

Assessment & Taxation
Date 2-13-08
Attachment # 4