

## MINUTES

### SPECIAL COMMITTEE ON ASSESSMENT AND TAXATION

October 24-25, 2007  
Room 519-S—Statehouse

#### Members Present

Senator Barbara Allen, Chairman  
Representative Kenny Wilk, Vice-Chairman  
Senator Janis Lee, Ranking Minority Member  
Senator Karin Brownlee  
Senator Les Donovan  
Senator Derek Schmidt  
Representative Elaine Bowers  
Representative Stan Frownfelter  
Representative Tom Holland  
Representative Jeff King  
Representative Steve Lukert  
Representative Virgil Peck  
Representative Jeff Whitham

#### Staff Present

Chris Courtwright, Kansas Legislative Research Department  
Martha Dorsey, Kansas Legislative Research Department  
Jarod Waltner, Kansas Legislative Research Department  
Gordon Self, Office of the Revisor of Statutes  
Judy Swanson, Committee Assistant

#### Conferees

Richard Cram, Kansas Department of Revenue  
Representative Tom Holland  
George Lippencott, AARP  
Matthew Goddard, Heartland Community Bankers Association  
April Holman, Kansas Action for Children  
Mark Tallman, Kansas Association of School Boards  
Mindy McDermott, Girl Scouts of NE Kansas and NW Missouri  
Charlie Lord, Topeka YMCA  
Dennis Schoenebeck, YMCA of Greater Wichita  
Perry Schuckman, Nonprofit Chamber of Service  
Rodney Steven II, Kansas Health and Fitness Association

George McCrary, Kansas Health and Fitness Association  
Judy Moler, Kansas Association of Counties  
Steve Stotts, Kansas Department of Revenue  
Phil Perry, Home Builders Association of Greater Kansas City  
Lewis Heaven, Jr., Lathrop and Gage  
Dave Holtwick, Home Builders Association of Greater Kansas City  
Paul Welcome, Johnson County Appraiser (written testimony only)  
Floyd Pendleton, retired CPA  
Randall Allen, Kansas Association of Counties (written testimony only)  
Tony Scott, Kansas Society of Certified Public Accountants

## **Others Attending**

See attached list.

## **Wednesday, October 24 Morning Session**

Chairman Barbara Allen called the Special Committee on Assessment and Taxation to order at 10:08 a.m.

Richard Cram, Kansas Department of Revenue (KDOR), presented an update on the 2007 Missouri legislation that causes the State of Kansas to lose income tax revenue. The legislation requires a nonresident individual filing a Missouri income tax return, when computing Missouri adjusted gross income, to add back to federal adjusted gross income the amount of any property taxes paid to a state or local government outside of Missouri, if the nonresident claimed an itemized deduction on the nonresident's federal income tax return for the property taxes paid ([Attachment 1](#)). This law change will increase the amount of Missouri income tax paid by a Kansas resident working in Missouri on the same amount of income earned in Missouri. Kansas does not have an "add-back" provision similar to Missouri's that would apply to a Missouri resident working in Kansas and claiming an itemized deduction on the federal return for property taxes paid in Missouri. Kansas provides a credit for income taxes paid to another state.

In response to Representative's Wilk request for an Attorney General opinion addressing this question, the Attorney General concluded the Missouri law would most likely pass constitutional muster because of the deference given by the courts to states in limiting deductions. Mr. Cram stated several cases addressing the propriety of states imposing taxes on nonresidents which indicate absolute equality in taxation can never be attained, the privileges and immunity clause is not absolute, and a state may impose income taxes upon incomes accruing to nonresidents.

Representative Wilk made a request for Committee review of a bill with a reciprocity clause that would provide for a reciprocal arrangement on how Kansas calculates income tax. He will work with staff on language so as not to adversely affect any state that calculates taxes the same as Kansas.

Chris Courtwright, Kansas Legislative Research Department, addressed Topic 4—Property Tax Deferral ([Attachment 2](#)). The Legislature studied a number of mechanisms designed to provide property tax relief to certain classes of property or targeted selected groups recently. In the 2007

Session, HB 2298 was introduced (Attachment 3), which would establish a deferral program for certain low-income taxpayers who are age 65 and above. This bill, if enacted, would create the Senior Citizen Property Tax Deferral Act, which would allow certain taxpayers to defer the real property taxes on their homestead property. Once a deferral becomes valid, it would defer payment of the real property taxes for the year in which the claim is filed, and would create a lien against the homestead property for the taxes deferred. This lien for deferred taxes and accrued interest (of not more than 5 percent) would be filed in the qualifying taxpayer's county of residence. He reviewed qualifications for the deferral.

It was noted 24 states provide for this exemption. This would be on top of the \$20,000 homestead refund exemption and other tax exemptions. In response to Chairman Allen, Mr. Courtwright will provide a fiscal note for this bill.

Representative Tom Holland testified HB 2298 was specifically designed for limited income seniors whose homesteads are located in high valuation growth areas of the state (Attachment 4). A provision was made for the surviving spouse (provided he or she is at least 60 years of age and residing in the homestead) to continue with the deferral program if desired. He attached examples of the deferral to his testimony. He requested support of the Committee for the bill.

During discussion, Representative Holland said he would like seniors who have an escrow account be to allowed to qualify under the bill, even though the bill as written does not allow for them to be included. He said the 5 percent interest figure in the bill is certainly subject to change. In response to Senator Lee, he said the definition of "high valuation growth area" could be for any area. There is a stop-gap measure that the bill cannot go over the cost of the property. The taxpayer must apply every year. In essence, according to Representative Wilk, the state would be "holding the bag," not the local entities.

Staff was directed to research how the division of assets would work if a person needs to go into a nursing home.

If a person refinanced their home within the past five years, they would be ineligible under this bill. It was agreed rules and regulations should set the interest rate. The administrative cost to the state would be the cost of the money, the cost of the county tax, and administrative county costs. Representative King expressed concern about the escrow issue. There is no particular reason individual county property averages are used; it could be a statewide average. If a surviving spouse remarries, the property still could be kept. The fiscal note becomes whatever amount the local government is out, the state reimburses. There was no fiscal note made on this bill because there are too many unanswered questions at this time.

Staff was requested to research the other 24 states that have this legislation in place and determine the percentage of use.

Gordon Self, Revisor of Statutes Office, gave background on the drafting of this bill. He said it was originally drafted 17 years ago, and was based on another state's legislation. Adjustments for current law and other bills that have been introduced recently were taken into consideration. This bill as drafted is a year-to-year exemption. The language in the bill is not clear if absence from the home is a continuing issue. Reverse mortgages are not dealt with in the bill, but perhaps should be specifically addressed. Mr. Self said the bill addresses generalities, but not many specifics.

George Lippencott, AARP, testified that last spring the Legislature restored the value of Kansas' long-term circuit breaker program, and that was AARP's priority (Attachment 5). He said 25 states and the District of Columbia offer property tax deferrals. A property tax deferral program in

Kansas could be tailored to address those seniors who have too much income to qualify for a homestead property tax exemption, but who may be experiencing significant impacts to their quality of life because of property tax increases that are affecting their ability to pay. During discussion, Mr. Lippencott said this program would be less expensive than taking out a reverse mortgage. He thought avoiding a limitation to the median value of the house might be a better way to word the bill. The escrow account inclusion was not in any of the other states' laws.

Matthew Goddard, Heartland Community Bankers Association, testified he did not believe all of the 24 states have a lien program. HB 2298 excludes from the program a property where a mortgagee has required an escrow account (Attachment 6). As a general rule, about two-thirds of mortgages have an escrow account, and that figure generally holds true for mortgagors over age 65. For mortgage lenders it is crucial that deferred property tax liens be junior to any existing liens or mortgages. Lenders need as much advance notice as possible to make a tax deferral program work. The December 20 deadline for filing an application for deferring property taxes will not work under any circumstances if the taxpayer has an escrow account. RESPA only allows a lender to maintain a "cushion" of extra funds in an escrow account equal to one-sixth of the total amount of payments made from the escrow account. Although there would be a good explanation for why the escrow cushion exceeded what RESPA allows, it would be likely Kansas mortgage lenders would receive increased scrutiny from regulators, and there would be no guarantee they would not be cited for RESPA violations.

Mr. Goddard made several suggestions for the Committee to consider helping ensure the pilot program keeps a narrow focus by restricting eligibility:

- The taxpayer should own the home for a minimum period of time before becoming eligible for a tax deferral lien;
- The homeowner should be required to possess a certain level of equity in the home; and
- Means-testing should be instituted for applicants.

During Committee discussion, Mr. Goddard said this bill, if enacted, would be in competition with reverse mortgages, but reverse mortgages do not seem to be a particularly good choice. He explained to the Committee how reverse mortgages work. In response to Senator Brownlee, he said some lenders require escrows. Representative Holland said he is open to working with Mr. Goddard on fine-tuning the bill.

Chairman Allen appointed the following as a working group to make recommendations to the bill and bring back a bill balloon for Committee review at the November meeting: Representative Holland, Chairman; Senator Brownlee, Representative Frownfelter, Matthew Goddard, George Lippencott, Gordon Self, and Jarod Waltner.

Written testimony was received from Randall Allen, Kansas Association of Counties (Attachment 7).

The Committee recessed from 11:30 a.m. to 1:08 p.m.

## Afternoon Session

Martha Dorsey, Kansas Legislative Research Department, addressed Topic 2—Sales Tax Exemptions (Attachment 8). She said Kansas law currently contains the various individual sales tax exemptions. They are itemized alphabetically, and the list is now up to paragraph “aaaa,” or more than three times through the alphabet. Some of the exemptions are for groups of organizations, as opposed to single entities. The list applies to a total of 10,000 nonprofit organizations. That number does not account for the government and public school organizations for which exemptions also have been granted. The current sales tax exemptions represent a mix of sales and purchase exemptions.

Organizations that qualify under the federal tax code as a Section 501 (c) (3) nonprofit organization include charitable, educational, literary, public safety testing, religious, scientific, and child and animal cruelty prevention organizations. The federal code, however, defines other nonprofit organizations including civic leagues, chambers of commerce, fraternal societies, and other similar entities. KDOR estimates there are approximately 20,000 organizations in Kansas with the 501 (c) (3) designation. A total of 24,000 nonprofit organizations of all kinds currently exist in Kansas. Nebraska and Oklahoma provide for sales tax exemptions in a manner similar to that of Kansas. Colorado and Missouri have chosen to exempt most 501 (c) (3) organizations.

The Secretary of Revenue has proposed an alternative policy. Under this proposal, a selected group of 501 (c) (3) organizations would be exempted from sales tax for direct purchases and fund-raising sales only. The Legislature would exempt organizations that perform specified services. KDOR would then be responsible for determining which organizations qualify for an exemption under the broad service categories. Ms. Dorsey provided examples of the different ways to exempt sales tax. She said the various examples included grandfathering in all current exemptions.

Richard Cram gave an overview of the sales tax treatment for nonprofit entities (Attachment 9). As a result of a 1970 extensive review, the Legislature amended statutes to make purchases by religious, benevolent, or charitable organizations subject to tax. In 2005, a legislative special committee reviewed the sales tax treatment for nonprofit organizations and did not recommend expanding the sales tax exemption to all 501 (c) (3) entities. Mr. Cram provided a summary of the current nonprofit entity exemptions, the fiscal impact of the exemptions, the fiscal impact of certain proposals to expand nonprofit entity exemptions, and sales tax treatment of nonprofit entities by neighboring states. Mr. Cram said sales by nonprofit entities should not be subject to exemption when it puts them in competition with retailers. He said the fiscal impact for all exemptions for nonprofit entities, governmental entities, and educational entities is \$405 million.

Mr. Cram reviewed KDOR’s proposal for exemption of nonprofit organizations for Kansas sales and use tax (Attachment 10). Exempting sales by nonprofit organizations is not sound tax policy because many of these groups are competing with for-profit businesses. In addition, the exemption cannot be verified and lends itself to abuse. As a result of the changing environment for exempt entities, KDOR offers the following proposed legislation.

- The Legislature will determine the overall policy establishing types of nonprofit groups that should qualify for exemption.
- Only direct purchases by the nonprofit organization would be exempt.

- Sales made by the organization would not be exempt except for fund-raising sales. Language exempting sales made “on behalf of” an organization should be eliminated from the statute.
- Use of the phrase, “on behalf of” for purchases that a few organizations currently have would be replaced with project exemption certificate (PEC) language.
- Exempt status would apply only to organizations that are recognized by the IRS as 501 (c) (3) organizations, or for organizations not required by the IRS to have a 501 (c) (3) letter, satisfactory verification that the organization is not used or held for profit.
- KDOR would be given authority to promulgate rules and regulations on how entities can apply for an exemption and how those exemptions are reviewed.
- The Legislature would have the opportunity through the rule and regulation process to review the Department’s process.
- If only selected groups were granted exempt status, the new exemption statute would give the authority to KDOR to issue an exemption certificate based on the legislative policy.

Additional detail is contained in the KDOR proposal ([Attachment 10](#)).

It is estimated the fiscal impact of exempting all direct purchases by all nonprofit 501 (c) (3) organizations would reduce state sales tax revenue by an additional \$25 million. KDOR does not recommend exempting any organization that is not a 501 (c) (3) nonprofit organization. This means civic leagues, labor unions, fraternal organizations, and similar organizations would be excluded.

Senator Lee pointed out that Girl Scouts would be prohibited from selling cookies inside a Wal-Mart building under KDOR’s proposal, even though they would have been invited to do so by the retailer. In response to Chairman Allen, Mr. Cram said the issue could be addressed in legislation. He said KDOR does not have a bill draft, but will do so if given that direction by the Committee. It is not officially a part of KDOR’s legislative agenda yet. Several questions presented by the Committee included sponsorships to an event, which Mr. Cram said would probably be exempted. Concession stand exemption does not qualify for fund raising under current law.

April Holman, Kansas Action for Children, testified her organization is concerned about the erosion of the sales tax base ([Attachment 11](#)). Instead of adopting more exemptions to the sales tax, a comprehensive modernization of the Kansas tax system is needed. If the tax system were updated and improved, the need for exemptions no longer will be an issue.

Mark Tallman, Kansas Association of School Boards, said his organization is more concerned about the long-term direction of Kansas tax policy over tax exemptions for nonprofit organizations ([Attachment 12](#)). He included a “fact sheet” about Kansas public education, funding and revenues with his written testimony. Continuing to expand exemptions makes it more difficult to sustain vital government services. Revenue must be increased to keep up educational needs.

Senator Schmidt asked Mr. Tallman if it was the position of Kansas Association of School Boards and Kansas National Education Association that current sales tax law should be repealed

for PTOs and the Frontenac Education Association. He responded his organization did not support those exemptions, but collectively, they support tax restructuring.

Mindy McDermott, Girl Scouts of Northeast Kansas and Northwest Missouri, gave an overview of Girl Scouts and the benefits the organization provides to girls ([Attachment 13](#)). Their major fund-raising event is the sale of Girl Scout cookies. She urged the Committee to continue its long-standing success by allowing the tax exemption to continue. She responded to Committee members' questions. Until 1998, sales tax was paid on the cookies. The tax was not added to the cookie sales, but was taken out of the price of the cookies. The Girl Scout organization goes into the inner city area Title I schools. Ms. McDermott introduced Angela Kato and Angela Stateler, also with the Girl Scouts. Representative Lukert questioned that cookie sales would go down if the price went from \$3.50 to \$3.80 because of adding sales tax. He said he is a strong supporter of the Girl Scout organization, but also supports doing away with tax exemptions for most organizations. They do not pay sales tax when they purchase the cookies for resale. Their cookies are made in Kentucky and Virginia.

Charlie Lord, Topeka YMCA, read a statement from Lynn Jenkins ([Attachment 14](#)). Ms. Jenkins was testifying as volunteer Board Chairperson for the Topeka YMCA and as a mother of two children, not in her capacity as State Treasurer. She urged the Committee to consider the value of all the programs provided by the YMCAs. They make contributions to the funding of the government through payroll tax, sales tax on purchases, and licensure fees. They are able to offer more services to the state through the small but important sales tax exemption they have. Mr. Lord said the YMCA exemption is on membership and program fees. The YMCA funding comes from membership program fees, donations, and some grants.

Dennis Schoenebeck, YMCA of Greater Wichita, said the YMCA is supported by a three-legged stool: volunteer support, charitable donations, and tax exemption ([Attachment 15](#)). The tax exemption helps them provide charitable services. The YMCA works hard to keep membership affordable for everyone, and the organization believes that additional taxes could be a barrier to providing programs and services to those who need it most. In response to Representative Lukert, Mr. Schoenebeck said the value the organization gives to the community far exceeds the tax exemption they are granted.

Perry Schuckman, Nonprofit Chamber of Service, said it is their position that the present application of sales tax exemption for nonprofits is at best inconsistently applied and contrary to public policy which encourages private donor support ([Attachment 16](#)). He gave several examples of inconsistent application of sales tax exemptions for nonprofits. When donors learn that a nonprofit is not sales tax exempt, most of them support an exemption. It is assumed by donors that all nonprofits are automatically exempt from sales tax. He said it is essential that nonprofits continue to build a partnership with local donors within a community. He urged the Committee to consider not just the potential cost to the state if all 501 (c) (3)s were exempt from sales tax, a consistent application of a developing practice, but to consider the benefits derived by the recipients of the services provided by nonprofit organizations.

In response to Senator Donovan, Mr. Schuckman said they were advocating all nonprofits be treated equally on purchases, and they have not considered sales tax on sales. In response to Senator Lee, he said his definition of "all nonprofit organizations" was all 501 (c) (3) entities. He did not have a suggestion as to where the state could recoup the \$25 million it would lose by doing this.

Rodney Steven II, Kansas Health and Fitness Association, testified there are several factors that should be considered before an organization becomes exempt from collecting or paying sales tax ([Attachment 17](#)). They should replace a governmental service. They need to consider whether

a tax-paying business would replace the services of the nonprofit. Another consideration for sales tax exemption should be whether or not a nonprofit relies on donations for its funding. When it gets the majority of its funding from donations, it generally means there is no business that will provide that service for a fee.

However, if an organization receives a significant amount of its revenue selling taxable services, the sale of those services should not be tax exempt. The services sold by organizations like college-run fitness facilities, YMCA, or local recreation centers should be taxable. The state says that just being a nonprofit does not make someone exempt from sales tax. Adoption of a policy that requires a nonprofit to collect sales tax on goods and services it sells would not jeopardize the nonprofit. They would not be paying any tax, only collecting it on what they sell. This type of policy provides equity among nonprofits, protects nonprofits' bottom line by not requiring them to pay taxes, and provides significant revenue to the state. Kansas Health and Fitness Association supports KDOR's recommendations. In response to Representative King, Mr. Stevens said the YMCA is not a truly benevolent organization.

George McCrary, Kansas Health and Fitness Association, concurred with Rodney Steven's testimony ([Attachment 18](#)). He said when nonprofits do not collect sales tax on goods and services they sell, there is a double loss to the state. The state does not receive the revenue, and it also loses the revenue that is lost by a company that sells the same service. The long-term effect is that tax-paying businesses and sales might eventually be replaced by nonprofits.

Requiring nonprofits to collect sales tax will have no negative impact on their ability to provide services, because they will not be paying the tax. The nonprofit will not be paying any tax, only collecting the tax. He said a for-profit organization also must pay taxes on products or services they give away.

Mr. Courtwright reported that Senator Schmidt's working group on Topic 7—Relief for Storm-Damaged Property will make its report at the next Committee meeting. The group decided to defer to the Special Committee on Assessment and Taxation on how to handle any property tax relief.

Judy Moler, Kansas Association of Counties, also reported on the working group of local governments to the Committee ([Attachment 19](#)). She said Allen Dinkel, City Manager of Hoisington, Chairman of the Committee, will present a white paper put together by the group at the Special Committee on Assessment and Taxation's November meeting. They may have suggestions for possible legislation. They took housing out of their purview.

Committee discussion was held on the various topics.

In response to Senator Lee, Mr. Cram said he is not ready to say that Topic 2—Sales Tax Exemptions is a part of KDOR's legislative agenda.

Senator Brownlee expressed a need for uniformity on sales tax exemptions. She would like to know how the fiscal note would be affected if those organizations had sales tax exemptions on purchases and not on sales.

Representative Lukert said his main concern is that many nonprofit entities assume they are tax exempt just because they are nonprofit. This is not true. He also stated not one of the tax-exempt organizations is unworthy of a tax exemption, but in total, it becomes a very large fiscal note to the state. Representative Wilk said the first point is that the Committee must decide not to give individual exemptions, and he has not been able to accomplish that.



Chairman Allen appointed Representative Lukert to chair a working group to come up with a recommendation regarding sales tax exemptions, starting with KDOR recommendations, and bring it back for Committee consideration. Also appointed to the working group are Representatives Wilk, Frownfelter and Bowers. Senator Lee said she would endorse the work of this group.

There being no further business, the meeting adjourned.

### **Wednesday, October 25**

Chairman Allen reconvened the Committee meeting at 9:05 a.m.

*Senator Lee moved to approve the minutes of the September Committee meeting. Senator Donovan seconded the motion. The motion carried.*

Chris Courtwright gave background information on Topic 5—Income Tax Withholding (Attachment 20). The original Act was enacted in 1965, and state withholding rates were established at 15 percent of the federal tax withheld. This rate was reduced to 10 percent in 1967, and increased to 13 percent in 1976. In 1977 the Secretary of Revenue was given authority to adopt variable rates, based on adjusted gross income class. In recent years, a number of taxpayers have raised questions about the extent to which the Kansas withholding tables dovetail with federal law and accurately reflect the state income tax burden of Kansans.

Steve Stotts, Kansas Department of Revenue, provided withholding tables for Committee review (Attachment 21). The main withholding concern is from married-filing-jointly taxpayers, where both spouses work and use the standard deduction, rather than itemize. The problem is with the Kansas tax table and the federal tax table. A taxpayer can withhold extra income with Kansas and not the federal government, or vice versa. Effective January 2008, KDOR is issuing a new K-4 form for Kansas withholding only, and he believes the new form will solve some of the withholding issues the Department currently is seeing. He agreed with Senator Donovan that the underlying withholding problem is the large gap between the first and second tax rates. Senator Lee said she was pleased KDOR had come up with a working solution to the problem.

Chris Courtwright reviewed Topic 9—Property Tax on New Residential Property. Although the issue had been heard at the previous Committee meeting, Mr. Courtwright gave an additional, detailed example of how property tax would be figured on new construction under three scenarios, if HB 2543 were enacted (Attachment 22).

Phil Perry, Home Builders Association of Greater Kansas City, followed up on questions raised by Committee members at the last Committee meeting (Attachment 23). He presented minor changes he would like made to HB 2453 based on conversations with other interested parties. Determining occupancy of a new residence could be determined in five ways. This law has been in effect in Missouri for a number of years.

Lewis Heaven, Jr., Lathrop and Gage, said the Kansas Legislature may provide statutory exemptions from property taxation, and such exemptions may be broader than constitutional ones (Attachment 24). HB 2543 would benefit the public welfare and provide a substantial, peculiar benefit to the state. HB 2543 does not provide for an improper or preferential classification of property. Mr. Heaven said he thought the bill was not “constitutionally flawed,” as suggested by opponents of the bill.

Dave Holtwick, Home Builders Association of Greater Kansas City, testified that his Association's interest in the bill is two-fold (Attachment 25). First, the bill would more fairly time the payment of property taxes on newly constructed homes with the use of those services by basing taxes on occupancy rather than on completion; and secondly, it would abolish what amounts to an "inventory tax" on new homes. He has found at least five counties in Missouri that have adopted this procedure. During discussion, he said Jackson County, Missouri, officials told him it meant \$4 million more to county schools. He agreed to provide this information to the Committee when he receives it. Representative Holland pointed out that if there is inventory that has not been sold and it catches fire, the fire department will be there to put out the fire. The tax currently is not separated out; it is included in the price of the house. Senator Brownlee pointed out if a realtor currently sets up an office in an unsold house, the tax rate does not shift to 25 percent, even though it is being used as a business. Senator Donovan said a car dealer does not pay taxes on cars that he drives, and he suggested realtors use speculative homes in the same manner. They are used as a marketing tool. In response to Chairman Allen, Mr. Holtwick said they care about the bill because, even though the taxpayer pays this cost, it would keep their cost more competitive with homes in Missouri. In Missouri, counties can opt in or opt out of this provision. The Kansas bill does not have this option because of uniformity. In a multi-unit building, when the first unit sells, the entire unit is considered occupied.

Chairman Allen will submit a formal request to the Attorney General for an opinion of the constitutionality of this proposed bill.

Paul Welcome, Johnson County Appraiser, submitted written testimony with his comments concerning the constitutionality of the bill (Attachment 26). He listed specific provisions in the bill that he thought needed to be addressed.

Committee discussion followed. The Home Builders Association did not feel the bill would have any value to them if the second-year provision was taken out of the bill. Senator Lee requested a chart showing the effect if a local city has a special assessment on builders, and she also requested Missouri figures. Mr. Holtwick agreed to provide this information. John Federico said he will provide a packet of information to Committee members before the next meeting.

Chris Courtwright presented information on Topic 3—Property Tax Payment Due (Attachment 27). He said KDOR said one-third of tax filers itemize their deductions. Current law allows taxpayers the option of paying the first half of their liability by December 20 and the second half by May 10 of the next year. Taxpayers also may remit the entire liability on December 20. One tax-planning strategy that can be utilized relates to "bunching" the payments in a given year. KDOR reports that for tax year 2005, the average itemized deduction for property taxes by Kansas taxpayers was \$2,468. The proposed legislation would allow taxpayers the option of paying their entire property tax bill in January of the following year so as to authorize an additional bunching option for income tax planning purposes.

Floyd Pendleton, retired CPA, testified in regard to the proposed revision of due dates for real estate tax payments by cash-basis taxpayers in Kansas (Attachment 28). He said the reason for the proposal is that it would help Kansas, while also helping Kansans who find it infeasible to make a major tax payment just before the holiday season and economically advantageous to "bunch" expenditures which are deductible for income tax purposes. It would be beneficial to Kansas as the state could receive real estate taxes more than a month earlier. He gave an illustration of the potential economic benefit to Kansas. During discussion, he gave an example of a test case he performed last year. He paid his taxes late and received three different answers as to how much his interest fees were. He said he did not know how or if this would affect or change local units of

government's budgeting. Most people would not take advantage of this law if it were enacted, because they already have their taxes taken out in escrow.

Mr. Pendleton presented an additional handout showing his analysis of alternative federal income tax elections, and how it would affect a taxpayer (Attachment 29). It would reduce Kansas income tax. Taxpayers can currently do this type of bunching by paying the interest for a few days. In response to Senator Brownlee, he said he will research whether capital gains would come into play if someone was setting up a business, and report his findings back to the Committee.

Written testimony was received from Randall Allen, Kansas Association of Counties, saying the organization has not yet taken a position on this topic because the details are not known (Attachment 30).

Tony Scott, Kansas Society of Certified Public Accountants, testified his organization agreed that a change in the current law to provide for additional bunching of property tax payments would allow Kansans who chose to use the enhanced strategy to do so to their advantage (Attachment 31). The organization remains neutral in relation to the change.

KDOR had no comments on the proposed change.

Chairman Allen and Senator Lee commented that if this were considered, the distribution schedule to counties would have to be reviewed. When Chairman Allen asked if there was Committee interest in moving forward on this proposal, there were no comments.

Mr. Courtwright provided a tentative agenda for the November Committee meeting (Attachment 32).

There being no further business, the meeting adjourned at 10:45 a.m.

Prepared by Judy Swanson  
Edited by Martha Dorsey

Approved by Committee on:

November 14, 2007  
(date)