



Testimony to the Senate Committee on Assessment and Taxation

February 6, 2013

Senate Bill 83—Department of Revenue SGF Self-Funding Proposal

Jeff Scott, Chief Compliance Enforcement Officer

Chairman Donovan and members of the Committee:

Senate Bill 83 is a business proposal to utilize recovered *delinquent tax debt* to self-fund the state general fund portion of the budget within the Kansas Department of Revenue. The bill would amend K.S.A. 2012 Supp. 75-5162 as described below.

In Fiscal Year 2012, the Division of Taxation, recovered \$184.1M in *delinquent tax debt* owed the State of Kansas from various tax types.

This proposal's purpose is to collect from each payment of delinquent tax (including penalties and interest) a payment processing fee of 12%. The 12% fee should represent an estimated \$17 million per fiscal year, to be used to fund the operations of the Department, and likely would be in lieu of receiving any SGF funding for KDOR. This proposal shifts the costs of collecting delinquent tax debt to those who are delinquent and therefore noncompliant, protecting compliant taxpayers from the noncompliance recovery cost burden.

In addition, we are proposing other business strategies to augment this proposal:

- Shift the existing Payment Plan set up cost from \$10 to \$25 to cover associated costs. (*for payment plans greater than 90 days which are exempt from a cost*)
 - The average payment plan set up cost charged by various States in the United States ranges from \$25, up to \$100 per pay plan set up.
 - *The IRS charges a \$105 "installment agreement user fee for agreements 120 days or longer.*
 - Currently, Kansas payment plan set up cost is \$10 which does not cover the administrative costs associated.
 - This cost change will transfer an estimated \$450k annually. We currently manage from 9,500 to 10,000 active payment plans ongoing. I am unaware of a complaint about the payment plan setup cost since inception on July 1, 2010. It is, and has been, standard business in other states. This fee is currently transferred to the Recovery Fund for Tax Enforcement purposes.



Page 2

- Initiate a \$50 Petition for Abatement (PFA) application processing/evaluation cost to help recoup expensive associated costs involved with extensive evaluation, validation, and/or processing of comprehensive financial disclosure documentation provided by the taxpayer for consideration.
 - ✓ *In comparison, the IRS charges \$100 for any Offer in Compromise (OIC) application and consideration. The OIC is the Federal version of Kansas's PFA process. Currently, Kansas does not charge anything for the application process or evaluation.*
 - ✓ This cost would be applicable whether the reason is validity or collectability of debt, which is why people submit a PFA for consideration in hopes to negotiate a
 - ✓ With this processing fee, new annual revenues would be generated of approximately \$175k to be transferred into the Recovery Fund for tax enforcement purposes.

- The IRS, the KDOR, and the Department of Administration (DoA) recently reached a memorandum of agreement to fully participate in the Federal "State Income Tax Levy Program" (SITLP) whereby the KDOR may withhold \$22 from each federal levy order on income tax refunds held by the State of Kansas, post internal setoff and DoA external setoff processes.
 - ✓ This cost is withheld from the levy amount, and does not cost the taxpayer or the state at all, it's an off the top fee the state retains when a match is obtained.
 - ✓ This \$22 will apply to covering the state's ongoing administrative and programming costs incurred in processing and responding to the federal levy.
 - ✓ The Kansas department of revenue, when remitting matched funds to the Internal Revenue Service in response to a federal levy order on those funds, may withhold from the funds a service fee of \$22. That \$22 service fee, *withheld from the IRS portion* will be deposited into the Recovery Fund for tax enforcement purposes.

MEMORANDUM

To: Mr. Steve Anderson, Director
Division of Budget

From: Kansas Department of Revenue

Date: 02/05/2013

Subject: Senate Bill 83
Introduced as a Senate Bill

Brief of Bill

Senate Bill 83, as introduced, amends K.S.A. 75-5162 to change the service fee for providing an installment payment plan in excess of 90 days from \$10 to \$25.

The bill also provides that any taxpayer requesting a full or partial abatement of tax liability shall be assessed a service fee of \$50.

The department may also collect a \$22 fee for funds remitted to the IRS in response to an IRS levy of those funds.

The department would also be authorized to collect a 12% processing fee of the amount of any payment or remittance of delinquent taxes, including penalties and interest.

All money received from such fees shall be deposited in the recovery fund and may be used for the administration and operation of the department.

The effective date of this bill is on publication in the statute book.

Fiscal Impact

Passage of this bill will not impact state general fund revenues.

It is estimated that the 12% fee would generate nearly \$17 million in fiscal year 2014. In FY 2012 collections from delinquent taxes was \$184.1 million, in FY 2013 collections are estimated to decline to \$165.7 million and decline further to \$141 million in FY 2014. The decline in FY 2013 is largely due to vacant positions within the division of taxation, in FY 2014 the decline is largely due to lower income tax liabilities because of significantly lower income tax rates. A 12% fee charged on the estimated \$141 million in delinquent taxes would generate nearly \$17 million in fees.

Administrative Impact

The estimated costs to implement this bill are about \$141,600 in fiscal year 2014.

IS costs are estimated to be about \$85,200, or 2,840 hours, of programming salary to develop and implement the changes required by this bill.

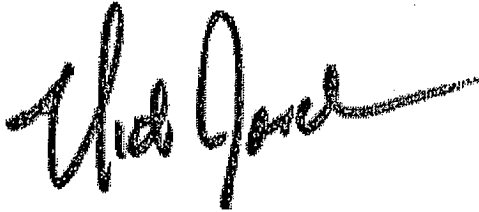
Tax Operations costs are estimated to be about \$60,400 in fiscal year 2014. Those costs include one time administrative and testing costs of about \$56,400 for 1,840 hours of testing time.

Administrative Problems and Comments

Taxpayer/Customer Impact

Legal Impact

Approved By:

A handwritten signature in black ink, appearing to read "Nick Jordan", with a long horizontal flourish extending to the right.

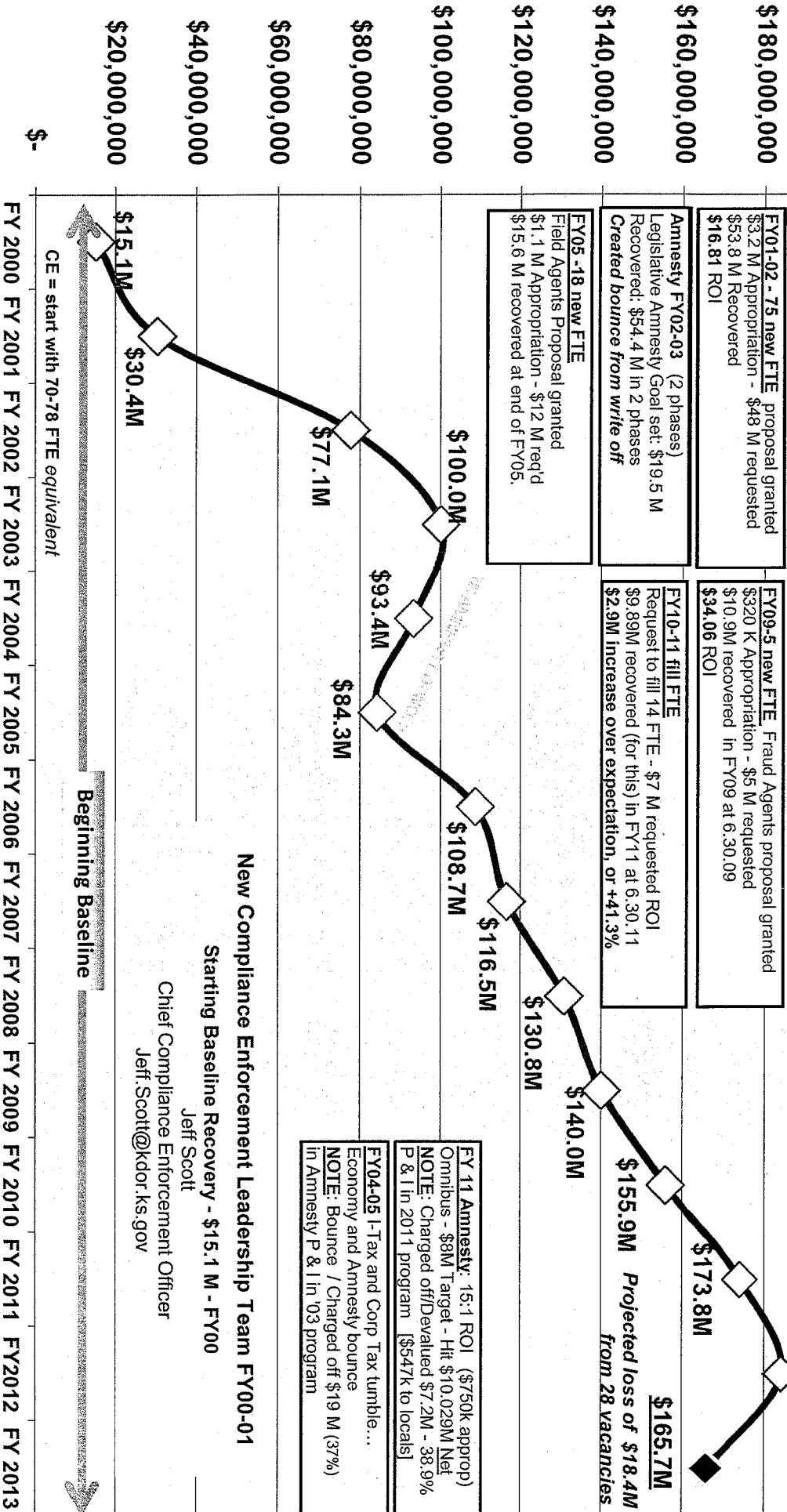
Nick Jordan
Secretary of Revenue

Att 6-5

Compliance Enforcement - Taxation

14 Fiscal Year History **FY 13 PROJECTION - Vacancies**

As of 2.6.13 - 28 FTE vacancies in Compliance Enforcement AR Recovery Dept. Each vacancy is a collection loss on average of <\$1.5M > per empty seat



FY01-02 - 75 new FTE proposal granted \$3.2 M Appropriation - \$48 M requested \$53.8 M Recovered \$16.81 ROI

Amnesty FY02-03 (2 phases) Legislative Amnesty Goal set: \$19.5 M Recovered: \$54.4 M in 2 phases *Created bounce from write off*

FY05 -18 new FTE Field Agents Proposal granted \$1.1 M Appropriation - \$12 M req'd \$15.6 M recovered at end of FY05.

FY09-5 new FTE Fraud Agents proposal granted \$320 K Appropriation - \$5 M requested \$10.9M recovered In FY09 at 6.30.09 \$34.06 ROI

FY10-11 fill FTE Request to fill 14 FTE - \$7 M requested ROI \$9.89M recovered (for this) in FY11 at 6.30.11 \$2.9M increase over expectation, or +41.3%

FY 11 Amnesty: 15:1 ROI (\$750k approp) Omnibus - \$8M Target - Hit \$10.029M Net
NOTE: Charged off/Devalued \$7.2M - 38.9% P & I in 2011 program. [\$547k to locals]
FY04-05 I-Tax and Corp Tax tumble... Economy and Amnesty bounce
NOTE: Bounce / Charged off \$19 M (37%) in Amnesty P & I in '03 program

KDOR Balloon Amendment

Session of 2013

SENATE BILL No. 83

By Committee on Assessment and Taxation

1-29

1 AN ACT concerning taxation; relating to delinquent tax liabilities; service
2 fees, remittance; amending K.S.A. 2012 Supp. 75-5162 and repealing
3 the existing section.
4

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

6 Section 1. K.S.A. 2012 Supp. 75-5162 is hereby amended to read as
7 follows: 75-5162. (a) For any tax established pursuant to law which is
8 administered by the Kansas department of revenue, any taxpayer having a
9 delinquent tax liability and entering into an agreement with the department
10 providing for an installment-payment plan allowing the pay off of such
11 liability in a time period in excess of 90 days from the date when such
12 agreement is entered into shall be assessed a service fee of \$10\$25.

13 (b) Any taxpayer requesting a full or partial abatement of tax liability
14 pursuant to K.S.A. 79-3233a, 79-3618 or 75-5154, and amendments
15 thereto, shall be assessed a service fee of \$50.

16 (c) The department, when remitting funds to the United States
17 internal revenue service in response to a levy on those funds, may
18 withhold from the funds a service fee of \$22.

19 (d) The department is authorized to collect a payment processing fee of
20 12% of the amount of any payment or remittance of delinquent taxes,
21 including penalties and interest.

22 (e) The secretary of revenue shall remit all moneys received by or for
23 the secretary from such fees and collected under this section to the state
24 treasurer in accordance with the provisions of K.S.A. 75-4215, and
25 amendments thereto. Upon receipt of each such remittance, the state
26 treasurer shall deposit the entire amount in the state treasury to the credit
27 of the recovery fund for enforcement actions and attorney fees, which is
28 hereby established in the state treasury and which may be used for the
29 administration and operation of the department. The secretary of revenue
30 shall remit the first \$350,000 of delinquent taxes, including penalties and
31 interest, collected during any fiscal year for income tax or any other tax
32 that would otherwise be deposited 100% in the state general fund, to the
33 state treasurer in accordance with the provisions of K.S.A. 75-4215, and
34 amendments thereto. Upon receipt of such remittance, the state treasurer
35 shall deposit the entire amount in the state treasury to the credit of the
36 recovery fund for enforcement actions and attorney fees. All expenditures

that are subject
to collection
activity

Sn. Assmnt & Tax

2/6/13

Attachment # 7

