

## MINUTES

### SPECIAL COMMITTEE ON ASSESSMENT AND TAXATION

October 23-24, 2006  
Room 519-S—Statehouse

#### Members Present

Representative Kenny Wilk, Chairman  
Senator Barbara Allen, Vice-Chair  
Senator Janis Lee, Ranking Member  
Senator Les Donovan  
Senator Greta Goodwin  
Senator Roger Pine  
Senator Derek Schmidt  
Senator Dennis Wilson  
Representative Anthony Brown  
Representative Barbara Craft  
Representative Nile Dillmore  
Representative John Grange  
Representative Jerry Henry  
Representative Mitch Holmes  
Representative Tim Owens  
Representative Virgil Peck

#### Members Absent

Representative Oletha Faust-Goudeau

#### Staff Present

Chris Courtwright, Kansas Legislative Research Department  
Martha Dorsey, Kansas Legislative Research Department  
Gordon Self, Office of the Revisor of Statutes  
Rose Marie Glatt, Committee Secretary

## **Conferees**

Don Moler, League of Kansas Municipalities  
Stan Ahlerich, President, Kansas, Inc.  
Kevin Osterhage, HyVee, Prairie Village, Kansas  
Mark Beck, Director, Division of Property Valuation, Kansas Department of Revenue  
Randall Allen, Executive Director of the Kansas Association of Counties  
Joan Wagon, Secretary of Revenue, Kansas Department of Revenue  
Rebecca Crotty, Chairperson, State Board of Tax Appeals  
Marlee Carpenter, Kansas Chamber of Commerce and Industry  
Cheryl Hayward, Kansas Society of Certified Public Accountants (written only)  
Richard Cram, Director of Policy and Research, Kansas Department of Revenue  
Mike Taylor, Unified Government  
Dave Holtwick, Kansas City Home Builders' Association  
Bruce Larkin, Kansas Department of Revenue  
Chris Wilson, Executive Director, Kansas Building Industry Association (written only)

## **Others Attending**

See attached list.

### **Monday, October 23 Morning Session**

The meeting was called to order at 10:00 a.m. by Representative Kenny Wilk, Chairman, who welcomed the Committee back to the Statehouse.

## **Topic 2 – Truth in Taxation Budget Law**

Chris Courtwright, Kansas Legislative Research Department, reviewed the history of the property tax limitation (tax lid) that the Legislature originally enacted in 1985, which (after several extensions) ultimately was allowed to sunset on July 1, 1999. The Legislature replaced it with a different mechanism known as “truth in taxation,” which has not been modified since being enacted in 1999. Because of ongoing concerns over increased property taxes, the Legislative Coordinating Council (LCC) approved a request for an interim study and charged the Special Committee to study the current “truth in taxation” property tax law to determine if local governments are complying with the provisions and if the provisions should be modified; or whether portions of the previous local government tax lid law should be revived ([Attachment 1](#)).

The Chairman opened the public hearing.

Don Moler, League of Kansas Municipalities, said that the League believes that the current law is operating as it was intended. The League does not see any need to modify the truth in taxation provisions at this time ([Attachment 2](#)). A representative of the Kansas Association of Counties also appeared and echoed the sentiments of Mr. Moler.

The Chairman closed the public hearing.

#### **Topic 4 – City Development Excise Taxes**

Chris Courtwright, Kansas Legislative Research Department, reviewed the history of the tax. The Committee was to determine whether the development excise tax authority should be expanded to all cities and recommend whether they could benefit from having this tax option at their disposal. He said that at the September meeting, the Chairman had requested the proponents and opponents to coordinate efforts as to what sort of other development finance mechanisms were being utilized by cities other than excise taxes (Attachment 3). He said that he had communicated with members of the League of Kansas Municipalities and the Home Builders Association, as well as the Junction City manager, through the efforts of Representative Craft. A packet of information from the Home Builders was distributed, which included a written statement by Chris Wilson, Executive Director, Kansas Building Industry Association, and a report on innovative finance. Included was a 2005 NCSL study, which summarized state legislation regarding innovative infrastructure finance (Attachment 4).

#### **Topic 9 – Motor Fuel Tax at Border**

Gordon Self, Office of the Revisor of Statutes, said that the charge of the Committee is to review the concept for retailers or communities along the border of an enclosing motor fuels tax; study similar legislation in Arkansas; and review HB 2822, a bill from the 2006 Session. He explained that the border tax law proposal would provide for a lower motor fuel tax rate for fuel sold in the border zone in some relationship to motor fuel sold across the border. He distributed a memo that provided a detailed analysis of the Arkansas law (Attachment 5).

He explained the two main legal areas of concern and possible remedies :

1. The price of fuel for those within the border zone will have lower taxes, while the tax for those retailers out of the border zone remains the same. Obvious legal issues would include arguments regarding due process; equal protection; and abridgement of privileges and immunity.

If Kansas were to enact this type of legislation, the Legislature would need a solid base on which to define the purpose of the law, as well as provide data that would support the premise that a significant number of Kansans travel across state borders in order to save money on motor fuel taxes, thus creating an economic hardship to retailers located at the borders.

2. The way the legislation is written could be interpreted as an unlawful delegation of legislative authority.

He explained two options to finesse this potential problem: (1) motor fuel rates in the border zones could be adjusted on an ad hoc basis when neighboring states change their rates; or (2) the Kansas Legislature could delegate the authority to a state agency to make some adjustments in the border motor fuel rates, as long as the Legislature provided adequate guidelines to clearly limit or define conditions to be used by the designated state agency.

Mr. Self also called attention to a memorandum from Richard Cram, Kansas Department of Revenue, that raised additional issues regarding HB 2822 that may provide new insight to motor fuel tax issues settled in the recent litigation involving the Department of Revenue and Prairie Band of Potawatomi Nation regarding the motor fuel sold on reservations ([Attachment 6](#)).

Martha Dorsey, Legislative Research Department, distributed copies of a letter to Stan Ahlerich, Kansas, Inc., regarding a study of border tax issues ([Attachment 7](#)). She said that during the September discussion on motor fuel taxes along the border, the Committee realized that a much broader economic analysis was needed relative to motor fuel taxes in particular, and all excise taxes in general. The Chairman requested that a letter be drafted to Kansas Inc., on behalf of the Committee, to provide an assessment of what it would take to quantify a number of the border excise tax questions. The letter had requested a cost estimate and time line requirement of such a study be presented at the October meeting. A copy of Mr. Ahlerich's response is attached.

Stan Ahlerich, President, Kansas, Inc., said this study would be a very complicated, in-depth undertaking and would require expensive and extensive conversations to determine behavioral actions of consumers living in border areas. The Chairman reiterated that the request was for a scope statement on what would be entailed in the study and cost estimates. Mr. Ahlerich said that he would present that information at the November meeting.

Kevin Osterhage, HyVee, Prairie Village, Kansas, spoke to the Committee regarding the challenges experienced by his business, located on the state line with Missouri ([Attachment 8](#)).

### **Afternoon Session**

Stan Ahlerich, President, Kansas, Inc., said that during July of 2004, the Kansas, Inc. Board of Directors initiated a project with the goal of identifying critical variables that would explain the current condition of the Kansas economy relative to its surrounding states and the entire country. He presented an overview of a prototype of the *Indicators of the Kansas Economy (IKE)* model, which is the result of a perceived need for a single source of objective and consistent information. This report allows public and private leadership, as well as all interested Kansans, to better understand the economy and enhance decision-making capacity. A memorandum was distributed listing the website of the IKE prototype ([Attachment 9](#)).

### **Topic 3 – Residential Property Tax Valuation Cap**

Chris Courtwright, Kansas Legislative Research Department, briefed the Committee on the background of the residential property tax valuation cap. During the 2006 Session, the House Taxation Committee considered HCR 5027, a measure that would have limited the annual property valuation increases for most residential parcels to the rate of inflation. The LCC subsequently charged the Special Committee to study, discuss, and recommend whether the proposed amendment or something similar should be reintroduced for consideration in 2007. Mr. Courtwright reviewed property tax constitutional amendments since 2000 and other approaches to property tax relief ([Attachment 10](#)).

Mark Beck, Director, Division of Property Valuation, Kansas Department of Revenue, reviewed a sample copy of a 2005 Shawnee County real estate tax statement and explained the relationship between value and levies and tax revenues. This type of statement is sent to every

taxpayer and provides data on how taxes are distributed. He reviewed a number of items, including formulas used to ascertain the county tax base through property tax valuation, the process used to determine property market value, and a memorandum from NCSL regarding property tax relief (Attachment 11).

The Chairman opened the public hearing.

Randall Allen, Kansas Association of Counties, said his association opposes any proposal which would artificially limit the increase (or decrease) in residential property valuation. He said that limiting the growth in appraised valuation of real estate to a cap established by legislative enactment would in no way guarantee lower taxes; and that the proposals being discussed would create an inequity between and among parcels that would merely shift the tax burden (Attachment 12).

Don Moler, League of Kansas Municipalities, said that the League similarly believes caps on property valuations would be inequitable, and that maintenance of fair and equal taxation based on fair market value should be the goal. He suggested other options to hold down property taxes rather than artificially attempting to limit values based on arbitrary valuation caps (Attachment 13).

The Chairman closed the public hearing.

## **Topic 6 – Qualifications and Employment of State Board of Tax Appeals (SBOTA) Members**

Martha Dorsey, Kansas Legislative Research Department, reviewed the history of SBOTA (created in 1957). Originally a three-member board, it was expanded to five members in 1969. But in 2003, membership was reduced back from five to three members. Ms. Dorsey outlined the current qualifications for SBOTA members and addressed the issue of outside employment and conflicts of interest (Attachment 14).

Joan Wagon, Kansas Secretary of Revenue, rose in support of SBOTA and the Legislature's effort to insure the Board members are competent and well-qualified. She described DOR's internal tax appeals system and said that operating a tax appeals system is a time-consuming and labor-intensive endeavor that requires the services of dedicated and skilled employees. She said that three members of SBOTA was an effective number. However, since the Legislature had enhanced membership qualifications, the Committee should consider providing flexibility in requirements in order to attract quality applicants. The difficulty of staggered terms and staff, resources, and training are other issues that need attention (Attachment 15).

Rebecca Crotty, Chair, SBOTA, addressed the issues of existing statutory qualification requirements; and of SBOTA members that retain other employment in areas that could create the potential for conflicts of interest. She said significant progress had been made to streamline old processes and delineated seven performance highlights that had occurred since June 2005 (Attachment 16).

Written testimony was received from Marlee Carpenter, Vice-President of Government Affairs, and Cheryl Hayward, Kansas Society of Certified Public Accountants (Attachment 17).

The Chairman called attention to a 2006 House Taxation meeting, at which time Ms. Crotty had requested additional time to allow current processes to be examined and necessary changes made. The Chairman congratulated Ms. Crotty on the number of cases SBOTA had cleared.

Discussion followed regarding concern over a current SBOTA member who continues to operate a real estate fee-appraisal business. In addition, there were concerns over the amount of time he was working at SBOTA; and over whether he was favoring the clients of an attorney who had lobbied for his appointment. The Chairman said that due to these questions, he and Vice-Chair Allen had requested a scope statement be drafted requesting a performance audit of this topic (Attachment 18). Ms. Crotty revealed that Thomas Slack, SBOTA member, had resigned his position, effective at the end of the calendar year.

Discussion continued regarding the possibility of extending SBOTA's appointments to six or eight years; and of allowing former SBOTA members to serve as interim members. Ms. Crotty agreed to get back to the Committee regarding those suggestions.

The Chairman closed the public hearing.

*Representative Dillmore moved that the September 13-14 minutes be approved. Senator Goodwin seconded the motion. The motion passed.*

The Chairman adjourned the meeting at 4:30 p.m.

## **Tuesday, October 24 Morning Session**

The Chairman called the meeting to order at 9:00 a.m.

### **Topic 5 and Topic 7 – State and Local Tax Policy; Tax Incidence and Tax Base Erosion**

Chris Courtwright, Kansas Legislative Research Department, called attention to the 2005 interim report regarding the analysis of state and local tax policy and the *Kansas Tax Facts* booklet (Attachment 19). He then distributed a memorandum regarding policy considerations of moving to a flat-rate income tax (Attachment 20).

Secretary Wagon, Kansas Department of Revenue, reminded the Committee of her predictions during the 2005 Interim regarding the impact to Kansas if present trends continue. Those trends involve continued erosion of the tax base; higher tax rates; less equity among taxpayers; less competitiveness with other states; lower taxpayer discontent; and more special-interest tax legislation. She gave an overview of the 1995 Governor's Tax Equity Task Force and also the 2005 Special Committee report on state and local tax policy (Attachment 21).

Secretary Wagon said that in-depth studies on state and local property and sales tax base erosion, tax incidence and state and local debt financing by Drs. Wong, Fisher, and Hildreth confirmed that these trends are continuing. The studies provide important information upon which the Legislature can plan a course of action.

In summary, she encouraged the Committee to consider the following recommendations:

- Modernize corporate income tax;

- Simplify certain income tax credits; repeal unused credits;
- Sunset all tax credits;
- Protect the withholding tax from earmarking;
- Develop criteria (policy) for evaluating sales tax exemptions; consider how to broaden the base;
- Eliminate double franchise taxation of certain assets of subsidiary companies;
- Restructure the financing of local government services.

George Lippencott, AARP, presented testimony on what that organization thinks about the future of Kansas tax policy ([Attachment 22](#)).

Don Moler, League of Kansas Municipalities, said the main issue continues to be how to fund local government in the 21<sup>st</sup> Century. The League recommends two options for consideration: (1) either the impediments to realignment and consolidation at the local level must be removed at the state level; or (2) there needs to be more opportunities to raise taxes at the local level other than sales or property taxes, including local income, earnings, and motor fuel taxes ([Attachment 23](#)).

Randall Allen, Executive Director, Kansas Association of Counties, said that the Association supports legislation to provide a statutory menu of taxing and revenue options to finance county services which could be exercised by boards of county commissioners on a county-by-county basis ([Attachment 24](#)).

Mike Taylor, Unified Government, testified that the Governor and Legislature should encourage local government officials to find innovative and cost-effective ways to provide public services, including development of alternative revenue sources ([Attachment 25](#)).

Marlee Carpenter, Kansas Chamber of Commerce and Industry, said that even though the state is collecting more in tax revenues than predicted, the economy is sluggish and not growing as fast as it is in other states. The Chamber believes that to finance state and local governments in the future, Kansas needs to have more people working at better wages. She encouraged the Legislature to work to improve the business climate and look at tax policy changes that encourage businesses to grow and expand in Kansas ([Attachment 26](#)).

April Holman, Kansas Action for Children, said that tax policy has significant impact on children and families. She said the tax incidence analysis was an important first step towards an updated and improved Kansas tax structure. Tax sources should be evaluated to determine whether they still make sense in the current economy and are a viable long-term source of revenue ([Attachment 27](#)).

Written testimony was received from John Waltner, Mayor of Hesston; Mark Tallman, Kansas Association of School Boards; and Brenda Chance, City of Phillipsburg ([Attachment 28](#)).

Following a discussion of local revenue needs, the Committee began an extensive discussion of local and regional service delivery structures. The Chairman stated that the number of local units of government in Kansas was the highest in the nation in per capita terms and wondered aloud whether the more than 4,000 taxing entities in the state represented the most efficient structure for delivering services. Representative Jerry Henry suggested that one of the universities or the KACIR attempt to build a model for analyzing and recommending a multi-county service delivery system with an emphasis on efficiency and not on politics. The Chairman said that he would try to have Secretary Wagon prior to the November meeting coordinate discussions about that idea with local units of

government and other stakeholders. Secretary Wagnon said that she would bring the topic up for discussion on November 1 at the KACIR summit in Salina. Senator Derek Schmidt and Senator Greta Goodwin also volunteered to establish a working group that would explore the possibility of relieving local property taxpayers of the burden of supporting most public safety functions by moving most funding for such functions to the state level.

## **Afternoon Session**

### **Topic 1 – Homestead Program Expansion**

Chris Courtwright reviewed the Homestead Program and said that the LCC charge was to review and recommend whether to further expand the program.

The Chairman opened the public hearing.

George Lippencott, AARP, testified that AARP believes that various tax relief programs such as deferrals, circuit breakers, and exemptions are valid means of reducing the property tax burden on people of limited means. He said that in light of rapidly escalating property tax levels, it may be time to make some significant adjustments in the Homestead law ([Attachment 29](#)).

Written testimony was distributed from April Holman, Kansas Action for Children ([Attachment 30](#)).

The Chairman closed the public hearing.

Bruce Larkin, Department of Revenue, explained the data on a spreadsheet reflecting the disparity between the home-owner and renter ([Attachment 31](#)). Mr. Larkin presented a number of fiscal impact estimates and bill drafts requested at the September meeting. One proposal, which is revenue-neutral, would reduce “rent constituting property taxes paid” for renters from 20 to 15 percent while simultaneously increasing the maximum refund amount available for both home owners and renters from \$600 to \$650. A second proposal would expand the size of the program by \$1.4 million by increasing the maximum refund amount for only home owners (but not renters) from \$600 to \$700. A third proposal would eliminate a requirement that a statement be provided from the county treasurer showing property taxes levied (unless so requested by the Department of Revenue) so as to facilitate the electronic filing of claims. A fourth proposal would provide an asset test such that persons who own or control assets in excess of \$250,000 would not be eligible for the program. A fifth proposal would authorize the Department of Revenue to deny claims of taxpayers who are renters reporting income that is 150 percent or less of their annual gross rental amount when such income amounts have not been verified.

After discussion, the Chairman advised that they would make final decisions and recommendations at the November meeting.

### **Topic 4 – City Development Excise Taxes**

The Chairman called for the discussion on recommendations. *Representative Brown made a motion to write into the report that after a review of the difficulties experienced on the city*



*development excise tax subject in the House over the past two years, it was agreed that no further action be taken. Representative Thull seconded the motion. The motion passed.* The Chairman said they would review the final Committee report at the November meeting.

### **Topic 9 – Motor Fuel Tax at Border**

Representative Peck reminded Committee members the issue was one of keeping dollars in Kansas. He recommended that one option for consideration might include a pilot program that only involved two cities.

The Chairman explained the options available to the Committee. He clarified that the charge to Kansas, Inc. should only deal with the motor fuel tax issue and not other excise taxes. Kansas, Inc. was asked to report back at the November meeting regarding a scope statement and a projected cost and time line.

The Chairman thanked the Committee for its hard work. The next meeting is Wednesday, November 15, 2006. The meeting adjourned at 2:30 p.m.

Prepared by Chris Courtwright and Rose Marie Glatt

Approved by Committee on:

November 15, 2006

(Date)