

**MINUTES**

**LEGISLATIVE BUDGET COMMITTEE**

September 30, 2003  
Room 514-S - Statehouse

**Members Present**

Representative Melvin Neufeld, Chair  
Senator Stephen Morris, Vice-Chair  
Senator Dave Kerr  
Representative Bill Feuerborn  
Representative Dean Newton  
Representative Clark Shultz

**Members Absent**

Senator Paul Feleciano

**Staff Present**

Alan Conroy, Kansas Legislative Research Department  
J. G. Scott, Kansas Legislative Research Department  
Leah Robinson, Kansas Legislative Research Department  
Robert Waller, Kansas Legislative Research Department  
Audrey Dunkel, Kansas Legislative Research Department  
Chris Courtwright, Kansas Legislative Research Department  
Norman Furse, Office of the Revisor of Statutes  
Bruce Kinzie, Office of the Revisor of Statutes  
Nikki Feuerborn, Administrative Analyst, House Appropriations Committee  
Judy Bromich, Administrative Analyst, Senate Ways and Means Committee  
Shirley Jepson, Committee Secretary

**Conferees**

The Honorable Earnest Johnson, Chairman, Kansas Sentencing Commission  
Patricia Biggs, Executive Director, Kansas Sentencing Commission  
Roger Werholtz, Secretary, Kansas Department of Corrections  
Marlee Carpenter, Director of Taxation, Kansas Chamber of Commerce  
and Industry  
Richard Cram, Director of Policy and Research, Department of Revenue  
John Wong, Associate Professor, Hugo Wall School of Urban and Public Affairs  
Don Moler, Executive Director, League of Kansas Municipalities  
Duane Goossen, Director, Division of the Budget  
Bob Corkins, Executive Director, Free State Center

**Others Attending**

See attached list.

**September 30, 2003  
Morning Session**

Chairman Neufeld opened the meeting at 9:15 a.m. The minutes from the Committee meetings of July 15 and August 29-30, 2003, were distributed to Committee members for review. Because a number of issues have arisen concerning the implementation of SB 123, the Committee will review the progress of the implementation. Chairman Neufeld recognized the Honorable Earnest Johnson, Chairperson, Sentencing Commission. Judge Johnson stated that there is some confusion and concern among judges and lawyers regarding the November 1 implementation of SB 123 because the bill actually became effective on July 1, 2003. It is not clear in the legislation as to how the Legislature intended the courts to sentence those persons whose cases were in the court system on July 1 or committed crimes between July 1 and November 1. Members of the Committee stated that they believed that due to SB 123 imposing more rigorous penalties, the Legislature's intent in setting the November 1 implementation was to give time for programs to be put in place to deal with the sentencing requirements of SB 123 and to establish a funding stream for these programs. The Committee voiced some concern that the interpretation of SB 123 may cause more appeals to be filed unless the legislative intent can be substantiated. The Chairman thanked Judge Johnson for his testimony.

Chairman Neufeld recognized Patricia Biggs, Executive Director, Kansas Sentencing Commission, who presented an update on the implementation of SB 123, noting that the Sentencing Commission and the Kansas Department of Corrections (KDOC) have been working closely to develop a plan ([Attachment 1](#)). Ms. Biggs stated that at this time, 130 licensed treatment agencies have been certified, a mental health screening instrument has been chosen, Community Corrections plans are being received, and a bill-paying process is being implemented. Ms. Biggs also presented a diagram showing how a defendant would move through the system under SB 123. The Chairman thanked Ms. Biggs for her presentation.

Chairman Neufeld recognized Roger Werholtz, Secretary, KDOC, who presented an update on KDOC capacity projections with the implementation of SB 123 ([Attachment 2](#)). Secretary Werholtz stated that at the present time, revised projections show KDOC reaching capacity in FY 2006 or FY 2007. The Secretary noted that it is less expensive to add medium security beds to the system and that the Department continues to look at modifying existing buildings as well as other ways to increase prison capacity. Secretary Werholtz noted that there is still an excess of private prison beds available at the present time. In answer to a question from the Committee, the Secretary stated that federal funds (VOITIS funds) can only be used to purchase prison space from a private entity, either in-state or out-of-state; however, the State of Kansas has not received any additional VOITIS funds for the last two years. Chairman Neufeld thanked Secretary Werholtz for his testimony.

With regard to the Committee's review of the state tax and revenue structure, Chairman Neufeld recognized Marlee Carpenter, Director of Taxation, Kansas Chamber of Commerce and Industry, who presented testimony on the impact of raising taxes on the Kansas business economy ([Attachment 3](#)). The Committee asked Ms. Carpenter to provide a map showing the percentage change in each state's population over the past year due to migration to show if there is a sufficient change by region. The Chairman thanked Ms. Carpenter for her presentation.

Chairman Neufeld recognized Chris Courtwright, Kansas Legislative Research Department (KLRD), who provided an overview of the state's tax and revenue structure ([Attachment 4](#)). Mr. Courtwright stated that during FY 2003, state and local taxes grew by 4.5 percent over FY 2002; local units of government spent 72 percent of the total state and local taxes in FY 2003; and general property tax is still the most important single revenue producer, declining over the last decades, however, seeing an increase again since FY 1998. Mr. Courtwright directed the Committee's attention to the decrease in individual income taxes, corporation income taxes, and sales and use taxes to 88 percent of State General Fund (SGF) receipts in FY 2003, compared to 91 percent in FY

2002. Mr. Courtwright noted that because property taxes are increasing, individual income taxes are declining and sales tax collections are sluggish, the balance of a diversified tax system appears to be eroding. With regards to the disparity in Kansas' ranking concerning the Business Tax Climate Index between figures produced by the Tax Foundation, as presented by Ms. Carpenter and the ranking produced by KLRD in the *Kansas Tax Facts* report, the Committee requested a reconciliation of these two reports identifying the differences in the State Business Tax Climate Index and how each report is calculated. The Committee felt that this information is important to the economic development of the state. In answer to a question from the Committee, Mr. Courtwright concluded that property taxes are more stable than other taxes, which is why it is more difficult to keep a balance between the various forms of taxes.

Mr. Courtwright provided the Committee with information on estimates of potential sales tax increases (Attachment 5) and an estimate of a 0.1 percent surtax on income tax liability (Attachment 6). In answer to a question from the Committee, Mr. Courtwright indicated that he would provide information on states that have an intangible's tax and would provide general information on liquor taxes. Mr. Courtwright also provided the Committee with information on both phases of the tax amnesty program (Attachment 7).

Chairman Neufeld recognized J. G. Scott, KLRD, who presented an update on actual FY 2003 Resources, Demands, and Balances of the State General Fund (Attachment 8), showing an ending balance in FY 2003 SGF of \$122.7 million. Mr. Scott noted that there may be minor adjustments made to this report by the Division of Accounts and Reports.

Chairman Neufeld reminded the Committee that they needed to keep in mind recommendations to be included in the final report of the Committee with reference to the charges given to the Committee.

*Senator Morris moved to approve the Committee minutes of July 15, 2003, and August 29-30, 2003, as written. The motion was seconded by Representative Newton. The motion carried.*

The meeting was recessed at 12:00 noon.

### **Afternoon Session**

Chairman Neufeld recognized Audrey Dunkel, KLRD, who presented a letter from Janet Schalansky, Secretary, Social and Rehabilitation Services (SRS), notifying the Committee of the October 31 eviction date of the SRS area office in Stockton (Rooks County) (Attachment 9). The Stockton office was scheduled for closure in FY 2005, so the landlord's decision to terminate the lease at this point will speed up that process. SRS has identified six possible access points and will maintain a presence through these sites.

The Chairman recognized Richard Cram, Director of Policy and Research, Department of Revenue, who presented an update on the Kansas Tax Amnesty Program (Attachment 10). Mr. Cram introduced Jeff Scott, project lead for the Amnesty Program and Dedra Platt, Civil Tax Enforcement Manager with the Department of Revenue. Mr. Cram stated that Phase 1 of the program ended on June 30, 2003, and the Department exceeded their expectations for this phase of the program with approximately \$21.5 million collected. Phase 2 was authorized by HB 2005 and will be conducted this fall, October 1 through November 30, 2003. In answer to a question from the Committee, Mr. Cram stated that the majority of the \$19.5 million that they expect to collect in Phase 2 would most likely come from individual income, withholding, and sales tax. In answer to another question from the Committee, Mr. Scott stated that approximately \$53 million in corporate income tax has been written off; approximately \$40 million in sales; \$50 million in drug; and \$21 million in withholding tax as non-collectable taxes and were not included in the amounts presented to the

Committee. Mr. Scott noted that the Department had not written off any non-collectable amounts for approximately 15 years. The Chairman thanked Mr. Cram for his testimony.

Chairman Neufeld recognized John Wong, Associate Professor, Hugo Wall School of Urban and Public Affairs, Wichita State University. Mr. Wong gave a presentation of approximately 50 slides showing a number of comparisons concerning long-range revenue structure and how the state of Kansas compares with adjoining states in revenues and expenditures (Attachment 11). Due to the unusual growth during the 1990's, Mr. Wong feels it is necessary to go back at least 15 years in any comparison of revenues to get a true picture of the economy. Mr. Wong stated that he would leave a copy of a disc with staff that contains information concerning a number of publications that might be helpful to the Committee. In answer to a question from the Committee, Mr. Wong indicated that he has no magic answers in creating a more equitable tax structure for Kansas but feels that to do so, one needs to collect as much past information as possible to be able to forecast the future, taking into consideration that the error rate increases as you project further into the future. Mr. Wong feels that the Kansas economy is growing less rapidly than the national economy because of slower population growth and aging population. In answering another question from the Committee, Mr. Wong stated that Kansas' per capita revenues are high in individual income tax and corporate tax but low in user fees the state charges its citizens for services. The Committee requested information on user debt which Mr. Wong did not have at the present time but will provide to the Committee. Chairman Neufeld thanked Mr. Wong for his presentation.

The Chairman then recognized Don Moler, Executive Director, League of Kansas Municipalities, who presented testimony concerning the League's position on giving local governments the tools to finance their own operations (Attachment 12). The Committee noted that 72 percent of state revenues are returned to local government; with approximately 52 percent of these being used to fund schools. In answer to a question from the Committee, Mr. Moler indicated that the League does not do any revenue projections at the local level. The Chairman thanked Mr. Moler for his testimony.

Chairman Neufeld again recognized Chris Courtwright, who returned to review the current time-line procedure that the Consensus Revenue Estimating Group uses in making revenue projections and estimating the state's cash flow (Attachment 13). In addition, Mr. Courtwright presented a document on Long-Range Revenue Structure Planning which details how the consensus revenue estimates are affected by the amnesty program and by actions of the Legislature (Attachment 14). Mr. Courtwright presented a table showing Consensus Revenue Estimates for FY 2003 and 2004, and Actual Receipts for FY 2003 (Attachment 15), indicating that total taxes for FY 2003 rose by 3.6 percent; and a table showing SGF Receipts for FY 2003 and FY 2004 (Attachment 16). Mr. Courtwright noted that the Consensus Revenue Estimating Group will meet again in late October to review the economic outlook for FY 2004; meet on November 3 for the third time to make adjustments to the estimates for FY 2004; and meet in April, 2004; and again after the session to consider the impact of any FY 2003 law altered by the Legislature. With reference to five-year or eight-year projections, the Committee noted that it is important to the Legislature to have information concerning the kind of future growth that is anticipated within the state. The Committee requested that information be provided concerning the Department of Revenue employees authorized by the 2001 Legislature to provide for enhanced collections, and how these employees are being utilized. The Committee additionally voiced concern about the impact that federal legislation would have on the state's ability to tax certain telecommunication services, as it does at the present time, if the federal legislation is passed. The Chairman thanked Mr. Courtwright for his presentation.

Chairman Neufeld recognized Alan Conroy, KLRD, who presented information on State General Fund Revenue Estimates for FY 1975 through FY 2004 (Attachment 17), Expenditures from All Funds and SGF for FY 1966 through FY 2004 (Attachment 18), State General Fund Profile for FY 2002 through FY 2006 (Attachment 19), and Department of Revenue Comparison of FY 2004 and FY 2003 Actual General Fund Collections through September (taxes only) and Year-to-Date through September (Attachment 20). Mr. Conroy stated that the report indicates that the actual collections

for September were \$181,000 under the estimate; however, the year-to-date collections were \$14.5 million over the estimate.

With permission from the Chairman, Mr. Courtwright presented a document prepared by the Department of Revenue which analyzes the Tax Foundation's background paper on the State Business Tax Climate Index and may answer questions which the Committee had concerning the disparity between rankings in the Tax Foundation's report and the information prepared by KLRD (Attachment 21).

Chairman Neufeld recognized Duane Goossen, Director, Division of the Budget, who presented a report on FY 2004 Anticipated Cashflow (Attachment 22). The report indicates that the cashflow low time will hit around January, is significant in February and March, and begins to improve in April. Mr. Goossen stated that there are only two tools to use in controlling the state's cash flow and those are the certificate of indebtedness and the delaying of payments to schools. In answer to a question from the Committee, Mr. Goossen indicated that the next federal payment is expected on October 1, 2003. Mr. Goossen noted that he expects FY 2004 to be less challenging than FY 2003 because the state began the year with a higher balance. In answer to another question from the Committee, Mr. Goossen explained that 5-10 year projections are difficult to make, noting that even if growth is assumed, expenditures should be kept down. The Chairman thanked Mr. Goossen for his testimony.

The Chairman recognized Bob Corkins, Executive Director, Free State Center, who presented information on the background of Kansas STAMP, a computable general equilibrium tax model developed by The Beacon Hill Institute at Suffolk University (Attachment 23). The Kansas STAMP model is designed to determine the economic effect of changes in state-level taxes and expenditures. The model at the present time only looks at FY 2004, however, it is possible to alter the model. The Committee noted that several years ago, Kansas Technology Enterprise Corporation and Kansas, Inc. contracted with the University of Kansas to develop a similar program, spending a large amount of money but were not successful in developing a program. The Committee voiced interest in having a presentation from the Suffolk University research people, as well as representatives from the University of Kansas. It was noted that Nebraska uses the program and may be contacted for information.

With no more issues before the Committee, the meeting was adjourned. Committee members will participate in the biennial bus tour to be held October 13-17, 2003. The next regular Committee meeting will be held November 17-18, 2003, in Room 514-S at the Capitol.

Prepared by: Shirley Jepson, Committee Secretary  
Edited by: Leah Robinson

Approved by the Committee:

November 18, 2003  
(date)