

## MINUTES

### LEGISLATIVE BUDGET COMMITTEE

July 15, 2003  
Room 514-S—Statehouse

#### Members Present

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

#### Members Absent

Senator Dave Kerr  
Senator Paul Feleciano

#### Staff Present

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

#### Conferees

Joan Wagon, Secretary, Department of Revenue  
Richard Cram, Director of Policy, Department of Revenue  
Howard Fricke, Secretary, Department of Administration  
Dave Davies, Chief Deputy Civil Division, Office of the Attorney General  
Eliehue Brunson, Assistant Attorney General, Office of the Attorney General  
Harry Kennedy, Assistant Attorney General, Office of the Attorney General  
Roger Werholtz, Secretary, Department of Corrections  
Barbara Tombs, Executive Director, Kansas Sentencing Commission

Scott Brunner, Deputy Secretary, Department of Social and Rehabilitation Services  
Candy Shively, Deputy Secretary, Department of Social and Rehabilitation Services

## **Others Attending**

See attached list.

## **Morning Session**

Chairman Neufeld called the meeting to order at 9:10 a.m. and congratulated Representative Bill Feuerborn on his appointment as the new ranking minority member of the House Appropriations Committee.

The Chair recognized Joan Wagon, Secretary, Department of Revenue, who presented an update on the tax amnesty program and the progress of the implementation of HB 2005. Secretary Wagon informed the Committee that Phase I of the two-phased tax amnesty program was an accelerated settlement program focusing on assessments for individual and corporate income tax as well as state and local sales and compensating use tax (Attachment 1). Phase 1 of the program ended on June 30, 2003. Secretary Wagon stated that the program brought in approximately \$21.5 million in FY 2003 to the State General Fund (SGF), approximately \$273,000 to the State Highway Fund, and approximately \$1.8 million collected for the local sales tax. Phase 2 of the program was authorized by HB 2005 and will be conducted October 1, 2003 through November 30, 2003. Phase 2 offers a waiver of penalties and interest to taxpayers with accounts in collection or who are non-filers or under-reporters upon payment in full of the underlying taxes, if payment is received within the Tax Amnesty time frame. Secretary Wagon noted that the program has worked successfully for the state as well as the taxpayer.

Responding to a question from the Committee regarding the decline in receipts of corporate income tax, Secretary Wagon commented that the state is collecting approximately \$95 million in corporate income tax, less than half of the amount collected in 1999-2000. The Secretary felt that the decline is caused by loss of income from the stock market, tax sheltering, and negative carry forward and did not foresee improvement in the receipts of corporate income taxes in the near future.

Secretary Wagon presented an update on the status of succession tax refunds (Attachment 2).

In addition, Secretary Wagon presented an update on the status of the implementation of streamlined sales tax legislation contained in HB 2005 that included the sales tax uniformity provisions states are required to enact before they can become members of the Streamlined Sales and Use Tax Agreement (Attachment 3). HB 2005 became effective July 1, 2003. The Secretary noted that she and her staff are traveling throughout the state working with businesses and communities to help them understand the problems associated with compliance of the tax law. One of the main problems is determining the sales tax rate associated with the destination of a sale of a product. Secretary Wagon noted that some computer programs could not handle the accounting needed to calculate the sales tax for destination taxing.

Responding to comments from the Committee, Secretary Wagnon stated that having a local sales tax rate and one single statewide sales tax rate would help; however, it would still be necessary to sort out the destination of the sale and a formula would be needed to make it work. Secretary Wagnon commented that the Department is emphasizing compliance rather than strict enforcement for the first six months and will focus on accuracy in reporting the destination of the sale. The Secretary noted that 17 other states have implemented the streamlined sales tax program and felt it is necessary for Kansas to participate in an effort to collect sales tax on products being shipped into Kansas.

Richard Cram, Director of Policy, Department of Revenue, stated that the Department is researching other states to obtain information on how they are handling the problems associated with streamlined sales tax collection. Mr. Cram noted that the Department felt it was necessary to implement the law on July 1, 2003, in order to have a seat at the table with the other states participating in the Agreement. The Committee requested a copy of the research being done by the Department of Revenue, when it is completed. Responding to another question from the Committee, Mr. Cram noted that the receipts from the compensating use tax are below projections; however, he felt that the projections might have been out of line and will be brought more in line with the receipts. The Department will continue to follow the trend of the collection of the compensating use tax. In response to a question concerning STAR bonds with regards to boat sales by Cabela's, Secretary Wagnon asked to delay her answer until next month's Committee meeting after legal research is completed.

Secretary Wagnon stated that the Department is working on a computerized address-based system to figure sales tax. The Secretary noted that it is difficult to determine how much revenue is being lost on "border" sales at the present time. Responding to a question concerning Kansas oil patch businesses, Secretary Wagnon noted that guidelines would need to be implemented to eliminate loss of revenue for the State of Kansas. The Department of Revenue is researching many of these problems and the Secretary will continue to report problems and progress to the Committee.

The Chair thanked Secretary Wagnon for her testimony.

Chair Neufeld recognized Howard Fricke, Secretary, Department of Administration, who presented a report on the utilization of office space in the Capitol Area Complex ([Attachment 4](#)). Responding to questions from the Committee, Mr. Fricke stated that the cost of implementing the space standards to present facilities would be high and the Department is currently working to apply the standards to ongoing renovation. Mr. Fricke noted that the Department is researching the various options available to the State and what is the best approach and greatest savings, either by renovation or leasing of office space. The Committee asked Mr. Fricke to research the whereabouts of the Herman Miller furniture used by the Department of Health and Environment before their move to the Curtis building.

Mr. Fricke presented information to the Committee on FY 2003 state agency layoffs ([Attachment 5](#)). Mr. Fricke noted that the state has 265 fewer positions, either unfilled or vacant, now than during the previous year. In response to a question from the Committee concerning changes in the Department of Administration, Mr. Fricke stated that the Department has created a Data Communication Task Force to consolidate the fiber optics system for the State of Kansas. A customer service center has been established to assist other state agencies with any forms or information they might need in one single location. The Department will now handle all of the state's surplus property and work to move the inventory. In addition, they are researching overlaps in the printing process and will proceed with improvements.

With regard to the deteriorating condition of the Docking and Landon buildings, Mr. Fricke stated that the Department is researching, within the next 60-90 days, what leasing space is available in and around Topeka, the cost of renovating these two buildings, and what is most cost effective for the State. The Committee noted that it would be helpful to have this information before the next legislative session.

Mr. Fricke stated that the Department has opened a dialogue with the Board of Regents to find ways to consolidate purchasing procedures and find the most cost-effective ways to do business for the State, either services or purchases of equipment, etc. In addition, a fee schedule for architectural services is being established.

Chairman Neufeld thanked Mr. Fricke for his presentation.

The Chair recognized Alan Conroy, Legislative Research Department, who presented a brief report on State General Fund (SGF) tax receipts as of the end of June, 2003. The month of June was a positive month for receipts and the State finished the fiscal year over the revised estimate by \$9.9 million. Absent receipts of a \$45.7 million federal grant that had not been included in the estimates, however, State General Fund receipts would have been \$35.8 million below the estimate for the year. The State ended the fiscal year with a balance of approximately \$100 million. No certificates of indebtedness were outstanding on June 30, 2003. Another Certificate of Indebtedness was issued on July 1 and the delayed June state aid payment to schools was made in July as well as the July school aid payment. Additional information will be available at the August Committee meeting. In response to a question from the Committee, Mr. Conroy noted that the increase in the amount of cigarette tax collected is a result of the change in the tax rate from FY 2002 to FY 2003.

The Committee discussed topics for future agendas including redesign of the Community Developmental Disabilities Organizations (CDDO) system, reviewing operations and funding of the Board of Indigents' Defense Services, capital punishment, long-range revenue structure planning, studying SGF cash-flow requirements, and community college operating grants. In addition, the Committee would like to look at the funding issue for the Fire Marshal's Office and the Emergency Medical Services Board.

The future Committee meetings will be held on August 20-21, September 29-30, November 17-18, and December 10.

The meeting was recessed at 11:30 a.m. and reconvened at 1:30 p.m.

### **Afternoon Session**

The Chair recognized Dave Davies, Chief Deputy of the Civil Division, Attorney General's Office, and Eliehue Brunson, Assistant Attorney General, who presented an update on the Menninger Foundation settlement. A map was distributed to the Committee that shows the property owned by the Menninger Foundation and possible use or sale (Attachment 6). The Attorney General's Office signed a settlement agreement with the Menninger Foundation that allowed the Menninger Foundation to transfer its operations from Kansas to Houston, Texas. The Menninger Foundation campus consisted of 515 total acres with the properties available for sale valued at approximately \$27 million. The Menninger Foundation paid off a bond obligation of \$22.3 million to the county and paid \$35 million to the Methodist Baylor Group to form a not-for-profit organization in Houston and

left the Kansas area with approximately \$6 million. Outstanding for the Menninger Foundation is an \$18.4 million under-funding of their retiree's pension plan in Kansas. It is anticipated that approximately \$12 million from the sale of the real estate will go into the pension fund with the expectation that the stock market will rebound and provide the balance of the funding for the pension fund.

Mr. Brunson noted that the chapel on the Menninger Campus, valued at \$1 million, has been donated to Washburn University with an endowment of \$82,000; three resident homes will be donated to Valeo Behavioral Health Care a (not-for-profit organization associated with Shawnee County and Crittenton Services) valued at \$1.9 million; and artifacts from the Menninger operation have been donated to the Topeka/Shawnee County Library with an endowment of \$50,000 for maintenance of those artifacts. The OPUS firm is a development firm, hired by the Menninger Foundation, to assist in the development and sale of the property. Once the pension underfunding is settled, the Menninger Foundation will receive 50 percent from the sale of the campus property and the other 50 percent going to the State of Kansas. In response to a question from the Committee, Mr. Brunson stated that no property has been sold since the Attorney General's Office has been involved with the settlement.

Harry Kennedy, Assistant Attorney General, presented an update on the status of the Republican River litigation ([Attachment 7](#)). A lawsuit filed by the State of Kansas against Nebraska and Colorado has resulted in the enforcement of the Republican River Compact, giving Kansas a great deal more water than previously. Mr. Kennedy stated that funds will be needed to aggressively monitor the water model to ensure that Kansas is getting their fair share; however, he could not give the Committee an exact amount at this time. There was some concern by the Committee that, during the monitoring process, the State would be sharing data with parties involved in the lawsuit, which might not be in the best interest of the State. The Attorney General's office will be involved in a meeting near the end of August with the parties involved in the litigation to further develop the compact compliance rules. The Committee asked that information be provided to the Committee as soon as possible concerning the amount of manpower and funds needed for the monitoring program.

Referring to the Colorado lawsuit regarding the Arkansas River, Mr. Davies stated that there are two issues: first, how to calculate the interest for the years 1950-1994 and secondly, how the compact will be administered. It is anticipated that the Supreme Court will issue a final decision around May or June 2004.

The Chair thanked the representatives from the Attorney General's Office for their presentation.

The Chair recognized Robert Waller, Legislative Research Department, who presented a briefing on SB 123 and the funding aspect that was appropriated in Senate Substitute for HB 2444 ([Attachment 8](#)) and also provided the Committee with a copy of sentencing ranges for nondrug offenses and drug offenses ([Attachment 9](#)). Responding to a question from the Committee, Mr. Waller indicated that discussion of SB 123 is still ongoing and implementation is on track for November 1, 2003.

The Chair recognized Roger Werholtz, Director, Department of Corrections, and Barbara Tombs, Executive Director, Kansas Sentencing Commission, who presented an update on the progress of the implementation of SB 123, which sets an alternative sentencing structure that includes mandatory treatment for a target population of offenders convicted of the offense of drug possession ([Attachment 10](#)). Ms. Tombs noted that extra funding might be needed in March or April 2004, because of the large influx of offenders on the implementation of SB 123 on November 1.

Responding to a question from the Committee concerning how they determine what programs work, Mr. Werholtz stated that no one treatment program fits all offenders and the Department works to provide a number of programs. Through the testing procedures, the individual offender is placed in the best treatment program. Ms. Tombs noted that because of the changes brought about by this legislation, evaluations will be done on the program in 18 months, 36 months, and again at 60 months. Mr. Werholtz explained that the departments are still meeting to work out the details of the funding sources and accounting between the Department of Corrections, Sentencing Commission, and Community Corrections programs around the state.

The Chair thanked Mr. Werholtz and Ms. Tombs for their presentation.

J. G. Scott, Legislative Research Department, presented a report on the FY 2003 ending balance of special revenue funds that had been captured and transferred to the SGF as of July 14, 2003 ([Attachment 11](#)). Mr. Scott also presented an update on the federal fiscal relief funds that were authorized by the President on May 28, 2003 ([Attachment 12](#)).

Chair Neufeld recognized Scott Brunner, Deputy Secretary, Department of Social and Rehabilitation Services (SRS), who presented additional information on the federal fiscal relief ([Attachment 13](#)).

The Chair recognized Candy Shively, Deputy Secretary, SRS, who presented information on SRS office closures ([Attachment 14](#)). Complying with a proviso attached to HB 2444, Ms. Shively stated that four additional SRS offices will be closed in FY 2003, which were originally scheduled for closure in 2004/2005 because of circumstances that now warrant these closures. Responding to a question from the Committee, Ms. Shively indicated that the lease on the Mound City facility had a clause giving a 120-day out, so that either the State or the landowner could get out of the lease. SRS chose to exercise this option.

Chairman Neufeld thanked Ms. Shively for her presentation.

The meeting was adjourned at 4:00 p.m. The next meeting of the Committee will be held August 20-21, 2003, at the Capitol Building in Room 514-S.

Prepared by Shirley Jepson  
Edited by Leah Robinson

Approved by Committee on:

September 30, 2003