Approved: February 24, 2010
Date

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE

The meeting was called to order by Chairman Les Donovan at 10:37 a.m. on February 4, 2010, in Room 152-S of the Capitol.

All members were present except:
Senator Chris Steineger- excused

Committee staff present:
Gordon Self, Office of the Revisor of Statutes
Scott Wells, Office of the Revisor of Statutes
Chris Courtwright, Kansas Legislative Research Department
Brandon Riffel, Kansas Legislative Research Department
Mary Jane Brueck, Committee Assistant

Conferees appearing before the Committee:
Richard Cram, Director, Division of Policy & Research, Kansas Department of Revenue
Jeff Scott, Chief Compliance Enforcement Officer, Kansas Department of Revenue

Others attending:
See attached list.

Chairman Donovan recognized Richard Cram, Director, Division of Policy & Research, Kansas Department of Revenue, who spoke as a proponent for **SB 406 - Establishing service fee for taxpayers with delinquent taxes who enter into installment payment plans with the Kansas department of revenue.** This bill would impose a $10 administrative fee when a taxpayer with delinquent tax liability applies fo enter into an installment plan to pay off the delinquent tax liability. The fee would go into the Recovery Fund to be used in covering the department's compliance and enforcement costs. The bill is identical to **HB 2464.** He told the committee the Dept. of Revenue would be receptive to a change in the application of the $10 fee by applying it to plans involving pay-off of the delinquent tax liability in excess of 60 days after the date the payment plan is entered into. That would require an amendment to the original bill. (Attachment 1) Jeff Scott, Chief Compliance Enforcement Officer, Kansas Department of Revenue also spoke in favor of this bill. He would like to see some of the funds used to fill vacancies in the Compliance Office. He presented several pages of information: Compliance Enforcement figures from 2000 to 2009; Accounts Receivable Analysis/Breakdown; and the 2009 Calendar Year Assessment Summary. While discussing compliance enforcement, Mr. Scott made a point of interest: both the House and Senate members are 100% compliant and employees of the State of Kansas are 87% compliant meaning these are the percentage of them who have paid their Kansas taxes. (Attachment 2)

Seeing no other people who wanted to speak on **SB 406**, Chairman Donovan opened the hearing on **SB 430 - Limitations on certain income tax credits.** Richard Cram Director, Division of Policy & Research, Kansas Department of Revenue told the committee that the Department of Revenue is also a proponent of this bill. It contains revisions necessary to produce the intended revenue savings from the "10% haircut" on tax credits that was supposed to be covered in the 2009 **HB 2365**. (Attachment 3) John Peterson asked to speak to the committee about this bill. He represents Drury Southwest. That is the company involved in the renovation and restoration of the Broadview Hotel in downtown Wichita. He spoke in support of this bill. It is a technical clean up to fix last year's "10% haircut bill". Seeing noone else present wanting to speak regarding this bill, Chairman Donovan closed the hearing.

The Chairman pointed out to the committee that the aerial photo maps of Leavenworth Redevelopment Area are in their packets of information for today. This map was sent at the committee's request during the hearing regarding the testimony presented by Chris Dunn, Planning and Continuing Development Director, City of Leavenworth, at the hearing for **SB 378 - Replace dollar cap limitation with 10% reduction in amount of income tax credit for expenditures for restoration and preservation of certain historic structures for fiscal year 2011**, held on January 28, 2010. (Attachment 4)

The next meeting is scheduled for February 9, 2010.

The meeting was adjourned at 11:34 a.m.

SENATE
Assessment & Taxation Committee
GUEST LIST

DATE: Feb 4, 2010

NAME	REPRESENTING
Judith Gard	Capitol Advantage
Robin Harris	KDOR
Aron Montaini	Dept of Revenue
Jeff Scott	" "
Jim Conant	" "
Richard Cram	" "
Lynda Foster	Ks Farm Bureau- Bourbon Co.
Ginger Roberts	Ks Farm Bureau Allen Co.
Kari Presley	Kearney & Associates
Kathy Cooper	RCIL / KACIL
Joshua Powell	
[illegible] Casey	GBA
James Harrel	KDOR
Mia Payne	KDOR
Wade Wiebe	KTEC
Jackson Lindsey	Hein Law
Michelle Butler	Capitol Strategies

KANSAS
DEPARTMENT OF REVENUE

Mark Parkinson, Governor
Joan Wagnon, Secretary

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Senate Committee on Assessment and Taxation

Richard Cram
Jeff Scott, Chief Compliance Enforcement Officer

February 4, 2010

Testimony in Support of Senate Bill 406

Senator Donovan, Chair, and Members of the Committee:

The Department strongly urges enactment of Senate Bill 406, which would impose an administrative fee of $10 when a taxpayer with delinquent tax liability applies to the Department's Compliance and Enforcement Staff to enter into an installment plan to pay off the delinquent tax liability. The $10 fee would go into the Recovery Fund for Enforcement Actions and Attorney Fees for use by the Department in covering its compliance/enforcement costs. We estimate this could generate approximately $450,000 in FY 11 for use in the operating budget of the Department of Revenue to support the Department's collection and enforcement programs. This bill is identical to House Bill 2464, which had a hearing before the House Taxation Committee on January 20.

The Department projects that approximately 45,000 installment payment plan agreements for delinquent tax liability will be entered into with taxpayers in FY 11. The $10 administrative fee would be used to cover administrative costs associated with processing the payment plan agreement request form CM15 for individuals, and the CM16 request form for businesses, printing and mailing to the taxpayer a booklet of payment vouchers, and any corresponding documentation required. This source could also be used to fund currently vacant positions in our compliance and enforcement staff, furthering enhancing collections. The fees will provide revenues to stay abreast of technology upgrades and advancements for data-warehousing / data-mining, our Business Intelligence Team tools, to improve collections and Quality Assurance Program maintenance.

Currently, the Recovery Fund for Enforcement Actions and Attorney Fees receives bad check charges, which are collection costs of $30.00 plus postage charges of $10.04 for a total of $40.04 per bad check. This amounts to approximately $90,000 per year in bad check charges. These funds are used to cover other operating expenses in the Department's collection and enforcement activities, such as paper, postage, collection agent travel expenses, etc. Receipts of an additional $450,000 per year into this fund from the proposed $10 administrative fee for installment pay plans would greatly facilitate and strengthen the Department's tax collection programs.

A concern expressed at the hearing before the House Taxation Committee was whether the $10 fee should apply when the delinquent tax amount is small and would be paid back in less than 2 months. The Department is receptive to this concern and recommends that the bill be modified, so that the $10 fee only applies to a payment plan involving pay-off of the delinquent tax liability in excess of 60 days after the date the payment plan is entered into. Senate Bill 406 should be amended to add the following language after the word "liability" on line 16 of the bill: "in excess of sixty days after such payment plan is entered into."

Provided below is general information about installment payment plans and our compliance and enforcement programs. Also, included is a history and current report on the status of the Department's accounts receivable recoveries.

- **How many delinquent taxpayers are there?**
  - At any one given time there are approximately 150,000 cases in the collection activity stream from first contacts, to tax warrant execution activities.
- **What is the process for entering into a pay plan**
  - The Payment Agreement application is on-line at the Department website http://www.ksrevenue.org/payplanbus.htm A taxpayer can fill one out and mail or fax it to the Department for review and approval.
- **Who qualifies for one and who does not?**
  - Any delinquent debtor is qualified to enter into a repayment agreement. If a debtor breaks more than a few pay agreements, the terms become progressively more demanding.
  - The first payment plan is allowed for up to a 12-month repayment period without issuance of a tax warrant;
  - If taxpayer needs more than a 12-month payment plan and has a balance of greater than $500, a tax warrant will be issued, and the taxpayer's situation will be reviewed every 12 months; and if the balance is greater than $2,500 a partial financial disclosure is required; if the balance is greater than $20,000 a full financial disclosure is required (provided on website);
  - After the first broken promise, the taxpayer is allowed a payment plan with a maximum repayment period of six (6) months without the issuance of a tax warrant; a payment plan could be granted for a longer period but securing the debts with a tax warrant would be required.
  - A taxpayer who has previously defaulted on a payment plan on the same debt(s) **twice** would not qualify for another payment plan with the Department unless the taxpayer agrees to establish a Wage Assignment through the employer;
  - A taxpayer whose debt has been placed with our 3rd party collection agency would not qualify for a payment plan;
  - A taxpayer whose debt has been placed with Kansas Dept of Admin. Debtor Setoff Program with a recent setoff having occurred would not qualify for a payment plan.
- **How many pay plans are currently being entered into per year?**
  - An average of 26,970 annually over the past 4 years, however, 2007 was 15,223; 2008 was 19,561; 2009 was 33,090; and currently in 2010 we are

projecting a growth of over 40,000 pay agreements. Pay agreements are increasing in number as discovery and recovery grow, and the current economic climate indicates a greater number of debtors are entering into pay agreements rather than being able to pay their debts without installment payments.

- **How much tax does that represent?**
  - Active pay agreements represents a total of $24,869,262; of which $16,598,273 is Tax; $8,270,988 is Interest and Penalty

- **How much tax is coming in from pay plans?**
  - See bullet above
- Currently, approximately 50% of pay agreements default for a multitude of reasons. Missed payments, new debt enters into collections requiring a new pay agreement to be determined. For each defaulted pay agreement, the terms of the next agreement, if permitted, become more demanding. In some cases, no voluntary pay agreements would be allowed, and the Department would require a wage assignment, or might garnish wages in a forced court action, and possibly an execution of a tax warrant to seize assets to apply toward the payment of the tax, interest, and penalty. If there is a question of debt validity, a need to file original returns, financial insolvency, the Department advises the taxpayer to prepare a Petition for Abatement Request, which allows Staff to analyze the taxpayer's current financial situation and determine a debt reduction agreement, or based on certain statutes, a possible total abatement in the case of a person becoming disabled and unable to pay.

MEMORANDUM

To: Mr. Duane Goossen, Director
Division of Budget

From: Kansas Department of Revenue

Date: 01/25/2010

Subject: Senate Bill 406
Introduced as a Senate Bill

Brief of Bill

Senate Bill 406, as introduced, would allow the department to assess a service fee of $10 for an taxpayer applying to enter into an installment payment plan for delinquent taxes.

The fee would be deposited into the recovery fund for enforcement action and attorney fees. All expenditures from the recovery fund shall be made in accordance with appropriation acts on warrants of the director of accounts and reports.

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

Fiscal Impact

Passage of this bill would not impact the state general fund.

It is estimated that in fiscal year 2011, about 45,000 taxpayers will apply to enter into installment payment plans for delinquent taxes. A service fee of $10 would generate about $450,000 for the recovery fund.

Installment Payment Plans by fiscal year:

2007	15,200
2008	19,600
2009	33,000
2010	40,000 est.
2011	45,000 est.

Administrative Impact

None.

Administrative Problems and Comments

Taxpayer/Customer Impact

Legal Impact

Approved By:

Joan Wagnon

Joan Wagnon
Secretary of Revenue

Sn Assmnt & Tax 2-4-10

Attachment # 2

Compliance Enforcement - Taxation

10 Fiscal Year History

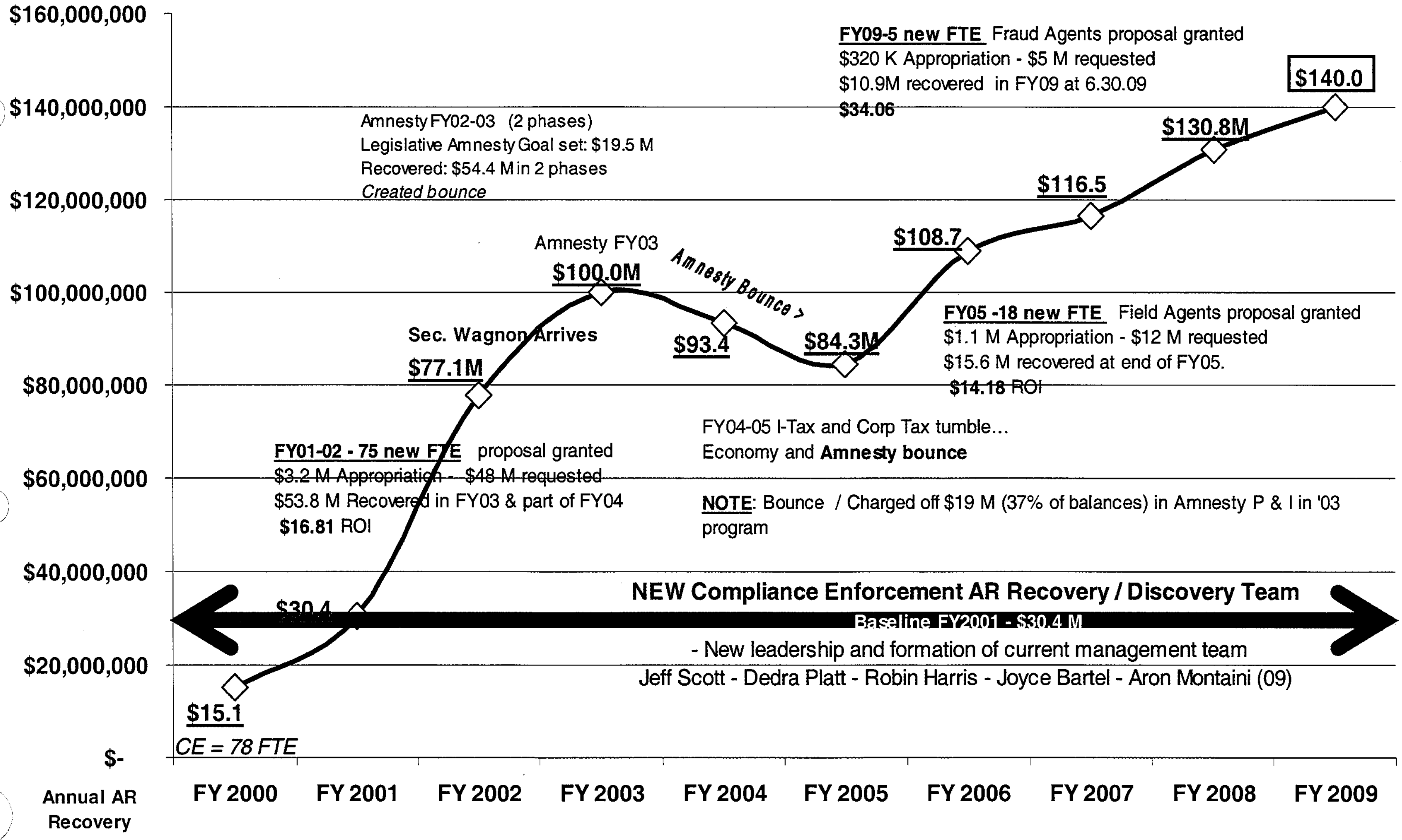
AR Recovery & Discovery FY2000 *through* FY2009

10 YR Notable - FY2000 vs FY2009 :

CE = 214 FTE equivalent

+174% FTE increase from FY00

+822% $ increase since FY00



8-8

Kansas Department of Revenue - Accounts Receivable Analysis / Breakdown

Report updated 1.19.2010, JS — Information from 12.31.2009 AR Report

NRV = Net Realizable Value (formula applied with 1,500 attributes researched likelihood of collection based on information and age)

Major Tax Type AR's	Gross Balance	< (includes Tax-Interest-Penalty)	
Total ACM AR balance:	$617,891,697	% of Gross Bal	**ACM is Case Management System
KDOR **Set-Up Return Assessments:**	$415,849,209	67%	****Assessed debts are Discovery/Non-Filed Set-Up returns**
Filed Returns Debt	$202,042,488	33%	**Filed debts are actual returns filed with a balance due**
			** - inflated tax liabilites without documentation

Organization of Major Debt Type Inventories		% of Gross Bal	These debt balances are basically frozen due to the reasons noted left - some statute restrictive - some missing information
BK Debt Frozen	$ 18,229,595	3%	Federal Law prohibits collection activity
Suspended - Appeals/Audit/Fraud	$ 4,707,313	1%	Cannot pursue collection activities
Deemed Uncollectable	$ 41,990,778	7%	Statute critieria driven
Pending Skiptracing - AS	$ 21,647,936	4%	Missing phone/good address - collection stopped to research
FROZEN DEBT	**$ 86,575,623**	14%	CANNOT PURSUE COLLECTIONS (see reasons listed above)

3rd Party Balances are a subset of Gross Balances farmed out under contract

With 3rd Party Contracted Collections	$ 218,786,250	35%	Is a mix of both filed debt and assessed debt trying to collect
Actual Collection Inventory Debt Value	**$312,529,824**	51%	**of Gross AR (ACM Taxes)**
NET REALIZABLE VALUE	**$103,134,842**	33%	**NRV of Collectable Debt Value**

Other Tax Type Receivables	Gross Balance	NRV Balance	% of Gross	(mainly legacy tax types)
Cigarette	$ 3,454,133	$ 1,458,458	42%	
Drug	$ 48,514,721	$ 317,965	1%	100% Jeopardy Assessments - HIGHLY inflated
Dry Cleaning	$ 13,460	$ 4,294	32%	
Industrial Water	$ 137,883	$ 116,786	85%	
Inheritance	$ 115,660	$ 11,868	10%	
Interstate Motor Fuel	$ 2,086,751	$ 1,753,079	84%	
Motor Carrier	$ 47,494,528	$ 2,330,419	5%	Motor Carrier Ad Valorem Assessments (annual)
Motor Fuel Distributors	$ 8,927,259	$ 1,728,302	19%	
Public Water	$ 232,530	$ 207,385	89%	
Rental Vehicle	$ 6,679	$ 3,187	48%	
Severance Oil and Gas	$ 618,885	$ 605,839	98%	
Stock Water	$ 43,704	$ 38,708	89%	
Waste Tire	$ 27,380	$ 8,762	32%	
Total	$ 111,673,573	**$ 8,585,052**	8%	8% likely realizable value in these tax debt AR's

	GROSS	NRV (net)		
TOTAL GROSS AR ON BOOKS	**$ 729,565,270**	**$ 111,719,894**	**15%**	**< Net realizable value - projected achievable**
		Realizable Value		

Tip for HOW payments are applied: Payments are applied to the taxpayers account in the T-I-P statutory heirarchy. Meaning, unless otherwise directly specified on the payment/check for a specific period, the payment will automatically apply to the oldest debt period first and will apply toward the debt paying the TAX first, then INTEREST, then PENALTY (per period in that order) then if there is more money, it moves to the next oldest period and repeats the appliaction heirachry.

prepared 1.14.2010
Compliance Enforcement

2009 "Calendar Year" Assessment Summary **

Non-Legacy Tax Types

Tax Type	Tax Type GROSS Balance	Percent Assessed	Value of Assessments	Percent FILED DEBT	ACTUAL Filed Tax Return Debt Value
INDIV INCOME	$316,790,031.10	74%	$ 234,986,618	26%	**$81,803,412.70**
FIDUCIARY	$159,190.73	1%	$ 1,084	99%	**$158,106.71**
HOMESTEAD	$105,876.81	92%	$ 96,946	8%	**$8,930.58**
RETAIL SALES	$170,476,878.14	78%	$ 132,706,454	22%	**$37,770,423.86**
RETAIL COMP USE	$1,770,081.70	74%	$ 1,316,663	26%	**$453,418.42**
CONSUMER COMP USE	$3,240,351.03	94%	$ 3,056,056	6%	**$184,295.41**
CORPORATE INCOME	$50,782,658.18	12%	$ 6,055,632	88%	**$44,727,025.86**
PRIVILEGE	$5,157.10	1%	$ 69	99%	**$5,088.29**
FRANCHISE	$399,992.90	42%	$ 169,414	58%	**$230,578.90**
WITHHOLDING	$54,850,723.84	68%	$ 37,456,777	32%	**$17,393,946.68**
LIQUOR ENF	$2,767,902.58	0%	N/A	0%	**$2,767,902.58**
RETAIL LIQUOR	$5,496,990.51	0%	N/A	0%	**$5,496,990.51**
TRANS GUEST	$3,688,492.93	0%	N/A	0%	**$3,688,492.93**
NON- RES WITHHOLD	$331,594.48	1%	$ 3,495	99%	**$328,099.48**
	$610,865,922.03	68%	**$ 415,849,209**	32%	**$195,016,712.91**

**** The slight difference in this reports totals compared to the other report is timing and report parameters. This is a calendar year snapshot, the other is the entire inventory ongoing.**

prepared 1.14.2010
Compliance Enforcement

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Senate Committee on Assessment and Taxation

Richard Cram

February 4, 2010

Testimony in Support of House Bill 430

Senator Donovan, Chair, and Members of the Committee:

Required Revision to 10% Tax Credit Reduction Provisions in 2009 HB 2365

As part of the final package to balance the FY 2010 budget, the 2009 Legislature imposed a 10% reduction on most tax credits in Section 2 of House Bill 2365 for tax years 2009 and 2010, in order to generate an anticipated $9.2 million in additional revenue for FY 2010 and $8.8 million in FY 2011. A copy of references to the "10% haircut" and the spreadsheet showing the fiscal note from the Supplemental Note for Senate Substitute for 2009 House Bill 2365 is attached. To work properly, the 10% "haircut" mechanism needs to apply differently for refundable tax credits than for non-refundable credits. A non-refundable credit is claimed only if there is tax liability to claim that credit against. If there is no tax liability to begin with, then the credit cannot be claimed. Certain non-refundable credits can be carried forward and claimed in future years, subject to various restrictions. Some cannot be carried forward. For non-refundable tax credits, the 10% reduction applies to the amount of the credit that is claimed. That 10% reduction in the amount of the non-refundable credit claimed is also subtracted from the carryforward amount (if any) to be claimed in future tax years (if provided for by law). For refundable credits, the 10% reduction simply applies to the total amount of the credit earned in the applicable tax year, because when there is no tax liability (or insufficient liability) to claim the credit against, the credit is refunded to the taxpayer. There is no carryforward.

To produce the intended revenue savings from the "10% haircut" on tax credits, Subsection 2(a) of 2009 House Bill 2365 (now K.S.A. 2009 Supp. 79-32,164(a)) should only have applied to non-refundable credits and Subsection 2(b) (now K.S.A. 2009 Supp. 79-32,164(b)) should only have applied to the refundable credits. However, the following refundable credits were listed in Section 2(a) (now K.S.A. 2009 Supp. 79-32,164(a)) instead of Section 2(b) (now K.S.A. 2009 Supp. 79-32,164(b)): historic site contribution credit, K.S.A. 79-32,211a; declared disaster capital investment credit, K.S.A. 79-32,262; regional foundation credit, K.S.A. 74-50,154; small employer health benefit credit, K.S.A. 40-2246; child day care assistance credit, K.S.A. 79-32,190; individual development account credit, K.S.A. 74-50,208; and deferred maintenance credit, K.S.A. 79-32,261. Except as explained further below, these credits need to be deleted from K.S.A. 2009 Supp. 79-32,164(a) and instead be listed in K.S.A. 2009 Supp. 79-

32,164(b), as shown in Sections 1 and 2 of House Bill 2465, in order for the 10% credit reduction to properly apply. Without those changes, these refundable tax credits would largely avoid the 10% haircut.

Two of the tax credits, the deferred maintenance credit and the declared disaster capital investment credit, are refundable under certain circumstances and are non-refundable in others, so need to be referenced in both 79-32,164(a), if non-refundable, and 79-32,164(b), if refundable.

The revisions in Senate Bill 430 must apply retroactively to tax year 2009, as well as tax year 2010, to ensure that the refundable tax credits listed are subject to the full 10% haircut for tax years 2009 and 2010, which was the intent of Section 2, 2009 House Bill 2365. The Department is administering the "10% haircut" provisions as intended by the Legislature and has prepared the credit schedules for tax year 2009 for the refundable tax credits affected by 2009 HB 2365 to apply the full 10% reduction. Without the suggested revisions made in House Bill 2465, an estimated $535,340 of the projected revenue generation from "10% haircut" in Section 2 of 2009 House Bill 2365 will be lost in the form of additional refunds in FY 2010, broken out as follows:

Declared disaster capital investment credit	$250,000
Deferred maintenance education institution credit	$160,000
Regional foundation credit	$77,260
Small employer health benefit plan credit	$42,500
Child day care assistance credit	$5,580
Total	$535,340

A similar amount of revenue will be lost in FY 2011 unless Senate Bill 430 is adopted.

Therefore, the Department strongly urges the passage of Senate Bill 430, and that it apply retroactively to tax year 2009, as well as 2010, so that the anticipated and projected revenue savings from 2009 HB 2365, Section 2, will be realized.

Senate Bill 430 is similar to HB 2465, which was heard in House Taxation Committee on January 20.

3-13

($ in millions)

	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	5-yr total
Most Tax Credits – 10% Reduction for Two Years	$ 9.200	$ 8.800	$ (1.900)	$ (0.095)	$ -	$ 16.005
Suspend Film Credit for Two Years	$ 1.000	$ 1.000	$ -	$ -	$ -	$ 2.000
Statute of Limitations – Income Tax	$ 3.000	$ 3.000	$ 3.000	$ 3.000	$ 3.000	$ 15.000
Statute of Limitations – Sales and Use Tax	$ 13.700	$ 8.800	$ 4.400	$ 4.400	$ 4.400	$ 35.700
Settlement Authority	$ 35.000	$ (15.000)	$ (5.000)	$ -	$ -	$ 15.000
Estate Tax–Valuation of Agricultural Land	$ (0.500)	$ -	$ -	$ -	$ -	$ (0.500)
Sales Tax Exemption – Goodwill	$ (0.038)	$ (0.039)	$ (0.040)	$ (0.041)	$ (0.042)	$ (0.200)
Homestead Program – Expansion	$ (0.215)	$ (0.215)	$ (0.215)	$ (0.215)	$ (0.215)	$ (1.075)
Sales Tax Exemption – Beef Battalion	$ (0.004)	$ (0.004)	$ (0.004)	$ (0.004)	$ (0.004)	$ (0.020)
Sales Tax Exemption – Sheltered Living	$ (0.030)	$ (0.031)	$ (0.031)	$ (0.032)	$ (0.032)	$ (0.156)
Sales Tax Exemption – Fairgrounds	minimal	minimal	minimal	minimal	minimal	minimal
Total	$ 61.113	$ 6.311	$ 0.210	$ 7.013	$ 7.107	$ 81.754