

MINUTES

SPECIAL COMMITTEE ON ASSESSMENT AND TAXATION

September 13-14, 2006
Room 519-S—Statehouse

Members Present

Representative Kenny Wilk, Chairman
Representative Tom Thull, Ranking Minority Member
Senator Les Donovan
Senator Greta Goodwin
Senator Janis Lee
Senator Roger Pine
Senator Derek Schmidt
Senator Dennis Wilson
Representative Barbara Craft
Representative Nile Dillmore
Representative Oletha Faust-Goudeau
Representative John Grange
Representative Jerry Henry
Representative Mitch Holmes
Representative Tim Owens
Representative Virgil Peck

Members Absent

Senator Barbara Allen, Vice-Chairperson
Representative Anthony Brown

Staff Present

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

Conferees

Joan Wagon, Secretary of Revenue, Kansas Department of Revenue
Steven Brunkan, Policy and Research, Kansas Department of Revenue
Randall Allen, Executive Director of the Kansas Association of Counties
Bart Hildreth, Regents Distinguished Professor of Public Finance and Director of Kansas
Public Finance Center, Wichita State University.
John D. Wong, Hugo Wall School of Urban and Public Affairs, Wichita State University
Glenn W. Fisher, Kansas Regents Professor Emeritus
Thomas M. Palace, Executive Director, Petroleum Marketers and Convenience Store
Association of Kansas (PMCA)
Mark Hurlbutt, Owner, K & S Oil Company, Coffeyville
Gratz Peters, Motor Fuels Retailer, Eire
Dennis Pruitt, Director, Montgomery County Action Council
Bill Murphy, Motor Fuels Retailer, Atchison
Ann Hines, Executive Vice President, Arkansas Oil Marketers Association
Deb Miller, Secretary of Transportation, Kansas Department of Transportation
Richard Cram, Director of Policy and Research, Kansas Department of Revenue
Pat Hurley, Economic Lifelines
Don Moler, League of Kansas Municipalities
Mike Taylor, Unified Government
Marcia Ashford, Community and Economic Development Director, City of Bonner Springs
John Jay Miller, Staff Attorney, City of Lawrence
Chris Wilson, Executive Director, Kansas Building Industry Association
Dave Holtwick, Kansas City Home Builders' Association
Ken Daniel, Small Business Coalition
Bruce Larkin, Department of Revenue
Martha Neu Smith, Kansas Manufactured Housing Association (written testimony only)
Luke Bell, Kansas Association of Realtors (written testimony only)

Wednesday, September 13 Morning Session

The meeting was called to order at 10:00 a.m. by Representative Kenny Wilk, Chairman, who welcomed the Committee to the September meeting of the Special Committee on Assessment and Taxation. After opening remarks by the Chairman and Ranking Minority Member, the Committee members introduced themselves.

Chris Courtwright, Kansas Legislative Research Department, reviewed information that included dates of future meetings, study topics, and a list of Committee members ([Attachment 1](#)). He then provided a brief overview of the nine topics assigned by the Legislative Coordinating Council (LCC).

1. **Homestead Program Expansion.** Review the need to further expand the Homestead Property Tax Refund Program. In particular, recommend whether fixed-income seniors need additional property tax relief as a result of tax shifts brought about by faster annual residential valuation increases attributed to the

more rapid economic growth expected as a result of the recently enacted machinery and equipment exemption.

2. **“Truth in Taxation” Local Budget Law.** Study the current “truth in taxation” property tax law that local governments have operated under since the late 1990's. Determine if local governments are complying with the “truth in taxation” provisions and if the provisions should be modified; or whether portions of the previous local government property tax law should be revived.
3. **Residential Property Tax Valuation Cap.** Review the policy implications of 2006 HCR 5027 regarding limiting the annual valuation increases for most residential parcels to the rate of inflation. Make whatever recommendations are deemed appropriate to the 2007 Legislature, including whether the proposed constitutional amendment should be reintroduced for consideration.
4. **City Development Excise Taxes.** Study whether the development excise tax authority should be expanded to all cities. 2006 SB 55 (law) allows those cities levying development excise taxes as of January 1 to retain them while prohibiting any other cities from imposing them. Recommend whether all cities, especially those in fast-growing areas, could benefit from having this tax option at their disposal.
5. **State and Local Tax Policy.** Study and project the future of Kansas tax policy for the next 10 to 20 years. As a follow-up to a 2005 interim study, review the current state and local tax structure, focusing on the shifts in reliance on sales, property, and income taxes since 1990. Review which tax structure components would be most equitable to the taxpayers of Kansas; and would improve Kansas' competitiveness with other states.
6. **Qualifications and Employment of State Board of Tax Appeals (SBOTA) Members.** Review the existing statutory requirements regarding qualifications of State Board of Tax Appeals (SBOTA) members; and the appropriateness of allowing SBOTA members to retain other employment in areas that could create the potential for conflicts of interest.
7. **Tax Incidence and Tax Base Erosion.** Review the latest research on tax incidence of the major tax sources, including the policy considerations of moving to a flat-rate income tax. Also, study erosion of sales and property tax bases as part of the review of tax incidence.
8. **County Local Sales Tax.** Review the role local sales taxes play in financing county governments and make any recommendations deemed appropriate.
9. **Motor Fuel Tax at Border.** Review the concept for those retailers or communities along the state border of imposing a motor fuels tax that is no more than \$0.01 above the motor fuels tax in the adjoining state. Study recent similar legislation in Arkansas and 2006 HB 2822.

Topic 8 – County Local Sales Tax

Martha Dorsey, Kansas Legislative Research Department, reviewed the history of county tax rates and tax distribution ([Attachment 2](#)). The Legislature granted local sales tax authority to cities and counties in 1970. In 1996, the Kansas Court of Appeals ruled that the local retailers' sales tax was a nonuniform enactment, which rendered the entire local sales tax act nonuniform for cities. The Legislature passed SB 55 in 2006, which was designed to restore uniformity to local tax provisions relating to cities by reducing the number of classes of cities to one. That legislation also significantly expanded city sales tax authority. But the issue of county local sales taxes was not addressed in the bill, so the LCC has charged the Committee with reviewing the role local sales taxes play in financing county governments and making any recommendations deemed appropriate.

The Department of Revenue indicated that there are 85 counties that impose countywide sales tax authority ranging from .15 percent to 2.25 percent. Twenty counties do not impose a countywide sales tax.

Secretary of Revenue Joan Wagnon distributed a memorandum on local tax uniformity and existing tax rates ([Attachment 3](#)). She reviewed sales tax rates by county and how those taxes are distributed based upon a formula in KSA 12-192 (a).

She explained how special taxing districts are formed; reviewed the 15 special taxing districts that currently have redevelopment (sales tax and revenue bond) or infrastructure projects (transportation district sales tax); and described the distribution formula for local sales taxes.

The Chair opened the public hearing on the issue.

Randall Allen, Executive Director of the Kansas Association of Counties (KAC), testified that a number of counties over the years had requested special sales tax authority for "dedicated" purposes, *i.e.*, jails, roads, bridges, and health care facilities ([Attachment 4](#)). Since voter approval of countywide sales taxes is required, KAC recommends that the Legislature raise the cap on countywide sales tax authority to a maximum level of 3 percent, with allocation of any new countywide sales tax revenue determined by the authorizing resolution of the board of county commissioners.

The Chairman closed the public hearing.

The Chairman said that he had reviewed several of the upcoming research studies associated with topics 5 and 7 and had found a tremendous amount of helpful information. He made a strong recommendation that the KAC, League of Kansas Municipalities, and all other interested parties review the studies and come together as a community, putting all individual interests aside, to assess what they need to provide on a regional basis.

Afternoon Session

Dr. Bart Hildreth introduced the research topics, which were prepared for the Kansas Advisory Council on Intergovernmental Relations (KACIR). The studies were conducted by the Kansas Public Finance Center, a part of the Hugo Wall Center of Urban and Public Affairs at Wichita State University. Dr. Hildreth also distributed information on the Kansas sales and property tax bases. He

observed that Kansas currently taxes only an estimated 7 percent of the total possible property tax base; and an estimated 24 percent of the total possible sales and use tax base (Attachment 5).

Dr. John Wong presented a study on tax incidence (Attachment 6). Among the principal findings was a conclusion that the Kansas individual income tax is modestly progressive; and that such progressivity does not completely offset the regressivity of the other major tax sources.

Dr. Wong then presented a study on sales tax base erosion (Attachment 7), noting that economic and technological changes in recent years had joined legislatively enacted exemptions as the major sources of erosion. He said that one study had estimated that extending the tax to all "readily taxable" services could increase revenue by over \$500 million. He added that the main arguments for inclusion of additional services in the sales tax base included:

- The sales tax should be as broadly applicable to consumer expenditures as possible;
- Taxation of services would reduce the regressivity of the sales tax;
- Revenues would be more responsive to rising levels of personal income; and
- Administration of the tax would be simplified if the tax were extended to those services rendered in conjunction with the sales of tangible personal property.

Dr. Glenn Fisher presented a study on property tax base erosion (Attachment 8), stating that the Kansas property tax is evolving largely into a real estate tax, due at least in part to the increased propensity of the Legislature to exempt personal property. He said that given the importance of the tax for local government revenue, any major changes in the property tax system would likely be controversial and potentially painful.

Dr. Hildreth returned to give an update on Kansas local government debt (Attachment 9). He explained that the purpose of the study is to gain a better understanding of the debt levels of Kansas' local governments; and to promote fiscal policies that will protect the credit quality of local government debt instruments.

At the conclusion of the presentation, the Chairman said that Kansas currently does not have a credit crisis; however, the trend for both the state and local debt is something which needs to be watched closely by everyone involved.

Dr. Hildreth said that all the information used in the presentations would be available in a couple of days on the Department of Revenue's website.

The Chairman said that a memorandum being distributed was information on the Indicators of the Kansas Economy (IKE) model (Attachment 10).

Alan Conroy, Director, Kansas Legislative Research Department, explained a report on tax receipts that disaggregated State General Fund (SGF) receipts from other receipts for FY 2006 (Attachment 11).

The Chair adjourned the meeting at 4:55 p.m.

**Thursday, September 14
Morning Session**

Topic 9 – Motor Fuel Taxation Along the Kansas Border

Martha Dorsey, Kansas Legislative Research Department, explained that the LCC charge authorized the Committee to review the concept embodied in 2006 HB 2822 for those retailers or communities along the border that would impose a motor fuels tax not more than \$0.01 above the motor fuels tax in the adjoining state ([Attachment 12](#)). She presented a comparison of motor fuel tax rates in Kansas and neighboring states and reviewed the legislation ([Attachment 13](#)).

The Chairman opened the public hearing on HB 2822.

Thomas M. Palace, Executive Director, Petroleum Marketers and Convenience Store Association of Kansas (PMCA), testified from a neutral position. The PMCA has members on both sides of the issue and believes that it would be difficult to compute the actual "dollar" benefit to the retailers as well as the cost to the state of enacting HB 2822 ([Attachment 14](#)).

Mark Hurlbutt, Owner, K & S Oil Company, Coffeyville, testified as a proponent and presented 11 points that highlighted what had happened to his three businesses due to their proximity to the Oklahoma border. He believes he cannot continue to compete with similar businesses in Missouri and Oklahoma due to the difference in motor fuel tax rates ([Attachment 15](#)).

Gratz Peters, motor fuel retailer, testified as a proponent and said that although Kansas has one of the top highway systems in the nation, many Kansans choose to drive over the border to buy their gasoline. He said that if Kansas had a more competitive tax rate along the border, the state would be able to stop those tax dollars from leaving the state ([Attachment 16](#)).

Dennis Pruitt, Montgomery County Action Council, testified in support of HB 2822. He said that Kansas has great potential to be a leader in alternative fuels. He also said the state should work to encourage fuel efficiency and renewable energy ([Attachment 17](#)).

Bill Murphy, motor fuels retailer, said that many of his potential customers in Atchison travel across the river to purchase gasoline at a saving of 8 cents per gallon. The same consumers also purchase cigarettes and convenience store items while in Missouri. He urged the Committee to reintroduce HB 2822 again during the 2007 Session ([Attachment 18](#)).

Ann Hines, Executive Vice President, Arkansas Oil Marketers Association, testified from a neutral position to provide details on how border tax rates work in Arkansas ([Attachment 19](#)).

Secretary of Transportation Deb Miller appeared as an opponent and said an estimated fiscal impact of HB 2822 would be a reduction in total motor fuel tax revenues of \$18.76 million, which would mean a loss of \$12.5 million to the State Highway Fund, as well as \$6.26 million to the Special City and County Highway Fund. She said that the Kansas Department of Transportation (KDOT) cannot sustain new, long-term revenue reductions to the State Highway Fund and still be expected to complete the Comprehensive Transportation Program ([Attachment 20](#)).

Richard Cram, Department of Revenue, said that his agency also opposes HB 2822 for a variety of reasons, including a number of compliance problems that would be created relative to Kansas' participation in the International Fuel Tax Agreement ([Attachment 21](#)).

Pat Hurley, Economic Lifelines, said that on behalf of all the organizations, associations, and communities that supported the Comprehensive Transportation Program, he strongly opposes any legislative measures that would have a detrimental impact on KDOT's revenue stream and its ability to complete the program. He said there are numerous questions that should be answered before any legislation similar to HB 2822 can be considered ([Attachment 22](#)).

The Chairman closed the public hearing.

Topic 4 – City Development Excise Tax

Chris Courtwright, Kansas Legislative Research Department, reviewed the history of the tax, which started with a 1996 Kansas Court of Appeals Decision (*Home Builders Association v. City of Overland Park*). He described several pieces of legislation that had been considered but not adopted that would have made the development excise tax authority visible statutorily, and would have imposed certain requirements of cities imposing the taxes. He explained SB 55, enacted in 2006, prohibited all cities not levying development excise taxes as of January 1, 2006, from imposing them. That legislation did, however, contain a grandfather clause that authorized any cities that had development excise taxes in effect on January 1 to retain them. Any proposed development excise tax rate increases in those grandfathered cities also is now subject to a mandatory election requirement. The interim study is to determine whether the development excise tax authority should be expanded to all cities and recommend whether all cities, especially those in fast-growing areas, could benefit from having this tax option at their disposal ([Attachment 23](#)).

The Chairman opened the public hearing.

Don Moler, League of Kansas Municipalities, said that current law authorizes the tax in only about seven to ten cities in Kansas. The League believes that the Legislature should expand the ability to have a development excise tax to all cities via a vote of the people. Although there may never be a huge number of cities that will impose this tax, the League believes all cities should have this option ([Attachment 24](#)).

Mike Taylor, Unified Government, said that this is a matter of fairness. Any community may decide to not implement a development excise tax, but they should not be pre-empted from discussing it and moving ahead if it is viewed to be in the best interest of the citizens ([Attachment 25](#)).

Marcia Ashford, City of Bonner Springs, testified that her community is struggling with the impact of new development on old infrastructure, and she requested that the Committee introduce legislation that would extend the development excise tax authority to all cities in the state ([Attachment 26](#)).

John Jay Miller, Lawrence, also testified in support of allowing all cities to have the excise tax authority ([Attachment 27](#)).

Chris Wilson, Kansas Building Industry Association, spoke in opposition to the idea of expanding development excise tax authority to all cities. She said that SB 55 represented an important political compromise; and that residential construction is a very positive factor in the economy. She said that additional excise taxes had the capacity to seriously retard economic growth ([Attachment 28](#)).

Dave Holtwick, Kansas City Home Builders' Association, said that his association opposes any additional excise taxes being used for development. He gave several concerns with excise taxes: (1) excise tax rates are the same for a single-family home as for a retail development; (2) many cities require developers to pay for infrastructure before the development is approved; (3) little documentation is provided on rates charged or how monies are expended; and (4) other financing tools are available that allow for development to help pay its own way ([Attachment 29](#)).

Ken Daniel, Small Business Coalition, testified the Kansas economy is drowning in local taxes. He said the Kansas Legislature has been extraordinarily generous in giving the hard-earned money of taxpayers to local governments. He opposed expansion of city development excise taxing authority ([Attachment 30](#)).

Written testimony was received from Martha Neu Smith, Kansas Manufactured Housing Association and Luke Bell, Kansas Association of Realtors ([Attachment 31](#)).

The Chairman closed the public hearing.

Afternoon Session

Topic 1 – Homestead Expansion

Chris Courtwright, Kansas Legislative Research Department, briefed the Committee on the background of the Homestead Property Tax Refund Act, which was enacted in 1970. The program was expanded in 2006 by HB 2583, a bill which also provided a property tax exemption for most new acquisitions of commercial and industrial machinery and equipment. The LCC charge to the Special Committee is to review the need to further expand the Homestead Property Tax Refund Program and submit recommendations on whether fixed-income seniors need additional property tax relief ([Attachment 32](#)). He also distributed materials on how property tax relief programs are structured in all 50 states ([Attachment 33](#)).

Bruce Larkin, Department of Revenue, presented a report on statistics and information for the Homestead Program. He reviewed a number issues, including a comparison of the tax refunds available to owners and renters ([Attachment 34](#)).

Following extensive discussion, the Committee asked the Department to return at the October meeting with fiscal impact estimates and bill drafts on reducing the amount of refunds available to renters and expanding the refunds available to homeowners (leaving the entire program revenue-neutral); on increasing the amount of refund available only to homeowners (while leaving renters with the status quo); on including some kind of asset test in the program so that taxpayers could not qualify for a given year just because of a sizeable loss claimed on their federal and state income tax returns; on requiring taxpayers to provide proof of exempt income under certain circumstances; and to eliminate the requirement that property tax statements accompany the Homestead returns.

Discussion of Other Topics, October Agenda

After extensive discussion over the fiscal impact of the motor fuel tax proposal, the Committee realized that a much broader economic analysis was needed relative to motor fuel taxes along the

border in particular; and all excise taxes along the border in general. The Chairman directed staff to draft a letter to Kansas, Inc., requesting that agency to work with the Department of Revenue in conducting that analysis. Staff also was asked at the October meeting to address some constitutional questions raised by the Department of Revenue.

With respect to the city development excise tax topic, the Chairman asked both the proponents and opponents to coordinate efforts and report back at the October meeting as to what sort of other development finance mechanisms were being utilized by cities other than excise taxes. The request was to include impact fees, as well as other innovative approaches being utilized by cities in Kansas and in other states. Some of the information specified in the request included where the money is used (relative to the benefit district); whether annual reports are filed or available; what the rates are; what the tax base is (whether expressed in cents per square foot like the excise tax); how often cities change rates; and whether different rates are used for different developments.

Regarding the state and local tax topic, the Chairman offered an invitation to all communities across Kansas to attend the October meeting and outline their service deliveries and revenue needs in their respective regions. Communities were invited to determine how an ideal local funding package might look and to bring any and all innovative approaches forward to the Committee.

The Chairman thanked the Committee for its hard work. The next meeting is Monday, October 23. The meeting adjourned at 3:00 p.m.

Prepared by Chris Courtwright

Approved by Committee on:

October 23, 2006

(date)