

MINUTES

SPECIAL COMMITTEE ON ASSESSMENT AND TAXATION

November 12, 2003
Room 519-S—Statehouse

Members Present

Senator David Corbin, Chair
Representative John Edmonds, Vice Chair
Senator Mark A. Buhler
Senator Stan Clark
Senator Les Donovan
Senator Janis Lee
Representative Steve Brunk
Representative Paul Davis
Representative David Huff
Representative Bruce Larkin
Representative Don Myers
Representative Arlen Siegfried

Staff Present

Chris Courtwright, Kansas Legislative Research Department
Martha Dorsey, Kansas Legislative Research Department
Gordon Self, Revisor of Statutes Office
Shirley Higgins, Committee Secretary

Conferees

Joan Wagon, Secretary, Kansas Department of Revenue
Richard Cram, Kansas Department of Revenue
Senator Dave Jackson

Wednesday, November 12 Morning Session

The meeting was called to order in Room 519-S, Statehouse, by Senator David Corbin, Chair, at 10:05 a.m., on November 12, 2003. Senator Corbin called upon Chris Courtwright, Kansas Legislative Research Department, for a review of a memorandum on the Consensus Revenue estimates for FY 2004 and FY 2005 determined at a meeting of the Consensus Group on November 3, 2003.

Mr. Courtwright reported that the revised FY 2004 estimate is \$4.484 million, and the FY 2005 estimate is \$4.469 million. He explained that the FY 2004 estimate was increased by \$11.9 million above the previous estimate due to one-time monies which for the most part are not expected to continue as an ongoing part of State General Fund (SGF) receipts. He noted that, in addition to the economic forecast for the state, the initial estimate for FY 2005 is heavily influenced by removal of many of the one-time monies from the SGF receipts base. He explained that the estimates are based on the assumption that the relative modest growth in the Kansas economy will lag behind the growth in the U.S. economy for the foreseeable future. He went on to discuss the following topics: Kansas Personal Income, Employment, Agriculture, Oil and Gas, Inflation Rate, Interest Rates, Accounts Receivable, Tax Amnesty, New Federal Tax Law Impact, and Property Tax Accelerator. In conclusion, he called attention to Table 1, which compares the revised FY 2004 and new FY 2005 estimates with actual receipts from FY 2003, and to Tables 2, 3, and 4 showing relevant information on SGF receipts for FY 2004 and FY 2005 (Attachment 1). At the conclusion of his summary, Mr. Courtwright responded to questions and comments from the Committee.

Senator Corbin opened the discussion on Topic 3, Monitor Streamlined Sales Tax Implementation and called upon Joan Wagon, Secretary, Kansas Department of Revenue, for an update on administrative issues regarding the implementation of the destination-based sourcing rules contained in conforming legislation. Secretary Wagon reported that compliance by retailers affected by the adoption of destination-based sourcing increased by almost 1,000 for the month of August, the second month in which destination-based sourcing was in place. September ST-36 returns processed to date show an increase of 1,866 from May. She noted that the backlog on processing sales tax returns is growing as the Department works through issues with the new destination-based sourcing rules and the new local use tax, and the Department continues to work with retailers attempting to comply. In her opinion, there will be a significant jump in compliance once the electronic filing option and the downloadable address-based system are in place. She noted that the Department is on target for developing a web-based electronic filing option for the ST-36 sales tax return to be available for returns due in December.

In conclusion, Secretary Wagon said that she and other Department members plan to attend a Streamlined Sales Tax Project meeting on November 17-18 and an implementing states meeting on November 19 in Phoenix. She noted it is unlikely that the destination-sourcing rules will be modified at those meetings. As to the status of Streamlined Sales Tax legislation at the federal level, she informed the Committee that Representative Jerry Moran recently contacted her regarding her thoughts about HR 3184, the Streamlined Sales Tax Act of 2003. In response, she advised him that she strongly supports his sponsorship (Attachment 2).

Mr. Courtwright followed with a review of the draft committee report on Topic 3. The report includes background information, a summary of committee activities, and a list of three policy options (Attachment 3). For the Committee's information, Senator Corbin distributed a memorandum he prepared with the heading: "Discussion Parameters for Potential Tax Credit to Help Offset Certain Software Costs of Small Kansas Businesses Coming Into Compliance with New Sourcing Rules" (Attachment 4). Committee discussion regarding the concept of a tax credit for software costs followed, at which time Senator Corbin clarified that the decision whether or not to provide a tax credit for small business is left up to each implementing state.

Representative Larkin moved that the Committee request the Department of Revenue to research the fiscal impact of a destination based software income tax credit for small businesses and present the information to the standing tax committees in January for the introduction of a bill creating a targeted tax credit to offset software costs associated with implementing the state's new destination-based sales tax, seconded by Representative Davis. The motion carried.

Representative Larkin moved that the Committee recommend consideration of a provision to exempt services determined to be eligible by the Department of Revenue from destination-based sourcing, seconded by Senator Clark. The motion failed.

Representative Siegfroid moved that the Committee recommend that local use tax legislation be introduced in a separate bill. There was no second.

The meeting was recessed for lunch at 12:00 p.m.

Afternoon Session

Senator Corbin called the meeting to order at 1:25 p.m. He called upon Mr. Courtwright for a review of the draft committee report on Topic 7, local sales tax uniformity, which includes five policy options (Attachment 5).

Richard Cram, Kansas Department of Revenue, reminded the Committee that the Department is concerned that Kansas could potentially be out of compliance with the Streamlined Sales Tax Agreement if the local sales tax laws are deemed nonuniform and a city exercises its home rule authority to opt out of them. He discussed statutory amendments which, by reducing the number of classes in the local sales tax law to two, would ensure that local sales tax laws are uniform (Attachment 6).

Senator Clark moved that the Committee recommend the Department's proposed legislation reducing the number of classes in the local sales tax law to two, seconded by Representative Myers. The motion carried.

Senator Clark moved that the Committee recommend introduction and placement on the November 2004 ballot of a proposed constitutional amendment which would expand to ten the number of classes the Legislature may utilize for the purpose of limiting or prohibiting taxation by cities, seconded by Senator Donovan. The motion carried.

Senator Corbin called upon Mr. Courtwright for a review of the draft committee report on Topic 11, Property Tax on Storm-Damaged Property. The report includes a list of seven policy options (Attachment 7).

Following discussion regarding the appropriateness of allowing property tax valuation adjustments for damaged property, it was the consensus of the Committee to make no recommendation on Topic 11.

Senator Corbin called upon Mr. Courtwright for a review of the draft committee report on Topic 1, Motor Vehicle Sales Taxes. The report lists three policy options (Attachment 8).

Representative Edmonds moved that the Committee's recommendation include a statement that the Committee is concerned about the Legislative Post Audit's report that widespread fraud may be occurring in private transactions involving vehicle sales and to recommend that the Department of Revenue prepare legislation to be introduced in January which would statutorily codify the linkage between license renewal and sales tax compliance and address the issue of private sales, seconded by Senator Buhler. The motion carried.

Senator Lee moved that the Committee recommend the introduction of a bill concerning sales tax situs which would make the county where the purchaser of the vehicle lives the true situs, seconded by Representative Larkin. The motion failed.

Senator Corbin called upon Mr. Courtwright for a review of the draft committee report on Topic 2, Estate/Death Taxes. The report lists three policy options (Attachment 9).

Following discussion, it was the consensus of the Committee to make no recommendation on Topic 2.

Senator Corbin called upon Mr. Courtwright for a review of the draft committee report on Topic 4, Severance Tax Administration (SB 267). The report lists two policy options, including a suggestion that SB 267 be referred to the Senate Utilities Committee ([Attachment 10](#)).

Senator Lee moved that the Committee recommend that SB 267 be withdrawn from the Senate Assessment and Taxation Committee and referred to the Senate Utilities Committee and that the Senate Utilities Committee consider introduction of a substitute bill including recent amendments suggested by proponents, seconded by Senator Donovan. The motion carried.

Senator Corbin called upon Mr. Courtwright for a review of the draft committee report on Topic 5, Transportation of Cigarettes (HB 2422), which lists seven policy options ([Attachment 11](#)). Mr. Courtwright also distributed a copy of model legislation recommended by Ron Hein, who represented R.J. Reynolds at the public hearing on the topic ([Attachment 12](#)). Committee discussion followed.

Representative Huff moved that the Committee recommend that the working group formed by the Kansas Department of Revenue continue to work on the formulation of provisions to be included in a substitute bill for HB 2422 to be introduced in January 2004, seconded by Representative Edmonds. The motion carried.

Senator Corbin called upon Mr. Courtwright for a review of the draft committee report on Topic 6, Property Tax Exemptions for Senior Care Facilities (SB 161). The report lists four policy options ([Attachment 13](#)).

Senator Corbin reminded the Committee that the Senate Assessment and Taxation Committee held extensive hearings on SB 161. He commented that both of the prevailing sides on the issue presented good arguments for their position. He noted that SB 161, as amended in committee, passed the Senate and currently remains in the House Taxation Committee.

Representative Myers moved that the Committee make no recommendation, seconded by Representative Edmonds. The motion carried.

Senator Corbin called upon Mr. Courtwright for a review of the draft committee report on Topic 8, Use Tax on Computer Customization Services. The report lists one policy option ([Attachment 14](#)). Committee discussion followed, at which time it was noted that the Department of Revenue reported that the amount of sales tax collected on computer software customization has been far below the amount anticipated when the tax exemption was repealed in the final hours of the 2002 Legislative Session.

Representative Seigfreid moved that the Committee recommend that the 2004 Legislature strongly consider repealing the sales tax on computer software customization services and restoring the exemption that existed prior to 2002, seconded by Representative Myers. The motion carried with Representative Edmonds voting "no."

Representative Myers moved that the Committee recommend the enactment of a use tax if the 2004 Legislature does not repeal the sales tax on computer software customization services, seconded by Representative Edmonds. The motion carried.

Senator Corbin called upon Mr. Courtwright for a review of the draft committee report on Topic 9, Corporation Franchise Taxes. The report lists seven policy options ([Attachment 15](#)). Committee discussion followed. The Committee found that the rate increases in the law enacted in 2002 were burdensome for small Kansas businesses. In addition, the Committee found that

administration and enforcement of a tax based on net worth more appropriately belongs with the Department of Revenue than with the Secretary of State.

Representative Brunk moved that the Committee recommend the introduction of legislation to return the rate and structure of the tax to the pre-2002 provisions, seconded by Senator Clark. The motion carried with Representative Edmonds voting "no."

Representative Larkin moved that the Committee recommend the introduction of legislation that would move enforcement of the net-worth portion of the franchise tax to the Department of Revenue, seconded by Senator Clark. The motion carried.

Senator Clark moved that the Committee recommend the introduction of legislation that would provide an annual flat filing fee not to exceed \$20 to the Secretary of State, seconded by Senator Donovan. The motion carried.

Senator Corbin called upon Mr. Courtwright for a review of the draft committee report on Topic 10, Job Retention Policy. The report lists two policy options (Attachment 16).

Senator Dave Jackson, who requested the interim study on the topic, said that he envisioned the concept of allowing income tax credits for certain small businesses who retain low income workers to be revenue neutral to the State of Kansas. He explained that he requested the study after attending a conference in Seattle entitled "Helping Working Families in Tight Times" hosted by the National Conference of State Legislatures and funded by the Annie L. Casey Foundation. He confirmed that a tax credit for small businesses would be equated to the state taxes paid by the worker. He noted that allowing two existing tax credits (child day care assistance and employer health insurance contributions) to be transferrable would help small businesses retain low-income workers.

Senator Clark moved that the Committee recommend the introduction of legislation that would allow the transferability of credits for employer health insurance contributions, seconded by Senator Buhler. The motion carried.

Senator Corbin called upon Mr. Courtwright for a review of the draft committee report on Topic 12, Property Tax Income and Expense Information (SB 99). The report lists two policy options (Attachment 17). Committee discussion followed, during which time Mark Beck, Director, Property Valuation Division, responded to questions regarding county appraisers' concerns and the proposed 10 percent penalty for failure to provide the requested information to county appraisers.

It was the consensus of the Committee to make no recommendation on Topic 12.

Mr. Courtwright called the Committee's attention to copies of the minutes of the October meeting previously distributed to members.

Senator Donovan moved that the minutes of the October 9-10, 2003, meeting of the Special Committee on Assessment and Taxation be approved, seconded by Representative Myers. The motion carried.

The meeting was adjourned at 4:30 p.m.

Prepared by Shirley Higgins
Edited by Martha Dorsey

Approved by the Committee on:

January 16, 2004

(date)