

## MINUTES

### SPECIAL COMMITTEE ON ASSESSMENT AND TAXATION

November 13, 2008  
Room 545-N—Statehouse

#### Members Present

Representative Kenny Wilk, Chairperson  
Senator Les Donovan, Vice-Chairperson  
Senator Pat Apple  
Senator Karin Brownlee  
Senator Janis Lee  
Senator Derek Schmidt  
Representative Sydney Carlin  
Representative Stan Frownfelter  
Representative John Grange  
Representative Jeff King  
Representative Bill Light  
Representative Steve Lukert  
Representative Ron Worley

#### Staff Present

Chris Courtwright, Kansas Legislative Research Department  
Corey Carnahan, Kansas Legislative Research Department  
Gordon Self, Office of the Revisor of Statutes  
Scott Wells, Office of the Revisor of Statutes  
Gary Deeter, Committee Assistant  
Kathy Beavers, Committee Secretary

#### Conferees

Alan Conroy, Kansas Legislative Research Department  
Richard Cram, Kansas Department of Revenue  
Mark Beshears, Sprint/Nextel  
Mark Beck, Kansas Department of Revenue  
Tony Folsom, Kansas Department of Revenue  
Matthew Zimmerman, Emporia, Kansas  
Sheldon Hamilton, Atchison, Kansas  
Randall Allen, Kansas Association of Counties

## Others Present

See attached sheet.

## Thursday, November 13 Morning Session

Chairperson Wilk called the Special Committee on Assessment and Taxation to order at 9:15 a.m.

### Topic 1 – Slider Formula

Chris Courtwright, Kansas Legislative Research Department (KLRD), reviewed the slider formula ([Attachment 1](#)) previously discussed at the October meeting. He also reviewed the testimony of conferees at the October meeting and cited a letter received from Mr. Sheldon Hamilton, Finance Director, City of Atchison ([Attachment 2](#)).

Mark Beck, Property Valuation Division (PVD), stated that of the thousands of slider reimbursements paid thus far, the Division has received only four telephone calls indicating there is a problem with the service. Mr. Beck stated that the problems were with the software and that they since have been fixed.

While sympathetic to the concerns expressed by the conferees, the Committee observes that many thousands of taxing subdivisions received slider distribution payments in 2008 without any apparent complaints.

*Senator Lee moved that the Committee ask the standing tax committees to continue to monitor future distributions relative to additional concerns and that the 2009 Kansas Legislature continue to fully fund all slider payments, as well as LAVTRF payments, to local units of government. The motion passed.*

### Topic 2 – Sales Tax on Telecommunications

Mr. Courtwright reviewed the background on the sales tax imposed on communications machinery and equipment ([Attachment 3](#)) and the discussion held at the October meeting. At the October meeting, Secretary Wagnon explained the position of the Administration and noted that some sort of analysis would need to be performed relative to the upcoming revenue estimates, the overall state budget picture, and the benefit stemming from tax refunds. This study would need to be completed before the Governor would commit to supporting the legislation in 2009. Mr. Courtwright also referenced a study titled, "Economic Impact in Kansas from Granting Limited Sales Tax Incentives for Investments in the State's Telecommunications Network" ([Attachment 4](#)).

A memorandum from Kansas Communications Coalition states "The property tax exemption discussion is not relevant to the policy reasons for passing a credit for state sales taxes paid on communications machinery and equipment. These are separate issues and should not be commingled in the interim study deliberations." The Coalition's recommendation is stated in the memorandum ([Attachment 5](#)).

The Chairperson referenced an article from Governing.com titled, "Growth & Taxes" by Katherine Barrett and Richard Greene ([Attachment 6](#)). The Chairperson encouraged the members to read the article.

The Committee finds that the telecommunications industry is a critical partner in the state's economic development efforts. The Committee strongly believes that authorizing state sales tax refunds for certain telecommunications machinery and equipment purchases will continue to encourage much-needed investment in Kansas.

*Representative Worley moved, seconded by Representative Lukert, to reintroduce a bill that would phase in refunds of state sales taxes for certain telecommunications-related purchases from FY 2012 to FY 2016. Motion approved.*

### **Topic 3 – Property Tax Relief for Seniors**

Mr. Courtwright reviewed the background of a new property tax relief program approved as part of 2008 Senate Sub. for HB 2434: The Selective Assistance for Effective Senior Relief ("SAFE Senior") income tax credit ([Attachment 7](#)). The credit now joins the longstanding Homestead Property Tax Refund Act as another method for helping to reduce the burden on seniors. Both programs were discussed at length. Mr. Courtwright stated that taxpayers cannot claim both tax relief programs. A computerized form is available online for taxpayers to calculate which method would be most beneficial for them to use. Representative King recommended that the Department of Revenue notify senior centers across the state about the form.

Mr. Courtwright referred members to the spreadsheet that indicated the Homestead Refunds by county and included a comparison table of property tax programs ([Attachment 8](#)).

*Representative Lukert made a motion to reintroduce some version of the 2008 property tax deferral legislation during the 2009 Session that includes a means of ensuring that the property be insured for the value of the home. Representative Sydney Carlin seconded the motion. The motion failed.*

The Committee encouraged the Department of Revenue to report to the Legislature annually on the costs, participation, and effectiveness of the senior property tax relief programs. The Committee noted that any meaningful effort to evaluate the effectiveness of the SAFE Senior program cannot occur until taxpayers have had several years of experience with the new credit. The Legislature also should continue to study the structure of senior tax relief programs in other states.

Should the fiscal cost associated with the Kansas programs need to be reduced, the Committee recommended that the standing tax committees consider reducing the \$350,000 valuation cap currently applicable for the Homestead and SAFE Senior credits.

Finally, the Committee applauded the Department of Revenue's efforts to develop software helping taxpayers distinguish which credit program will be most beneficial. The Committee asked that county clerks and other officials also continue to advise senior taxpayers about these programs.

### **Topic 4 – Taxation on Watercraft**

Mr. Courtwright reviewed the background of Taxation of Watercraft ([Attachment 9](#)).

The Committee agreed with concerns expressed by several legislators and conferees indicating that Kansas may need to restructure boat taxes on a basis other than fair market value. The Committee recommended introduction of a constitutional amendment similar to HCR 5015, to be placed on the August ballot in 2010.

The Committee further encouraged Secretary Wagnon to work with the standing tax committees regarding the development of a potential new tax system with an eye toward being able to administer any such system on the new VIPS program.

## **Topic 6 – Local Bonded Indebtedness**

Corey Carnahan, KLRD, reviewed the background of local bonded indebtedness (Attachment 10). Mr. Carnahan then submitted a memorandum covering various types of bonds (Attachment 11). The memorandum was authored by Larry R. Baer, Assistant General Counsel, League of Kansas Municipalities.

Chairperson Wilk had previously asked for clarification from the Attorney General's Office on how the communication currently works between the state and local government prior to bonds being issued. Gordon Self, Office of the Revisor of Statutes, had contacted the Attorney General's Office regarding this matter. Mr. Self stated that the state, via the Attorney General, does affirm whether the issuance of additional bonds keeps the city or county within the limitations set out in the statute. The Attorney General's Office indicated that it is dependent on the information that is submitted to it by the city or county. If the issuance of those bonds exceeds the limitation outlined in statute, the Attorney General's Office then contacts the city or county. It did not appear to Mr. Self that the Attorney General conducts any independent review beyond the information given.

Senator Derek Schmidt reviewed the Home Rule Authority Implications if the statutes exempt even one municipality. Discussion followed concerning the uniformity of limitations.

The Committee recommended that the debt limitation relating to cities be studied by the appropriate standing committees to determine if there is a uniformity issue that could give rise to the exercise of Home Rule powers. These findings, with respect to uniformity, should be reported to the standing taxation committees for future deliberation.

The Committee did not at this time recommend altering the debt limits or statutory language found in KSA 10-306 and 10-308.

## **Topic 5 – Coalbed Methane Valuation**

Mr. Courtwright reviewed the background of Coalbed Methane (Attachment 12).

Mark Beck, PVD, reviewed a memorandum from Bill Waters, a PVD attorney, regarding whether or not PVD can change the method by which royalty interest of oil and gas leases are valued or calculated (Attachment 13). In Mr. Waters' opinion, the PVD cannot amend the *Oil & Gas Appraisal Guide* in a way that causes royalty interest to be valued at something other than fair market value.

Representative King asked if this is a change of tax policy that the Legislature can take on in the 2009 Session. Senator Derek Schmidt agreed that there is a fundamental flaw in the way the state taxes minerals in this state and he believes the right way to fix this flaw is to repeal one of the two taxes, either the property tax on the oil and gas leases or the gas severance tax.

The Committee believed that the complexities of the current system have contributed to a significant lack of equity for royalty interest owners of coalbed methane gas. The Committee recommended that the standing tax committees in 2009 continue to analyze ways to provide a reduced tax burden for royalty interest owners relative to working interest owners, including exempting coalbed methane production from property taxation and imposing a special “add-on” severance tax that would fall more heavily on working interests.

## **Topic 7 – Gas Severance Tax**

Mr. Courtwright reviewed the background of the gas severance tax ([Attachment 14](#)).

He went on to review testimony given by Carol Ireland from the Department of Revenue ([Attachment 15](#)), an e-mail from Richard Cram from the Department of Revenue ([Attachment 16](#)), relevant assessment statutes ([Attachment 17](#)), Kansas Independent Oil & Gas Association testimony ([Attachment 18](#)), Kansas Petroleum Council testimony ([Attachment 19](#)), and 2007 PVD oil and gas data showing values on a county-by-county basis ([Attachment 20](#)).

The Committee found that because of various changes in the gas industry, the current severance tax law (which was written in the 1980s) has become increasingly difficult to comply with and administer. The Committee believes that a helpful dialogue has been created as a result of this interim study and encourages the industry and the Department of Revenue to continue to work on a solution for some of these complexities.

The Committee recommended that all parties continue to work on a set of proposals which ideally could be implemented by administrative rules and regulations (in lieu of statutory changes). All parties should report back to the standing tax committees by mid-February relative to the progress made on such efforts.

The Committee further found that because of dramatic increases in the price of oil in recent years, it may no longer be prudent for 50 percent of oil production to be exempt from the state’s severance tax (compared to only 6 percent of gas production). The Committee therefore encouraged the 2009 Legislature to review the low-production exemption for oil.

## **Topic 8 – Mill Levy Issues**

Mr. Courtwright reviewed the background of mill levy issues ([Attachment 21](#)). He also referred to a timeline of what has happened prior to 1989 to 2008 ([Attachment 22](#)).

The Chairperson stated that there is no easy way to proceed on this subject. He recommended that until there is court action that motivates some other behavior, the Committee let the statute stand alone. Discussion ensued.

*Senator Brownlee moved to introduce a bill adding protest petition provisions relative to certain proposed tax increases by all taxing units, provided the petitions require at least 5 percent participation in order to trigger elections. Representative Lukert seconded the motion. The motion passed.*

Chairperson Kenny Wilk adjourned the meeting until 1:30 p.m.

## Afternoon Session

Chairperson Wilk called the meeting to order at 1:30 p.m.

### Topic 10 – Farm NOL Carrybacks

Mr. Courtwright reviewed the background of Farm NOL Carrybacks (Attachment 23).

*Representative Lukert moved that given fiscal constraints facing the 2009 Legislature, the issue should continue to be studied. The motion was seconded by Representative Frownfelter.*

*Senator Schmidt made a substitute motion to reintroduce HB 2992 retroactive to tax year 2006 and which would then sunset immediately. Representative King seconded the motion. The motion passed.*

### Topic 9 – Aerospace Engineer Credits

Mr. Carnahan reviewed the background of Aerospace Engineer Credits (Attachment 24).

Senator Brownlee recommended that no action be taken in terms of legislation. She stated that companies will hire the engineers if they can find them and then offer tuition reimbursement. The Chairperson recognized the need for and importance of engineers. Senator Lee stated that you have to start encouraging students at a young age to pursue engineering. Senator Donovan stated that aircraft companies offer tuition reimbursement and also work with students pursuing their engineering degrees.

The Committee recommended that this issue be approached from a higher education and economic development perspective with additional hearings occurring in those related committees. Any future legislative efforts in this area should focus on expanding engineering programs at Kansas' colleges and universities. The Committee also recommended that the engineering sector take advantage of tax credits given by the federal government.

Mr. Courtwright reviewed the estimates of the Consensus Revenue Estimating Group for the 2008-2009 Session (Attachment 25). For FY 2009, the estimate was decreased by \$211.4 million, or 3.5 percent, below the previous estimate (made in April and subsequently adjusted for legislation enacted during the veto session). The revised estimate of \$5.781 billion represents 1.5 percent growth above final FY 2008 receipts. Mr. Courtwright read the paragraph summarizing the economic forecast for Kansas.

He reminded members that the technical definition of a recession at the national level is “two consecutive quarters of negative growth in GNP.” The U.S. experienced negative growth in the third quarter of calendar year 2008. Many suspect that the U.S. was in a period of negative growth in October through December. He then explained what happens to get out of a recession.

He stated that we have until April 20, 2009 to revise these estimates and they will be reviewing the estimates during the veto session. During March and April, the average refunds and balances due are known and KDOR is able to provide information up to and including April 15. Legislation passed during the veto session will affect the receipts, a memorandum will be published in late June, and those numbers will be taken into the fall session.

Alan Conroy, Director, KLRD, reviewed the State General Fund receipts, expenditures, and balances for FY 2007-2012 (Attachment 26) and answered questions from the Committee members.

At the request of the Chairperson, Rob Weigand, Professor of Finance and Business Strategy at Washburn University School of Business, gave a presentation on the global credit crisis and economic outlook.

Professor Wiegand's presentation covered the recent federal bail-out of banks, the federal rescue plan, stock market trends, and a potential bail-out of the auto industry. He then answered members' questions on these topics.

The Chairperson thanked Professor Weigand for his presentation.

Stan Ahlerich, President, Kansas, Inc., provided testimony on the Kansas economy (Attachment 27).

*Representative Grange moved to second the minutes from the October meeting. Senator Brownlee seconded the motion. The motion passed.*

The Chairperson adjourned the meeting at 4:30 p.m.

Prepared by Kathleen Beavers  
Edited by Corey Carnahan

Approved by Committee on:

December 24, 2008

(date)