Approved: March 28, 2011
Date

MINUTES OF THE SENATE ASSESSMENT & TAXATION COMMITTEE

The meeting was called to order by Vice Chairman Pat Apple at 10:37 a.m. on March 15, 2011, in Room 152-S of the Capitol.

All members were present except:
Chairman Les Donovan – 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
Mary Jane Brueck, Committee Assistant

Conferees appearing before the Committee:
Sen. Ty Masterson
Sen. Terry Bruce
Dan Murray, Kansas Director, National Federation of Independent Business
Kent Eckles, Vice President of Government Affairs for the Kansas Chamber of Commerce
Jason Watkins, Wichita Metro Chamber of Commerce
Derrick Sontag, State Director of Americans for Prosperity Kansas
Jennifer Bruning, Vice President of Government affairs with Overland Park Chamber of Commerce

Others attending:
See attached list.

Vice-Chairman Apple opened today's meeting introducing Chris Courtwright, Kansas Legislative Research Department to explain **Senate Substitute for SB 95 – Concerning taxation; relating to income tax rates adjustment , procedure and requirements; sales and compensating use tax rates and distribution.** This bill provides a new section 1, that the base fiscal year selected actual state general fund receipts is fiscal year 2010. The selected general fund receipts are: individual and corporation income taxes, financial institutions privilege taxes, retail sales taxes, compensating use taxes, cigarette and tobacco product taxes, cereal malt beverage and liquor gallonage taxes. Liquor enforcement taxes, liquor drink taxes, corporation franchise taxes, annual franchise fees and mineral severance taxes. The passage of this bill will reduce state general fund revenues in fiscal year 2012 by $135.9 million and by $603.5 million in fiscal year 2013. (Attachment 1)

Sen. Ty Masterson spoke favorably to this bill. He said this bill embeds an apolitical formula into statute that methodically shifts us structurally away from a tax on personal income and incentives a broader and fairer excise tax base. It moves the state away from reliance on revenue estimates and projected profiles to an actual look back and reaction to real numbers. According to the IRS, with an estimated $600M in income having migrated out of the state, to no and low income tax states, how can the state afford not to do this. (Attachment 2)

Sen. Terry Bruce also spoke favorable of this bill, saying it is vital to the continued prosperity of Kansas to adopt a tax policy that is both regionally and nationally competitive. In our region, Kansas has the highest individual income tax, making it less desirable in attracting continued investment into our state. There is a migration trend from Kansas to low- or no-income tax states. This bill will balance Kansas' need for lowering its taxes with the obligation to fund the state's budget. Sen. Bruce said Kansas has to become more competitive and this bill will allow us to do that. (Attachment 3)

Representing the National Federation of Independent Business, Dan Murray, Kansas State Director, told the committee that taxes matter to small businesses, being one of the largest concerns of NFIB members. The tax climate must be improved. Kansas' tax score is 32. He said NFIB supports this bill because they hope this is the next step in making Kansas the best state for members to own, operate, and grow their businesses. (Attachment 4)

Kent Eckles, Vice President of Government Affairs for the Kansas Chamber, told the committee that they commission an Annual Competitive Index which compares nearly 80 metrics against our peer states. In State Business Tax Structure, Kansas ranks 37th; and in Business Tax Burden, 39th. The Kansas Chamber

CONTINUATION SHEET

The minutes of the Senate Assessment & Taxation Committee at 10:30 a.m. on March 15, 2011, in Room 152-S of the Capitol.

believes our state should capitalize on this economic climate. (Attachment 5)

Jason Watkins spoke on behalf of the Wichita Metro Chamber of Commerce, telling the committee they are supportive of this bell and believe it will move the state toward a more competitive and productive business environment through a more reliable and efficient tax structure. (Attachment 6) Derrick Sontag, State Director for Americans For Prosperity Kansas, contributed written testimony in favor of this bill. He stated, "We believe enactment of this legislation would preserve funding for essential government services while providing a tax environment that would help stimulate economic growth." (Attachment 7)

The Vice President of Government Affairs with the Overland Park Chamber of Commerce, Jennifer Bruning, submitted written testimony "in reluctant opposition" to this bill. She explained that while the reduction of state income tax and possible elimination of such, it is uncertain how it would affect revenue streams and quality of our state's largest budgetary items. She also expresses concern that not knowing if the gradual reduction of both personal and corporate income taxes could eventually lead to increases in other taxes. She urged our policymakers to take time to fully understand this bill's future ramifications. (Attachment 8)

Seeing no others present wishing to speak to this bill, Vice-Chairman Apple closed the hearing on **Senate Substitute for SB 95**.

He asked if the committee had any requests for information? Sen. King asked what the impact would be to defer the baseline year from 2010 to 2011; also leaving the baseline constant at 2010; and delaying the reduction of income tax to 2013. Sen. Bruce indicated those changes would not cause a problem.

Sen. Hensley asked if Vice-Chairman Apple was intending to work this bill now. Vice-Chairman Apple replied he would like to give the committee time to think about this bill, and told the committee he would like to meet tomorrow. If, after further discussion, there is interest to work bill, he will do so.

Sen Holland asked clarification of Sen. King's questions. He asked Sen. King if his question about changes to the baseline were made assuming that the 4.13 sales tax be kept in place for the first two questions Sen. King asked. It was.

Seeing no further questions, Vice-Chairman Apple closed this meeting.

The next meeting will be tomorrow, March 17, 2011.

The meeting was adjourned at 11:28 a.m.

SENATE
Assessment & Taxation Committee
GUEST LIST

DATE: 3/15/11

NAME	REPRESENTING
Larry R Baer	LKM
Michelle Butler	Hill's
Jennifer Bruning	OP Chamber
[illegible]	Indiv.
Shannon Jones	SRCK
[illegible]	[illegible]
[illegible]	[illegible]
[illegible]	Ks Bar Assn

Mary Jane Brueck

From: Richard.Cram@kdor.ks.gov
Sent: Monday, March 14, 2011 1:41 PM
To: Chris Courtwright; Mary Jane Brueck; Gordon Self; sean.tomb@budget.ks.gov
Subject: fiscal note SB 95

The Secretary has not yet approved but we do not anticipate significant changes to the fiscal note. Richard Cram
----- Forwarded by Richard Cram/Revenue/KDOR on 03/14/2011 01:34 PM -----

2011 Senate Bill 095c Fiscal Note
Amended by Senate Committee

Fiscal Note Development

Bill Assigned: 03/11/2011

Responses Due: 03/15/2011

Note Due to Budget: 03/16/2011

Status: Reviewed by P&R

Prepared By: Steve A Stotts

Preliminary Completed: 03/14/2011

Reviewed by P&R: 03/14/2011

Approved by Secretary:

Sent to Budget:

Fiscal Impact: Passage of this bill will reduce state general fund revenues in fiscal year 2012 by about $135.9 million and by $603.5 million in fiscal year 2013.

Administrative Impact: The estimated costs necessary to implement this bill are $98,600 in fiscal year 2012.

Brief of Bill

Sn. Assmnt & Tax
3-15-11
Attachment # 1

Substitute for Senate Bill 95, as introduced, provides in New Section 1, that the base fiscal year selected actual state general fund receipts is fiscal year 2010. The selected general fund receipts are, individual and corporation income taxes, financial institutions privilege taxes, retail sales taxes, compensating use taxes, cigarette and tobacco product taxes, cereal malt beverage and liquor gallonage taxes, liquor enforcement taxes, liquor drink taxes, corporation franchise taxes, annual franchise fees and mineral severance taxes.

Beginning with fiscal year 2011, in any fiscal year in which the amount of selected actual state general fund receipts from such fiscal year exceeds the base fiscal year selected actual state general fund receipts, the director of legislative research shall certify such amount to the secretary of revenue and the director of the budget. Upon receipt of such certified amount, the secretary shall compute the percentage increase in selected actual state general receipts in such fiscal year. Based on such percentage of calculated receipt growth, the secretary shall reduce individual and corporation income tax rates by a percentage equal to such percentage of calculated receipt growth for each income tax category and bracket for the income tax year in which the increase in selected actual state general fund receipts occurred, except that in no event shall the corporation normal rate be less than 3.5%. In any computation by the secretary pursuant to this section in which an individual or corporation income tax rate for any income tax category or bracket is below .4%, such rate shall be 0%.

In any fiscal year in which the amount of selected actual state general fund receipts are less than the selected actual state general fund receipts from the immediately preceding fiscal year, the director of legislative research shall certify such amount and fact to the secretary of revenue and the director of the budget. Upon receipt of such amount and fact, the secretary of revenue shall not make any adjustment to the individual and corporation income tax rates for that tax year.

Following any fiscal year in which selected actual state general fund receipts were less than the previous fiscal year, if the selected actual state general fund receipts in any subsequent fiscal year exceed selected actual state general fund receipts from the immediately preceding fiscal year, the director of legislative research shall certify such amount to the secretary of revenue and the director of the budget. The director shall also certify the amount of selected actual state general fund receipts for such fiscal year which exceeds the base year selected actual state general fund receipts to the secretary and the director. Upon receipt of such certified amount, the secretary shall compute the percentage increase in such actual receipts. Based on such percentage of calculated receipt growth, the secretary shall reduce individual and corporation income tax rates in the same manner as provided in subsection (c)(1). (c) Any reduction in individual and corporation income tax rates prescribed by this section shall be reported to the chairperson of the assessment and taxation committee of the senate, the chairperson of the taxation committee of the house of representatives and the governor, and shall be published in the Kansas register prior to September 15 in any year in which there is such a reduction.

Section 2 amends K.S.A. 79-32,110 to provide that the tax rates shall be adjusted according to section 1 of this bill.

Section 3 amends K.S.A. 79-3603 to eliminate the reduction in the sales tax rate to 5.7% on July 1, 2013.

Section 4 amends K.S.A. 79-3620 to change the highway percentage to 16.213% and also change the sales tax rate to 6.3%.

Section 5 amends K.S.A. 79-3703 to eliminate the reduction in the compensating use tax rate to 5.7% on July 1, 2013.

Section 6 amends K.S.A. 79-3710 to change the highway percentage to 16.213% and also change the compensating use tax rate to 6.3%.

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

Fiscal Impact

Passage of this bill will reduce state general fund revenues in fiscal year 2012 by about $135.9 million and by $603.5 million in fiscal year 2013.

Based on actual fiscal year 2010 receipts and the consensus estimates for fiscal years 2011 and 2012, the SGF receipts from the selected taxes is estimated to grow by about 12.63%, or $610 million, in fiscal year 2011.
Applying the 12.63% reduction to the individual and corporate tax rates would reduce SGF receipts in fiscal year 2012 by about $135.9 million. The proposed tax rates for tax year 2012 and impact for fiscal year 2012 are shown below:

		TY 2012
	Current	Proposed
Individual	3.5%	3.058%
	6.25%	5.461%
	6.45%	5.635%

Fiscal Impact for FY 2012

($121.5) million

		TY 2012
	Current	Proposed
Corporate	4.0%	3.50%
	7.0%	6.116%

Fiscal Impact for FY 2012

($14.4) million

Total FY 2012 SGF Impact

($135.9) million

Using fiscal year 2012 consensus estimates and factoring in the estimated decrease in fiscal year 2012 of $135.9 million, SGF receipts from the selected taxes are expected to increase by 14.81%, or $715.3 million.
Applying the 14.81% reduction to the individual and corporate tax rates would reduce SGF receipts in fiscal year 2013 by about $603.5 million. The proposed tax rates for tax year 2013 and impact for fiscal year 2013 are shown below:

		TY 2013
	Current	Proposed
Individual	3.5%	2.61%
	6.25%	4.65%
	6.45%	4.80%

Fiscal Impact for FY 2013

($541.9) million

			TY 2013
		Current Proposed	
	Corporate	4.0%	3.5%
		7.0%	5.21%

Fiscal Impact for FY 2013

($61.6) million

Total FY 2013 SGF Impact

($603.5) million

Administrative Impact

The estimated costs necessary to implement this bill are $98,600 in fiscal year 2012. Those costs include about $84,600, or 2,820 hours, of programming time. The estimated user testing resources necessary to implement the bill are $14,000, or 480 hours, for testing the new programs.

Administrative Problems and Comments

Taxpayer/Customer Impact

Legal Impact

SUPPLEMENTAL NOTE ON
SUBSTITUTE FOR SENATE BILL NO. 95

As Passed Without Recommendation by Senate Committee on Assessment and Taxation

Brief*

Sub. for SB 95 would provide for reductions in individual and corporation income tax rates beginning in tax year 2012 based on the extent to which a certain specified group of State General Fund (SGF) tax sources have increased over the base year of FY 2010. The bill also would permanently freeze the sales and compensating use tax rate at 6.3 percent.

Income Tax Rate Rollback Provisions

The Director of Legislative Research would be required to certify at the conclusion of each fiscal year beginning with FY 2011 the amount by which a specific set of SGF tax receipts – generally most major income, privilege, and excise taxes – has grown over the FY 2010 base year. The Secretary of Revenue would then be required to compute that percentage growth and reduce all individual and corporation income tax brackets for the upcoming tax year by that percentage, except that the corporation income tax base rate would not be allowed to fall below 3.5 percent.

An exception to this formula would be provided when the selected set of tax sources produces less revenue in a given fiscal year relative to the preceding fiscal year, in which case no income tax rate reductions would be provided for the upcoming tax year. Following any such year when no rate reductions were triggered, the formula would be further

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*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at http://www.kslegislature.org adjusted to test the next fiscal year's receipts against the preceding fiscal year's receipts.

The Secretary of Revenue would be required to report all income tax rate reductions triggered under the formula to the Governor, the Chairperson of the Senate Assessment and Taxation Committee, and the Chairperson of the House Taxation Committee; and to publish such reductions in the *Kansas Register* prior to September 15.

Sales Tax Rate Increase Provisions

The bill also would amend that portion of current law under which the sales and use tax rate is scheduled to be 5.7 percent beginning in FY 2014 such that the rate instead would remain at 6.3 percent, the same rate in effect since July 1, 2010. Additional provisions relating to the disposition of sales and use tax revenue would be adjusted to reduce the percentage earmarked for distribution to the State Highway Fund (SHF). Such adjustments would provide the SHF with the same estimated amount of dollars expected under current law, effectively assuring that all of the additional receipts (from the 0.6 percent increase) would be deposited in the SGF.

Background

The original SB 95 would have phased out corporation income taxes over a period of years. The Senate Assessment and Taxation Committee on March 9 voted to strip the original content of the bill, insert the aforementioned formulaic rate adjustment and sales tax provisions, create a substitute bill, and adopt the substitute bill without recommendation.

Based on actual FY 2010 receipts and the current Consensus estimate for FY 2011, SGF tax receipts from the selected tax sources are expected to grow by approximately $610 million, or 12.63 percent, as summarized in the following table:

Selected SGF Tax Receipts
($ in thousands)

	FY 2010 Actual	FY 2011 Est.
Individual	$ 2,418,208	$ 2,577,175
Corporation	224,940	260,000
Financial Inst.	16,515	20,770
Retail Sales	1,652,037	2,000,000
Comp. Use	205,540	280,000
Cigarette	99,829	97,000
Tobacco Prod.	6,352	6,600
CM Beverage	1,989	1,900
Liq. Gallonage	17,953	18,800
Liq. Enforce	54,827	58,000
Liq. Drink	8,930	9,300
Corp. Franchise	41,462	18,000
Severance	81,870	92,800
TOTAL THESE SOURCES	**$ 4,830,452**	**$ 5,440,345**
GROWTH		**$ 609,893**
PCT GROWTH		**12.63%**

Applying the 12.63 percent rate reduction to all individual and corporation income tax brackets for tax year 2012 (except that the corporation base rate could not fall below the specified 3.5 percent floor) would adjust the rates as follows:

	Current	Proposed
Individual	3.50 %	3.058 %
Individual	6.25	5.461
Individual	6.45	5.635
Corporation	4.00 %	3.500 %
Corporation	7.00	6.116

The Department of Revenue estimates that such reductions in income tax rates would, by virtue of changes in withholding and estimated payments, have the following impact on FY 2012 SGF receipts:

	(in thousands)	
Individual	$	(121,500)
Corporation		(14,400)
Total	**$**	**(135,900)**

Based on the current Consensus estimates for FY 2012, the selected tax sources would be expected to be above the FY 2010 base year receipts, even after the $135.9 million reduction, by $715.3 million, or 14.81 percent.

Selected SGF Tax Receipts
($ in thousands)

	FY 2012 Est.	FY 2012 Proposed
Individual	$ 2,705,000	$ 2,583,500
Corporation	275,000	260,600
Financial Inst.	21,000	21,000
Retail Sales	2,090,000	2,090,000
Comp. Use	295,000	295,000
Cigarette	97,000	97,000
Tobacco Prod.	6,800	6,800
CM Beverage	1,900	1,900
Liq. Gallonage	19,200	19,200
Liq. Enforce	59,000	59,000
Liq. Drink	9,500	9,500
Corp. Franchise	8,000	8,000
Severance	94,300	94,300
TOTAL THESE SOURCES	**$ 5,681,700**	**$ 5,545,800**
REDUCTION BELOW CURRENT LAW		**$ (135,900)**
GROWTH OVER FY 2010		**715,348**
PCT. GROWTH OVER FY 2010		**14.81%**

Applying the further income tax rate reductions to tax year 2013 and taking into account the 3.5 percent floor for the corporation base rate would change the rates as follows:

1-9

	TY 2012	TY 2013
Individual	3.058 %	2.610 %
Individual	5.461	4.650
Individual	5.635	4.800
Corporation	3.500 %	3.500 %
Corporation	6.116	5.210

The Department of Revenue estimates that such reductions would have the following impact on FY 2013 receipts:

	(in thousands)
Individual	$ (541,900)
Corporation	(61,600)
Total	**$ (603,500)**

Additional income tax reductions of growing magnitude would be expected beginning in FY 2014 based on the assumption that SGF receipts would be expected to continue to grow under current law. Computation of future fiscal notes for income taxes under this formula is extremely problematic, given that the Consensus estimates for FY 2013 will not be made until November 2011; and estimates for FY 2014 will not be made until November 2012. However, based on the current out-year assumptions agreed to with the Department of Transportation, the sales tax rate increase in FY 2014 would be expected to increase SGF receipts by about $251.4 million in that year.

State of Kansas

Senate Chamber

TY MASTERSON
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ty.masterson@senate.ks.gov

Good Afternoon Mr. Chairman and members of the committee,

Thank you for the opportunity to testify today in favor of Sen Sub for SB95 and SB232.

Simply put, it embeds an apolitical formula into statute that methodically shifts us structurally away from a tax on personal income and incentivizes a broader and fairer excise tax base. It moves us away from reliance on revenue estimates and projected profiles used in our annual arguments, to an actual look back and reaction to real numbers. All we know for certain about revenue estimates, estimated fiscal notes, and profile projections is that they are always wrong; we just don't know how wrong they are when we act on them.

So here is the base formula:

A B C

Logic Test: IF (MCFYR) > (IPFYR) Then (if true):

$$CITR * \left[1- \frac{(MCFYR - BFYAR)}{BFYAR}\right] = NCYITR$$

MCFYR = Most Current Fiscal Year Actual Receipts (income +excise)

IPFYR = Immediately Previous Fiscal Year Actual Receipts (income + excise)

BFYAR = Base Fiscal Year Actual Receipts (FY 2010 receipts (income + excise))

CITR = Current Income Tax Rate

NCYITR = Next Calendar Year Income Tax Rate

In simplistic written form: if the most currently concluded fiscal year actual receipts, in totaled income and excise taxes, are greater than the immediately preceding fiscal year actual receipts in the same categories; then the income tax rates applied to the following calendar year will be reduced by the calculated percentage of receipt growth calculated from the base fiscal year (FY2010) actual receipts to the most currently concluded fiscal year actual receipts.

Sn. Assmnt & Tax
3-15-11

Attachment # 2

This predominately removes the political spin from the process. It looks back to <u>actual</u> receipts (in the combined tax line items), gives time to review, and applies any adjustments forward. I have already heard political "buzz words" applied to this bill, from those who fear it may reduce our government's ability to spend, like Tabor-lite or Tax cap. Either one could not be farther from the truth. There is nothing here that requires any kind of super majority or caps any tax at any level. Nothing would prevent us (the legislature) from raising any tax, or for that matter, from stopping any formula adjustment before it takes effect. If there is no receipt growth, in this formula there is no change, no "cost", and no fiscal note. <u>Total receipts have to grow</u> for the formula to trigger. The growth has to be sufficient enough to, not only replace any reduced receipts from one line item, but from all income and excise taxes lines.

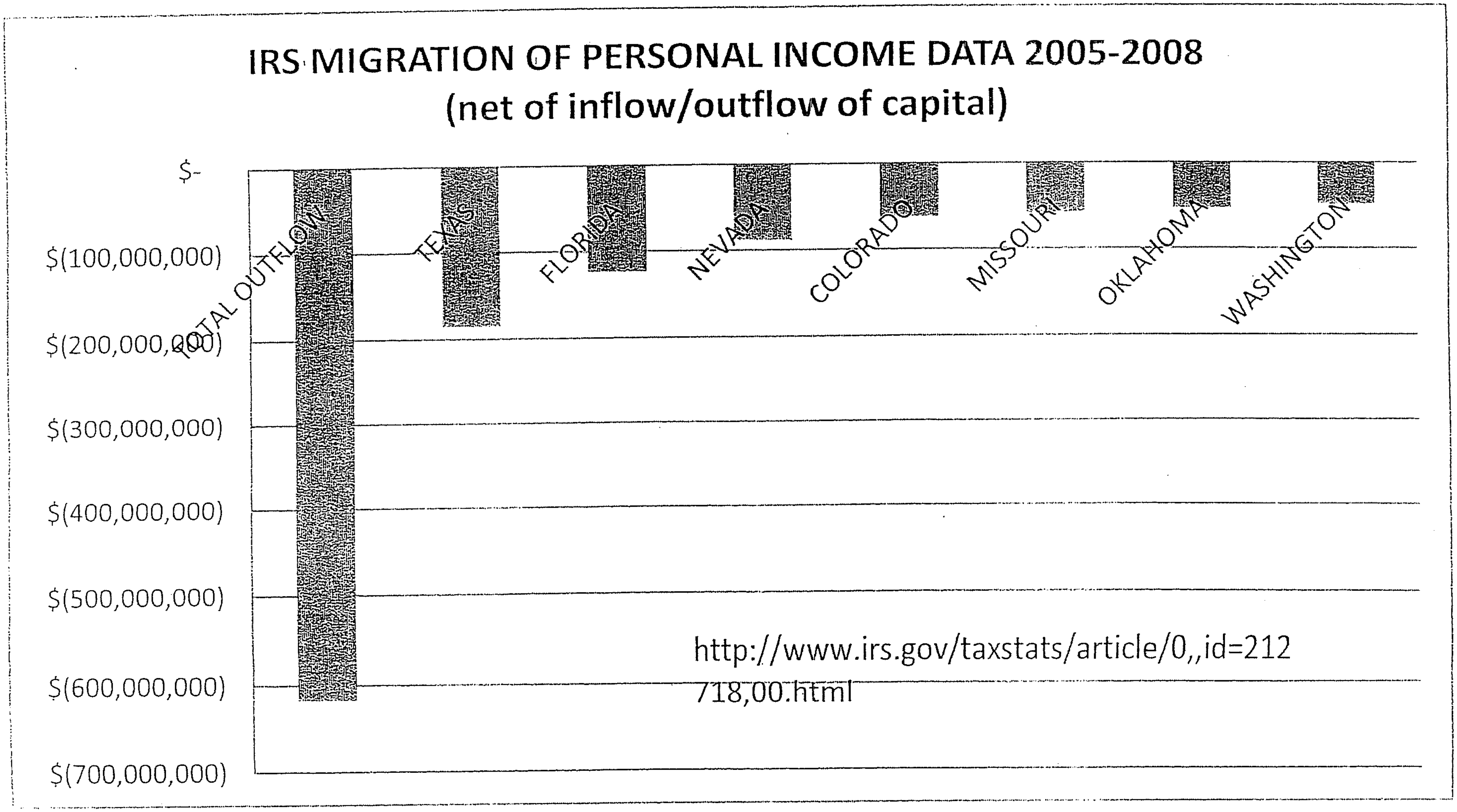
Not understanding this, they may ask if we can afford it. According to the IRS, with an estimated $600M in income having migrated out of the state, to no and low income tax states, (see attachment) I ask, how can we afford not to? I believe this type of legislation will become model for other states, some with much more aggressive postures toward economic growth. We need to be in front of the curve, not behind it.

The house is considering a bill (HB2381) that attaches the addition of the CPI index to the denominator in the base formula, but I would highly discourage embedding an unpredictable index. Not only would it prolong the process, but could reduce it to a point of relative ineffectiveness. If there is a desire to move slower, I would suggest simply changing the base year to FY2011, or embedding a fixed tax revenue increase factor of 1-2% off the current base. Then the bill would still provide true predictability in the shift, stop incenting migration out of the state, and encourage corporations/jobs to remain.

Thank you for the opportunity to address you, and I would stand for questions when you deem it appropriate.

Sen. Ty Masterson

2-3


IRS MIGRATION OF PERSONAL INCOME DATA 2005-2008
(net of inflow/outflow of capital)
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$(100,000,000)
$(200,000,000)
$(300,000,000)
$(400,000,000)
$(500,000,000)
$(600,000,000)
$(700,000,000)
TOTAL OUTFLOW
TEXAS
FLORIDA
NEVADA
COLORADO
MISSOURI
OKLAHOMA
WASHINGTON
http://www.irs.gov/taxstats/article/0,,id=212718,00.html

STATE OF KANSAS

TERRY BRUCE
STATE SENATOR
34TH DISTRICT
RENO COUNTY

COMMITTEE ASSIGNMENTS
CHAIR: LEGISLATIVE POST AUDIT
MEMBER: JOINT COMMITTEE ON SPECIAL CLAIMS AGAINST THE STATE
AGRICULTURE
JUDICIARY
NATURAL RESOURCES
UTILITIES

TOPEKA

SENATE CHAMBER

To: Senate Assessment and Taxation Committee
From: Senator Terry Bruce
Re: Senate Substitute for Senate Bill 95

March 15, 2011

Committee Members:

It is vital to the continued prosperity of Kansas for us to adopt a tax policy that is both regionally and nationally competitive. Senate Substitute for Senate Bill 95 is such a vehicle and, accordingly, I urge you to give it serious consideration.

Regional Competitiveness

Currently, Kansas is the high water mark for individual income tax in the region, second only to Nebraska. Missouri, Colorado and Oklahoma, who just reduced its top individual income tax bracket to 5.25%, are all lower. What's more, a nearby national economic powerhouse, Texas, has no income tax at all.

In this competitive environment, what chance does Kansas have to capitalize on continued investment into our state? Please refer to the article attached to my testimony, A Tale of Two States: The Real Effect of Individual Income Tax Cuts, for a study as to Oklahoma's competitive advantage against Kansas.

Migration from Kansas to Low or No Income Tax States

The handout provided with my testimony is a compellation of IRS data showing a migration trend from high income tax state to those with no income tax states. As the handout shows, states with now income tax have experienced a greater increase in state revenue than their high income tax counter-parts. A review of the data also illustrates the out flow of Kansans to surrounding states with lower income tax rates, Oklahoma, Colorado and Missouri. This further suggests we are not regionally competitive.

Once the buy down of the income tax commences, we will be able to attract more businesses and job seekers to Kansas, which will grow our economy and increase state revenue.

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Sn. Assmnt & Tax
3-15-11
Attachment # 3

Taxes vs. Budget
With any dramatic shift in tax policy, we must insure that our budgetary obligations are not adversely affected. Senate Substitute for Senate Bill 95 balances Kansas' need for lowering its taxes with the obligation to fund the state's budget.

The buy down measure establishes a base-line year, FY 2010. Once FY 2011 is concluded and the state's revenue receipts have been certified, the percentage of growth between FY 2011 and FY 2012 will be calculated. The individual income tax and corporate income tax brackets are then lowered by the percentage of growth between the two fiscal years.

In future years, in order for the above formula to work, growth has to occur between any two consecutive fiscal years. For instance, if the receipts between FY 2017 are less than FY 2016 the trigger does not work, so not tax cut will occur. This insures that the state will always be able to make its financial obligations from one year to the next.

If the ending receipts between FY 2017 are greater than FY 2016, the trigger would occur. At that point, the receipts from FY 2017 would be compared to the statutory base year, FY 2010. Once again, the percentage of growth between the recent fiscal year, FY 2017, and FY 2010 would be calculated and the individual and corporate income tax brackets would be lowered by the percentage of growth.

By using this method, Senate Substitute for Senate Bill 95 does not just slash taxes and leave a huge budget shortfall. The incremental buy down of the income tax allows Kansans to adjust their spending habits so that individuals are allowed to spend more money in their local economies. These funds, once collected as income tax, will then be collected as Sales Tax or another consumption related tax. Please see the article A Tale of Two States: The Real Effect of Individual Income Tax Cuts to see how Oklahoma's collection of sales tax grew after income tax cuts were implemented.

In other words, Kansas will cease taxing productivity and begin relying on taxing consumption.

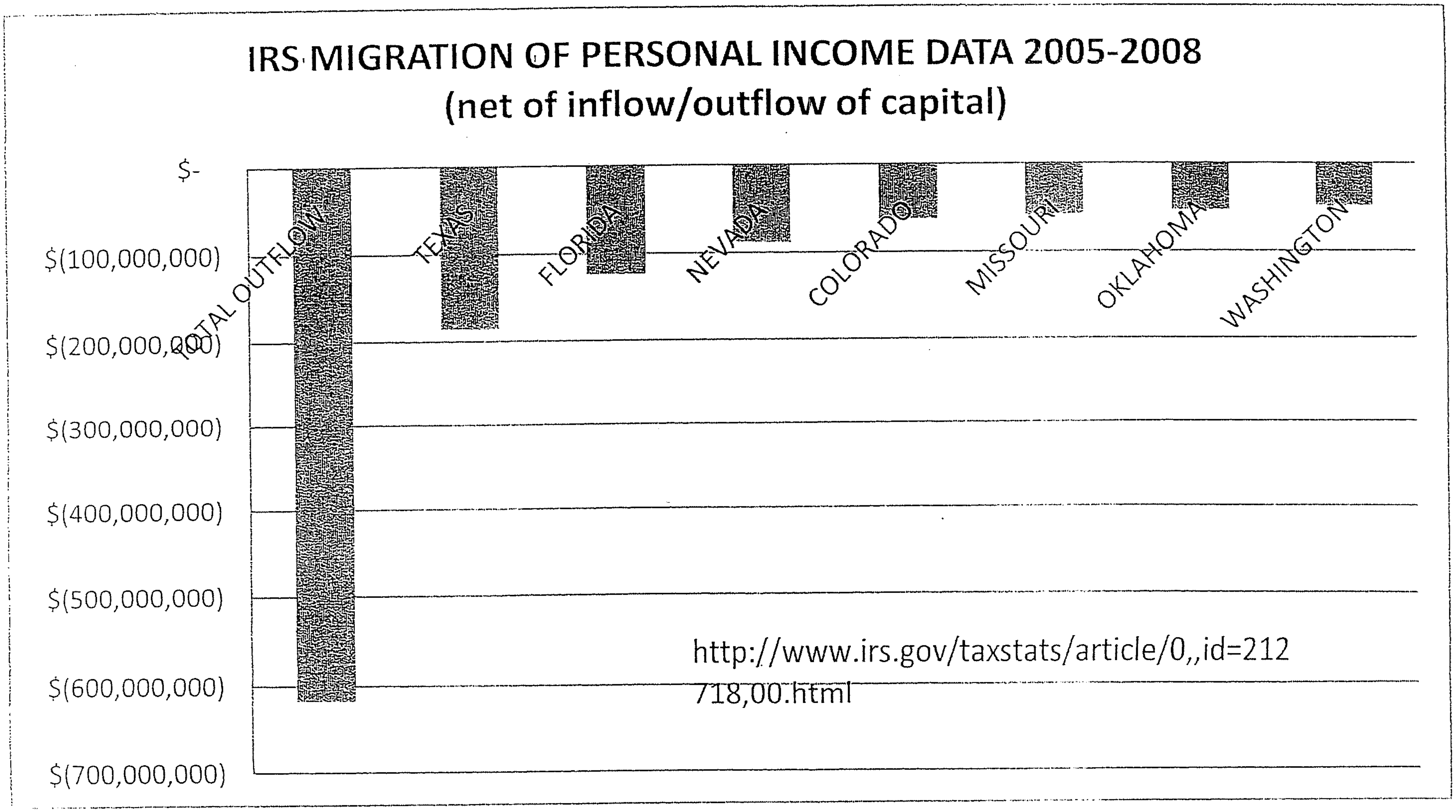
The individual income tax rate will eventually be lowered to zero. Assuming average economic growth, it will take more than a decade for this to occur. The corporate income tax rate will eventually be lowered to 3.25%. There exists a good deal of data to suggest that a corporate tax rate of 3.5% to 3.25% is low enough that, compared to the other tax incentives offered only to C-corporations, the rate is viewed as being insignificant and would not deter relocating into Kansas.

Conclusion
Given the current economic climate, Kansas has to become more competitive. Having a high income tax deters investment, and must be altered. Senate Substitute for Senate Bill 95 allows us to do so reasonably. If we do not adopt it, or a similar alternative, we will be forced to do so in the near future as our anti-competitive tax climate continues to hamper economic growth.

10 Year Economic Performance
No Income Tax Versus High Income Tax 1998-2008

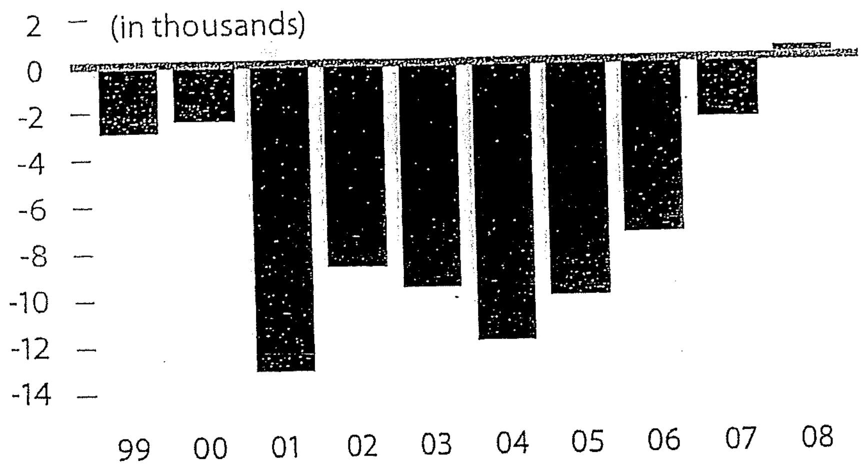
	Individual Income Tax Rate	Population Growth	Total State Receipts Growth
Wyoming	0.00%	8.6%	161.3%
Nevada	0.00%	41.1%	128.7%
Alaska	0.00%	11.0%	105.3%
Florida	0.00%	19.0%	104.8%
Texas	0.00%	20.6%	88.3%
Tennesse	0.00%	12.0%	72.8%
New Hampshire	0.00%	9.6%	72.4%
Washington	0.00%	13.8%	68.2%
South Dakota	0.00%	7.8%	63.4%
Average		15.9%	96.1%
California	10.55%	10.9%	91.1%
New Jersey	10.75%	4.5%	87.7%
Maryland	9.30%	8.7%	82.4%
Vermont	9.40%	3.4%	81.2%
New York	10.50%	3.8%	77.6%
Hawaii	11.00%	5.9%	70.6%
Ohio	8.24%	1.9%	58.2%
Oregon	11.00%	12.8%	58.1%
Maine	8.50%	4.8%	57.9%
		6.3%	73.9%

Source: *Rich States, Poor States* 3rd Edition page 26-27


IRS MIGRATION OF PERSONAL INCOME DATA 2005-2008
(net of inflow/outflow of capital)
$-
$(100,000,000)
$(200,000,000)
$(300,000,000)
$(400,000,000)
$(500,000,000)
$(600,000,000)
$(700,000,000)
TOTAL OUTFLOW
TEXAS
FLORIDA
NEVADA
COLORADO
MISSOURI
OKLAHOMA
WASHINGTON
http://www.irs.gov/taxstats/article/0,,id=212718,00.html

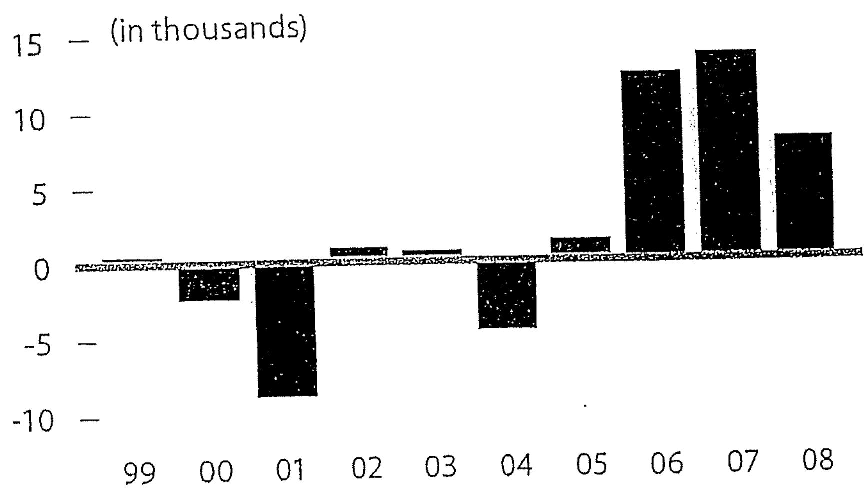
Kansas

Absolute Domestic Migration
Cumulative 1999-2008 -68,171 Rank: 39



Oklahoma

Absolute Domestic Migration
Cumulative 1999-2008 20,415 Rank: 22



	Kansas		Oklahoma		
	Rate	Revenue	Rate	Revenue	OK vs. KS Collections
		Corporate			
FY-06	4.00%	$ 350,200,000	6.00%	$ 304,381,318	$ (45,818,682)
FY-07	4% & 7.35% over $50,000	$ 442,449,000	6.00%	$ 561,375,294	$ 118,926,294
FY-08	4% & 7.35% over $50,000	$ 432,078,000	6.00%	$ 360,064,549	$ (72,013,451)
FY-09	4% & 7.05% over $50,000	$ 240,258,000	6.00%	$ 342,761,553	$ 102,503,553
		Individual			
FY-06	6.45%	$ 2,371,253,000	6.65%	$ 2,755,776,194	$ 384,523,194
FY-07	6.45%	$ 2,709,340,000	6.25%	$ 2,784,301,983	$ 74,961,983
FY-08	6.45%	$ 2,896,653,000	5.65%	$ 2,787,444,853	$ (109,208,147)
FY-09	6.45%	$ 2,682,000,000	5.50%	$ 2,544,576,061	$ (137,423,939)
		Sales			
FY-06	5.30%	$ 1,736,048,000	4.50%	$ 1,677,854,488	$ (58,193,512)
FY-07	5.30%	$ 1,766,768,000	4.50%	$ 1,804,313,384	$ 37,545,384
FY-08	5.30%	$ 1,711,398,000	4.50%	$ 1,930,951,193	$ 219,553,193
FY-09	5.30%	$ 1,689,516,000	4.50%	$ 1,972,769,753	$ 283,253,753
			Net Revenue Difference 06-09		$ 798,609,623

() indicates KS collected more

OCPA Memorandum

A Tale of Two States: The Real Effect of Individual Income Tax Cuts

By Steve Anderson MBA, CPA
September 2010

Kansas and Oklahoma are states with much in common. They share not only a border but also economies and demographics that are in many ways mirror images of each other. They have similar populations made up of a couple of large urban areas but otherwise are largely rural states. The states' economies are both rooted primarily in agriculture and mineral extraction. The business landscape is populated by some large companies, but overall small businesses predominate.

At the turn of the new millennium, the three major tax revenues for the states—individual income tax, corporate income tax, and sales tax—were also near duplicates of each other. In FY-00 Oklahoma was collecting slightly more individual and corporate income tax revenues, and Kansas was roughly offsetting those amounts by collecting more sales tax. However, these made decisively different decisions regarding tax policy over the ten (10) years following.

This diverging of the states' policy decisions provides the closest thing possible in the real world to a controlled experiment in liberal-versus-conservative tax policy: Does cutting individual income tax rates generate economic activity that will provide revenues to offset the rate reductions, or will those rate reductions simply result in the state having that much less revenue?

Kansas began the decade with a lower individual and corporate tax rate, but with a slightly higher sales tax rate. Through the decade Kansas chose to raise sales and corporate tax rates while standing pat with a relatively high individual income tax rate.

Meanwhile, Oklahoma decided to begin a program of reducing the individual income tax rate significantly, interrupted only by a two-year period during which the rate went back to prior levels due to statutory triggers. Oklahoma's sales tax and corporate income tax rates were kept constant throughout the decade.

The following chart shows the rates of taxation over the last decade for each state in the three major tax categories.

Three Major Tax Categories by Rate (top rate used for comparison)

	Individual Income Tax Rate		Corporate Income Tax Rate		Sales Tax Rate	
	Kansas	Oklahoma	Kansas	Oklahoma	Kansas	Oklahoma
FY-00	6.45%	6.75%	4.00%	6%	4.90%	4.50%
FY-01	6.45%	6.75%	4.00%	6%	4.90%	4.50%
FY-02	6.45%	6.75%	4.00%	6%	5.30%	4.50%
FY-03	6.45%	7%	4.00%	6%	5.30%	4.50%
FY-04	6.45%	7%	4.00%	6%	5.30%	4.50%
FY-05	6.45%	6.65%	4.00%	6%	5.30%	4.50%
FY-06	6.45%	6.65%	4.00%	6%	5.30%	4.50%
FY-07	6.45%	6.25%	4% & 7.35% over $50,000	6%	5.30%	4.50%
FY-08	6.45%	5.65%	4% & 7.35% over $50,000	6%	5.30%	4.50%
FY-09	6.45%	5.50%	4% & 7.05% over $50,000	6%	5.30%	4.50%

Source: http://www.taxfoundation.org/taxdata/show/228.html

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Liberals have long argued that a reduction in the individual income tax rate would simply mean that the state would generate that much less in revenue. This static analysis assumes that funds left in the hands of the taxpayer will not stimulate the economy or build wealth. In this view, the net effect of an individual income tax cut will be to leave a hole to fill in the state budget.

By contrast, fiscal conservatives have maintained that a cut in individual income taxes would stimulate the economy. Those in the private sector would take the funds left in their hands and build real wealth, with the result being an uptick in economic activity. This economic activity would then generate new tax revenues, mitigating the decrease in revenue. Those who endorse this concept of a dynamic model of the economy maintain that the government cannot build wealth, and that leaving too much money in government hands slows the economic cycle. Economists refer to this speed as the "velocity of money," which—using the dynamic model of individual income tax cuts—should manifest itself in increases in corporate sales and profits, thereby generating increased sales tax and corporate tax revenues for the state.

Because the few exogenous variables between Kansas and Oklahoma are so small, these two states' differing tax policies provide a perfect opportunity to test these competing models of conservative and liberal tax policy.

In this study, I use the top individual income tax rates for comparison. In both states the top rate is the rate paid by the majority of taxpayers. Homestead and sales tax exemptions move many people in the lower brackets into credit or no-tax-owed positions. I also excluded from this examination the wellhead taxes that oil and gas producers pay; even though these revenues doubtless have some impact, I believe an examination of the actual structure and composition of the wellhead taxes reduces their influence to acceptably low levels. (An explanation of the wellhead taxes in Oklahoma and Kansas and the rationale for their exclusion is included at the end of this study.)

Oklahoma reduced its top individual income tax rate from 7 percent in 1999 to 5.5 percent over the course of ten years, with the largest cuts in 2000 and 2007 through 2009. This is a 21 percent reduction in the top rate. Meanwhile, Kansas left its top individual income tax rate unchanged over this time period.

Individual Income Tax Collections

	Kansas		Oklahoma		
	Rate	Revenue	Rate	Revenue	KS vs. OK Collections
FY-00	6.45%	$ 1,854,726,000	6.75%	$ 2,134,506,071	$ 279,780,071
FY-01	6.45%	$ 2,214,065,000	6.75%	$ 2,279,364,387	$ 65,299,387
FY-02	6.45%	$ 1,829,609,000	6.75%	$ 2,286,110,394	$ 456,501,394
FY-03	6.45%	$ 1,750,054,000	7%	$ 2,113,947,132	$ 363,893,132
FY-04	6.45%	$ 1,888,434,000	7%	$ 2,319,213,479	$ 430,779,479
FY-05	6.45%	$ 2,050,562,000	6.65%	$ 2,468,608,717	$ 418,046,717
FY-06	6.45%	$ 2,371,253,000	6.65%	$ 2,755,776,194	$ 384,523,194
FY-07	6.45%	$ 2,709,340,000	6.25%	$ 2,784,301,983	$ 74,961,983
FY-08	6.45%	$ 2,896,653,000	5.65%	$ 2,787,444,853	$ (109,208,147)
FY-09	6.45%	$ 2,682,000,000	5.50%	$ 2,544,576,061	$ (137,423,939)

All revenue numbers are from Consensus Revenue Estimate table in 2000–2010 Kansas Governor's Budgets, http://budget.ks.gov/gbr.htm, and table D-1 in Oklahoma Governor's Executive Budget books 2001–2010, http://www.ok.gov/OSF/documents/bud11hd.pdf.

Oklahoma's individual income tax collections grew by 19 percent while Kansas' revenues grew by 44 percent. So at first glance, it appears that the static-model crowd could declare victory. But there are other factors to consider.

First (and quite obvious to me because our accounting firm has a tax office in Kansas), part of the growth in Kansas' individual income tax revenues in FY-07, FY-08, and FY-09 is driven by the change in operating structure by many Kansas businesses to avoid the increase of the top corporate rate from 4 percent to more than 7 percent. In the three years prior to Kansas' huge corporate tax increase, Kansas collected $110 million more than Oklahoma from corporations. However, after increasing the tax rate from FY-07 through FY-09, Kansas collected $149 million less from corporations for that three-year period than Oklahoma. That is nearly a quarter-billion-dollar increase in Oklahoma's favor. It would appear that raising taxes can have exactly the opposite effect of increasing revenues, just as the dynamic model would predict.

However, the really important tax-revenue component in dynamic scoring is the sales tax. Sales tax revenues are an undeniable measure of economic activity. When the decade began, Kansas had a 4.9 percent sales tax for the first two years but then increased it to 5.3 percent for the last eight years. Meanwhile, Oklahoma kept its rate constant at 4.5 percent.

In FY-00 Kansas' sales tax collections exceeded Oklahoma's by $88 million, but by FY-09 Oklahoma's sales tax revenues exceeded Kansas' collections by $283 million.[1] While Kansas' sales tax revenues grew by 17 percent over the last ten years, Oklahoma's increased by 46 percent. The majority of the individual income tax rate reduction in Oklahoma occurred in the last three years of the decade while in the middle of a recession, but surprisingly (at least to the static-model crowd) Oklahoma's sales tax revenues grew by 18 percent while Kansas' fell by 3 percent for the same period.

Sales Tax Revenues

	Kansas		Oklahoma		
	Rate	Revenue	Rate	Revenue	KS vs. OK
FY-00	4.90%	$ 1,440,295,000	4.50%	$ 1,351,803,097	$ (88,491,903)
FY-01	4.90%	$ 1,423,059,000	4.50%	$ 1,441,929,046	$ 18,870,046
FY-02	5.30%	$ 1,470,599,000	4.50%	$ 1,443,427,590	$ (27,171,410)
FY-03	5.30%	$ 1,567,722,000	4.50%	$ 1,404,275,611	$ (163,446,389)
FY-04	5.30%	$ 1,612,067,000	4.50%	$ 1,496,238,185	$ (115,828,815)
FY-05	5.30%	$ 1,647,663,000	4.50%	$ 1,546,621,382	$ (101,041,618)
FY-06	5.30%	$ 1,736,048,000	4.50%	$ 1,677,854,488	$ (58,193,512)
FY-07	5.30%	$ 1,766,768,000	4.50%	$ 1,804,313,384	$ 37,545,384
FY-08	5.30%	$ 1,711,398,000	4.50%	$ 1,930,951,193	$ 219,553,193
FY-09	5.30%	$ 1,689,516,000	4.50%	$ 1,972,769,753	$ 283,253,753

All revenue numbers are from Consensus Revenue Estimate table in 2002–2010 Kansas Governor's Budgets, http://budget.ks.gov/gbr.htm, and table D-1 in Oklahoma Governor's Executive Budget books 2001–2010, http://www.ok.gov/OSF/documents/bud11hd.pdf.

Kansas' sales tax rate is nearly 18 percent higher than Oklahoma's, which in the theory of liberals and their static model means that Oklahoma would have had to generate 18 percent more activity just to stay even with Kansas' collections. Yet in the last three years of the decade Oklahoma generated more than $540 million more in sales tax revenue than Kansas. Can there be any question which state's economy is healthier?

Did the income tax cut in Oklahoma really drive this economic activity? Rather than listen to competing economists argue tax theory it is far more instructive to see what happened in a real-world situation. The following chart shows the year-to-year relationship of the top individual tax rates to the sales tax revenues in each state. Note that in FY-03 and FY-04, when the statutory trigger increased Oklahoma's individual income tax rate back to 7 percent, Oklahoma's sales tax revenues compared to Kansas' fell. However, in FY-05, when the Oklahoma's individual tax rate started to fall, sales tax revenues began to increase in relation to Kansas'. FY-07 was the first time that Oklahoma's top individual income tax rate was less than Kansas' top rate, and it began a string of increasing Oklahoma sales tax revenues that amounts to a reversal of nearly a half-billion-dollar difference in Oklahoma versus Kansas sales tax collections between FY-03 and FY-09.

	Kansas Individual Income Tax Rate	Oklahoma Individual Income Rate	KS vs. OK Collections ( ) indicates KS collected more
FY-00	6.45%	6.75%	$ (88,491,903)
FY-01	6.45%	6.75%	$ 18,870,046
FY-02	6.45%	6.75%	$ (27,171,410)
FY-03	6.45%	7%	$ (163,446,389)
FY-04	6.45%	7%	$ (115,828,815)
FY-05	6.45%	6.65%	$ (101,041,618)
FY-06	6.45%	6.65%	$ (58,193,512)
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All revenue numbers are from Consensus Revenue Estimate table in 2002–2010 Kansas Governor's Budgets, http://budget.ks.gov/gbr.htm, and table D-1 in Oklahoma Governor's Executive Budget books 2001–2010, http://www.ok.gov/OSF/documents/bud11hd.pdf.

Now we have an "apples to apples" comparison on which to draw, it seems that individual income tax cuts do not impair revenues for state services. In fact, it appears to be quite the contrary: Tax cuts that spur economic activity and build wealth can increase revenues to the state, as evidenced by the increases in sales and corporate income tax collections. In FY-00 Oklahoma collected $135 million more than Kansas in combined individual, corporate, and sales tax revenues. After a decade in which it reduced its individual income tax rate by 21 percent, Oklahoma collected $248 million more in FY-09 than Kansas in those same three tax revenue categories. It is time that more states (and our federal government) took note by putting funds back in the hands of the private sector so it can generate the sort of economic activity that will allow us to end this recession.

Now some might argue that differences in the two states' Gross Production Taxes (GPT) are an additional major driver of the change. Oklahoma does collect more than Kansas by a substantial margin, but in FY-08, for example, GPT represented only 14 percent of total tax revenues for Oklahoma.[2] In Oklahoma oil and gas producers pay a top rate of 7 percent and in Kansas 10.37 percent at the wellhead based on market price to fund this source. These revenues are largely tied to the price of oil and gas (since they are taxed on the gross value of the oil and gas) and hence fluctuate wildly. The market price of oil and gas is arguably wholly independent of the movement of the tax rates in either state.

When we examine the relationship between sales tax revenues and GPT in Oklahoma over the last ten years, we find very little consistent correlation.[3] For example, a large GPT revenue increase occurred in 2006 with a subsequent large GPT decrease in FY-07 and then an even further reduction in FY-08,[4] but there was the opposite movement in Oklahoma sales tax receipts. In fact, GPT revenues grew rapidly from 2002 to 2006, but sales tax revenues did not mirror their increases and only began their rapid increase when the tax cuts at the individual income tax level occurred.

There are factors that I believe explain this lack of a positive correlation. The relationship of GPT revenues to business activity and/or sales tax revenues is not as those outside the industry might think. Much of the money from production after the wellhead taxes is paid to out-of-state recipients and, as such, does not generate sales taxes for Kansas or Oklahoma. Market price spikes will not add jobs or stimulate supporting industry in general, simply because regardless of the price the industry has the personnel and facilities in place to handle what is essentially only a slightly higher volume without any additional need for growth. The oil and gas drilling industry typically lags price increases, and if the price of oil and/or gas falls rather quickly the new drilling activity may actually never occur.

Oklahoma's production has grown at a much faster rate than Kansas', which is not a surprise to conservative tax policy analysts who would note that a taxing differential of nearly 48 percent—which Kansas' higher rate of 10.37 percent provides—influences choices. Oklahoma has greater oil and gas reserves than

Kansas thanks largely to nature, but it is unknown to what extent the production difference is created by the tax disparity disincentive to drill in Kansas for deeper reserves or to employ costly secondary recovery techniques to enhance field production.

It would also be naïve to believe that from 2007 to 2009, when Oklahoma's top individual income rate fell 17 percent and the Oklahoma corporate rate became less than Kansas' top rate, that there was not some movement by oil and gas companies to produce more in Oklahoma than in Kansas. While it is true that "shutting in" wells to wait for higher prices is not practical, there are some wells that limit their production to less than maximum output during price depressions. It is common sense that net profit will be the determining factor in what wells are produced and where new drilling will occur in general. In other words, income tax rates influence GPT not vice versa, and the reduction in Oklahoma's rates in comparison to Kansas' drove more drilling and production to Oklahoma.

Endnotes

[1] All numbers for tax collections numbers and used in calculations are from Consensus Revenue Estimate table in 2000–2010 Kansas Governor's Budgets, http://budget.ks.gov/gbr.htm, and table D-1 in Oklahoma Governor's Executive Budget books 2001–2010, http://www.ok.gov/OSF/documents/bud11hd.pdf.

[2] Oklahoma Policy Institute, "Fact Sheet: Oklahoma's Gross Production Taxes and Exemptions" (April 27, 2009), 1–3.

[3] Oklahoma Policy Institute, figure 2, "Oklahoma Gross Production Tax Revenues, FY '82–FY '08 (in Millions)," in "Fact Sheet," 1.

[4] Oklahoma Policy Institute, table 2, "Summary of Oklahoma Gross Production Tax Exemptions, as of FY '09," in "Fact Sheet," 3.

NFIB

The Voice of Small Business®

Testimony in Support of Sub for SB95 by Mr. Daniel Murray
Kansas State Director, National Federation of Independent Business

Senate Assessment & Taxation Committee
Tuesday, March 15, 2011

Good morning, Chairman Donovan and members of the Committee. The NFIB is the state's leading small business advocacy organization representing over 4,100 small business owners across Kansas. I am pleased to be here in support of Sub for SB95.

First, taxes matter to small business. As part of representing small business owners the NFIB pays close attention to the concerns of our members and taxes consistently rates high on the list. The NFIB Research Foundation's Small Business Problems and Priorities consistently ranks tax issues, whether tax rates or complexity, at the top of the list.[1] In addition, the monthly Small Business Economic Trends (SBET) survey regularly ranks taxes as amongst the most important problems.[2]

Second, Kansas must improve its tax climate. The Small Business & Entrepreneurship Council's "Business Tax Index 2010" ranks the states from best to worst in terms of the costs of their tax systems on entrepreneurship and small business. The Index pulls together 16 different tax measures, and combines those into one tax score that allows the 50 states and District of Columbia to be compared and ranked. **Kansas ranks 32nd—that is unacceptable.** Here's how we compare to our neighboring states: SD-1st, CO-10th, OK-14th, MO-16th, NE-36th.[3]

With that, NFIB/Kansas supports Sub for SB95 because we hope this is the next step in making Kansas the best state in America for our members to own, operate and grow their business. The proposal in Sub for SB95 to "buy down" individual income tax levels as Kansas experiences growth will most certainly help our small businesses grow and compete.

The majority of small businesses are organized as pass through entities, with nearly 75-percent choosing a pass through business structure.[4] This means that most small businesses will pay their taxes at the individual level rather than the corporate level. The owner of a pass through business may report a higher amount of income on their individual return than they actually take home. That income is the money invested back into the business: it's the capital they use to purchase new equipment, pay the salary and benefits of workers and meet day-to-day expenses. Sub for SB95 will ensure small businesses get to keep more of their money to reinvest and grow jobs.

In closing, small businesses truly are the engine of economic growth. This isn't just a slogan as small businesses created 60 to 80 percent of the net new jobs over the last decade. Additionally, taxes matter to small business because they divert resources from and reduce incentives for productive, private-sector risk taking that generates innovation, growth and jobs. The passage of Sub for SB95 will pay dividends when business owners can keep more of their money to invest in jobs. This legislature has a chance to move Kansas from 32nd to 1st. We urge you to make the leap and support Sub for SB95.

---

[1] William J. Dennis, *Small Business Problems and Priorities*, NFIB Research Foundation, Washington, DC series.

[2] In the latest Small Business Economic Trends Survey, taxes ranked first among important problems. *Small Business Economic Trends*, NFIB Research Foundation, Washington, DC, February 2011.

[3] *Small Business & Entrepreneurship Council's Business Tax Index 2010: Best to Worst State Tax Systems for Entrepreneurship & Small Business: http://www.sbecouncil.org/uploads/BTI2010_2.pdf*

[4] Firms of all size responded that 20.9-percent organized as sole proprietors, 5.8-percent as partnerships, 25.6-percent as C-Corps, 30.9-percent as S-percent as LLCs, and 4.2-percent as other/DNK. *Business Structure – NFIB Small Business Poll*, NFIB Research Foundation, Washington, DC, Volume 4;

Sn. Assmnt & Tax
3-15-11
Attachment # 4

achieve more

Testimony before the Senate Assessment & Taxation Committee
Sub to SB 95 – Income Tax Reduction
Presented by J. Kent Eckles, Vice President of Government Affairs

Tuesday, March 15th, 2011

The Kansas Chamber of Commerce appreciates the opportunity to present testimony in favor of Sub. To SB 95, which would reduce income taxes via a trigger mechanism when tax receipts increase over the immediately preceding fiscal year.

Like you, we want Kansas to grow economically and ultimately generate more tax receipts. By lowering the right mix of taxes that presently discourage capital investment and job creation, the state can certainly grow its way to out of this economic downturn and further insulate itself from future recessions. There is ample evidence in other states of like-size to Kansas that shows just how to achieve economic growth.

We appreciate legislative efforts over the past several years to reduce the business tax burden by phasing out or reducing the following taxes: estate ('05), business machinery & equipment property tax ('06), franchise ('07) and corporate income ('08). Unfortunately, Kansas' competitor states have not sat idly by – they have outpaced us in tax burden reduction efforts. (See Attachment 1)

Each year the Kansas Chamber commissions an Annual Competitive Index, which compares nearly 80 metrics against our peer states (surrounding geographic states plus Iowa). State Business Tax Structure and Business Tax Burden are but two of them and we rank 37th and 39th respectively for each metric.

Also on an annual basis, the Kansas Chamber commissions Cole Hargrave Snodgrass & Associates to poll 300 member and non-member businesses that reflect Kansas geographically and by number of employees. When asked what was most important to their profitability, the overwhelming response was "Lower Taxes on Businesses" with 49%. (See attachment 2)

Also, from the same poll, we asked "Which tax, if any, would most like to see lowered?" The results are:

	Dec. 10th
Reduction in personal income tax	52%
Eliminate corporate income tax	19%
Repeal of the recently enacted 1% sales tax increase	18%
None	5%
Undecided (vol.)	6%

We would like to point your attention to an article that appeared in the February 25th, 2011 edition of *The Wall Street Journal* entitled "The State Business Tax Revolt." (See Attachment 3). The article mentions how other competing states clearly recognize the value of bringing down their income tax rates especially given that five states have no income taxes. Further, the article points out a 2009 Federal Reserve Bank of Kansas City's study documenting via 30 years of data on business taxes and workers' paychecks, that high income tax rates reduce average wages of workers.

In the book Rich States, Poor States by economists Laffer, Moore & Williams, it is noted that between '98-'07, 400,000 people moved from the nine highest tax states to those without income taxes. Those recipient states grew 89% more jobs than the nine highest tax states combined and personal income increased 32%. The Kansas Chamber believes our state should capitalize on this economic climate!

What is the magic formula those states follow? They tax consumption (sales) rather than savings, investments & business profits (property, income). Unfortunately, Kansas' biggest source of tax receipts is via income taxes. Sales tax receipts have shown to be a more stable source of tax receipts than income or property, so states that derive a larger portion of their receipts from consumption taxes are more insulated from economic downturns.

As we all know, Kansas increased their consumption (sales) taxes by nearly 19% last legislative session and the Kansas Chamber opposed that because there was no trade-off on reducing income taxes. The beauty of Sub. To SB 95 is that if there is no growth in state tax receipts, nothing happens. As a result, there is no validity to the argument that "we cannot afford" tax reductions in this economic climate.

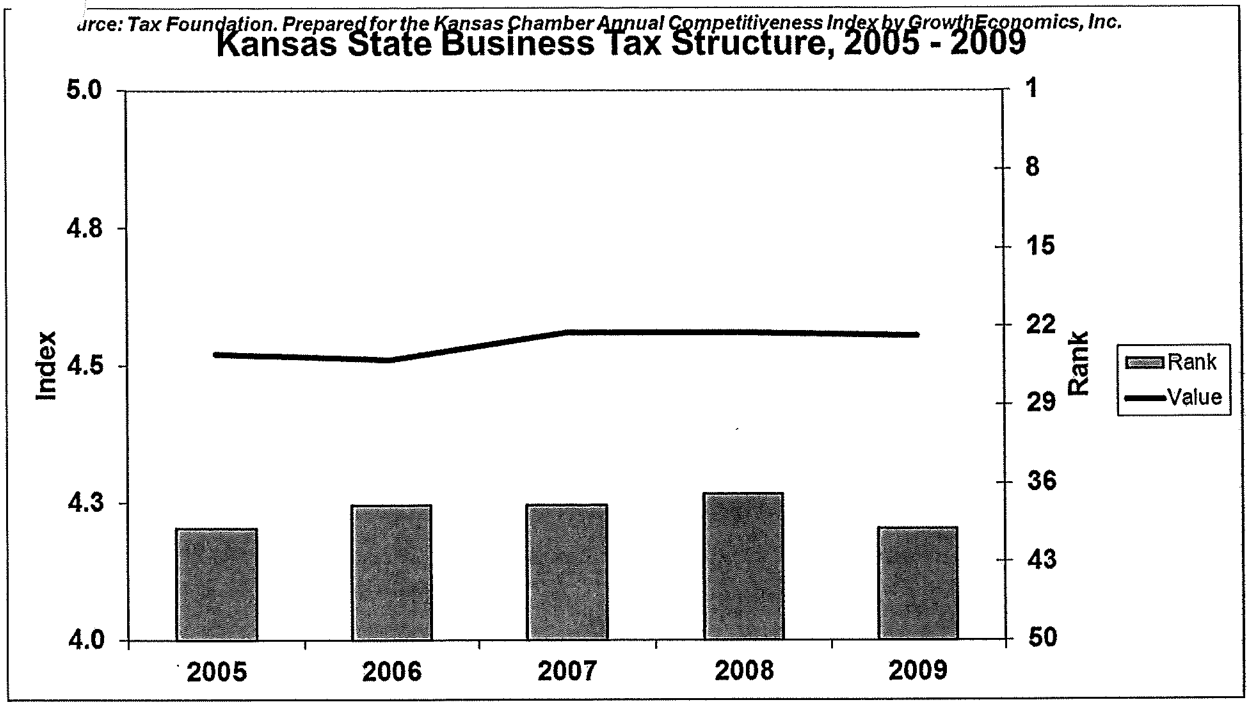
We urge the Committee to pass favorably Sub. To SB 95.

The Kansas Chamber, with headquarters in Topeka, Kansas, is the leading statewide pro-business advocacy group moving Kansas towards becoming the best state in America to live and work. The Chamber represents small, medium, and large employers all across Kansas. Please contact me directly if you have any questions regarding this testimony.

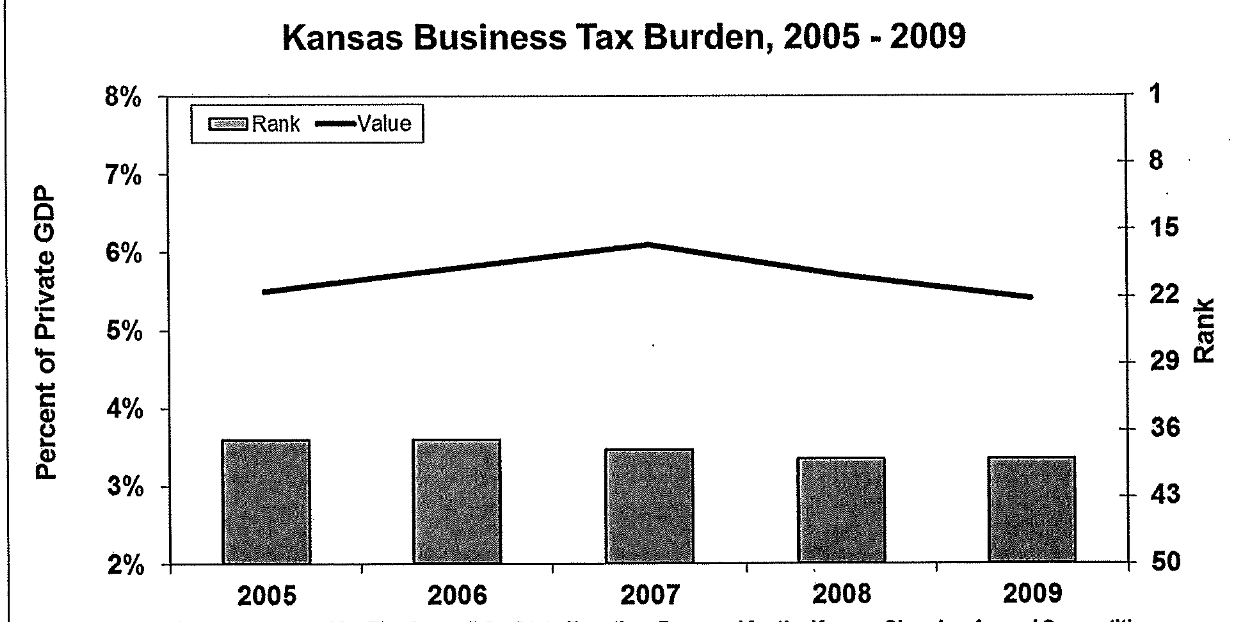
THE KANSAS CHAMBER

835 SW Topeka Blvd. Topeka, KS 66612 785.357.6321

Attachment 1



What's it mean? This measure is the Corporate Tax Index taken from the Tax Foundation. It strives to measure fairness and balance across all businesses by favoring tax systems that are simple and have low tax rates across a broad base. The Kansas score has held steady over the past five years, indicating little change to tax structure. Overall, the State does not rank well at 37th.



Source: Ernst & Young, prepared for The Council On State Taxation. Prepared for the Kansas Chamber Annual Competitiveness Index by GrowthEconomics, Inc.

What's it mean? Business Tax Burden accounts for all business tax costs as percent of private state GDP. Kansas has experienced a decline in the business tax burden since 2007. However, as other states have followed suit, this trend was not enough to improve its competitive position, currently ranking it 39th.

Attachment 2

Kansas Business at a Glance

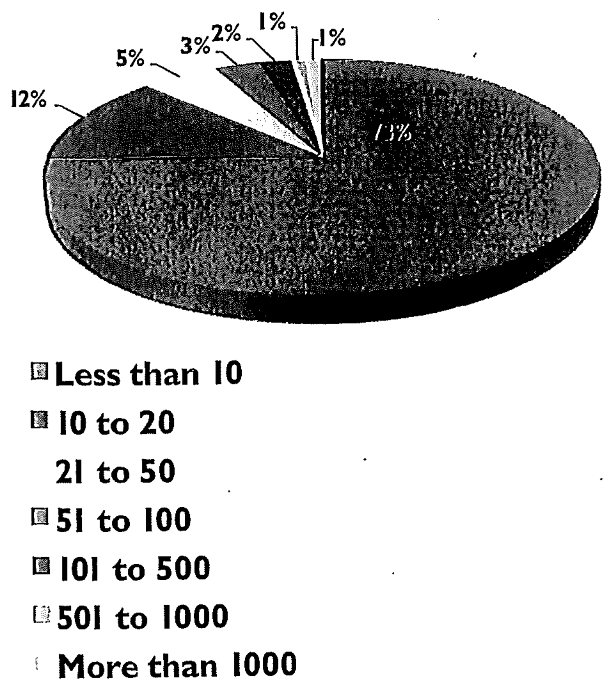
The Kansas Chamber commissions Cole Hargrave Snodgrass & Associates to poll 300 member and non-member businesses that are reflective of Kansas businesses geographically and with regard to number of employees. The issues identified by the business community in the CEO poll lay the foundation for the 2011 Legislative Agenda.

Most Important to Profitability:

MENTIONED:	2010	2009
Workers' compensation	13%	19%
Unemployment compensation	7%	3%
Managing health care costs	38%	32%
Lower taxes on business	49%	43%
Decrease regulation/mandates	22%	18%
Stop frivolous lawsuits/tort reform	16%	13%
Limit growth of state government	14%	17%
Economic incentives for business	20%	18%
Reduce fuel and energy costs	21%	20%

(Each survey participant was allowed up to two responses)

Number of Business Employees



Attachment 3

WSJ 02/25/11

REVIEW & OUTLOOK

The State Business Tax Revolt

President Obama says he wants corporate tax reform but hasn't proposed how to do it. Maybe he should take a look at the states, where as many as 10 new Governors are moving ahead to reform and reduce business taxes. The motive is to attract more businesses and create more jobs, while avoiding the fate of California and New York.

Governors get a jump on corporate tax reform.

Take Iowa, which has the highest state corporate rate at 12%. Add that to the federal rate of 35%, and the Tax Foundation says the Hawkeye State may have the highest levy in the developed world. Governor Terry Branstad, back for a second stint in Des Moines after 12 years, wants to cut the top corporate rate in half to 6% because "we just can't compete with this high tax rate anymore." Mr. Branstad has been sending letters trying to recruit Illinois businesses, where the small business tax rose by 67% and the corporate rate by 30% to 9.5% in January.

Iowa's corporate tax suffers from the same defects that hobble the federal system. It imposes an onerous rate on those companies that get stuck paying it, but the legislature has carved out so many credits and loopholes for politically favored firms that the tax doesn't raise much revenue. So even though Iowa has the highest statutory rate, it ranks 36th in per capita collections. It's all pain for little gain.

Michigan has led the nation in job losses during this past decade, while former Governor Jennifer Granholm sought to attract businesses with special tax favors. New Republican Governor Rick Snyder and the GOP legislature are trying a different strategy and moving forward on a business tax makeover.

Their plan would replace an unpopular gross receipts tax that forces many small firms to pay inflated tax bills even when they don't record a profit. It would also eliminate big industry exemptions, such as the Hollywood movie maker's credit, and instead install a flat 6% corporate profits tax. That's still too high for our liking and for competitive purposes, but at least it would level the playing field across businesses and save them about $1.5 billion each year.

Florida's Rick Scott is pursuing arguably the most ambitious plan. He promised voters he'd abolish the state's $2 billion a year corporate tax over seven years, and his first budget gets that started. "Once we eliminate the corporate tax, and, remember, we don't have a state income tax, there will be no reason for businesses not to come to Florida," he says. South Carolina's Nikki Haley also campaigned on eliminating her state's $200 million a year corporate tax.

The message from these states is similar: In a global economy you can't attract businesses by extracting an undue share of their profits. Bringing rates down is especially important for competitiveness given that five states—Nevada, South Dakota, Texas, Washington and Wyoming—have no corporate income tax.

More Business Friendly

Proposed state corporate tax changes

Arizona	Cut rate to 4.9 from 7%
Arkansas	Eliminate capital gains tax on new investment
Florida	Phase out corporate income tax
Georgia	Cut rate to 4 from 6% and broaden base
Iowa	Cut rate to 6 from 12%
Michigan	Replace gross receipts tax with 6% flat corporate tax
North Dakota	Cut rate to 4.9 from 6.4%
Ohio	Capital gains tax cut
Pennsylvania	Replace corporate tax with new sales tax
South Carolina	Eliminate corporate tax

Our preference, which is supported by most of the economic evidence, is that cutting personal and small business income tax rates should be the highest tax priority for states. But corporate tax systems are complicated and onerous, while only generating between 5% and 8% of state revenues.

Workers also bear the cost of excessive corporate taxes. A 2009 study by the Federal Reserve Bank of Kansas City examined three decades of data on business taxes and worker pay checks. The study found that "corporate taxes reduce wages and that the magnitude of the negative relationship between the taxes and the wages has increased over the past 30 years." Businesses in high tax states invest less, the study found, and this leads to lower productivity and eventually lower average pay for workers.

These Governors can only do so much because the biggest hurdle to new investment is the federal tax of 35% that is the second highest in the world and far above the international average. The President's own tax commission concluded that this tax sends jobs abroad. What is Mr. Obama's Treasury Department waiting for?

WICHITA METRO
CHAMBER OF COMMERCE

March 15, 2011

Mr. Chairman and Members of the Committee,

On behalf of the Wichita Metro Chamber of Commerce and our nearly 1,600 member businesses, thank you for the opportunity to testify in support of SB 95. We are supportive of SB 95 as we believe it moves the state of Kansas towards a more competitive and productive business environment through a more reliable and efficient tax structure.

The Wichita Metro Chamber of Commerce's number one objective is to enhance economic prosperity for our members. As you are well aware, achieving prosperity has been a rather difficult endeavor in recent years. The South-central region of Kansas, in which the majority of our members operate their businesses, has been especially hard hit by the recent economic recession. The downturn has resulted in high unemployment, business closures, and reduced wages for workers. In addition, we are extremely troubled by the fact that many of our manufactures have either moved or expanded their operations in states other than Kansas. As we pursue our objective of enhancing economic prosperity for our members and our region, we have undoubtedly come to the conclusion that while the "Great Recession" has had a devastating impact on our regional and state economies, so too have issues of competiveness with other states.

One has to look no further than to our neighbor, Oklahoma, to see how an aggressive and innovative approach to tax policy and economic growth impacts jobs, state GDP and overall prosperity. Wealth and jobs are being created in Oklahoma as its economy expands. People, as well as firms, are moving to Oklahoma. Boeing, which has long been a major employer and significant driver of the Kansas economy, is not expanding in Kansas. In fact, Boeing now has the smallest footprint in Kansas it has ever had during its years of operation here. Make no mistake, Boeing, as an international firm, is not decreasing its overall business operations; they are growing and expanding, but in states like Oklahoma, rather than Kansas. Spirit AeroSystems, which at one time was the largest employer in Wichita, has also expanded in Oklahoma.

Certainly, incentives have played a role in Oklahoma's success, but so has tax policy. Oklahoma led the nation in state GDP growth in 2009 with a 6.6% increase (Kansas declined -1.1%). Over the last decade Oklahoma has increased its population while Kansas has seen a decrease. This is a pattern we actually see nationwide. People are voting with their feet; leaving high tax states and moving to low tax states. Low tax states are outpacing high tax states in income, population growth and growth in state receipts. However, people for the most part, are not moving in an effort to avoid taxes; they are seeking jobs and personal prosperity. Simply put, people are going where the work is and the work is in states with low taxes that are thereby attracting employers.

While firms have an obligation to their employees and the communities in which they operate, they also have an obligation to their shareholders. The market demands that firms produce goods and services at the lowest cost in order to maximize profits and returns to shareholders. Taxes are a cost driver and in this ultra competitive era where capital is difficult to acquire and an annual profit and loss statemen

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may be the difference between survival and demise, everything must be on the table. Companies are being forced by market pressures to relocate and expand operations in states that extract the least amount of taxes from their operations and provide the best opportunity for the maximization of profits. This is a winning situation for the company, the employees and the state that provides this type of environment.

Kansas has long recognized that taxes are a key factor in efforts to attract capital investment, jobs and industry. Were that not the case, we would not have the various tax credits, rebates, and abatements that we offer certain industries. If issues of taxation are important to the bottom-line of the film industry or a plastics firm or some other type of manufacturer, then would they not be important in the decision making process of most all other firms that could employ Kansans?

SB 95 could reduce personal and corporate income taxes over a period of time, and we believe those reductions would lead to job creation and a more vibrant economy in Kansas. We also believe that this legislation could eventually lead to a more efficient and productive system of taxation that incentivizes production from both firms and individual citizens. Taxing the efforts of the individual worker for his own production leads to a less productive workforce and creates issues of tax avoidance; neither of which are beneficial to our business environment or our state's general fund. Peter Ferrara, writing for *Forbes,* summed it well recently saying "Income taxes are the most economically destructive of all taxes. That is because income levies tax directly the reward for work, savings, investment, and entrepreneurship. With the reward reduced, the incentive for pursuing these economically productive activities is reduced. The result is less work, less saving, less investment, fewer new businesses, less business growth, less job creation, lower wages and income, and lower overall economic growth. Higher marginal tax rates reduce these incentives more. Lower marginal tax rates reduce these incentives less. A marginal tax rate of zero, as with no income tax, maximizes these incentives, at least as far as the burden of income taxes is concerned."

To a great degree, the same holds true for direct taxes on corporations. The corporate income tax encourages firms to use debt finance, rather than equity. Debt finance makes companies riskier. But because payments on debt are tax deductible, and dividends are not, companies have a strong incentive to use debt rather than equity finance. The deductibility of debt payments also lowers the required rate of return for new projects, possibly encouraging companies to invest in marginal ideas that aren't really worth it. Without the corporate income tax giving them a 35% reduction on their interest payments, they might think twice. Do you think any CEO or board chairman has a significant desire to pursue risky behavior? Absolutely not. We incentive companies to be risky by leveling a corporate income tax.

One would have to search far and wide to find a Kansan that does not desire an economically vibrant state. In addition, Kansans also want a state government that meets the needs of citizens in the areas of infrastructure, public safety, education and safety nets for the less fortunate. These two desires cannot be mutually exclusive, as a vibrant economy needs certain protections and assurances from government, and government needs a vibrant economy with profitable firms and citizens in order to provide those essential services. The two should never be pitted against the other. Rather, policymakers should strive to create a system of taxation and economic policy that creates economic vitality while also providing the necessary funding for state government. SB 95 accomplishes this goal and we urge your support for this legislation.

Jason Watkins

Jason P. Watkins

AFP **AMERICANS FOR PROSPERITY**
KANSAS

March 15, 2011

Senate Substitute SB 95
Senate Taxation Committee

Mr. Chairman and members of the committee,

I am proudly before you today, representing the more than 41,000 members of Americans for Prosperity-Kansas.

AFP supports Senate Sub. for SB 95, which would allow for income tax rates dependent upon growth in tax receipts.

Kansas' tax environment is already uncompetitive, and AFP supports efforts to address our tax structure. In a time when the national economy is still sluggish and Kansas is slowly recovering from the massive loss of private sector jobs, we now have fewer private sector jobs than we did ten years ago, not addressing the way we tax families and businesses will only prolong our lack of economic growth. Kansas' state and local tax burden continues to be amongst the highest in the region.

The following chart indicates some of Kansas' tax rates compared to our neighboring states:

	Top tax rate for individual with $50,000 taxable income	State & Local Property Tax Collections Per Capita (2007)	Top Corporate Income Tax Rate	Sales Tax Rate	Gas Tax	State Cigarette Tax
Colorado	4.63%	$1,180	4.63%	2.90%	$0.22	$0.84
Kansas	**6.45%**	**$1,251**	**7.05%**	**6.30%**	**$0.25**	**$0.79**
Missouri	6.00%	$893	6.25%	4.23%	$0.18	$0.17
Nebraska	6.84%	$1,353	7.81%	5.50%	$0.27	$0.64
Oklahoma	5.50%	$537	6.00%	4.50%	$0.17	$1.03

In the fall of last year, the Oklahoma Council of Public Affairs issued a paper entitled, *A Tale of Two States: The Real Effect of Individual Income Tax Cuts.* The study compared tax policy in Oklahoma and Kansas over the last ten years with an emphasis on income and sales taxes.

When the decade began, Kansas had a 4.9 percent sales tax for the first two years but then increased it to 5.3 percent until last year's increase. Meanwhile, Oklahoma kept its rate constant at 4.5 percent. In FY-00 Kansas' sales tax collections exceeded Oklahoma's by $88 million, but by FY-09 Oklahoma's

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sales tax revenues exceeded Kansas' collections by $283 million. While Kansas' sales tax revenues grew by 17 percent over the last ten years, Oklahoma's increased by 46 percent.

Sales Tax Revenues

	Kansas		Oklahoma	
	Rate	Revenue	Rate	Revenue
FY-00	4.90%	$ 1,440,295,000	4.50%	$ 1,351,803,097
FY-01	4.90%	$ 1,423,059,000	4.50%	$ 1,441,929,046
FY-02	5.30%	$ 1,470,599,000	4.50%	$ 1,443,427,590
FY-03	5.30%	$ 1,567,722,000	4.50%	$ 1,404,275,611
FY-04	5.30%	$ 1,612,067,000	4.50%	$ 1,496,238,185
FY-05	5.30%	$ 1,647,663,000	4.50%	$ 1,546,621,382
FY-06	5.30%	$ 1,736,048,000	4.50%	$ 1,677,854,488
FY-07	5.30%	$ 1,766,768,000	4.50%	$ 1,804,313,384
FY-08	5.30%	$ 1,711,398,000	4.50%	$ 1,930,951,193
FY-09	5.30%	$ 1,689,516,000	4.50%	$ 1,972,769,753

It should be noted that beginning in FY 2005, Oklahoma began lowering its' individual income tax rate from 7% in FY 2004 to 5.5% in FY 2009 while Kansas remained at 6.45% during that same time period. The majority of the individual income tax rate reduction in Oklahoma occurred in the last three years of the decade while in the middle of a recession, but surprisingly (at least to the static-model crowd) Oklahoma's sales tax revenues grew by 18 percent while Kansas' fell by 3 percent for the same period.

Thus while keeping their sales tax low compared to Kansas and reducing the individual income tax, Oklahoma realized a tremendous growth in economic activity as measured by sales tax revenue.

The Oklahoma comparison provides an example that implementing income tax cuts does not result in a drop in tax revenue for the state. From the OCPA study, *In FY 2000 Oklahoma collected $135 million more than Kansas in combined individual, corporate, and sales tax revenues. After a decade in which it reduced its individual income tax rate by 21 percent, Oklahoma collected $248 million more in FY 2009 than Kansas in those same three tax revenue categories.*

We believe enactment of this legislation would preserve funding for essential government services while providing a tax environment that would help stimulate economic growth.

Thank you for your consideration of this important issue.

Derrick Sontag
State Director
Americans For Prosperity Kansas

Overland Park

Written testimony in opposition to Substitute for Senate Bill 95
Senate Assessment & Taxation Committee
Tuesday, March 15, 2011

Chairman Donovan, Vice-Chairman Apple, and House Taxation Committee Members:

My name is Jennifer Bruning, and I am Vice President of Government Affairs with the Overland Park Chamber of Commerce. I am submitting written testimony today in reluctant opposition to Substitute for Senate Bill 95 on behalf of our Board of Directors and our nearly 1,000 member companies.

While the reduction of state income tax and possible elimination of such sounds like a pro-business move that could possibly lead to new business growth in our state, it is still uncertain how such a large shift in our tax structure will affect the revenue streams and quality of our state's largest budgetary items including K-12 education, social services and KPERS funding.

The desire to cut taxes is usually precipitated by a particularly rosy fiscal outlook, yet this proposal comes while Kansas is still weathering the effects of our country's worst recession since the Great Depression, and the Legislature is still trying to determine how to deal with a $500+ million deficit in Fiscal Year 2012. During hard times such as these, businesses crave stability in tax policy. Several of the tax proposals that have come forward in the last few days from legislators may have merit and business' best interests at heart; however, companies need more time to adequately research and determine how such radical shifts in our state's taxing infrastructure will impact them. Time is necessary to contemplate unintended consequences and extenuating circumstances that may affect business productivity.

One of our largest concerns with this proposal is not knowing if the gradual reduction of both personal and corporate income taxes could eventually lead to increases in other taxes. Proponents paint a glowing atmosphere of business friendliness that our state will exude should this bill pass, causing an influx of new businesses to the state and thus a flow of more sales tax into state revenue coffers. However, if in fact this does not occur, how does the state pay for needed state services? Given our current "no new taxes" atmosphere, replacing the revenue could require elimination of sales tax exemptions to broaden the tax base, which could also lead to a sales tax on professional services that would be detrimental to Johnson County, our state's economic engine, as well as to businesses state-wide.

A broad and varied tax base is essential to stability in our tax system. The more narrow a state's tax base, the more susceptible it is to wide swings when specific segments of the economy have problems. While reduced taxes can modestly spur economic growth, researchers also find that state expenditures on education, infrastructure, highways and public health matter as much or more than taxes in determining economic growth rates. Reduced taxes that are accompanied by reductions in spending on services that benefit the economy and businesses can have a negative effect on economic growth*.

Before embarking on a measure as large as what is proposed in Sub for SB 95, we respectfully urge you as policymakers to take the time to fully understand the bill's future ramifications. Please oppose Substitute for Senate Bill 95.

*Robert Lynch, Rethinking Growth Strategies: How State and Local Taxes and Services Affect Economic Development, Economic Policy Institute, 2004.

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