



Overview

This report follows up on a number of issues we have been watching during the 2011 legislative interim. We will update on you on the current status of the Special Committee on Financial Institutions and Insurance and the proposed statutory changes to Appraisal Management Companies in Kansas. These topics were discussed with the CBA Legislative and Regulatory Committee on September 26.

Special Committee on Financial Institutions and Insurance

The Special Interim Financial Institutions and Insurance Committee met on September 27 and held the hearing on the Office of the State Bank Commission request to have the authority to obtain fingerprints for new bank charters, mergers, or acquisitions. The authority would apply to banks, mortgage lenders, and money transmitters. The bill from the 2011 legislative session, Senate Bill 64, is permissive and would give the OSBC authority if they chose to use it. The OSBC currently has the authority to run criminal record checks based on personal information but not fingerprints and the results only include criminal convictions in Kansas.

The hearing did not go well for the OSBC. The Committee took no action at the hearing and Committee chair Teichman asked the members to talk with their local bankers. They will have follow up discussion at the November meeting. During the hearing the OSBC and the Kansas Bureau of Investigations testified in support. No financial institution groups testified before the committee. There was no need. The Committee was sharply critical of the proposal for a variety of reasons. There are virtually no new banks that would meet the requirements and most new licensees eligible are mortgage lenders. Moreover, fingerprinting is required for an institution to obtain a new FDIC charter. If the new institutions cannot obtain FDIC approval, the state will not grant the new license. The OSBC confirmed they would not grant a license to anyone without FDIC approval, but the OSBC would never be informed of the reason for denial of FDIC charter. The OSBC wanted the legislature to grant them the ability to fingerprint to confirm the decision of the FDIC. The Committee was uninterested in granting that authority. Shawn did address the Committee at the request of the Chair and he reported on conversations with community bankers with general opposition to the legislation. There were so few new banks and mergers with unknown out-of-state bankers that there was little benefit. The OSBC request was over-reaching and increased unnecessary regulations.

The Committee will discuss the topic at the November meeting but likely will not take any additional action.

Appraisal Management Companies

The Kansas Real Estate Appraisal Board (KREAB) is currently drafting legislation for the 2012 legislative session to regulate/register Appraisal Management Companies. They have asked for the CBA's input and participation in this process. Dodd-Frank requires all states to pass these new requirements. Following these meetings, legislation will be introduced during the 2012 legislative session.

We met with the group on September 16. The conclusion of the meeting is that Dodd Frank requires appraisal management companies to be regulated if they are state chartered, if they have over 15 employees, and if they are a third-party free-standing appraisal company. It is unlikely any of these provisions will apply to any CBA member financial institutions. Shawn and Stuart attended the meeting and worked with the other financial institution groups to ensure only the large AMC's not a part of the financial institution were included in the bill. When the bill is introduced during the 2012 legislative session, we will track its progress closely. Even though the proposal has been amended to meet our interests, there is no guarantee changes will not be proposed during the legislative session.

State Revenue Collections

State revenue collections for the current fiscal year are going very well. The first three months of revenue collections since July are running 5 percent higher than anticipated, to the tune of \$66 million more than estimated. The state currently has approximately \$230 million in the bank. If revenue estimates continue at this rate, the Governor and Legislature will be able to consider tax cuts or restoration of prior budget reductions.

Other Activities

The Governor's office has been very active in the past month in a variety of areas.

Governor's animal health economic group

Over 200 people met with the Governor in Garden City to discuss the role of animal agriculture in the State's economy. The group discussed three issues in an open forum.

- How does Kansas retain current farms, ranches and agribusinesses?
- How does Kansas assist current farms, ranches and agribusinesses expand within Kansas?
- How does Kansas recruit out-of-state/out-of-country farms, ranches and agribusinesses to expand into or relocate to Kansas?

"Creating a supportive environment for farms, ranches and agribusinesses in Kansas is one of my top priorities," Gov. Brownback said. "We want to evaluate any rules or regulations that prevent growth in this area, and are committed to doing our part to ensure Kansas remains a good place to do business for agriculture." Summit attendees broke into small groups to discuss specific topics on growing animal agriculture.

Governor's Office of the Repealer

The Office of the Repealer, Secretary Dennis Taylor announced today that he will tour the State of Kansas in the coming weeks to discuss proposed repeals and collect input from Kansans on rules and regulations they believe should be repealed. The Office of the Repealer

began in January 2011 with the goal of eliminating unnecessary government regulations and statutes.

“The top priorities of my administration are to grow the state’s economy and get the more than 100,000 unemployed Kansans back to work,” Gov. Sam Brownback said. “With the help of Kansans, the Office of the Repealer is working to identify laws and regulations that are out of date, unreasonable, and burdensome. State laws and regulations shouldn’t hinder opportunities for Kansans and Kansas businesses.”

In January, Governor Brownback signed Executive Order 11-01 establishing the Office of the Repealer within the Kansas Department of Administration. The Governor tasked the Office of the Repealer with investigating the system of governance of the state including its laws and regulations to determine instances in which those laws and regulations are unreasonable, unduly burdensome, duplicitous, or contradictory.

Public input and a hearing schedule can be found at <http://repealer.ks.gov/>

Working Group Receives Report on Medicaid Reform

The State of Kansas has received its report describing the suggestions, ideas and considerations from this summer’s series of Medicaid Public Forums.

“This report contains valuable information from Kansans who participated in this public input process,” Lt. Governor Jeff Colyer, M.D. said. “I appreciate the time and willingness of Kansans from all over the state to contribute to this effort. The principles expressed in the public’s input, and reflected in this report, will help guide us as we reshape Medicaid in Kansas.”

“We were impressed by the great number of Kansans who took the opportunity to share with us what they’d like to see in the Medicaid program,” Dr. Moser said. “We heard repeatedly from stakeholders about the need to integrate care around the whole person, and this report brings that into sharp focus.”

The report contains ideas and suggestions from Medicaid consumers, advocates and providers. “This report contains a number of solid recommendations on ways the State of Kansas can provide health care to Medicaid recipients that focuses on the whole person, rather than just a single, isolated medical issue or condition, to improve their overall health and quality of life,” SRS Secretary Siedlecki said. “In particular it will help us find ways to further improve our services to the physically and developmentally disabled, and to individuals with traumatic brain injuries.”

Throughout the summer more than 1,700 Kansans participated in discussions on how to reform Kansas’ Medicaid system, generating more than 2,000 ideas and comments. Recommendations focused on the three segments of the Medicaid population: Children, Families and Pregnant Women, the Aged and the Disabled.

Redistricting Committee

This legislative committee has the task of using the 2010 Census data to begin the process of redistricting that the 2012 Legislature is required to implement. They have already held meetings around the state and will conclude in Dodge City, Garden City, Colby and Hays in late October.

Wrap Up

Please let us know if you have questions.

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Momentum grows to swap income tax for sales tax in states

By DAVE HELLING

The Kansas City Star

Talk about a tax break.

While all the attention this summer was focused on the federal debt and tax policy in Washington, some lawmakers and activists closer to home were quietly moving toward achieving a long-term goal: eliminating income taxes in Missouri and Kansas.

“The time has come,” said Jonathan Williams, director of tax and fiscal policy for the American Legislative Exchange Council, a national conservative group advising leaders in both states. “Of all the states considering this, both Kansas and Missouri are at the top of the list.”

Opponents of the plan in both states say they’re working to stop any effort to phase out the state income tax in exchange for a higher, broad-based sales tax. They argue that swapping the income tax for a sales tax would mean a multibillion-dollar shift in the tax burden from wealthy taxpayers to the middle class and poor.

But they also acknowledge that momentum is growing and may be difficult to stop.

“There’s no question about it,” said Missouri Sen. Jolie Justus, a Kansas City Democrat. “And people who are concerned about this proposal, which from what I’ve heard is most mainstream Missourians, should be talking about how to counter it.”

The push is slightly different in the two states.

Some Kansas lawmakers said they expect the administration of Gov. Sam Brownback to propose in January a phaseout of the income tax as part of a broader budget package. Brownback’s budget director, Steve Anderson, recently said he expects that next year’s spending blueprint will show “some significant (income tax) cuts.”

Dave Trabert, president of the Kansas Policy Institute, a conservative think tank, also predicted a renewed legislative debate over the tax swap.

“I think it’s going to be a major focal point in the 2012 session,” Trabert said. “If your focus is on what’s doing best for taxpayers ... it’s something you should be running toward, not away from.”

Missouri’s income tax repeal effort, however, will probably be centered on the ballot box, not legislative chambers.

A representative of Let Voters Decide — the same group that spent more than \$11 million to force earnings tax repeal votes in Kansas City and St. Louis — earlier this month filed papers to begin a petition drive aimed at putting income tax repeal on the November 2012 ballot.

The group’s constitutional amendment would phase out the income tax by 2016 and order the General Assembly to replace it with a capped sales tax.

“The downside of the tax swap appears to be minimal, if not nonexistent,” the American Legislative Exchange Council said in a report titled “The Missouri Compromise,” which promoted the income-tax-for-sales-tax trade.

The study conceded that repealing the individual income tax would blow a huge hole in the budgets of Missouri and Kansas. The tax currently provides roughly two-thirds of Missouri’s general fund and half of the general fund in Kansas — more than \$8 billion combined.

Backers of the effort argue they would replace that revenue by raising sales tax rates, although such a move alone would probably not cover the entire deficit. Tripling Missouri’s sales tax rate

to more than 12 cents on the dollar, for example, would still leave the state with much less revenue than the income tax and sales tax combination now provides.

The Let Voters Decide petition doesn't come close to tripling the rate. Instead, it would broadly cap the state sales tax at 7 cents on the dollar once the income tax goes away in 2016, with an additional 3 cents on the dollar set aside for use by local governments.

But supporters maintain the states could solve that problem by cutting spending or — more likely — broadening the sales tax to cover hundreds of goods and services that are now exempt. “We would have to expand the base,” said Marc Ellinger, a spokesman for Let Voters Decide, pointing to Tennessee as a good example of a neighboring state that doesn't tax income but does tax sales.

Census Bureau figures show how it might work. Missouri collected \$799 in individual income taxes per person in fiscal year 2009 and \$852 per person in sales taxes a year earlier, a total of \$1,651.

Meanwhile, Tennessee residents paid \$1,452 in state taxes per person. But census figures show virtually all of it came from the state's 7 percent sales tax — the fifth-highest sales tax collection rate in the nation. (Missouri's basic sales tax rate currently is 4.225 percent.)

Opponents of income tax repeal argue that those numbers show the true impact of such a move. It dramatically shifts the tax burden away from the wealthy and onto people who buy goods and services.

“A lot of education needs to happen around this issue,” said Meg Wiehe, state tax policy director for the Washington-based Institute on Taxation and Economic Policy. “If you move to a consumption-based tax, the vast majority of taxpayers would likely pay more in taxes than they are under the income tax, except for the wealthiest.”

Repeal opponents also note that applying a sales tax to service providers such as lawyers and architects could harm places such as Johnson County, where service industries now thrive.

“Repealing the income tax in my mind doesn't make a lot of sense,” said Kansas Rep. Mike Slattery, a Mission Democrat.

But supporters of repeal think they can answer those objections. The Missouri petition, for example, expands the sales tax to cover services, then lists a page and a half of services that would be constitutionally exempt from the levy. Among them are embalmers, child care providers and real estate appraisers.

The measure also would exempt food stamps, some medicine and most energy from the sales tax, among other things, while capping the sales tax on food at 5.5 cents per dollar.

In Kansas, the higher sales tax probably would not apply to business-to-business service transactions, Williams said. That could mean an individual hiring a lawyer would pay a sales tax on the bill, but a company hiring the same lawyer would not.

The complicated tradeoffs could confuse taxpayers, at least at first, critics say, and could lead to massive growth in barter and the underground economy.

They point out that voters and lawmakers in other states have rejected the income-tax-for-sales-tax swap once the full effect is understood. In 2008, for example, Massachusetts voters rejected an income tax phaseout.

Still, that record hasn't deterred supporters of the idea. They say tax fairness is only part of their argument. Sales taxes, they contend, are easier to collect and would allow people to pay less taxes by buying fewer things.

And they say ending the income tax would encourage businesses to locate in Missouri and Kansas, providing jobs to the unemployed and boosting the states' economies almost overnight.

“The income tax is a killer of jobs,” Williams said. “The best type of welfare the government can give is a good-paying job.”

The Missouri amendment would need roughly 145,000 valid petition signatures from six congressional districts to qualify for the 2012 ballot. If that happens, competitive pressure on Kansas to debate the idea is likely to grow, political observers say.

That means residents in both states may be asked — in an election year — to pick their poison: income tax or sales tax.

“It’s going to put every statewide candidate on the hook to take a position,” said longtime Missouri Republican consultant John Hancock. “And that will amplify the volume greatly.”

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