

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE

The meeting was called to order by Chairperson David Corbin at 10:30 a.m. on January 14, 2003, in Room 519-S of the Capitol.

All members were present except:

Committee staff present: Chris Courtwright, Legislative Research Department  
April Holman, Legislative Research Department  
Gordon Self, Revisor of Statutes Office  
Shirley Higgins, Committee Secretary

Conferees appearing before the committee: Richard Cram, Kansas Department of Revenue  
Jim Weisgerber, Kansas Department of Revenue

Others attending: See attached list.

Senator Corbin discussed changes in Committee membership. Senator Les Donovan will serve as Vice Chair due to the fact that the former Vice Chair, Senator Lynn Jenkins, was elected as State Treasurer in 2002. Senator Lana Oleen will fill Senator Jenkins' committee position. Senator Mark Buhler will fill the committee position left by Senator Sandy Praeger, who was elected as State Insurance Commissioner in 2002.

Senator Corbin called upon Chris Courtwright and April Holman, both with the Legislative Research Department, for a review of the reports by the Interim Assessment and Taxation Committee concerning the following topics (Attachment 1):

- Family Development Account Program (**SB 231** and **SB 403**),
- Tax Credits for Property Taxes,
- Sunset Provision—Sales Tax Exemptions,
- Motor Vehicle Fuels Tax (**SB 537**),
- Property Tax Exemptions for Certain Not-for-Profit Independent Living Centers (**SB 479**), and
- Sales Tax Parity on the Sale of Firearms, Weapons, and Ammunition.

Richard Cram, Kansas Department of Revenue, began a briefing on administrative problems relating to estate and succession taxes. (Attachment 2) At the outset, he introduced Jim Weisgerber, a Department specialist on estate and inheritance taxes. Mr. Cram discussed the fiscal impact of the new succession tax in **SB 39**, which passed during the 2002 Legislative Session. He noted that the conference committee report on the bill describes the new succession tax as a "Class C inheritance tax reimposition." He explained that, at the time the Legislature considered **SB 39**, the Department provided a positive fiscal impact estimate of \$15 million in tax revenue for FY 2003, based on the assumption that the legislation would be a reimposition of the

CONTINUATION SHEET

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inheritance tax on Class C heirs. However, the bill as passed clearly is not a reimposition of the inheritance tax, and none of the needed administration and compliance tools for the new succession tax were included. Based upon the anticipated administrative and compliance problems the Department will encounter, the fiscal impact estimate for the succession tax was reduced from \$15 million to \$5 million when the Consensus Estimating Group met in November 2002. To address the administrative problems, the Department is currently involved in drafting a legislative proposal for an alternative to the succession tax and existing Kansas estate tax.

Mr. Weisgerber explained further that Kansas had a stand-alone inheritance tax in place from 1915 through 1978. He outlined the new inheritance tax put in place by the 1978 Legislature to bring Kansas in conformity with federal law. He went on to discuss the "pick-up tax" put in place by the 1998 Legislature which replaced the inheritance tax and imposed only a tax equal to the federal credit for state inheritance or estate taxes. He noted that dramatic amendments to federal law in 2001 created two primary differences between state and federal law, creating several problems with regard to compliance, administration, auditing, and enforcement. He noted that a state tax advisory committee working under the auspices of the Kansas Judicial Council proposed legislation to bring Kansas back in conformity with federal law during the 2002 Legislative Session; however, the proposal went no where. In the waning days of the 2002 Session, New Section 5 was amended into **SB 39** with the intent to reimpose the inheritance tax on Class C heirs; however, no detailed instructions on how to administer the tax were included. He explained that the Department is currently in the process of working with a group of attorneys to draft a proposal which would retroactively repeal the succession tax and which would parallel the federal law yet be independent from federal law.

Senator Lee moved to recommend the introduction a conceptual bill based on the Department of Revenue's recommendation to repeal the state inheritance tax passed by the 2002 Legislature, seconded by Senator Donovan. The motion carried.

Mr. Cram discussed the sales tax on custom computer software imposed in 2002 under Section 6 of **SB 39**. (Attachment 3) He noted that, under prior law, sales tax was imposed only on the sale of canned computer software. He explained that custom computer programs are those developed from scratch or those uniquely designed and tailored to meet the customer's specific requirements. He called attention to copies of the Department's Notice Number 02-10 attached to his written testimony, noting that it was published to answer anticipated questions concerning the new sales tax on custom software. He noted that the Department is also in the process of responding to private letter ruling requests raising additional questions about the imposition of the new sales tax. Mr. Cram went on to discuss the following related topics: (1) the estimated fiscal impact of the sales tax on custom computer software, (2) the historical background of taxation of computer software, and (3) the question raised by other states as to whether tangible personal property includes computer software.

The meeting was adjourned at 11:50 a.m.

The next meeting is scheduled for January 15, 2002.

CONTINUATION SHEET

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