

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE.

The meeting was called to order by Chairperson Senator Audrey Langworthy at 11:10 a.m. on January 20, 2000, 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
 Don Hayward, Revisor of Statutes Office
 Shirley Higgins, Committee Secretary

Conferees appearing before the committee: Shirley Sicilian, Kansas Department of Revenue
 Marlee Berthoff, Kansas Chamber of Commerce & Industry
 David Allison, CBIZ
 Dan Morgan, The Builders' Association
 Joyce Rush, Rush Plumbing & Heating, Inc.
 Gus Rau Meyer, Rau Construction Company
 Kenneth Daniel, Jr., Midway Wholesale

Others attending: See attached list.

Senator Bond discussed a bill which he plans to introduce. The provisions of the proposed bill would increase the state sales tax by .3 of a percent. The funds from that increase would be earmarked for deposit in the state school district finance fund. In his opinion, additional sources of revenue for education will be needed in the near future. It is estimated that the proposed increase in sales tax would raise \$102 million in the first year (2001) and \$122 million in the second year. He explained that he is offering the bill as a means of beginning a discussion of the reality of school finance in light of tax cuts enacted by the Legislature in recent sessions.

Senator Lee requested the introduction of a bill dealing with the oil lease working interest income tax credit which was passed in the 1999 Legislative Session. She explained that a problem has developed in regard to how it is being administered. The proposed bill would change how the refund is made available.

Senator Lee moved to introduce the proposed bill, seconded by Senator Bond. The motion carried.

SB 377--Sales taxation; treatment of certain contractor sales and purchases

April Holman, Legislative Research Department, called attention to copies of the interim report regarding the topic of sales tax treatment of contractors who also sell at retail. (Attachment 1) She noted that the topic was the subject of **SB 250** in the 1999 Legislative Session, and that bill was referred to the Special Committee on Assessment and Taxation for further study. According to testimony heard by the Committee, the current sales tax is confusing for contractors who also sell items at retail. The Committee concluded that clarification is needed regarding the payment and calculation of sales tax by contractors, therefore, recommended the introduction of a bill providing an exception to the general rule of payment of sales tax by the contractor at the time of purchase of property.

Shirley Sicilian, Kansas Department of Revenue, presented background information on **SB 250** and **SB 377**. She noted that there is no fiscal note on **SB 377** since it would clarify the law to support the Department's current policy. She explained that the source of confusion is K.S.A. 79-3602(r) and discussed the two substantive sections of **SB 377**. The Department supports the bill as a means to relieve the confusion and resulting administrative burden for taxpayers, exempt entities, and the businesses that sell to them. (Attachment 2)

CONTINUATION SHEET

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Marlee Berthoff, Kansas Chamber of Commerce and Industry(KCCI), testified in support of **SB 377**. She noted that KCCI was part of the working group formed to study how the laws and remitting procedures could be clarified for taxpayers, and she described the issues the group studied. She pointed out that the regulations that were developed are fiscally neutral and reflect the daily practice of contractor/retailers. (Attachment 3)

David Allison, CBIZ, testified in support of **SB 377**. He explained that CBIZ is the seventh largest accounting and consulting firm in the United States. He noted that the issue has been significant for his clients as they have been audited in the past by the Department of Revenue. His clients have been confused as to if they were classified as a contractor or retailer for taxation purposes. He believes the clarification in the bill is important as it identifies contractor/retailers and clarifies when a transaction should be considered a contractor sale versus a retailer sale. In conclusion, he called attention to the last page of his of his testimony which includes a chart regarding how materials are taxed. (Attachment 4)

Dan Morgan, The Builders Association, followed with further testimony in support of **SB 377**. Mr. Morgan served on the sales tax study group formed to review the sales tax treatment of contractors, retailers, and companies that operate both as a contractor and as a retailer. He echoed the opinion of other conferees that this area of Kansas law is very complicated and confusing for those who conduct their business at times as a contractor and at other times as a retailer. He noted that the bill does not address another equally confusing area of sales tax law--sales tax on labor services involved in commercial remodeling construction. He asked that the Committee keep this issue in mind for consideration in a future session. (Attachment 5)

Joyce Rush, Rush Plumbing and Heating, testified in support of **SB 377**. As owners of a small business that operates as a contractor/retailer, she and her husband have been frustrated and confused by sales tax laws. She has also worked with the tax study group and feels that the bill will relieve the confusion and the bookkeeping problems associated with current sales tax law. (Attachment 6)

As a general contractor, Gus Meyer, President of Rau Construction Company, testified in support of **SB 377**. He believes the sales tax working group, of which he was a member, has made recommendations which are a start in clarifying several taxation issues in the construction industry. (Attachment 7)

Kenneth Daniel, Jr., Midway Wholesale, gave final testimony in support of **SB 377**. He stated that the bill will help small businessmen and their customers conform to the law and to know they are conforming. In addition, he noted that the bill will clarify ambiguous issues for the Department of Revenue. In his opinion, the provisions in the bill will make Kansas more "business friendly." (Attachment 8)

Senator Langworthy called attention to written testimony in support of **SB 377** submitted by Janet Stubbs, representing the Kansas Building Industry Association. Senator Langworthy read the portion of the testimony which expresses appreciation for the knowledge, ability, and dedication Shirley Sicilian contributed to the study. (Attachment 9)

Senator Donovan moved to recommend SB 377 as favorable for passage, seconded by Senator Goodwin. The motion carried.

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

The next meeting is scheduled for January 25, 2000.

CONTINUATION SHEET

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