

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE

The meeting was called to order by Chairman David Corbin at 10:45 a.m. on March 9, 2004, in Room 519-S of the Capitol.

All members were present except:
Senator David Haley

Committee staff present:
Chris Courtwright, Legislative Research Department
Martha Dorsey, Legislative Research Department
Shirley Higgins, Committee Secretary

Conferees appearing before the committee:
Allie Devine, Kansas Livestock Association

Others attending:
See Attached List.

SB 543—Increase of net operating loss carry back refund of income tax

Allie Devine, Kansas Livestock Association (KLA), testified in support of **SB 543**. She noted that a letter attached to her written testimony from David Hetrick, a CPA with Hooper and Dick, LLC, fully explains the intent of the bill. She explained that Mr. Hetrick's firm has a considerable tax practice, and he has raised the issue of the \$1,500.00 tax refund with KLA on a numerous occasions. In his letter, he outlines an underlying interpretation issue with the Department of Revenue which has caused difficulties for Kansas' producers. Mr. Hetrick discusses a factual situation in his letter to illustrate the difficulty taxpayers have with being limited to \$1,500.00 per year increments to offset losses and gains. The bill raises the maximum amount allowed for an income tax refund resulting from a net operating loss carry back from \$1,500.00 to \$5,000.00. Mr. Hetrick states in his letter that it is important to clarify that any excess amount of overpayment can be applied to the taxpayer's income tax liability in future years without limitation. In addition, he contends that treatment of corporate taxpayers and individual taxpayers should be the same. Ms. Devine suggested that another possible solution would be allow the taxpayer to elect whether he or she wants to take a carry back loss in Kansas even though the taxpayer has elected to carry back a loss on his or her federal taxes and allow the taxpayer the loss for up to ten years. (Attachment 1)

Senator Corbin called the Committee's attention to written testimony in support of **SB 543** submitted by Leslie Kaufman, Kansas Cooperative Council. (Attachment 2)

Senator Donovan raised a question regarding the accuracy of the fiscal note on the bill, which indicates a \$165,000.00 decrease to the State General Fund. He noted that the amount reflects that only 47 operations would be able to utilize provisions in the bill. In response, Richard Cram, Kansas Department of Revenue, indicated that the Department would prepare other fiscal notes using other data.

Senator Lee asked Mr. Cram if "refund" on line 17, page 2, refers to an actual cash refund. Mr. Cram answered that the Department interprets it as a cash refund. Senator Lee also pointed out that it is unclear if the three year limitation on line 10, page 2, affects section (f). With regard to lines 19 through 20 in section (f), she noted that the time lines are not clear.

Senator Oleen asked for confirmation that the bill applies only to farms. Chris Courtwright, Legislative Research Department, suggested that perhaps the bill could be interpreted as not being limited to farm losses but applying to all net operating losses. Mr. Cram said that the Department interprets the bill as being limited to farm net operating losses. He noted that the fiscal note would change substantially if the bill applied to all net operating losses. To avoid confusion, Mr. Cram recommended that the bill be amended with language making it clear that it applies only to farm net operating losses.

Senator Corbin suggested that Ms. Devine request that concerned CPAs present testimony clarifying the intent of the bill. Ms. Devine noted that the accountants who drafted the bill had difficulty with interpretations when

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researching the legislative history on the issue. Senator Corbin suggested that perhaps the issue should be recommended as a topic for a summer interim study. With this, the hearing on **SB 543** was closed.

Senator Corbin called the Committee's attention to the minutes of the March 8 meeting.

Senator Donovan moved to approve the minutes of the March 8, 2004, meeting, seconded by Senator Buhler. The motion carried.

The meeting was adjourned at 11:05 a.m.

The next meeting is scheduled for March 10, 2004.