

## **MINUTES**

### **SPECIAL COMMITTEE ON ASSESSMENT AND TAXATION**

November 13, 2001  
Room 519-S—Statehouse

#### **Members Present**

Senator David Corbin, Chair  
Representative John Edmonds, Vice Chair  
Senator Barbara Allen  
Senator Karin Brownlee  
Senator Les Donovan  
Senator Janis Lee  
Representative David Huff  
Representative Dennis Pyle  
Representative Bonnie Sharp  
Representative Joe Shriver  
Representative John Toplikar  
Representative Jonathan Wells

#### **Staff Present**

Chris Courtwright, Kansas Legislative Research Department  
April Holman, Kansas Legislative Research Department  
Don Hayward, Revisor of Statutes Office  
Shirley Higgins, Committee Secretary

#### **Conferees**

David Burress, University of Kansas  
Steve Johnson, Kansas Gas Service

**Tuesday, November 13**  
**Morning Session**

The meeting was called to order in Room 519-S, Statehouse, by Senator David Corbin, Chair, at 10:05 a.m. on November 13, 2001. Senator Corbin called upon Alan Conroy, Kansas Legislative Research Department, for a review of a memorandum dated

November 5, 2001, regarding the consensus revenue estimate for fiscal years 2002 and 2003 (Attachment 1). The following topics are included in the memorandum: Economic Forecast for Kansas, Kansas Personal Income, Employment, Agriculture, Oil and Gas, Inflation Rate, Interest Rates, Accounts Receivable, New Federal Tax Law Impact, Economic Forecasts, State General Fund Receipts Estimates Accuracy of Consensus Revenue Estimates, and State General Fund Estimates. In conclusion, Mr. Conroy discussed the statistics on a handout entitled, "State General Fund Profile Reflecting November 2001 Consensus Revenue Estimates" (Attachment 2). Following his presentation, Mr. Conroy responded to questions from the Committee.

Chris Courtwright, Kansas Legislative Research Department, reviewed the draft Committee report on Topic 9 (HB 2586), shortline railroad income tax credits (Attachment 3). The report explains the provisions of HB 2586 as amended by the House Committee on Transportation and summarizes a related measure passed in 2001 which approved the creation of the City of Pittsburg, Kansas, Port Authority.

*Representative Shriver moved that the Special Committee on Assessment and Taxation recommend that the Senate Assessment and Taxation Committee recommend HB 2586 favorable for passage in the 2002 Legislative Session, seconded by Representative Toplikar. The motion carried.*

Representative Shriver explained that he strongly supports HB 2586 because it addresses the issue of the declining shortline railroad service in Kansas for the movement of grain. He pointed out that county roads have deteriorated due to the increased movement of grain by trucks. In his opinion, HB 2586 will not create an uncompetitive climate for the trucking industry. Rather, trucking will increase in the long run as shortline railroads begin to move more and more products to transportation centers. He said passage of the bill would help rebuild the entire transportation system across the state.

April Holman, Kansas Legislative Research Department, reviewed the draft Committee report on Topic 8, implementation of the federal mobile sourcing act (Attachment 4). The report summarizes the Federal Mobile Telecommunications Sourcing Act (MTSA) which provides for the establishment of a "place of primary use" of wireless telecommunications services and for the creation of state data bases assigning street addresses to state and local taxing jurisdictions. Ms. Holman outlined Committee policy options as follows:

- Introduce a conformity bill that would bring Kansas in conformity with the federal MTSA;
- Introduce a conformity bill with the addition of requested amendments to limit class action lawsuits; or
- Take no action, with the knowledge that the MTSA will be effective in August 2002, at which time Kansas would lose tax revenue from calls made in Kansas by customers whose primary place of use is outside Kansas.

*Senator Lee moved to introduce a bill to conform Kansas law with the MTSA, seconded by Representative Sharp. The motion carried.*

Ms. Holman presented the draft Committee report on Topic 7, sales and use taxation of telecommunications and broadband equipment (Attachment 5). The report explains that, under current law, purchases of telecommunication and broadband equipment are subject to state sales and use taxation. The telecommunication industry testified that this taxation is a factor in the financial feasibility of expanding in Kansas and upgrading equipment to keep up with rapidly advancing technology. Ms. Holman commented that it was up to the Committee to decide whether or not to introduce a bill to offer the sales tax exemption requested by the telecommunication industry. In this regard, she called attention to copies of a proposed bill submitted by the telecommunication industry which would exempt the sale of certain machinery and equipment used to provide advanced communications services (Attachment 6).

In response to an inquiry as to the fiscal impact of the industry proposal, Richard Cram, Kansas Department of Revenue, informed the Committee that the Department had not previously seen the proposed language. As a result, he did not know what the fiscal impact would be. Mr. Cram offered to work with the industry on proposed legislation.

*Senator Brownlee moved to introduce a bill providing that the sales tax exemption be dependent upon the telecommunication company's participation in KanEd. Seconded by Representative Toplikar.*

Committee discussion followed wherein some Committee members expressed their opposition to the addition of another subject to the bill. Noting that the issue could be discussed later at the hearing on the proposed bill during the 2002 Legislative Session, a representative of the telecommunication industry stated that the telecommunication industry prefers that the bill not include the provision proposed by Senator Brownlee.

*Representative Sharp made a substitute motion that the Committee recommend that the subject matter of Topic 7 be moved to appropriate committees in the House and Senate, seconded by Representative Edmonds. The substitute motion carried.*

Ms. Holman reviewed the draft Committee report on Topic 10, tax issues surrounding professional employer organizations (PEOs) (Attachment 7). She reminded the Committee that Representative Edmonds submitted language at the October meeting to be included in the report under the heading, "Conclusions and Recommendations," and the Committee approved that language.

*Representative Edmonds moved to adopt the draft Committee report on Topic 10, seconded by Senator Brownlee. The motion carried.*

Ms. Holman reviewed the draft Committee report on Topic 11, property tax on rental equipment (Attachment 8). She noted that the topic was inspired by a recent opinion issued by the Kansas Supreme Court in the case of *Kansas Enterprises, Inc. v. Frantz*. The Committee report outlines the facts of the case, which involve a company that both rents and sells machinery and equipment. The report also includes a case history and discusses the Supreme Court ruling. Ms. Holman noted that the Committee heard testimony from Linda Terrill of Neill, Terrill & Embree, L.L.C., regarding the case, in which Ms. Terrill cautioned the Committee that the Supreme Court's decision could place car dealers, retailers with rental inventory, and businesses that do not keep separate records for rental and sale inventory at risk of having all of their inventory subjected to property taxation. Ms. Holman reported

that the Department of Revenue indicated that this has not become a problem statewide. She commented that the Committee could introduce clarifying legislation or it could continue to monitor the situation. The Committee deferred action until the afternoon session when Mark Beck, Director of the Property Valuation Division, would be present to answer questions regarding the concerns expressed by Ms. Terrill.

The meeting was recessed for lunch at 11:30 a.m.

### **Afternoon Session**

Senator Corbin called the meeting to order at 1:40 p.m. at which time he opened a discussion on HB 2219, concerning the statutory requirement that Kansas, Inc. prepare an annual report evaluating the cost effectiveness of various economic development tax incentives. Mr. Courtwright reminded the Committee that the bill was not assigned to the Committee for study but was discussed at the October meeting at the request of Kansas, Inc. He explained that the bill was introduced after Kansas, Inc. reported that it was unable to prepare a meaningful report because the Department of Revenue, by statute, cannot share confidential taxpayer records. At the October meeting, the Department of Revenue agreed to work with Kansas, Inc. on a proposal which would allow the Department to share information with Kansas, Inc. so that an accurate report could be compiled.

Mr. Courtwright introduced David Burress, University of Kansas, who reviewed additional background information on HB 2219 as shown in his handout entitled, "Benefit-Cost Analysis of Tax Incentives" (Attachment 9). Mr. Burress concluded his presentation with recommendations regarding studies conducted in Kansas and responded to questions from the Committee. Because HB 2219 was not an assigned topic, the Committee made no recommendation.

Senator Corbin returned the Committee's attention to Topic 11. Representative Edmonds questioned Mr. Beck regarding a conferee's concern that some businesses could possibly be subjected to sales taxation on rental inventory if the law is not clarified. Mr. Beck said that the county appraisers questioned by the Division indicated that, statewide, taxpayers are segregating rental property. In his opinion, it would be exceedingly difficult to draft language to include rental property in the definition of exempt property, and it is not necessary at this time. Following discussion, it was the consensus of the Committee to make no recommendation on Topic 11 with the notation that the Committee understands the concerns of the conferee and would have no objections to hearing a bill on the subject if introduced during the 2002 Legislative Session.

Senator Corbin called upon Mr. Courtwright for a review of the draft Committee report on Topic 6, agricultural land use value (SB 129) (Attachment 10). The report reviews the amendments to SB 129 during the 2001 Legislative Session and notes that the Kansas County Appraisers Association opposed two provisions. The report also notes that the fiscal note from the Department of Revenue on the original bill said that the prohibition against considering soil classifications in the determination of income from pasture or rangeland could be expected to increase valuation on a statewide basis.

Following Mr. Courtwright's review, the Committee discussed the provisions of SB 129 and possible recommendations on the topic. Senator Lee commented that she was in agreement with a conferee who contended at a previous meeting that there is a need for the Property Valuation Division to provide documentation on how agricultural land is evaluated, including the details of how the statute is applied.

*Senator Lee moved that the Committee report on Topic 6 recommend that the Property Valuation Division continue the current crop mix adjustment methodology and enhance educational programs for taxpayers and, in addition, recommend that the Division provide a narrative documenting how each area of the use value formula is currently being applied, seconded by Representative Sharp. The motion carried.*

With regard to SB 129, Mr. Courtwright suggested that perhaps the report should include a statement that the Committee makes no recommendation regarding statutory changes in use valuation at this time.

Senator Corbin turned the Committee's attention to Topic 5, local sales tax on natural gas (SB 233) (Attachment 11). Mr. Courtwright reviewed the draft Committee report on Topic 5 which includes background information on SB 233. For the Committee's information, he distributed a handout entitled "Notes on Natural Gas, MCF vs. Gross Receipts Tax" (Attachment 12).

As requested at the October meeting, Steve Johnson, Kansas Gas Service, presented data profiling the volume of gas delivered by Kansas Gas Service and the amount of local sales tax collected on these volumes during the calendar years 1999, 2000, and 2001, to date (Attachment 13). At the outset, he noted that Kansas Gas Service does not serve all of Kansas, but other local distribution companies would have similar numbers. The examples cited are Overland Park, Wichita, Topeka, and Manhattan. Mr. Johnson noted that, using 1999 as the base year, the information provided demonstrates how the amount of sales tax collected per MCF has increased in 2000 and 2001 due to increased commodity prices and increased volumes used by the customer. Following his presentation, he responded to questions from the Committee regarding the data. In conclusion, he noted that the price of natural gas has become much lower. In his opinion, the price of gas will be reduced by at least one-half of what it was in January 2001.

*Senator Donovan moved that the Committee recommend favorably the volumetric approach to sales taxation of natural gas. There was no second to the motion.*

Committee discussion followed, at which time Senator Allen commented that the issue that the Committee needed to address was what rate per MCF local governments should be allowed to impose. She noted that both a rate cap and the way natural gas is taxed should be considered.

Senator Donovan withdrew his motion.

*Senator Donovan moved that the Committee recommend the introduction of new legislation similar to SB 233 during the 2002 Legislative Session which would substitute a volumetric tax for the current sales tax, seconded by Senator Lee. The motion carried.*

Senator Corbin turned the Committee's attention to Topic 2, streamlined sales tax (SB 252). Mr. Courtwright reminded the Committee that the Legislative Coordinating Council approved separate interim studies for the implications of streamlined sales tax for the telecommunications industry and for all streamlined sales tax issues, but the Committee determined that the telecommunications issues could be addressed under the broader topic. He pointed out that the draft Committee report on streamlined sales tax telecommunication implications notes that the conferees representing the telecommunications industry said the streamlined sales tax project was very important for their industry because of the simplification components (Attachment 14).

*Senator Brownlee moved to adopt the policy option for streamlined sales tax telecommunications implications as stated in the draft Committee report and that language be added to recommend that the 2002 Legislature further review the Florida experience regarding telecommunications tax simplification, seconded by Senator Donovan. The motion carried.*

Mr. Courtwright called attention to the draft Committee report on the streamlined sales tax. The report notes that SB 252 represents the Kansas version of the Uniform Sales and Use Tax Administration Act. It also summarizes testimony on the topic and notes that the Committee received updates from the Department of Revenue on the status of the pilot project, the ongoing multi-state streamlined discussions, and action in Congress. The Department indicated that it would support legislation extending the sunset on the pilot. The report concludes with the itemization of four possible policy options (Attachment 15).

*Representative Shriver moved that the Committee recommend that the House Taxation Committee act favorably on SB 252. Seconded by Senator Lee, the motion carried.*

Mr. Courtwright reviewed the draft Committee report on Topic 1, Regents Foundation income tax credits (HB 2569) (Attachment 16). The report notes that HB 2569, which would authorize nonrefundable income, premiums, and privilege tax credits beginning in tax year 2001 equal to 66.67 percent of amounts donated to the Kansas Regents Foundation, is now in the Senate Assessment and Taxation Committee. The bill would be expected to reduce individual income, corporation income, financial institution privilege, and insurance premiums taxes by an indeterminate amount beginning in FY 2002. Pursuant to a Committee amendment, appropriations to the State Board of Regents also would be required to be reduced by that amount.

*Senator Brownlee moved that the Committee recommend that the Senate Assessment and Taxation Committee act favorably on HB 2569, changing the effective date to 2002, seconded by Senator Donovan. The motion carried.*

Mr. Courtwright presented the draft Committee report on Topic 4, investment service company apportionment (HB 2062) (Attachment 17). The report summarizes the provisions of HB 2062 and notes that it was referred to a House subcommittee during the 2001 Legislative Session. Based on input from the Department of Revenue, the subcommittee asked that several issues be addressed by proponents relative to differences between the bill and Missouri's law. The proponents (Waddell and Reed) suggested amendatory language to address the concerns. The Department reported that the fiscal impact of the bill would be \$3.84 million and that it would continue to work on some of the issues identified

in the subcommittee discussion. The report concludes with the itemization of four policy options.

*Senator Brownlee moved that the Committee recommend that a new bill be drafted reflecting any necessary changes in language agreed to by the Department of Revenue and Waddell and Reed and that the impact on the State General Fund be spread over a minimum of two years, seconded by Representative Huff. The motion carried.*

Senator Corbin called the Committee's attention to the minutes of the October meeting. *Representative Wells moved that the minutes of the October 18-19, 2001, meeting be approved, seconded by Representative Sharp. The motion carried.*

The meeting was adjourned at 4:25 p.m. No further meetings are scheduled.

Prepared by Shirley Higgins  
Edited by April Holman

Approved by Committee on:

January 18, 2002

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