Approved Feb. 4, 1988
Date

MINUTES OF THE ~~SENATE~~ COMMITTEE ON ASSESSMENT & TAXATION.

The meeting was called to order by Senator Fred A. Kerr at
Chairperson

11:00 a.m./~~p.m.~~ on February 3, 1988, 19 88 in room 519-S of the Capitol.

All members were present except:

Committee staff present:
Tom Severn, Research
Chris Courtwright, Research
Don Hayward, Revisor's Office
Sue Pettet, Secretary to the Committee

Conferees appearing before the committee:

SENATE BILL 490

Chairman Kerr called the meeting to order and announced that the committee would be having discussion and possible action on S.B. 490. He said that he preferred to go through the bill section by section, (Att. 1 provided by Research Dept.)
Section 1 amends filing requirements so that only those individuals required to file federal returns or whose gross income otherwise exceeds the applicable Kansas standard deduction plus applicable personal exemption will be required to file a Kansas return.
Section 2 adjusts the individual income tax rates and brackets pursuant to the Governor's recommendations. Senator Salisbury stated that she had concerns regarding the single rate and it should be looked at more closely possibly using a different rate or giving an additional deduction to the head of the household. Senator Parrish asked Sec. Duncan if the head of the household is now receiving an extra exemption. The response was "yes" but would "not" under S.b. 490. Chairman Kerrr stated that there had been a technical amendment requested by Dept. of Revenue adding the word "exempt" on line 34 of the bill. Don Hayward, Revisor stated that he did "not" recommend amending as such, because it would have an effect on several sections of the bill. The word "exclusion" has the same effect.
Senator Hayden made a motion to delete lines 218 through 225 of the bill. Following committee discussion, Senator Hayden withdrew the motion.

Section 5 conforms the Kansas standard deduction to the federal amounts in 1988 and 1989, including the additional standard deduction amounts for elderly and blind taxpayers.

Section 6 would conform Kansas' itemized deductions to the federal itemized deductions enacted in 1986. The deduction for federal income taxes paid, currently available to all taxpayers, would be repealed.

Section 7 would raise the personal exemption to $1,950 in tax year 1988 and to $2,000 for tax year 1989 and every year thereafter. Current law personal exemption is $1,000.

Section 8 exludes amounts withheld pursuant to so-called cafeteria plans from the state income tax base.

Section 9 allows corporations whose payroll in Kansas exceeds 200% of their property and sales in the state to apportion their income under the existing three-factor formula or under a single-factor, sales-based formula.

Section 10 eliminates the "carryback" of deductions for corporation net operating losses.

Mark Burghart of the Dept. of Revenue stated that they wished to clarify their intent. On page 16 of the bill, the correction would eliminate the use of net operating loss carryback. At the end of the ten year period if there is some of that that was not utilized they can claim a refund. (Att. 2)

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT & TAXATION,

room 519-S, Statehouse, at 11:00 a.m./p.m. on February 3, 1988

Senator Parrish made a motion to adopt the amendments (Att. 2) proposed by the Dept. of Revenue. Senator Hayden seconded. Motion carried.

Section 11 imposes an AMT on corporations, "piggy-backed" on the federal alternative minimum tax. Senator Salisbury stated that she felt the negative testimony regarding adverse effects on new businesses in Kansas was a reverse strategy of what Kansas is trying to do regarding economic development. She made a motion to "strike sections 11-14 of S.B. 490." Senator Thiessen seconded the motion.
Chairman Kerr stated that he felt there were some good reasons to adopt this motion. 1. The package of tax reforms as it pertains to Corporations was not very well received, although the corporations need to recognize that the sales tax exemption in the House bill is part of the tax package. 2. There is information that only about 5-6 states have an AMT and none of those states are in this area. 3. In testimony provided by the Wichita Chamber, accountants have evidence that the "windfall" paid by corporations will be larger than expected. Motion carried.

Section 15 states the provisions of the bill applying to tax year 1988 and all future years.

Section 16 repeals the amended statutes.

Senator Allen amade a motion that the federal tax deduction be put back in the bill. Senator Mulich seconded. Committee discussion followed. The fiscal note of repealing the federal deduction is $167 million.

Senator Parrish stated that she opposed the motion because it has the effect of increasing tax rates. Senator Burke stated that he had several amendments to offer, which would also include Senator's Allen's amendment. (Att. 3 & 4)

Because of the extensive changes proposed by Senator Burke, no further action was taken. Senator Allen's motion will be carried over until the next meeting at which S.B. 490 is discussed, probably February 5 according to the Chairman.

Attachments 5 & 6 were submitted for the committee's information by conferees that were not able to be present.

Meeting adjourned.

ASSESSMENT AND TAXATION

OBSERVERS
(PLEASE PRINT)

DATE	NAME	ADDRESS	REPRESENTING
2/3/88	Dana Ferrell	Topeka	Budget
	Tod Tuhlken	"	KPL
	Alan E. Sims	8500 Santa Fe Drive, Overland Park	City of Overland Park
	Tom Whitaker	Topeka	Ks Motor Carriers Assn
	B.W. Bonen	"	Revenue
	Jack Smith	"	"
	Karen McClain	Topeka	Ks. Assoc. of REALTORS
	Don Seeborger	Hanover	BMOE

Section 1--Amends filing requirements so that only those individuals ~~s~~ required to file federal returns or whose gross income otherwise exceeds the applicable Kansas standard deduction plus applicable personal exemption amounts will be required to file a Kansas return. The Department of Revenue estimates that approximately 105,000 low-income taxpayers will no longer be required to file Kansas returns.

Section 2--Adjusts the individual income tax rates and brackets pursuant to the Governor's recommendations. The top rate for married taxpayers filing jointly would be reduced from 9.0 to 5.4 percent and the top rate for single taxpayers would be reduced from 9.0 to 6.2 percent. The number of brackets also would be reduced from eight to two for all taxpayers.

Section 3--Allows a child care credit equal to 25 percent of the federal credit for all taxpayers. Under current law, low-income taxpayers are allowed to take a percentage of the federal credit according to their KAGI. The credit currently phases out at KAGI of $14,000.

Section 4--Exempts Kansas state and local general obligation bond interest from the Kansas income tax base. The Department of Revenue has estimated that the fiscal impact of this provision by itself is approximately $1.0 million.

Section 5--Conforms the Kansas standard deduction to the federal amounts in 1988 and 1989, including the additional standard deduction amounts for elderly and blind taxpayers ($600-$750 per person).

Section 6--Would closely conform Kansas' itemized deductions to the federal itemized deductions enacted in 1986. The deduction for federal income taxes paid, currently available to all taxpayers, would be repealed.

Section 7--Raises the personal exemption to $1,950 in tax year 1988 and to $2,000 for tax year 1989 and every year thereafter. Under current law, the personal exemption is $1,000.

Section 8--Excludes amounts withheld pursuant to so-called cafeteria plans from the state income tax base. State employees, for example, would no longer be required to add amounts withheld for participation in the state health insurance plan back into adjusted gross income. This change would conform to the federal treatment of such plans.

Section 9--Allows corporations whose payroll in Kansas exceeds 200 percent of their property and sales in the state to apportion their income under the existing three-factor formula or under a single-factor, sales-based formula. The Department of Revenue has estimated the fiscal note to the SGF to be about $1 million.

Kansas Legislative Research Department January 25, 1988

Section 10--Eliminates the "carryback" of deductions for corporation net operating losses. It is estimated that this provision could create a one-time revenue increase of about $15 million.

Section 11--Imposes an alternative minimum tax on corporations, "piggy-backed" on the federal alternative minimum tax. The Department of Revenue estimates a positive fiscal impact of $6 million.

Section 12--This section clarifies that alternative minimum tax net operating loss deductions also may only be carried forward and not "carried back".

Section 13--The alternative minimum tax will be paid only if it exceeds the normal tax.

Section 14--The alternative minimum tax does not apply to financial institutions or to corporations not required to compute the tax for federal purposes.

Section 15--The provisions of the bill apply to tax year 1988 and all future years.

Section 16--Repeals the amended statutes.

Section 17--Enacting clause.

case of railroads, the numerator of which is the freight car miles in this state and the denominator of which is the freight car miles everywhere, and, in the case of interstate motor carriers, the numerator of which is the total number of miles operated in this state and the denominator of which is the total number of miles operated everywhere.

(b) All business income of any other taxpayer shall be apportioned to this state by ~~multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three.~~ *one of the following methods:*

(1) By multiplying the business income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three; or

(2) at the election of a qualifying taxpayer, by multiplying the business income by a fraction, the numerator of which is the property factor plus the sales factor, and the denominator of which is two.

(A) For purposes of this paragraph, a qualifying taxpayer is any taxpayer whose payroll factor for a taxable year exceeds 200% of the average of the property factor and the sales factor. Whenever two or more corporations are engaged in a unitary business and required to file a combined report, the percentage comparison provided by this paragraph shall be calculated by using the payroll factor, property factor and sales factor of the combined group of unitary corporations.

(B) An election under this paragraph shall be made by including a statement with the original tax return indicating that the taxpayer elects to apply the apportionment method under this paragraph. The election shall be effective and irrevocable for the taxable year of the election and the following nine taxable years. The election shall be binding on all members of a unitary group of corporations. Notwithstanding the above, the secretary of revenue may upon the request of the taxpayer, grant permission to terminate the election under this paragraph prior to expiration of the ten-year period.

Sec. 10. K.S.A. 79-32,143 is hereby amended to read as fol-

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Att. 2

lows: 79-32,143. (a) A net operating loss deduction shall be allowed in the same manner that it is allowed under the *federal* internal revenue code except ~~as otherwise provided in this section~~ *that such net operating loss may only be carried forward to each of the 10 taxable years following the taxable year of the net operating loss.* The amount of the net operating loss that may be carried forward ~~and carried back~~ for Kansas income tax purposes shall be that portion of the federal net operating loss allocated to Kansas under this act in the taxable year that the net operating loss is sustained.

For net operating losses incurred in taxable years beginning after December 31, 1987,

(b) ~~For a taxable year beginning after the effective date of this act,~~ The amount of the loss to be carried forward ~~or to be carried back~~ will be the federal net operating loss after (1) all modifications required under this act applicable to the net loss in the year the loss was incurred; and (2) after apportionment as to source in the case of corporations, nonresident individuals for losses incurred in taxable years beginning prior to January 1, 1978, and nonresident estates and trusts in the same manner that income for such corporations, nonresident individuals, estates and trusts is required to be apportioned.

~~(c) For purposes of subsection (a), no net operating loss shall be carried back to a taxable year which ended prior to the effective date of this act. For a nonresident individual, any net operating loss incurred for a taxable year beginning after December 31, 1977, shall not be carried back to a taxable year beginning before January 1, 1978.~~

~~(d) If any net operating loss would, except for the provision of subsection (c) hereof, be carried back to a taxable year which ends prior to the effective date of this act, as amended, the amount of such unused net operating loss shall be carried back to the years which follow the year ended prior to the effective date of this act, as amended, and carried forward to each of the seven (7) taxable years following the taxable year of the net operating loss. For a nonresident individual, the effective date of this provision shall be for all taxable years beginning after December 31, 1977.~~

~~(e)~~ *(c)* If a net operating loss was incurred in a taxable year

~~which ended~~ *beginning* prior to ~~the effective date of this act, as amended~~ *January 1, 1988*, the amount of the net operating loss that may be *carried back and* carried forward and the period for which it may be *carried back and* carried forward shall be determined under the provisions of the Kansas income tax laws which were in effect during the year that such net operating loss was incurred. ~~For a nonresident individual, if a net operating loss was incurred in a taxable year which ended prior to January 1, 1978, the amount of the net operating loss may be carried forward as a modification to Kansas taxable income.~~

subsections

and (b)

(d) If any portion of a net operating loss described in ~~subsection~~ (a) is not utilized prior to the final year of the carryforward period provided in subsection (a), a refund shall be allowable in such final year in an amount equal to the refund which would have been allowable ~~absent the provisions of subsection (a) in the taxable year the loss was incurred~~, multiplied by a fraction, the numerator of which is the unused portion of such net operating loss in the final year, and the denominator of which is the ~~original~~ amount of such net operating loss ~~in the year it was incurred~~.

in the taxable year the loss was incurred by utilizing the three year carryback provided under K.S.A. 79-32,143 as in effect on December 31, 1987

which could have been carried back to the three years immediately preceding the year in which the loss was incurred. In no event may such fraction exceed 1.

~~(f)~~ *(e)* Notwithstanding any other provisions of the Kansas income tax act, the net operating loss as computed under subsections (a), (b)~~, (c), (d) and (e)~~ *and (c)* of this section shall be allowed in full in determining Kansas taxable income or at the option of the taxpayer allowed in full in determining Kansas adjusted gross income.

New Sec. 11. (a) In addition to the other taxes imposed on corporations by subsection (c) of K.S.A. 79-32,110, and amendments thereto, there is hereby imposed for each taxable year, a tax equal to the excess of the Kansas tentative minimum tax for the taxable year over the regular tax for the taxable year.

(b) The Kansas tentative minimum tax for the taxable year shall be 4% of the Kansas alternative minimum taxable income as hereinafter defined.

(c) The Kansas alternative minimum taxable income of a corporation under this section shall be the corporation's federal alternative minimum taxable income prior to any federal alternative tax net operating loss deduction as defined in section 56(d) of the federal internal revenue code with the modifications specified in K.S.A. 1987 Supp. 79-32,138, and amendments thereto, except that the modification provided by subsection (b)(iii) of K.S.A. 79-32,117, and amendments thereto, shall not be allowed.

(d) The apportionment provisions utilized by the taxpayer to arrive at Kansas taxable income for purposes of computing the regular tax shall also be applicable for purposes of arriving at Kansas alternative minimum taxable income.

(e) For purposes of this section, the regular tax shall be the amount of tax imposed under subsection (c) of K.S.A. 79-32,110, and amendments thereto, reduced by the credit allowable under section 13.

New Sec. 12. (a) An alternative tax net operating loss deduction shall be allowed in the same manner that it is allowed under the federal internal revenue code except that such alternative tax net operating loss may only be carried forward to each of the 10 taxable years following the taxable year of the net operating loss. The amount of the net operating loss that may be carried forward for Kansas minimum tax purposes shall be that portion of the federal alternative tax net operating loss allocated to Kansas under the provisions of the uniform division of income for tax purposes act in the taxable year that the net operating loss is sustained.

(b) The amount of the loss to be carried forward will be the federal alternative tax net operating loss after: (1) All modifications required for the year the loss was incurred; and (2) after apportionment.

New Sec. 13. (a) There shall be allowed as a credit against the regular tax as provided by subsection (c) of K.S.A. 79-32,110, and amendments thereto, for any taxable year, an amount equal to the minimum tax credit for that taxable year.

(b) For purposes of subsection (a), the minimum tax credit for any taxable year is the excess of the adjusted net minimum tax imposed for all prior taxable years over the amount allowable as a credit under subsection (a) for such prior taxable years.

(c) The credit allowable under subsection (a) for any taxable year shall not exceed the excess of the regular tax liability of the taxpayer, after credits, over the tentative alternative minimum tax for the taxable year.

(d) For purposes of subsection (b), the adjusted net minimum tax for any taxable year shall be the amount of the alternative minimum tax reduced by the amount which would be the alternative minimum tax for such taxable year if~~:~~

~~(1) The only adjustments were those specified in subsections (b)(1) and (c)(3) of section 56 of the federal internal revenue code; and~~

~~(2)~~ the only items of tax preference were those specified in paragraphs (1), (5) and (6) of subsection (a) of section 57 of the federal internal revenue code.

For taxable years commencing after December 31, 1989, the adjustments provided in subsection (g) of section 56 of the internal revenue code shall be treated as specified in this paragraph to the extent attributable to items which are excluded from income for purposes of the regular tax, or are not deductible for any taxable year under the adjusted earnings and profits method of subsection (g) of section 56 of the internal revenue code.

New Sec. 14. (a) The provisions of sections 11 to 13, inclusive, shall not apply to national banking associations, banks, trust companies and savings and loan associations subject to tax under K.S.A. 79-1106 *et seq.*, and amendments thereto.

(b) The provisions of sections 11 to 13, inclusive, shall not apply to any taxpayer or group of corporations of which the taxpayer is a member which are not required to compute the federal alternative minimum tax.

(c) The secretary of revenue shall promulgate such rules and regulations as may be necessary to carry out the purposes of sections 11 to 13, inclusive.

New Sec. 15. The provisions of this act shall be applicable to all taxable years commencing after December 31, 1987.

Sec. 16. K.S.A. 79-3220, 79-3279, 79-32,110, 79-32,111a, 79-32,119, 79-32,120, 79-32,121 and 79-32,143 and K.S.A. 1987 Supp. 75-6512 and 79-32,117 are hereby repealed.

Sec. 17. This act shall take effect and be in force from and after its publication in the statute book.

Amendments to Governor's Bill:

TY1988

* Restore federal deductibility
* Restore current law rate brackets
* Allow $60 tax credit for elderly/blind
  taken against TY87 liab. in TY88
* Repeal proposed AMT on corporations

Ballpark fnote: indiv -45
(corp 6 less than Gov)

TY1989

* Lower indiv top rate to 8.0 pct.

Ballpark fnote: indiv -56

TY1990

* Lower indiv rates across the board
* Soc sec benefits exempt
* Corp base rate lowered by 0.75 pct

Ballpark fnote: indiv -85
corp -14 -99

TY1991

* Lower indiv top rate to 7.5

Ballpark fnote: indiv -105
corp -14 -119

TY1992

* Lower indiv slightly across the board
* Corp base rate lowered by 0.5 pct

Ballpark fnote: indiv -115
corp -24 -139 returned

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Att. 3

STATE OF KANSAS

SENATOR
PAUL "BUD" BURKE
MAJORITY LEADER
P O BOX 6867
LEAWOOD, KANSAS 66206-0867

COMMITTEE ASSIGNMENTS
VICE-CHAIRMAN ORGANIZATION CALENDAR AND RULES
MEMBER ASSESSMENT AND TAXATION
COMMERCIAL AND FINANCIAL INSTITUTIONS
INTERSTATE COOPERATION
JUDICIARY
LEGISLATIVE AND CONGRESSIONAL APPORTIONMENT
LEGISLATIVE COORDINATING COUNCIL

TOPEKA

SENATE CHAMBER
OFFICE OF
MAJORITY LEADER

FIVE-YEAR PLAN FOR RETURNING THE WINDFALL

The proposed legislation seeks to return approximately $139 million over a five-year period, beginning in Tax Year 1988 and ending in Tax Year 1992.

The measure would return the windfall through phased-in lower individual income tax rates, exemptions for social security benefits (starting in 1990), and a $60 tax credit for the elderly and the blind to be taken in Tax Year 1988 for Tax Year 1987 eligibility.

A simple way to look at the proposed measure is as an amendment to the Governor's Tax Reform recommendations embodied in SB490.

In Tax Year 1988, by restoring the deduction on federal income taxes, restoring current law income tax rate brackets, conforming to federal itemized deductions, standard deductions and personal exemptions, and exempting general obligation bond interest, the measure would return about $36 million. An additional $9 million

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Att. 4

would be returned in TY 1988 through the tax credit for the blind and elderly, which totals $9 million. The total returned in Tax Year 1988 would be $45 million.

The measure also would reject the proposal on the Alternative Minimum Tax, which would have raised an estimated $6 million annually.

In Tax Year 1989, the bill would reduce the top individual income tax rate from 9.0 percent to 8.0 percent at an approximate cost of $20 million, bringing the total returned to $56 million. (The $9 million tax credit in TY1988 would not be necessary in the out years of the plan)

In Tax Year 1990, the bill would further reduce income tax rates across the board and exempt social security benefits from state income taxes, raising the amount of the returned windfall to $85 million on the individual side. During Tax Year 1990, the bill also would lower the base corporate income tax rate from 4.50 percent to 3.75 percent at a cost of $14 million. Thus the individual and corporate provisions would combine to return about $99 million by Tax Year 1990.

In Tax Year 1991, the bill would reduce the top individual income tax rate from 8.0 percent to 7.5 percent, bringing the return on the individual side to $105 million and the total returned windfall to $119 million.

Finally, in Tax Year 1992, the bill would again reduce individual rates across the board, bringing the total returned to individual taxpayers to $115 million. During the last year of the tax reform measure the corporate base rate would be reduced from 3.75 percent to 3.25 percent, sending an additional $10 million back to companies and reducing the combined rate to 5.5 percent.

The final return of the windfall would total $139 million at the end of Tax Year 1992. Of that amount, $115 million would be returned to individual taxpayers and $24 million to corporate taxpayers. Corporations also would not be incurring the additional $6 million of liability the Alternative Minimum Tax would raise, bringing the net corporate reduction in comparison to the Governor's plan to $30 million.

Some Key Provisions of the bill:

*Gradually reduce individual income tax rates.
*Retain state deduction for federal income taxes.
*Grant exemption on state income taxes for social security.
*Allow $60 tax credit for blind and elderly who were disadvantaged in Tax Year 1987.
*Conform to federal income tax changes on personal exemptions and standard deductions, removing about 105,000 low-income Kansans from the tax roles.

*Reduce base rate for corporate income taxes twice, creating a combined top rate of 5.5 percent, compared to 6.7 percent under current law and the Governor's plan.
*Change apportionment formula for Kansas corporations.
*Would not apply Alternative Minimum Tax

*Not enacting AMT and lowering rates would help improve the business climate and be a good economic development tool.
*The corporate income tax rate changes would put Kansas in a more competitive line with Missouri, whose top corporate rate is 5 percent.
*The Kansas changes would place Kansas below Kansas City, Missouri, which has a top rate of 6.25 percent due a local income tax surcharge.

Missouri

. . . . 5%[6]

Montana[7]

. . . . 6.75%

Nebraska

1st $50,000	4.75%
Over $50,000	6.65%

New Hampshire

. . . . 8%

New Jersey[8]

. . . . 9%

New Mexico

1st $500,000	4.8%
2nd $500,000	6.4%
Over $1 million	7.6%

New York[9]

. . . . 9%

North Carolina

. . . . 7%

North Dakota[10]

1st	$3,000	3%
Next	5,000	4.5%
Next	12,000	6%

North Dakota—continued

Next	$10,000	7.5%
Next	20,000	9%
Over	50,000	10.5%

Ohio

5.1% of the first $25,000 ($50,000, first effective for 1989 tax year) of a corporation's net income plus 9.2% (8.9% for 1988 tax year and thereafter) on net income in excess of $25,000 ($50,000, first effective for 1989 tax year), or 5.82 mills times the value of stock, whichever is greater. If the tax based on net income exceeds the alternative 5.82 mills tax, a surtax of 2.7% is imposed for tax year 1987. Financial institutions are taxed at 15 mills times the value of stock. Minimum tax; $50.

Oklahoma

. . . . 5%

Oregon[12]

. . . . 6.6%

Pennsylvania

. . . . 8.5%

Rhode Island

Greater of 8% of net income or 40¢ per $100 of net worth.

South Carolina[13]

. . . . 6%

Tennessee[14]

. . . . 6%

Utah[15]

. . . . 5%

Vermont[16]

1st	$10,000	5.5%
Next	15,000	6.6%
Next	225,000	7.7%
Over	250,000	8.25%

Virginia

. . . . 6%

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tax is imposed equal to 0.1% of the alternative minimum tax base over regular franchise tax liability. For taxable years beginning after 1989, a federal piggyback alternative minimum tax is imposed.

For tax years beginning after 1987, the rate will rise if there is a revenue shortfall.

[6] Missouri: Financial institutions are taxed at a rate equal to the sum of (1) the greater of $25 or 1/20th of 1% of the par value of the institution's outstanding shares and surplus employed in Missouri and (2) 7% of the institution's net income for the income period minus the tax computed on their shares and surplus under (1) and the credits allowable for other state and local taxes.

Through the 1991-92 fiscal year, corporations and financial institutions in the Kansas City School District are subject to a surcharge that brings the total tax rate for corporations to 6.25% and for financial institutions to 8.75%.

[7] Montana: Beginning in 1988, corporations electing to use water's edge apportionment are taxed at 7%. A 4% surtax applies to all corporate taxpayers after 1987. Minimum tax, $50, except $10 for small business corporations.

[8] New Jersey: All corporations pay additional tax on net worth. A 7¼% corporation income tax is imposed on entire net income of corporations deriving income from New Jersey other than those subject to or exempt from the general income tax.

For accounting or privilege periods ending before July 1, 1993, a surtax is imposed at a rate determined by the Division of Taxation based on the amount of franchise tax paid that is attributable to changes made to federal income tax laws by the Tax Reform Act of 1986.

[9] New York: Corporations are subject to a 9% tax on net income or a tax on three alternative bases, whichever produces the greatest tax. Small business taxpayers are subject to a lower tax rate. An additional tax of 9/10 mill per dollar of subsidiary capital is levied. A 10% tax is imposed on unrelated business income, with modifications, of taxpayers subject to the federal tax on unrelated business income. Minimum tax, $250.

Surcharge on business activity in Metropolitan Commuter Transportation District is 17% of tax imposed for tax years ending on or after December 31, 1983 but before December 31, 1990.

[10] North Dakota: The tax is equal to the greater of the tax rate on taxable income or 5% of alternative minimum taxable income, effective for tax years beginning after 1988.

[12] Oregon: Minimum tax, $10. Qualified taxpayers may elect to pay alternative tax of ¼ of 1% or ⅛ of 1% of gross sales in Oregon.

[13] South Carolina: The tax is reduced to 5.5% for tax years beginning in 1988 and to 5% for tax years beginning after 1988.

[14] Tennessee: Corporations are also subject to the tax on dividends and interest.

[15] Utah: Minimum tax, $100.

A surtax is imposed at the rate of 4% of the amount of tax payable or paid for tax years that begin during 1986.

[16] Vermont: Minimum tax, $75.

FIRST SECURITIES COMPANY
OF KANSAS INCORPORATED
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ONE MAIN PLACE
316-262-4411
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STATE OF KANSAS

SENATE ASSESSMENT AND TAXATION COMMITTEE

Good morning Chairman Kerr and Distinguished Members of the Committee:

We thank you for this opportunity to express views and opinions regarding the proposal on your agenda for consideration, regarding the elimination of State of Kansas income taxation on municipal bonds for individuals. I am Marvin Cox, a principal and officer of the investment banking firm, First Securities Company of Kansas, Inc. The First Securities Company has been active in public finance since 1916. Our main offices have been located in Wichita since 1916 and the Company has offices located in cities throughout the State of Kansas. We hope our testimony regarding S.B. 454, based upon our broad background of experience and history of service to the people of the State of Kansas, is helpful in your decision making process.

Other members of the industry, which underwrite and distribute Kansas municipal bonds, have also been requested to appear today; and previously appeared August 20, 1987 at the Interim Committee on Taxation. In an attempt to fully communicate not only our concerns, but the industry's opinions and concerns, an industry-wide telephonic conference call was originated August 18, 1987 past. The general opinions and viewpoints of the industry were presented at that meeting. A synopsis of same is attached for your information and consideration regarding the question of elimination of State of Kansas income taxation upon municipal bonds. I wish to today expound the seven major points contained in the synopsis. They are as follows:

1.) Lower taxes for Kansas taxpayers will be resultant due to interest cost savings directly attributable to lower interest costs via additional Kansas investor demand for Kansas bonds. Tax-exempt bonds sell better than taxable bonds.

2.) Additional demand by Kansas investors for Kansas bonds would keep investment dollars in Kansas.

    A synopsis of the total principal amount of bonds issued at public sale in the State of Kansas for 1986 through August, 1987 total \$321,691,493. A total of 806 bids were given for these issues sold for an average "principal sold per bid," for these two years, of approximately \$399,000. This is information regarding 157 public sales. There was an average of five bids per sale. All bond dealers who participated in these public sales were asked to participate in the dealer's meeting hereinbefore referred. It is interesting to note several comments in the meeting from dealers not domiciled in the State of Kansas that the retail buyers of other "neighboring" states' securities, in states where there is no state tax upon "in-state" municipal securities, that only 1 out of 15 purchases were for "out-of-state" bonds versus 50:50 for Kansas! In addition, the industry has seen a rapid growth of municipal bond mutual funds containing bonds of various states. This product segment has enjoyed a very rapid growth in Kansas.

3.) All states but five in the United States of America do not have, currently, a state income tax upon their respective state's municipal bonds[1]. Differently phrased, 97% of the states do not tax bonds of their own municipalities!

4.) There is, obviously, benefit associated with "full" tax-exemption to Kansas bonds, whereas various authorities and instrumentalities of the State of Kansas issue fully exempt bonds, including, for example, the State of Kansas Highway Department, the Kansas Turnpike Authority and the Kansas Board of Regents. This financial advantage which state tax-exemption brings to the issuers and their citizens and taxpayers should be distributed to all municipal units. This opinion is shared by the Kansas League of Municipalities in a recent publication:

"For many years, the League of Kansas Municipalities has supported state legislation to eliminate the income taxation of interest on municipal bonds. Under existing state law (K.S.A. 1986 Supp. 79-32, 177), bond interest income is included within the Kansas adjusted gross income for taxation purposes, unless there is a specific statutory exemption. Strangely, most of the classic, traditional public purpose bonds issued by Kansas counties, cities and school districts are subject to state income taxation, while the interest on the bonds of state agencies and most "special purpose" type local bonds are tax-exempt"[2] . . . (further) . . . "some - we now have: the interest on Kansas turnpike bonds and state freeway bonds is exempt, but bonds issued by cities and counties for streets and highways and bridges are taxable"[2] . . . (and) . . . "Rural water district bonds are exempt, but not the bonds of cities for water supply and distribution improvements."[2]

5.) Whether or not the income tax on Kansas municipal bonds is unilaterally removed, the municipal bond industry which purchases, underwrites and distributes Kansas municipal bonds is not going to cease their activity. Bonds will still be bid upon and sold at some price level. We feel it important to indicate this. The industry

[1] An Investors Guide to Tax-Exempt Securities, Public Securities Association, New York, and Commerce Clearinghouse, Inc. State Tax Guide, October, 1986, pages 16 and 17. (Copies available upon request.)

[2] Kansas Government Journal of the League of Kansas Municipalities, June, 1987 edition, page 163.

will still be in the business of underwriting and distributing bonds at some yield level. The undergirding thought is not to help a small minority, nor to redistribute wealth, nor to help the Kansas bond dealers industry, but to aid the average taxpayer, to aid our tax base, and to lower taxes. The Kansas municipal bond industry will not enjoy nor reap benefit from this tax elimination. Competition will be increased which, as herein indicated, would lower interest costs through bidding procedures for municipal bonds, thus lowering taxes levied for interest on funds borrowed for capital improvements. Again, tax-exempt bonds sell better than taxable bonds. With this thought in mind, and due to the above delineated paradox occurring due to different levels of taxation upon Kansas bonds, there is an industry segment which is not fully supportive of elimination of said taxation, whereas it is perhaps not in their best interest to alleviate, due to the trading opportunities such confusion creates. Again, the underlying thought is to aid our citizens.

6.) Due to recent federal tax law changes enacted, municipal bonds are not as attractive to institutional investors, including insurance companies and commercial banks, as in prior years. This reduces overall demand for bonds. In an attempt to aid on the federal level, this reduction in demand, a special exemption for commercial bank purchases of municipal bonds to help small issuers was enacted (i.e. "bank qualified"). This was based upon information available in this regard at the federal level and bond industry testimony. It should therefore be in the best interest of Kansas municipalities and small Kansas banks for the State of Kansas to give attention to enacting such legislation possible, which can aid in increasing demand of investors for Kansas bonds.

7.) The fiscal impact upon the general fund of the State of Kansas due to removal of said tax is uncertain. However, it is the industry's opinion that the benefits of the elimination of said tax to Kansas taxpayers would far outweigh revenue loss to the State of Kansas.

In summary, these are the opinions of the participants in the underwriting and distribution of Kansas municipal bonds. These opinions delineated are relevant! They are of your bankers! We believe that by elimination of Kansas income taxation to individuals upon municipal bonds, measurable benefits to all Kansas citizens will be enjoyed!

Thank you.

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SYNOPSIS OF MUNICIPAL BOND INDUSTRY OPINION

REGARDING THE ELIMINATION OF KANSAS (INDIVIDUAL) INCOME TAXATION ON MUNICIPAL BONDS

1.) Tax-exempt bonds sell better than taxable bonds. Lower taxes for Kansas taxpayers will be resultant due to interest cost savings directly attributable to lower interest cost via additional Kansas investor demand for Kansas bonds.

2.) Additional demand by Kansas investors for Kansas bonds would keep investment dollars in Kansas.

3.) All states but five in the United States of America do not currently have a state income tax upon their respective state's municipal bonds.

4.) The benefit of full exemption associated with current fully exempt Kansas bonds should be distributed to all Kansas municipalities instead of only to various authorities and instruments of the State of Kansas.

5.) The Kansas Municipal Bond Industry will not benefit from this tax elimination. Bidding competition will be increased. This will lower interest costs and underwriter profit margins through bidding procedures on municipal bonds, thus lowering taxes levied for interest and costs of funds borrowed for capital improvements.

6.) Due to recent federal tax law changes enacted, municipal bonds are not as attractive to certain investors as in prior years. This reduces overall demand for Kansas municipal bonds. State legislation to remove said tax would reverse downward demand trends.

7.) The fiscal impact upon the general fund of the State of Kansas, due to removal of said tax, is uncertain. However, the long-term benefits of elimination of said tax to Kansas taxpayers should outweigh the revenue loss to the State of Kansas.

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February 1, 1988

Senator Fred A. Kerr
Chairman
Senate Assessment and Taxation Committee
Room 143-N
State Capitol
Topeka, Kansas 66612

Dear Senator Kerr:

I am sorry that due to inclement weather and bad road conditions, I am unable to attend today's meeting on Senate Bill #454.

I have attached however copy of the testimony and information presented last August 20th, 1987 at the Interim Committee Meeting held on the subject. The information is substantially the same. Our opinions have not changed.

We feel the topic highly relevant. We feel a need exists for modification of current Kansas law regarding taxation of municipal securities. Exemption of municipal securities from taxation will provide a more understandable, precisely written, body of law. We feel that measurable results will be enjoyed by all Kansas citizens by such change. I invite your response and advice as to how I can serve as an additional informational source in your decision making in these regards.

For your additional information, the Wichita Chamber of Commerce annually adopts a policy manual regarding their legislative agenda. Therein, regarding taxation for the current 1988 session, are the following policies:

A.) Support comprehensive business tax reform designed to enhance the ability of Kansas to compete with neighboring states;

B.) The Chamber encourages and supports a tax system that is broad based and fairly distributed with no discriminatory or punitive features;

C.) The Chamber encourages and supports a tax system that provides for and lends itself to effective and fair enforcement.

Senate Bill 454 embraces these concepts.

Very truly yours,

FIRST SECURITIES COMPANY
OF KANSAS, INC.

Marvin M. Cox, Jr.
Executive Vice President

MMC/rt
Attachment

A & T Mtg. 2/3/88 Att. 6