Approved: 1-21-98
Date

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION.

The meeting was called to order by Chairperson Audrey Langworthy at 11:00 a.m. on January 15, 1998, in Room 519--S of the Capitol.

Members present: Senator Langworthy, Senator Lee, Senator Bond, Senator Donovan, Senator Hardenburger, Senator Karr, Senator Steffes and Senator Steineger.

Committee staff present: Tom Severn, Legislative Research Department
Chris Courtwright, Legislative Research Department
Don Hayward, Revisor of Statutes
Shirley Higgins, Secretary to the Committee

Conferees appearing before the committee: Shirley Sicilian, Department of Revenue
Dan Hermes, Director of Governmental Affairs

Others attending: See attached list

The minutes of the January 13 and 14 meetings were approved.

Senator Donovan explained a bill which he planned to introduce, giving Committee members an opportunity to "sign on." It provides that teachers, who spend their own funds purchasing teaching aids or school supplies for their classroom, can apply for an income tax credit for an amount not to exceed $500.00 when they file their income tax return. If the amount of such credit exceeds their income tax liability for the appropriate taxable year, the excess amount will be refunded. The bill applies to all teachers in accredited schools, public or otherwise. This proposed bill is identical to a bill he introduced during the 1997 session with the exception of the amount of income tax credit. The 1997 version provided for a $300.00 tax credit. Senator Donovan noted that he has received many letters and calls in support of such legislation.

SB 250 -- Relating to sales taxation; defining educational institution for such purposes.

Senator Langworthy reminded the committee that **SB 250** was passed out of committee with amendments last session. Because the amendments weighted the bill down, it was rereferred to the committee for further consideration.

Shirley Sicilian, Department of Revenue, testified in support of **SB 250**. She explained that subsections (c) and (d) of K.S.A. 79-3606 exempt certain sales to elementary schools, secondary schools, and educational institutions. **SB 250** would add a definition of the term "educational institution" to the definitions section of the sales tax statutes. The bill as introduced defined "educational institutions" to include nonprofit post-secondary schools, NCAA, non profit endowment associations and foundations, and nonprofit athletic associations and foundations. Last session, the bill was amended to also include nonprofit student unions and research trusts and foundations in the definition. (Attachment 1)

In response to a question by Senator Langworthy as to the need for the bill, Ms. Sicilian explained that the Department often receives questions regarding the interpretation of "educational institution" in the sales tax statutes. Because there is no definition in the sales tax statutes, the Department is forced to look to other statutes for a definition. Therefore, the bill is needed to clarify the sales tax statutes.

Dan Hermes, Director of Governmental Affairs, requested the introduction of three bills on behalf of the Governor. The proposed bills are a of portion of the Governor's tax relief package for 1998.

The first bill, the Business Tax Relief Act of 1998, included two provisions. One increases the personal property tax exemption from $250.00 to $500.00, and the other provides a 15 percent refundable income tax

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.

credit for property tax paid on machinery and equipment.

The second bill repeals the Kansas inheritance tax and replaces it with a Kansas estate tax, effective July 1, 1998.

The third bill, the Income Tax Relief Act of 1998, has four components as follows: a provision for equal rates for single taxpayers in tax year 1998, a provision to increase the standard deductions for single, married, and heads of households, a provision to increase the personal exemption by $100.00, and a provision to include a 10 percent earned income tax credit beginning in tax year 1998.

Senator Bond moved to introduce the three proposed bills, seconded by Senator Donovan. The motion carried.

SB 419--Income taxation; concerning delinquent tax accounts.

Shirley Sicilian, Department of Revenue, explained that **SB 419** would phase in the income tax penalty currently in the statutes, and it would increase the limit for charge-off of individual income tax accounts receivable. (Attachment 2)

SB 420--Inheritance taxation; updating references to the federal internal revenue code.

Shirley Sicilian, Department of Revenue, explained that **SB 420** would delete the reference to the 1992 federal law in the Kansas inheritance tax statutes and replace it with reference to the 1997 law. She further explained that the bill would be irrelevant if a proposed state "pick-up" tax (death tax credit) is enacted. However, if Kansas maintains an inheritance tax law, the bill would become a very important technical clean-up bill. (Attachment 3)

The meeting was adjourned at 11:40 a.m.

The next meeting is scheduled for January 20, 1998.

SENATE ASSESSMENT AND TAXATION COMMITTEE
GUEST LIST

DATE: January 15, 1998

NAME	REPRESENTING
Marvin Burris	Ks Board of Regents
Joe Barron	KBOR
Jon Josserand	KU
S K Sicilian	KDOR
David Zin	KDOR
Bob Corkins	KCCI
Mark Beck	KDOR
Roger Toelkes	Senator Hensley office
Jim Langford	DOB
Hal Hudson	NFIB/KS
Dave Holthaus	Western Resources
Gene Peterson	K-State
Kathy Peterson	YMCAs of Kansas
Eric L. Sexton	WSU
Steve Montgomery	CAS Construction
Ashley Sherard	Overland Park Chamber

STATE OF KANSAS
Bill Graves, Governor

Shirley Sicilian, Director
915 SW Harrison St.
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DEPARTMENT OF REVENUE
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MEMORANDUM

TO: Senator Audrey Langworthy, Chair
Senate Committee on Assessment and Taxation
FROM: Shirley Klenda Sicilian
RE: Senate bill 250 - Definition of educational institution
DATE: January 15, 1998

Senator Langworthy and members of the Senate Committee on Assessment and Taxation, thank you for the opportunity to testify on Senate bill 250. Subsections (c) and (d) of K.S.A. 79-3606 exempt certain sales to elementary schools, secondary schools and educational institutions. This bill would add a definition of the term "educational institution" to K.S.A. 79-3602, which is the definitions section of the sales tax statutes. It has a fiscal note of $582,000 for FY99. The bill as introduced defined "educational institutions" to include:

1. **nonprofit post-secondary schools** accredited by the North Central Association of Colleges and Schools, the State Board of Education, or otherwise qualifying as "educational institutions" under K.S.A. 74-50,103. K.S.A. 74-50,103 is the "IMPACT" act and references "state educational institutions" which are defined as the university of Kansas, Kansas state university, Wichita state university, Emporia state university, Pittsburgh state university, and Fort Hays state university. The IMPACT act goes on to also reference Washburn University, area vocational schools or area vocational-technical schools, and community colleges.
2. **NCAA,** which is a group of educational institutions that operates exclusively for an educational purpose. This provision codifies the findings of the Kansas Supreme Court in the NCAA case.[1]
3. **nonprofit endowment associations** and foundations organized and operated exclusively to administer funds for the sole benefit of an educational institution. This portion of the bill would allow separately incorporated endowment associations to maintain the same sales tax exemption as those that are not separately incorporated.
4. **nonprofit athletic associations** and foundations organized and operated exclusively to hold and own receipts from intercollegiate sporting events for the sole benefit of an educational institution. The department recently assessed unpaid sales tax on uniforms and athletic equipment purchased by separately incorporated athletic associations. State universities that do not have separately incorporated athletic associations would not be assessed sales tax on the same type of purchases. This portion of the bill is intended to eliminate this discrepancy.

Last session the bill was amended to also include in the definition of educational institutions:

5. **nonprofit student unions and research trusts and foundations.** This addition accounts for approximately $200,000 of the fiscal note.

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Attachment 1

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[1] *NCAA v. Kansas Dept. of Revenue*, 245 Kan. 553, 781 P.2d 726 (1989).

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Office of Policy & Research

MEMORANDUM

TO:	Senator Audrey Langworthy Chair Senate Committee on Assessment and Taxation
FROM:	Shirley Sicilian Director, Policy & Research Kansas Dept. of Revenue
RE:	**Senate Bill ~~420~~ 419 - ~~Delete Ks. inheritance tax reference to 1992 federal law and replace with a reference to 1997 federal law~~** Income Tax, delinquent tax accounts,
DATE:	January 15, 1998

Senator Langworthy and members of the Senate Committee on Assessment and Taxation, thank you for the opportunity to testify today regarding Senate bill ~~420~~ 419. This bill has two substantive provisions. It would 1) phase-in the income tax penalty, and 2) increase the limit for charge-off of individual income tax accounts receivable.

1. **Phase-in the income tax penalty.** Under current statute, if a taxpayer fails to file or pay by the due date, a 10% penalty must be assessed in addition to interest, even when the payment is only a day or two late. The penalty rises to 25% after 6 months. Statutes allow the secretary to waive penalty for "reasonable causes," and in the majority of cases, taxpayers do request a waiver. Because a 10% penalty in today's economic environment often seems excessive under the circumstances, their requests are usually granted. This putting on and taking off of penalty works in theory but can be administratively expensive and time consuming in practice. The system also has the potential to create inequities between those who simply pay the penalty without question and those who know to ask for waiver. Under the proposed bill, penalties would be phased-in at the rate of 1% a month, up to a maximum of 24%. The lower starting rate and the more gradual phase-in will provide a penalty that is reasonable under most circumstances and can be uniformly applied.
   KDOR's current income tax processing systems are not able to calculate interest as required by this bill. However, our new systems will be able to. Our new systems are scheduled to be operational January 1, 1999. Therefore, the proposal is written to apply to all tax years ending on or after December 31, 1998.
2. **Increase the limit for charge-off of individual income tax accounts receivable.** Under current law, accounts receivable for less than $25 which have been delinquent for more than seven years may be abated if the director finds them to be uncollectable after all reasonable efforts have been made. A finding of "uncollectable" must be

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based on one of the reasons enumerated in statute. These reasons include cases where the taxpayer is insolvent, receiving social security or welfare and has no other assets, mentally ill or physically incapacitated and not economically productive, etc. When Revenue charges-off one of these accounts from our accounts receivable, it is still sent to Dept. of Administration to be included in the set-off program. The $25 limit has been in place since 1969. The proposed legislation would simply raise that $25 limit to $100 to reflect inflation and reduce administrative costs of maintaining the account.

STATE OF KANSAS
Bill Graves, Governor

DEPARTMENT OF REVENUE
John D. LaF[illegible] Secretary

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Office of Policy & Research

MEMORANDUM

TO:	Senator Audrey Langworthy Chair Senate Committee on Assessment and Taxation
FROM:	Shirley Sicilian Director, Policy & Research Kansas Dept. of Revenue
RE:	**Senate Bill 420 - Delete Ks. inheritance tax reference to 1992 federal law and replace with a reference to 1997 federal law**
DATE:	January 15, 1998

Senator Langworthy and members of the Senate Committee on Assessment and Taxation, thank you for the opportunity to testify today regarding Senate bill 420. This bill will be irrelevant if a "pick-up" tax is adopted. But if Kansas maintains an inheritance tax law in some form, this becomes a very important technical clean-up bill.

Kansas inheritance tax law requires taxpayers to pay the higher of the Ks. inheritance calculation or the federal credit for state death taxes (pick-up). In the last session of congress, the federal government increased their "unified death tax credit" thus lowering the tax due after unified credit. Since the maximum state death tax credit (pick-up) is limited to the federal tax after unified credit, the maximum state death tax credit will be decreasing for some federal taxpayers. The current Kansas statutes reference the 1992 version of federal law. This KDOR bill would create conformity with the new 1997 federal law to allow flow-through of the lower federal "pick-up" tax calculation. Without the bill, taxpayers would have to estimate their federal liability twice: once under the 1997 law for their federal filing, and once under the 1992 law for their Kansas filing. Because the federal changes to the unified credit are small, the fiscal impact of this bill is a minimal decrease to the state general fund.

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Attachment 3