

Approved: 5/8/09  
Date

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE

The meeting was called to order by Chairman Les Donovan at 11:10 a.m. on May 7, 2009, in Room 545-N of the Capitol.

All members were present.

Committee staff present:

Gordon Self, Office of the Revisor of Statutes  
Scott Wells, Office of the Revisor of Statutes  
Corey Carnahan, Kansas Legislative Research Department  
Chris Courtwright, Kansas Legislative Research Department  
Mary Jane Brueck, Committee Assistant

Conferees appearing before the Committee: None

Others attending:

See attached list.

Chairman Donovan opened the meeting and explained the committee would be using HB 2365 as a vehicle to hold important parts from several other bills to deal with the budget. He asked Chris Courtwright, Kansas Legislative Research Department, to explain the main points of S Sub for Sub HB 2365. The highlights of the new bill are no decoupling, no franchise clause, corporate income tax reduction, no estate tax, and no deduction of funds to Parks and Recreation programs across the State. (Attachment 1)

Sen. Colyer asked about the 10% tax credits. The Department of Revenue tracks these credits, and there is always some of those credits not claimed.

Sen Steineger spoke about unintended consequences of this bill. His main concern was those who renovate historical buildings. Those people who have already made plans to renovate historic buildings and are planning to receive tax credits on that work to help covers some of the expenses of the project. Those credits are not received until the work is done and the building is in service. It would be un fair not to give the tax credits the renovators are expecting to receive.

Joan Wagon, Secretary of the Department of Revenue explained this is a two year pause of the 10% tax credit. The building may not be in service in the next two years to cause this sort of problem. She also told the committee the Kansas Historical Society is the entity that manages these projects.

Sen. Brownlee supported Sen. Steineger's concern regarding this tax credit.

Gordon Self, Office of the Revisor of Statutes, will write a Substitute for HB 2365 to include the information from Attachment 1.

Sen D. Schmidt moved adoption of the amendment to HB 2365 making it S Sub for HB 2365, and that the new bill be passed favorably out of committee. Sen. Colyer seconded the motion. The motion carried.

Sen. Steineger moved to exempt the Capitol Restoration project sales tax. There was no second. The motion failed.

Sen. Steineger moved distribution of the State liquor tax not include a payment to citys' general funds. There was no second. The motion failed.

Sen. Lynn moved S Sub HB 2365 be voted favorably for passage as amended. Sen Colyer seconded the motion. The motion passed.

Chairman Donovan adjourned the meeting at 12:14 p.m.

No future meetings are scheduled..

5/7

SENATE  
Assessment & Taxation Committee  
GUEST LIST

DATE: 5/7/09

| NAME              | REPRESENTING             |
|-------------------|--------------------------|
| Richard Samaniego | Kennedy & Assoc.         |
| BRAD HARRISON     | KFB                      |
| Mark Tallon       | KASB                     |
| KEVIN GREGG       | KMCA                     |
| Ron Seche         | KARA                     |
| Moji Fanimokun    | LKM                      |
| John Beterland    | Pinegar - Smith          |
| Jim Mazz          | Spirit Aero Systems      |
| TERRY FOLSYTH     | KWEA                     |
| Melill Schooley   | Dunham Craft Relating    |
| RICK GRABILL      | EMBARQ                   |
| John Kiefhaber    | Ks. Chiropractic Assn.   |
| Jacqueline Clark  | Ash Grove Cement Company |
| Destin Moyer      | KHPA                     |
| Miko Murray       | Embargo                  |
| Richard Crum      | KDOR                     |
| Joan Wegner       | KDOR                     |
| David R. Corbin   | KDOR                     |
| Sean Tombs        | Director of the Budget   |

# SENATE

## Assessment & Taxation Committee

### GUEST LIST

DATE: \_\_\_\_\_

| NAME             | REPRESENTING                  |
|------------------|-------------------------------|
| Mike Reebelt     | Sprint                        |
| Dennis Kriese    | KS Assn of Counties           |
| Kent Eckles      | KS Chamber                    |
| Patrick Fuchs    | Sprint                        |
| Dan Murray       | Federico Consulting           |
| Dave Holtwick    | Overland Park Chamber         |
| Asuley Sheward   | Lenexa Chamber                |
| Christy Caldwell | Topeka Chamber                |
| JEFF CONWAY      | KS DEPT. OF COMMERCE          |
| Michelle Buller  | Cap. Strategics               |
| Patricia Bugis   | Wichita Indep. Bus. Assoc.    |
| John Donley      | KS Lusk. Assn                 |
| Jim Gartner      | AT&T                          |
| Bud Burke        | Issues Mgmt. Group            |
| Walt Johnson     | Kh white & spitzer whitehouse |
| Berend Koops     | Hein Law Firm                 |
| Rick Spofford    | H&V                           |
| ERIK SARTORIUS   | City of Overland Park         |
| Tom Bruno        | Bruno & Associates            |

Supp Note S Sub HB 2365 as Rec by Senate A&T

Brief

S Sub HB 2365 would enact new revenue settlement authority for the Secretary of Revenue; make several changes in the statute of limitation provisions relating to sales and income taxes; make a number of adjustments relative to the amount of various income, privilege, and premiums tax credits that may be claimed; clarify the sales tax treatment of purchases by or on behalf of a certain group; clarify the estate tax relative to the valuation of agricultural land; and expand the Homestead Property Tax Refund program.

Settlement Authority

One section of the bill would grant the Secretary of Revenue additional authority to equitably resolve certain audit-related assessments that are pending in the administrative appeals process or the State Court of Tax Appeals; or are pending in the judicial review process before any state or federal district or appellate court. The settlement authority would include the ability to resolve amounts of tax, penalty, and interest in question. (Sub SB 337)

Income Tax – Statute of Limitations

Additional provisions would amend KSA 79-3220 to clarify deadlines applicable to filing income tax refund claims. The proposed amendment to subsection (c) would clarify that a taxpayer has three years from the date the original return is due, including any extensions allowed, to file a refund claim.

The proposed amendment to subsection (f) would provide that notwithstanding any otherwise applicable statute of limitations, the Department of Revenue would have 180 days after receipt of a revenue adjustment report to assess any additional tax.

The proposed amendment to subsection (g) would toll the 180-day period if a taxpayer has failed to timely report a revenue adjustment report to the Department.

Sales/Use Tax - Statute of Limitations

The statute of limitations for sales and use tax refund claims would be reduced from three years to one year, effective for all claims filed after June 15, 2009.

Tax Credit - Various Adjustments

A tax credit for direct production expenditures by eligible film production companies would be suspended for tax years 2009-2010.

Numerous other tax credits generally would be given a ten percent "haircut" for tax years 2009-2010, including credits for:

- Individual development accounts; facility or residential modification for handicapped accessibility; certain employee child day care provision expenses; provision of financial assistance to persons eligible for aid to families with dependent children; provision of small employer health benefit plans; donations to regional economic development foundations; purchase of agritourism liability insurance; donations from community service "program" contributors; angel investor qualified securities investments; certain venture capital company

investments; donations for Kansas Center for Entrepreneurship; selected investments in qualified business facilities; interest rate reductions on certain agricultural production loans; certain research and development expenditures; community service donations by business firms; certain alternative motor-fueled vehicle property expenditures; certain adoption expenses; improvements to qualified swine facilities; expenses associated with plugging abandoned oil or gas wells; retirement of bonded debt authorized by a city port authority; employer provision of health insurance for National Guard members; payment of salary to teachers by business firms pursuant to partnership agreements; certain oil refinery environmental compliance expenditures; "high performance" incentive program (HPIP) qualified investments; job expansion and investment program expenditures; certain nitrogen fertilizer plant expenditures; certain biomass-to-energy plant expenditures; certain power plant expenditures; contributions to the Kansas Law Enforcement Training Center; certain compensation paid to employees also in the National Guard; certain renewable electric cogeneration facility expenditures; certain storage and blending equipment expenditures; contributions for certain higher educational infrastructure programs; certain business capital investments made in or around disaster-area cities.

A specific statutory cap would be provided for historic preservation credits equivalent to 90 percent of the amount currently claimed.

#### Sales Tax Exemption – Goodwill

The bill also would clarify the sales-tax-exempt status of purchases made by or on behalf of Goodwill Industries Easter Seals of Kansas, Inc. and Goodwill Industries of Kansas, Inc. for the purpose of providing education, training, and employment opportunities for people with disabilities and other barriers to employment.

#### Estate Tax Provisions

Another section of the bill would clarify that agricultural land is to be use-valued for Kansas estate tax purposes, regardless of whether such land was held directly by decedents or was held in non-publicly traded legal entities, including certain partnerships, corporations, limited liability companies, or limited liability partnerships.

The clarification of the use-valuation provisions also would be retroactive relative to estates of decedents dying after December 31, 2006.

Homestead Provisions

The bill also would expand the definition of eligible claimants for the Homestead Property Tax Refund Program to include certain disabled veterans and surviving spouses of active-duty military personnel who have died in the line of duty.

Disabled veterans would be defined to include Kansas residents who have been honorably discharged from active service in the armed forces or Kansas National Guard and who have been certified to have a 50 percent or more permanent disability sustained through military action or accident or resulting from disease contracted while in such active service.

The bill further would clarify that surviving spouses of disabled veterans would continue to remain eligible until such time as they remarry.

Background

The subject matter of the original HB 2365 has already been enacted as part of SB 97. The Senate Assessment and Taxation Committee on May 7 voted to strip the bill's original provisions; create a substitute bill; and insert all of the other provisions hereinbefore described.

During Committee discussions, a number of Senators noted that in addition to the provisions in the substitute bill, another \$8.9 million in potential SGF resources had been identified by the end of FY 2010 relative to the current Consensus revenue estimates and expenditure assumptions.

The provisions of the bill would be expected to have the following impact:

(\$ in millions)

|   | <u>FY 2010</u> | <u>FY 2011</u> | <u>FY 2012</u> | <u>FY 2013</u> | <u>FY 2014</u> | <u>5-yr total</u> |
|---|----------------|----------------|----------------|----------------|----------------|-------------------|
| Most Tax Credits -- 10% Reduction for Two Years | \$ 9.200       | \$ 8.800       | \$ -           | \$ -           | \$ -           | \$ 18.0           |
| Suspend Film Credit for Two Years               | \$ 1.000       | \$ 1.000       | \$ -           | \$ -           | \$ -           | \$ 2.0            |
| Statute of Limitations - Income Tax             | \$ 3.000       | \$ 3.000       | \$ 3.000       | \$ 3.000       | \$ 3.000       | \$ 15.0           |

|  |            |             |            |            |            |            |
|--|------------|-------------|------------|------------|------------|------------|
| Statute of Limitations - Sales and Use Tax   | \$ 13.700  | \$ 8.800    | \$ 4.400   | \$ 4.400   | \$ 4.400   | \$ 35.000  |
| Settlement Authority                         | \$ 35.000  | \$ (15.000) | \$ (5.000) | \$ -       | \$ -       | \$ 15.000  |
| Estate Tax -- Valuation of Agricultural Land | \$ (0.500) | \$ -        | \$ -       | \$ -       | \$ -       | \$ (0.500) |
| Sales Tax Exemption -- Goodwill              | \$ (0.038) | \$ (0.039)  | \$ (0.040) | \$ (0.041) | \$ (0.042) | \$ (0.200) |
| Homestead Program -- Expansion               | \$ (0.215) | \$ (0.215)  | \$ (0.215) | \$ (0.215) | \$ (0.215) | \$ (1.000) |
| Total  | \$ 61.147  | \$ 6.346    | \$ 2.145   | \$ 7.144   | \$ 7.143   | \$ 83.900  |