Approved: March 13, 2003
Date

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE

The meeting was called to order by Chairperson David Corbin at 10:45 a.m. on March 12, 2003, in Room 519-S of the Capitol.

All members were present except:

Committee staff present: Chris Courtwright, Legislative Research Department
April Holman, Legislative Research Department
Gordon Self, Revisor of Statutes Office
Shirley Higgins, Committee Secretary

Conferees appearing before the committee: Tim O'Sullivan, Kansas Bar Association
Keith Daniel, Jr., Midway Wholesale and National Federation of Independent Business (NFIB)
Richard Cram, Kansas Department of Revenue

Others attending: See attached list.

Reopened hearing on: SB 148–Enacting the Kansas Estate Tax Act

Senator Corbin recalled that the Committee chose to recommend **SB 94** instead of a similar bill, **SB 148**, because it appeared to be the simplest version. However, it was discovered later that **SB 94** has no enforcement rules for the Department of Revenue. Although an amendment was drafted to correct that problem, leadership chose not to run **SB 94** the Senate floor because of the fiscal note. He noted that **SB 148** would have the same fiscal note. He commented that it was suggested that the clean up of the new succession tax be addressed now and that the overall picture of the estate tax issue be addressed in an interim study.

Tim O'Sullivan, attorney at law, testified on behalf of the Kansas Bar Association in support of **SB 148**, which would create a stand alone state estate tax. At the outset, he commented that, when the succession tax bill passed in the final days of the 2002 legislative session, he immediately knew that the revenue estimates were grossly exaggerated. He also pointed out that, in addition to being unenforceable, the bill did not address what types of property would be taxed, when the tax was due, or who is responsible for paying. Because of its ambiguities, it became unduly complex. The Bar Association supports repealing the unworkable succession tax and enacting a workable estate tax in lieu of the current "gap" tax tied to 1997 law. Mr. O'Sullivan explained that the federal estate tax provision was not included in **SB 148** for the following reasons: (1) Its excessive complexity, which means the taxpayer incurs additional costs in planning that may not be realized in overall tax savings, and (2) The additional cost required for the Department of Revenue to administer the provision. (Attachment 1)

Mr. O'Sullivan responded to questions from Senator Pugh regarding the 1997 federal estate tax law, which was incorporated in Kansas estate tax law, and the effect of the subsequent changes in the federal law.

Kenneth Daniel, Jr., founder of Midway Wholesale and Chairman of NFIB/Kansas, testified in opposition to **SB 148**. He noted that current Kansas death taxes make business continuity planning and estate planning a nightmare. He contended that, although **SB 148** would clean up much of the "mess," it would also create a new "mess" and continue the pattern of churning laws which has frustrated the efforts of many Kansas businesses to plan for survival. He urged the Committee to "recouple" to the federal law instead of saddling businesses with a complicated and expensive new Kansas estate tax. (Attachment 2)

Richard Cram, Kansas Department of Revenue, distributed a table with data on revenue collected from the current succession tax, the current estate "pick up" tax, **HB 2097** (conforming to federal filing thresholds), **SB 148** estate tax as introduced, the proposed amendment to **SB 148**, and the Class C inheritance tax. (Attachment 3) He went on to say that the amended version of **SB 148** would replace the revenue the state currently collects annually from the "pick up" tax. He noted that the Department projects a 3 percent growth rate with the amended version of the bill because it is enforceable as opposed to the current "pick up" tax which lacks the enforcement tools needed to administer it down the road. Staff distributed copies of the amended version of the bill.

Senator Corbin commented that the first issue to be addressed is solving the problems experienced by practitioners, and the second issue is a policy decision either to keep the revenue the same, to accept a revenue loss, or to piggy back on federal law. He noted that the proposed amendments would be discussed at the next meeting and that a conferee scheduled for today's meeting, Marlee Carpenter, Kansas Chamber of Commerce and Industry, would present testimony in opposition to **SB 148**.

The meeting was adjourned at 11:35 a.m.

The next meeting is scheduled for March 13, 2003.