

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE.

The meeting was called to order by Chairperson David Corbin at 10:50 a.m. on January 23, 2001, 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
Don Hayward, Revisor of Statutes Office
Shirley Higgins, Committee Secretary

Conferees appearing before the committee: Richard Cram, Kansas Department of Revenue
Duane Goossen, Director of the Budget

Others attending: See attached list.

The minutes of the January 22, 2001, meeting were approved.

Richard Cram, Kansas Department of Revenue, requested the introduction of two bills on a conceptual basis. Both bills relate to the Streamlined Sales Tax Project. The first bill would provide for lengthening the notice period that local taxing jurisdictions must provide the Department before a local sales tax rate or boundary change can take effect. The second bill would authorize the Department to enter an agreement with other states for uniformity in sales and use tax administration when the legislative changes needed to join that agreement are accomplished.

Senator Donovan moved to recommend the introduction of both conceptual bills as requested by Mr. Cram, seconded by Senator Praeger. The motion carried.

Mr. Cram discussed the following bills which were introduced at the request of the Department of Revenue: **SB 40, SB 41, SB 42, SB 43, SB 44, and SB 45.** (Attachment 1)

SB 40–Sales taxation; concerning the administration thereof.

Mr. Cram explained that **SB 40** proposes to amend K.S.A. 79-3611 to expressly grant the Secretary of Revenue the power to issue subpoenas in sales tax matters to compel taxpayers to produce records and testify concerning sales tax liability issues. He noted that the Secretary already has subpoena powers for income tax investigations and has the same need to subpoena persons and records in sales tax investigations. Granting the Secretary subpoena power would give the Department a means to gain cooperation in producing records needed for an adequate sales tax audit without having to resort to an injunction, jeopardy assessment, or estimated assessment. If the subpoena is ignored, the bill would give the Secretary authority to seek an order to compel production from the district court.

Mr. Cram stated that he questioned the accuracy of the fiscal note (\$40,000.00) on the bill prepared by the Division of the Budget. He felt that perhaps the fiscal note was hastily prepared without adequate information from the Department. In his opinion, the cost will be minimal, and the fiscal note may be revised.

Senator Clark asked if the Secretary can currently request a court to compel the production of sales tax records. Mr. Cram said, under the current statute, the Department could argue that it could go to court and get an order to compel; however, the law is not clear. Following further discussion, Senator Corbin continued the hearing on **SB 40** to allow time to gather more information on the Department's authority to seek orders to compel with regard to the production of sales tax records.

SB 41–Amending the Kansas Estate Tax Act; concerning the expiration of inheritance tax liability.

Mr. Cram explained that **SB 41** would abolish any liability for Kansas inheritance tax as of July 1, 2008, for those estates for which no return has been filed by that date. He explained that the inheritance tax applies only to estates of persons dying before July 1, 1998. He noted that the continued existence of potential inheritance tax liability after July 1, 2008, could create clouds on titles. He said the Department does not attribute any significant fiscal impact to the proposal because it anticipates that the vast majority of estates of persons dying before July 1, 1998, would file returns before July 1, 2008.

SB 42—Relating to the liquor drink tax; concerning periods of limitations.

Mr. Cram explained that **SB 42** would amend K.S.A. 79-41a03 to add a statute of limitations to the liquor drink tax. He said adding the statute of limitations will help create certainty for both the Department and the taxpayer. He noted that the statute of limitations provision shown in the bill is taken from the sales tax act.

Senator Corbin informed the Committee that Philip Bradley, Kansas Licensed Beverage Association, could not attend the meeting but called to express support for **SB 42**.

SB 43—Relating to appeals concerning food sales tax refunds.

Mr. Cram explained that **SB 43** amends K.S.A. 79-3639 to provide that appeals of the Department's denials of food sales tax refund claims will go through the Department's informal conference process applicable to income tax appeals instead of going straight to the Board of Tax Appeals. He noted that food sales tax refunds are often denied because the Department received insufficient information from the claimant. If appeals of denials of these claims would first go through the Department's informal conference process, the Department and the claimant will have the opportunity to resolve information issues without going to the Board of Tax Appeals.

SB 44—Amending the Homestead Property Tax Refund Act; concerning the administration thereof.

Mr. Cram discussed the three sections of the bill. Section 1 proposes to amend K.S.A. 79-4501 so that the unnecessary language describing unmarried widows is deleted. Section 2 proposes to amend K.S.A. 2000 Supp. 79-4504 to authorize the Department to pay homestead property tax refunds from the income tax refund fund instead of from funds appropriated by the Legislature, thus eliminating the problem of delayed refunds. Section 3 amends K.S.A. 79-4521 to codify the way the Department currently administers the "refund advancement program." Mr. Cram explained that Section 3 would clarify that certificates of eligibility must come from the Department and that the county clerk cannot independently issue certificates to anyone.

Duane A. Goossen, Director of the Budget, testified in support of **SB 44**. He explained that the bill changes homestead property tax refunds from expenditures to deductions from revenue, enacting one of the provisions of the Governor's budget. (Attachment 2)

SB 45—Income taxation; concerning periods of limitations.

Mr. Cram explained that **SB 45** amends K.S.A. 79-3230, the statute of limitations applicable to assessments and refunds of income tax. He discussed the current provisions found in paragraph (a), paragraph (c), and paragraph (f) of the statute and explained the proposed amendments to each paragraph.

The meeting was adjourned at 11:50 a.m.

The next meeting is scheduled for January 24, 2001.

CONTINUATION SHEET