

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE

The meeting was called to order by Chairman Barbara Allen at 10:40 A.M. on February 19, 2008 in Room 519-S of the Capitol.

All members were present except:
Anthony Hensley- excused

Committee staff present:
Gordon Self, Office of Revisor of Statutes
Chris Courtwright, Kansas Legislative Research Department
Scott Wells, Office of Revisor of Statutes
Ryan Hoffman, Kansas Legislative Research Department
Judy Swanson, Committee Assistant

Conferees appearing before the committee:
Mark Burghart, Kansas Chamber
Mark Meads, Ash Grove Cement
Richard Cram, Kansas Department of Revenue
Terry Forsyth, Kansas-NEA
April Holman, Kansas Action for Children (Written only)
Alan Cobb, Americans for Prosperity
Marlee Carpenter, Kansas Chamber
Derek Sontag, NFIB
Tony Scott, Kansas Society of CPAs

Others attending:
See attached list.

Hearing on **SB 578–Job expansion and investment credit act; authorizing tax credit claims by members of a unitary group**–was opened.

Chris Courtwright, Kansas Legislative Research Department (KLRD), gave an overview of **SB 578**. The bill would allow credits earned under the High Performance Incentive Program (HPIP) to be shared among members of a unitary group of companies filing a combined report for Kansas corporate income tax purposes.

Mark Burghart, Kansas Chamber of Commerce and Industry, testified in support of **SB 578**. (Attachment 1) A unitary business is one in which multiple related companies contribute to and depend upon one another, thus constituting one homogenous business enterprise for tax purposes.

Mark Meads, Tax Director for Ash Grove Cement Company, testified the bill will provide clarifying guidance as to the allocation of credits by unitary members filing a combined report. (Attachment 2)

Richard Cram, Kansas Department of Revenue, (KDOR) said KDOR has no position on the bill, but presented a suggested amendment. (Attachment 3) In response to Senator Donovan, Mr. Cram said there are some entities that would be impacted if the “look back” provision was removed because they are currently in the appeals process. The look-back is for appealed claims only, so as to keep the fiscal note in control.

The hearing was closed.

Hearing on **SB 636–Bonus depreciation deduction disallowed for income tax purposes for tax year 2008**–was opened.

Chris Courtwright, KLRD, reviewed **SB 636**. (Attachment 4) Federal legislation was passed to provide recovery rebate credits to individuals of \$600. Relative to businesses, the new law provides a bonus depreciation deduction for tax year 2008 for 50 percent of qualified asset costs; and an increase in the applicability of the Section 179 expensing allowance for certain small businesses.

Because Kansas generally begins computation of income tax liability using federal tax law as a

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starting point, the new depreciation and expensing provisions allowed under the new federal law automatically will flow through and also affect state income tax receipts. KDOR has indicated its initial analysis suggests the new federal bonus depreciation and expensing provisions would be expected to reduce SGF receipts by \$80 million to \$100 million. In response to Senator Donovan, Revisor Gordon Self said the business depreciation piece of the bill does not affect Section 179.

Secretary of Revenue Joan Wagon testified KDOR supports **SB 636**. (Attachment 5) KDOR would usually not support decoupling, but it is supporting it this year since the fiscal impact of the Federal Stimulus Package is so high to the state. She presented a suggested amendment which would accomplish the intended effect of the bill, but still allow the full depreciation spread over the useful life of the asset.

Terry Forsyth, representing Kansas National Education Association (KNEA) and Kansas Association of School Boards (KASB) testified in support of **SB 636**. (Attachment 6) The decoupling is specific to one piece of the tax system and is limited to one year only, therefore protecting the Kansas budget while still allowing the positive impact of the rest of the federal economic stimulus package to work. In response to Senator Schmidt, Mr. Forsyth said KNEA is interested in all pieces of the state budget, not just school finance.

Written testimony supporting **SB 636** was received from April Holman, Kansas Action for Children. (Attachment 7)

Alan Cobb, Americans for Prosperity, testified in opposition to **SB 636**. (Attachment 7) He said there are several different ways to calculate the fiscal impact of the stimulus bill on Kansas, and he did not feel allowances had been made for positive fiscal impact benefits.

Marlee Carpenter, Kansas Chamber, opposed **SB 636** and said the Kansas Chamber believes there will actually be a positive fiscal impact to the state if the bill is not enacted. (Attachment 8) If the bill is enacted, Kansas businesses will have an additional burden of keeping an additional set of depreciation books which will add time, expense and complexity for businesses. The Kansas Chamber believes enacting **SB 636** would send a negative message to Kansas businesses as they are encouraged by the federal government to make investments, but not by the state.

Tony Scott, Kansas Society of Certified Public Accountants, testified Kansas CPAs believe the underlying premise of the 2008 "bonus depreciation" provision of the federal stimulus package is to spur capital investment, and that creates sales growth, enhances profitability, etc. (Attachment 9) Decoupling would require yet another method of calculating depreciation and create a burden to Kansas taxpayers and businesses.

Written testimony opposing **SB 636** was received from Derrick Sontag, National Federation of Independent Businesses (NFIB). (Attachment 10)

During Committee discussion, Secretary Wagon said the enactment of **SB 636** would have no effect on local budgets. Senator Donovan noted there would be a positive effect for local governments which have sales tax because the stimulus package will stimulate spending. In response to Senator Schmidt, Mr. Courtwright said the general rule to qualify for the bonus depreciation is the investment must be made in tax year 2008. Richard Cram, KDOR, said he would bring information back to the Committee on how this bill would affect businesses that do not use the calendar year for tax purposes. He said there is some language in the bill that would accommodate a different fiscal year.

Senator Schmidt moved to approve the Minutes of the February 13 and February 14 Committee meetings. Senator Jordan seconded the motion, and the motion carried.

Being no further business the meeting adjourned at 11:38 a.m. The next Committee meeting will be February 20.