

Approved May 11, 2002  
Date

MINUTES OF THE HOUSE COMMITTEE ON TAXATION

The meeting was called to order by Chairman Edmonds at 9:00 a.m. on April 4, 2002 in Room 519-S of the Capitol.

All members were present.

Committee staff present: Chris Courtwright, Legislative Research Department  
April Holman, Legislative Research Department  
Don Hayward, Revisor  
Winnie Crapson, Secretary

Conferrees appearing before the Committee:

Senator Brownlee  
Ed Eilert, Mayor, Overland Park  
Ed O'Malley, Overland Park Chamber of Commerce  
Kathy Damron, Waddell & Reed  
Richard Kaplan, Northeast Johnson County Retention Council

Others Attending: See attached list.

Without objection bill will be introduced at the request of Representative Larkin to decouple Kansas from the federal economic stimulus legislation. [HB 3037 - Bonus depreciation deduction disallowed for income tax purposes]

Representative Gatewood moved, Representative Larkin seconded, to approve Minutes for February 19, February 20, March 27, March 28, and March 29. Motion adopted.

**Hearing was opened on**

**SB 501 - Investment funds service company business income apportionment for income tax purposes.**

Ed Eilert, Mayor, presented testimony in support of **SB 501** on behalf of the City of Overland Park (Attachment #1). Mr. Eilert said the bill as amended by the Senate would allow investment funds service corporations to adjust how they calculate Kansas corporate income tax on their headquarters and branch facilities with at least one hundred employees. This would provide Kansas the opportunity to compete for companies in this high-growth sector of the economy. The City can attest to the benefit of having in the state an investment funds service corporation such as Waddell & Reed which is presently headquartered in Overland Park which employs 600 people with an average salary of \$100,000. He believes passage of **SB 501** is more important than the potential loss of one company because it would send a message to business in Kansas and nationwide that Kansas is a state that works not only to attract new business but also works with existing businesses to help them grow.

Representative Brownlee presented testimony in support of **SB 501** (Attachment #2). Senator Brownlee testified she had served on the Interim Tax Committee that studied a similar bill (**HB 2061**) relating to "source state" taxing of mutual fund companies. She said over ten states offer the tax treatment proposed and called attention to the Senate amendment to **SB 501** that would benefit companies with branch facilities employing at least 100 persons. Senator Brownlee estimated the fiscal impact on Kansas should the company relocate at \$9 million.

Committee adjourned at 9:30 a.m. and reconvened at 3:00 p.m. and the hearing was continued.

Ed O'Malley presented testimony in support of **SB 501** on behalf of the Overland Park Chamber of Commerce (Attachment #3). The testimony included a report from Country Economic Research Institute outlining the ripple effect relocation of Waddell & Reed would have on the Johnson County and Kansas economies. Also included was a letter from Dean Development Inc. describing their attempts to attract a California-based mortgage company which moved to Missouri due to this difference in tax policy. Mr. O'Malley said at a time when quality job creation and retention is seen as the key to economic recovery, Overland Park is struggling with the Kansas tax policy on mutual fund companies

## CONTINUATION SHEET

because if headquartered in Kansas they pay income tax on all income, not just income generated in Kansas. This is contrary to tax law in other states, including Missouri. He testified the Overland Park Chamber of Commerce supports the recommendation of the 2001 Kansas interim committee to phase-in source state taxation for such companies. He noted that banks and insurance companies, which offer many of the same products and services, enjoy favorable tax policy.

In response to questions, Mr. O'Malley said this was not a problem when in 1990 Waddell & Reed moved four hundred employees to Overland Park because it was not the headquarters of the company. When asked if this legislation would apply only to Waddell & Reed, Mr. O'Malley said it would benefit other mutual fund companies who might locate their headquarters in Kansas including the California company he referred to by Dean Development in the letter attached to his testimony.

When asked about local incentives for Waddell & Reed, Mr. O'Malley said the most help that could be given locally would be property tax abatement and they lease their premises. He noted the tree properties in Overland Park who do receive property tax abatement assistance are Sprint, Universal Underwriters, and Black & Veatch all of whom own their headquarters facilities.

Kathy Damron presented oral testimony in support of **SB 501**. She said John Martin, who was present, had been with Waddell & Reed for a number of years and would be able to respond to questions she might be unable to answer. Ms. Damron noted one question that arose during the hearing was whether or not it was too late, whether the company has already decided to go to Missouri or Texas. She said it was not too late and that no leases have been signed. She reported discussions before the Interim Committee.

Representative Palmer referred to sub-committee study of the bill last year when the Department of Revenue thought Waddell & Reed needed to apply under the current statute and be able to get that tax relief if they needed it. Ms. Damron referred to a letter from the Department of Revenue clarifying a misconception that it was a matter of being unfairly taxed (Attachment #4).

Mr. Cram of the Department of Revenue said that had it been an issue under the three-factor formula the taxpayer could show that it does not accurately reflect activity in Kansas. Waddell & Reed met with Secretary Richards and indicated they were not arguing the three-factor formula was unfair but it was the question of much greater relief under the fact Missouri law gives them much greater relief than under Kansas law and the economic disparity of that.

Representative Huff noted **SB 501** passed the Senate 38-2 and asked if something in that discussion was absent here. Ms. Damron said the interim committee identified problems with the bill last year, considered it too broad, and the original bill was changed in the Senate process resulting in **SB 501**

In response to questions, Ms. Damron said she believed last year about half the employees lived in Missouri. She said they leased the building they occupy and did not know when the lease would expire.

She was asked about the Missouri law and explained that it was changed about three years ago on behalf of American Century. The bill now before the Missouri General Assembly relates to the annual certification in Missouri. She noted Missouri already has a strong mutual fund industry and hope if this bill were to pass Kansas could be similarly situated as an attractive state.

When asked about a personal income tax accelerator she said she had no estimate of benefits but that Senator Brownlee has calculated just over \$9 million. The Department of Commerce and Housing has another formula which projects an even larger number taking into consideration taxes paid to services and vendors used in the Kansas area. Regarding concerns that the company might request further tax cuts later, Ms. Damron suggested exploring an agreement with the company that they would not seek such further tax changes.

Written testimony was received in support of **SB 501** by Richard Caplan, Executive Director, Development and Retention Council of Northeast Johnson County, representing nine cities (Attachment #5).

Hearing on SB 501 was closed.

## CONTINUATION SHEET

**Hearing was opened on**

**SB 575 - Income tax withholding required upon certain income distributions and prize money.**

Rep Larkin said it was a good bill but he would like to propose an amendment (Attachment #6) modeled on changes Missouri has made in their law as a result of their Supreme Court decisions.

**Representative Larkin moved, Representative Gatewood seconded, that SB 575 be amended as proposed in balloon. Motion was adopted.**

Mr. Cram said with reference to the Missouri cases cited April 2, *Swift* set out six factors that determined whether there is a nexus between the state and the trust itself. Residence at the time of death, where trust is administered, location of beneficiaries, residence of trustee, and location of assets of the trust.

Representative Larkin said it was anticipated the fiscal note would be positive fiscal note but no number was given. The amendment closes the loophole that a trust administered in Missouri is not subject to Kansas tax.

**Representative Wilson moved, Representative Gatewood seconded, to amend SB 575 to be effective upon publication. Motion was withdrawn.**

**Representative Wilson moved, Representative Larkin seconded, to amend SB 575 to make it effective upon publication for all provisions. Motion was adopted.**

**Representative Larkin moved, Representative Sharp seconded, to report SB 575 favorable for passage as amended. Motion was adopted.**

**Representative T. Powell moved, Representative Gatewood, seconded to amend HB 3032 with the intent to have modified situs the effect of which would be that a taxpayer purchasing a vehicle in a jurisdiction with lower sales tax would pay the difference when registering it in their home community.**

**Representative Larkin offered a substitute motion, seconded by Representative L. Powell, to advance HB 3032. Motion failed.**

Concern was expressed about considering this change this late in the session without opportunity to talk it over with the Department of Revenue.

**Representative Owens moved, Representative Palmer seconded, to table HB 3032. Motion failed.**

**Motion of T. Powell to amend was adopted.**

**Representative T. Powell moved, Representative Osborne seconded, that HB 3032 be reported favorable for passage as amended. Motion adopted. Representative Palmer voted no.**

Meeting ended at 5:00 p.m. Next meeting is April 5.