

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 19, 2003, in Room 519-S of the Capitol.

All members were present except: Senators Allen, Donovan, and Pugh

Committee staff present: Chris Courtwright, Legislative Research Department
April Holman, Legislative Research Department
Shirley Higgins, Committee Secretary

Conferees appearing before the committee: Pat Hubbell, Kansas Railroads
Melissa Wangemann, Office of Secretary of State

Others attending: See attached list.

Senator Corbin called the Committee's attention to the minutes of the March 18 meeting. Senator Oleen moved to approve the minutes of the March 18, 2003, meeting, seconded by Senator Taddiken. The motion carried.

HB 2005—Income tax credit for property taxes paid on railroad machinery and equipment

Senator Cobin reminded the Committee that a bill which was passed during the 2002 Legislative Session, **SB 39**, allowed railroads to utilize machinery and equipment income tax credits, and an interim study of the issue was conducted during the summer of 2002.

Pat Hubbell, representing Kansas Railroads, testified in support of **HB 2005**. (Attachment 1) He explained that railroads have been protected from discriminatory taxation by the federal 4-R Act passed by Congress in 1975. He called attention to a copy of the relevant section from the 4-R Act attached to his written testimony. In addition, he called attention to a copy of an appeal heard by the Supreme Court of the State of Washington which illustrates that the protection from discriminatory taxation extends to other taxes imposed upon railroads. He explained that **HB 2005** would allow railroads to be treated the same as other industrial, commercial taxpayer in the state. He noted that a House Taxation Committee amendment would make the credit available for tax year 2003. He indicated that, if the bill is passed, the railroads are willing to drop a case with the Board of Tax Appeals and a case in the federal court attempting to gain credit under the 4-R provisions back to 1998 when legislation was enacted to provide refundable income tax credits to offset property taxes on commercial and industrial machinery and equipment.

Senator Oleen requested further information concerning the lawsuit filed by the railroads. In response, Richard Cram, Kansas Department of Revenue, noted that this was not within his area of expertise, but Mark Beck, Property Valuation Division, will be available for questions at a future meeting.

Senator Corbin opened a discussion on a previously heard bill, **SB 29**, introduced by the Kansas Bar Association for the purpose of bringing the Kansas corporate code in compliance with Delaware law. He recalled that the Committee considered a provision dealing with franchise fees filed with the Secretary of

CONTINUATION SHEET

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State after the Senate Judiciary Committee addressed the corporate codes. Following committee questions, Melissa Wangemann, legal counsel with the Office of the Secretary of State, confirmed that the Secretary of State has no enforcement ability or the ability to determine whether or not the correct franchise tax is being paid. Following a discussion regarding the negative fiscal impact of the current bill, Ms. Wangemann suggested that the fiscal note could be eliminated by deleting Section 81. In response to questions from Senator Goodwin regarding double taxation, she noted that language could be added to the bill to require reporting of parent and subsidiary information to the Secretary at the time of filing the corporate annual report. She agreed to prepare both proposed amendments for the Committee's consideration at the next meeting. She also explained that, if **SB 29** does not pass, there is no point to passing a companion bill, **SB 38**, which has not yet been heard by the House Taxation Committee.

The meeting was adjourned at 11:10 a.m. The next meeting is scheduled for March 20, 2003.