

MINUTES OF THE SENATE COMMITTEE ON COMMERCE.

The meeting was called to order by Chairperson Senator Karin Brownlee at 8:30 a.m. on February 25, 2002 in Room 123-S of the Capitol.

All members were present except: Senator Brungardt (Excused)

Committee staff present: April Holman, Legislative Research
Debra Hollon, Legislative Research
Norman Furse, Revisor of Statutes
Sherman Parks, Revisor of Statutes
Lea Gerard, Committee Secretary

Conferees appearing before the committee: Richard Cram, Department of Revenue
Janet Buchanan, Kansas Corporation Commission
John Federico, representing Kansas Cable
Telecommunications Association

Continued Hearings on **SB 501** Investment funds service company business income apportionment for income tax purposes:

Chairperson Brownlee explained **SB 501** was placed in subcommittee to understand and consider the amendments that the Department of Revenue proposed. Richard Cram, Department of Revenue indicated at the subcommittee meeting that the fiscal note was revised because there would be no administrative costs (Attachment 1). The Department of Revenue had placed some administrative costs for reprogramming the audit work papers. This bill actually involved very few tax payers and it was felt the reprogramming work would not be necessary. The administrative costs had initially been estimated to range from \$20,000. to \$200,000.

Senator Brownlee stated the fiscal note for tax treatment the first year will be a benefit of \$2M to Waddell & Reed and subsequent years will be \$4M.

Following are the amendments for **SB 501** adopted by the subcommittee:

Page 1, Line 34 strike the word "investment".

Page 1, Line 35 strike the word "company".

Page 2, Section 1, insert subsection (g) "*Original Return*" means the first return filed to report the income of a taxpayer for a taxable year or period, irrespective of whether such return is filed on a single entity basis or a combined basis.

Re-letter each subsection after (g).

Page 2, Line 22, Line 26 and Page 3, Line 6 strike the words "but are not limited to".

Page 3, Line 1, Line 2, Line 7 and Line 18 strike the words "directly or indirectly".

Page 3, starting with Line 22, subsection (7) should read "*residence*" is the fund shareholder's primary residence or principal place of business.

Page 3, Line 22 thru Line 31, subsection (7) strike the words "is presumptively the fund shareholder's mailing address on the records of the investment company. If, however, the investment company or the investment funds service corporation has actual knowledge that is different than the fund shareholder's mailing address such presumption shall not control. To the extent an investment funds service corporation does not have access to the records of the investment company, the investment funds service corporation may employ reasonable methods to determine the investment company fund shareholder's residence.

Page 4, Line 10 strike the word "percentage" and insert the word "*fraction*".

Page 5, Line 2 following the word "operations" insert "*or a branch facility that employees at least 100 individuals*".

Page 5, Line 18 following the word "each" insert "*fund of each*".

Page 5, Line 19 strike the word "for" and insert the word "*from*".

Page 5, Lines 19 and 20 strike the words "respective percentage of each fund, as".

Page 5, Line 19 following the word "the" insert "*fraction*".

Page 5, Line 20, (A) insert "*for each fund of such investment company*".

Page 5, Line 21, Section 2 (b) (5) (C) Insert: "*The qualifying portion of total business income of an investment funds service corporation shall be determined by multiplying such total business income by a*

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fraction, the numerator of which is the gross receipts from the provision of management, distribution and administration services to or on behalf of an investment company, and the denominator of which is the gross receipts of the investment funds service company”.

Page 5, Line 23 strike “without regard to this subsection” and insert “pursuant to K.S.A. 79-3279(b)(1)”.

Page 5, Line 24 strike “amount of”.

Page 5, Line 25 strike “company resulting from the apportionment of” and insert “corporation that has elected to apportion its”.

Page 5, Line 28 strike “without regard to paragraph” and insert “pursuant to K.S.A. 79-3279(b)(1)”.

Page 5, Line 30, add new subparagraph (E) to Section 2 (b) (5): “When an investment funds service corporation is part of a unitary group, the business income of the unitary group attributable to the investment funds service corporation shall be determined by multiplying the business income of the unitary group by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three. The property factor is a fraction, the numerator of which is the average value of the investment funds service corporation’s real and tangible personal property owned or rented and used during the tax period and the denominator of which is the average value of the unitary group’s real and tangible personal property owned or rented and used during the tax period. The payroll factor is a fraction, the numerator of which is the total amount paid during the tax period by the investment funds service corporation for compensation, and the denominator of which is the total compensation paid by the unitary group during the tax period. The sales factor is a fraction, the numerator of which is the total sales of the investment funds service corporation during the tax period, and the denominator of which is the total sales of the unitary group during the tax period.”

Senator Steineger moved, seconded by Senator Jordan that **SB 501** be recommended favorable for passage. Motion carried.

Continued Hearings on **SB 614**—KUSF funding for KAN-ED:

Chairperson Brownlee asked if there was anyone that would like to comment on **SB 614** or does the committee have questions for anyone in the room regarding the bill.

Senator Jordan asked Janet Buchanan to comment on the impact of KUSF funding for KAN-ED. Janet Buchanan stated that if \$10M was added to the KUSF fund, given the other funding requirements for the March begin date, the wireline assessment would move from 3.7% to 4.5%, the wireless assessment would move from 3.4% to 4.02%. The Commission also calculated the amount of pass through that the CLEC’s can charge their customers. The charge for the majority of the independent companies would be from .49 cents to .59 cents, Tri-County will move from .42 cents to .51 cents, Cass County will move from \$1.10 to \$1.33, Southwestern Bell will move from \$1.19 to \$1.43 and for Sprint United it would be from .98 cents to \$1.18.

Senator Barone asked Janet Buchanan what would be the impact if opposed to adding to the size of the KUSF money, we made KAN-ED the first dispersal of the KUSF fund. Janet Buchanan explained there would not be enough money in the KUSF fund to take care of the other requirements for high cost service areas in the rural areas of the state. We would be depriving some of the carriers revenue promised to them from the KUSF fund if \$10M were not added to the fund.

Senator Barone asked Janet Buchanan if she was able to determine the benefits that would be received from the \$400M to \$500M that is invested in the KUSF fund. Janet stated she requested all of the companies to get that information to her by Friday, March 1, 2002.

John Federico, representing the Kansas Cable Telecommunications Associations stated the cable companies do not necessarily have a problem with **SB 614** and the funding mechanism for KAN-ED. There is concern that the cable customers do not pay into the KUSF fund and if there should be a competitive bidding scenario down the road for the KAN-ED project, the cable associations may be at a disadvantage in competing against the competitors that are subsidized by KUSF money. Is this money to be used for infrastructure or for services?

There being no conferees wishing to testify, the hearing for **SB 614** was closed.

The Chairperson stated the big policy issue is do we want to fund KAN-ED via KUSF money?

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Senator Emler moved, seconded by Senator Steineger that as a matter of policy KAN-ED would be funded with KUSF money. Motion did not carry on a voice vote.

The Chairperson stated she would ask that **SB 614** be blessed so that if there is interest, the committee could pursue this issue at a later date.

Meeting adjourned at 9:30 a.m.

The next meeting is scheduled for February 26, 2002 at 8:15 a.m.