

Approved: March 7, 2012  
Date

## MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE

The meeting was called to order by Chairman Les Donovan at 10:30 a.m. on February 15, 2012, in room 152-S of the Capitol.

All members were present.

### Committee staff present:

Chris Courtwright, Kansas Legislative Research Department  
Christopher Sevedge, Kansas Legislative Research Department  
Gordon Self, Office of the Revisor of Statutes  
Scott Wells, Office of the Revisor of Statutes  
Mary Jane Brueck, Committee Secretary

### Conferees appearing before the committee:

Brad Smoot, Montgomery County Legislative Counsel  
Jeffery Jordan, Trial Council for Montgomery County  
Jeffrey D. Morris, City Manager, City of Coffeyville  
Kevan Vick – Coffeyville Resources Nitrogen Fertilizer  
William H. Johnson – County Administrator, Butler County, KS  
Don Moler – Executive Director, League of KS Municipalities  
Steve Woolf, USD 112, Central Plains  
Dr. Sharon Zoellner, Superintendent, Louisburg USD 416  
Mark Desetti – KNEA  
Sister Therese Bangert – Sisters of Charity of Leavenworth  
Bernie Koch – KS Economic Progress Council  
Mark Tallman – KS Association of School Boards  
Ken Peretson? – Executive Director KS Petroleum Council  
Michael Schuttloffel – Executive Director KS Catholic Conference  
Joel Wiggins – Mid America Angels, ECJC, and KS Bio  
Luke Bell – KS Association of Realtors  
Robert Van Crum – Greater Kansas City Chamber of Commerce  
Wess Galyon – KS Building Industry Assn.  
David Wilson – AARP  
Dr Julie Ford – Topeka Public Schools  
Bruce Linhos – Executive Director Children's Alliance of KS  
Lenny Jurden – Friends of Historic Preservation  
Ross Freeman – President of Pioneer Group Inc.  
April Holman, Director of Policy and Research, Kansas Action for Children

### Others attending:

See attached list.

Sen. Les Donovan opened the meeting, and told the committee he would hear **SB 317 – Concerning**

**property taxation; defining real and personal property** for the first thirty minutes of the meeting, before finishing work on **SB 339 – AN ACT concerning taxation; relating to income tax, rate for individuals, credits, deductions and income determination; sales tax rate and distribution of revenue; severance tax, exemptions; homestead property tax refunds; food sales tax refund**. He then recognized Brad Smoot, Montgomery County Legislative Counsel who spoke about the need to determine what commercial assets are determined to be “machinery and equipment” and exempt from ad valorem taxes and what assets are determined to be “fixtures” and be taxed as real property. (Attachment 1) Jeffery Jordan, Trial Council for Montgomery County was present to address Montgomery County's perspective what happened in the tax appeal and how the law was applied by the Kansas Court of Tax Appeals to the assets that were at issue with the taxpayer so the legislature can understand the unique nature of this case. (Attachment 2) Jeffrey D. Morris, City Manager, City of Coffeyville also spoke against this bill. He told the committee he and his community oppose **SB 317** because they feel it will likely cause another major property tax shift all across the state of Kansas through the elimination of property taxes on trade fixtures. (Attachment 3)

Sen. Donovan asked if Steve Woolf, Superintendent, USD 112 Central Plains and Dr. Sharon Zoellner, Superintendent, Louisburg USD 416 would mind speaking to their concerns as one. Dr. Zoellner spoke to the committee. Her concern is this bill will reduce local revenue meaning all local taxing entities – including schools – will have to turn to local property taxpayers to make up the loss of revenue. (Attachment 4) Mr. Woolf's written testimony mirrored her concern. In his area this bill could decrease property tax for the gas company, One Oak substantially and causing the school tax rate to be increased. (Attachment 5)

Butler County Administrator, William H. Johnson, told the committee Butler County is strongly opposed to this bill because it would create a major tax shift in the assessed valuation base in the county. As this bill is, his county would immediately lose over \$40,000,000.00 in assessed valuation. (Attachment 6) Kevan Vick, Executive Vice President and General Manager of Coffeyville Resources Nitrogen Fertilizer spoke to the committee regarding his company's concern that the increase in property taxes as a result of the incorrect classification of commercial and industrial machinery and equipment will cause businesses to make investments in other states. (Attachment 7) Don Moler, Executive Director, League of KS Municipalities pointed out this bill will move the tax responsibility to home owners; making tax policy without a fiscal note indicates we have no idea what it will be; identity of what machinery and equipment is covered by this bill is defined only as machinery and equipment. He urged the committee to reject expanding the definition of “commercial and industrial machinery and equipment” as the original promise remains unfulfilled, and this will create even more problems at the local level. (Attachment 8)

Mike Taylor' Public Relations Director , Unified Government of Wyandotte County; KS City KS and Mark Tallman, Associate Executive Director for Advocacy, KS Association of School Boards both submitted written testimony in opposition of this bill. (Attachments 9 and 10) Additional written testimony in opposition to this bill was submitted by Chris Chronis, Chief Financial Officer, Sedgwick County KS (Attachment 11), Doug Robinson, Finance Director, Lenexa KS (Attachment 12), and Kathleen B. Sexton, City Manager, City of Derby (Attachment 13).

Sen. Donovan closed the hearing on **SB 317**. He told those present the committee intends to use caution in working this bill. He urged those who are on both sides of this issue to try to come up with a solution that will satisfy both parties involved, pointing out that that solution would be the best way to deal with this issue.

Next the hearing on **SB 339 – Concerning taxation; relating to income tax, rate for individuals, credits, deductions and income determination; sales tax rate and distribution of revenue; severance tax, exemptions; homestead property tax refunds; food sales tax refund** was re-opened. Mark Desetti, representing the Kansas National Education Association, spoke to the committee urging them to consider the issues of balance, equity, and sufficiency as they deal with this bill. (Attachment 14) Written testimony was submitted by Ron Seeber, Kansas Association of Ethanol Processors (Attachment 15), Jill Wigley, United Community Services of Johnson County (Attachment 16), and Jennifer Bruning, Overland Park Chamber of Commerce (Attachment 17). All urged the committee to take time to fully understand the impact of this bill on the State.

The Senator then moved to testimonies of opponents to this bill. Sister Therese Bangert, Sisters of Charity of Leavenworth told the committee some background of the people served by the Sisters of Charity, and asked the committee look for fairness to all as they consider this bill. (Attachment 18) Bernie Koch, Kansas Economic Progress Council spoke to the relationship of property and income taxes, telling the committee the state and local tax system should be balanced and diversified to offer a blend of economic tradeoffs. (Attachment 19) Mark Tallman, Kansas Association of School Boards told the committee his organization is primarily concerned with the new section 45. He understands the purpose of that section to be a goal to limit annual state general fund spending increases to no greater than 2% per year, by requiring any increase in revenues over 2% be used to reduce individual and corporate income tax rates. The Association urges the committee to remove section 45 from this bill. (Attachment 20) Ken Peterson, Executive Director Kansas Petroleum Council also spoke against this bill. He pointed out an overlooked part of this plan: the repeal of the two-year severance tax exemption on new pools. He stated this repeals a tool designed to attract investment and create jobs, rather than boost jobs, create economic development and help Kansas compete with other states. (Attachment 21) Joel Wiggins, representing Mid America Angels, ECJC, and Kansas Bio, told the committee the Angel Investor Credit would be eliminated in this plan. He urged the committee to “continue this program, creating jobs and fueling innovation, rather than handing these jobs and investments to neighboring states.” (Attachment 22)

Luke Bell, Kansas Association of Realtors urged the committee to strongly oppose the provisions of SB 339 that would “decouple” the Kansas state income tax code from the federal income tax code by eliminating the ability of Kansans to claim federal itemized deductions on their state income tax returns. (Attachment 23) Chairman Donovan recognized Robert Van Crum, Greater Kansas City Chamber of Commerce told the committee the Chamber agrees with some of this bill, but have several sections they oppose as the bill is drafted. The current fiscal note is nearly \$90 million short of the stated goal of revenue neutrality; language exempts investment income in the form of rent, interest or other payments to an LLC, sub-S or partnership that does not employ any Kansans. The second problem he saw with this bill is the repealing of angel tax credits. (Attachment 24)

Lenny Jurden, Friends of Historic Preservation told the committee he is in opposition to this bill's impact on Kansas' historic tax credit program and in support of maintaining the program in its current form. (Attachment 25) Ross Freeman, President of Pioneer Group Inc. was not able to attend today's meeting. Rick Cradey, Vice-President of Pioneer Group spoke on his behalf. Their organization is in opposition of **SB 339**. He noted all the projects that have benefited Kansas through historic renovations. This bill proposes to eliminate the ability to use Historic Tax Credits (HTC) on personal income tax returns will essentially reduce the market price for the credits and vastly reduce the benefits the program has produced, and would continue to produce, in terms of jobs, economic activity, and affordable housing. (Attachment 26) April Holman, Director of Policy and Research, Kansas Action for Children asked to speak. Her organization's main concern with this bill is elimination of tax credits. She told the committee

that without tax credits, many families (and children) will fall into poverty. (Attachment 27)

Written testimony was submitted in opposition to **SB 339** by: Garrison Hassenflu, Garrison Companies (Attachment 28), Kathy Dzewaltowski, Manhattan/Riley County Preservation Alliance (Attachment 29), Dave Wilson, General Manager, Sterling Services (Attachment 30), Dennis Brown, President, Lawrence Preservation Alliance (Attachment 31); Carol von Tersch, Past-President, Black Jack Battlefield Trust (Attachment 32), and Michael Schuttloffel, Executive Director, Kansas Catholic Conference (Attachment 33).

Sen. Donovan thanked the people for their time in testifying before the committee, and closed the hearing on **SB 339**.

Sen. King was recognized. He requested the withdrawal of a bill he requested earlier in the session. It has never been printed. Sen. Donovan granted the withdrawal.

The next meeting will be February 16, 2012

The meeting was adjourned at 11:46 a.m.`