

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE

The meeting was called to order by Chairman David Corbin at 10:45 a.m. on February 4, 2004, in Room 519-S of the Capitol.

All members were present.

Committee staff present:

Chris Courtwright, Legislative Research Department  
Martha Dorsey, Legislative Research Department  
Gordon Self, Revisor of Statutes Office  
Shirley Higgins, Committee Secretary

Conferees appearing before the committee:

Senator Chris Steineger  
Mark Burghardt, Sprint  
Robert Fasl, SBC Communications  
Marlee Carpenter, Kansas Chamber of Commerce  
Terry Kimes, Mize, Houser and Company  
Dan Koenig, Overland Park Chamber of Commerce  
Robert Vancrum, Greater Kansas City Chamber of Commerce

Others attending:

See Attached List.

Senator Steineger requested the introduction of a bill regarding the taxability of small aircraft owned by leasing companies. Previous to a 2003 Board of Tax Appeals and Supreme Court decision, aircraft owned by leasing companies were tax exempt. Aircraft purchased previous to 2003 are now unexpectedly subject to taxation. The proposed bill would exempt aircraft purchased between January 1, 2002, and July 1, 2004. (Attachment 1)

Senator Buhler moved to introduce the bill, seconded by Senator Lee. The motion carried.

Senator Corbin requested the introduction of a bill on behalf of Senator Brownlee, who was unable to attend the meeting. The bill would delay the implementation of destination sourcing until Congress gives states the authority to implement the tax.

Senator Buhler moved to introduce the bill, seconded by Senator Journey. The motion carried.

Senator Taddiken moved to introduce a bill concerning statutory clarification on the allotment of property tax payment delinquencies within a TIF district, seconded by Senator Donovan. The motion carried.

**SB 325—Sales tax exemption for custom computer software**

Mark Burghart, representing Sprint, testified in support of **SB 325**. He noted that the interim Special Committee on Assessment and Taxation strongly recommended that the 2004 Legislature consider repealing the sales tax on computer software customization services and restoring the exemption that existed prior to 2002. He explained that the amendatory language was developed with the assistance of the Department of Revenue and that it would not affect the provisions in the sales tax relating to the Streamline Sales Tax Project. He commented that the negative fiscal impact on both large and small businesses may not have been fully considered when the exemption was removed in 2002. He emphasized that the new tax merely increases the cost of doing business in Kansas. He noted that AT&T also supports the bill. (Attachment 2)

Robert Fasl, SBC Communications, testified in support of **SB 325**. He noted that, of SBC's 13 state operating territory, Kansas is first among them in tax paid per access line. Thus, reinstatement of the sales tax exemption is a positive step in reducing SBC's Kansas tax burden. (Attachment 3)

Senator Corbin called the Committee's attention to testimony in support of **SB 325** submitted by John

## CONTINUATION SHEET

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE at 10:45 a.m. on February 4, 2004, in Room 519-S of the Capitol.

Cmelak, Verizon Wireless. ([Attachment 4](#))

Marlee Carpenter, Kansas Chamber of Commerce, testified in support of **SB 325**, noting that it would remove an unfair competitive burden from Kansas businesses and their employees. In addition, she noted that repealing the tax improves the Kansas system by making it less complex and burdensome. ([Attachment 5](#))

Terry Kimes with Mize, Houser and Company, testified in support of **SB 325**. He argued that the services for developing custom code are professional services; therefore, they should be exempted from taxation. He complained that taxing these services is harmful to small and medium sized Kansas businesses and that the tax places Kansas companies at a competitive disadvantage when compared to companies that do business in states that do not impose the tax. ([Attachment 6](#))

Dan Koenig, Overland Park Chamber of Commerce, testified in support of **SB 325**. He noted that, by making specialized software development taxable, many business in the Overland Park area are at a competitive disadvantage with neighboring states. He pointed out that Overland Park and Johnson County are service-based economies, and more than one-third of Johnson County's total employment base works in the service sector. He followed with a discussion of facts which demonstrate that the continued success of the Johnson County economy is directly connected to its service-based economy. He emphasized that the bill will allow for possible expansion and retention of the area's strong service sector employment base. ([Attachment 7](#))

Robert Vancrum, representing the Greater Kansas City Chamber of Commerce, testified in support of **SB 325**. He noted that the customized software tax was enacted in order to make it equitable with off-the-shelf software. However, customized software is a product of services rendered by professionals and consultants, and taxing such services puts Kansas significantly out of pace with most states. More importantly, the tax falls most heavily on "home-grown" Kansas businesses. ([Attachment 8](#))

Senator Corbin called the Committee's attention to written testimony in support of **SB 325** submitted by Ashley Sherard, Vice President, Lenexa Chamber of Commerce. ([Attachment 9](#))

In response to Committee questions, Chris Courtwright, Legislative Research Department, informed the Committee that, at the time the tax on customized software was enacted in 2002, the assumption was that it would raise \$14 million to \$15 million. However, the Department of Revenue has not been able to determine how much taxes were collected in 2003 because it was not possible to single out a tax on computer software customization services from other receipts. However, the Department's fiscal note on the bill indicates that the prospective repeal on July 1, 2004, would reduce receipts between \$2 million and \$16 million.

Richard Cram, Kansas Department of Revenue, confirmed that reinstating the exemption on customized software would not affect anyone's liability for the two years in which the law was in effect.

There being not others wishing to testify, the hearing on **SB 325** was closed.

Senator Donovan moved to recommend **SB 325** favorably for passage, seconded by Senator Journey. The motion carried.

The meeting was adjourned at 11:10 a.m.

The next meeting is scheduled for February 5, 2004.