

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE.

The meeting was called to order by Chairperson David Corbin at 10:45 a.m. on January 29, 2002, in Room 519-S of the Capitol.

All members were present except:

Committee staff present: Chris Courtwright, Legislative Research Department
April Holman, Legislative Research Department
Don Hayward, Revisor of Statutes Office
Shirley Higgins, Committee Secretary

Conferees appearing before the committee: Mike Reece, AT&T
Richard Cram, Kansas Department of Revenue
Susan Mahoney, Office of the Governor
Ed McKechnie, Watco Transportation Services
Doug Wareham, Kansas Grain and Feed Association
Charlie Swayze, Farmers Coop Equity Co. of Isabel and
Kansas Rail Users Association
Leslie Kaufman, Kansas Farm Bureau
Marlee Carpenter, Kansas Chamber of Commerce & Industry
Tom Whitaker, Kansas Motor Carriers Association
Don Lindsey, United Transportation Union

Others attending: See attached list.

Mike Recht, representing AT&T, requested the introduction of a bill which would amend K.S.A. 79-3603, subsections (b) and (u), relative to the taxation of prepaid calling cards. A copy of the proposed amendments was attached to his written request. (Attachment 1)

Senator Taddiken moved to introduce the bill as requested by Mr. Recht, seconded by Senator Donovan. The motion carried.

Richard Cram, Kansas Department of Revenue, requested the introduction of a bill which would convert the local and state sales tax on gross receipts from sales of water, electricity, natural gas, propane, LP gas, coal, and wood to a separate excise tax. The bill would also give the Secretary authority to require electronic filing of returns, which would significantly improve the Department's efficiency in processing returns for utilities. He explained that, by carving these products from the sales tax act and setting up a separate excise tax for them, the bill would address the requirement in the Streamlined Sales Tax Agreement that the sales tax basis at the state and local level be the same. The effective date would be January 1, 2003.

Senator Donovan moved to introduce the bill requested by Mr. Cram, seconded by Senator Clark. The motion carried.

Senator Allen moved to introduce a bill which would convert the current method of taxing sales of residential natural gas to the volumetric method, seconded by Senator Donovan. The motion carried.

HB 2586—Income tax credits for payments to certain port authorities

Susan Mahoney testified in support of **HB 2586** on behalf of the Governor. She expressed the Governor's belief that short line railroads must be preserved in order to help rural Kansans. (Attachment 2)

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Ed McKechnie testified in support of **HB 2586** on behalf of Watco Transportation Services, the holding company of the Kansas & Oklahoma Railroad (K&O) and the South Kansas & Oklahoma Railroad (SK&O). He noted that the intent of the bill was to help Watco rebuild the railroads into viable and profitable companies. For the Committee's information, he called attention to a map of the railroads, a cost benefit analysis of the K&O Railroad prepared by the Kansas Department of Transportation, and a comparison of cargo capacities prepared by the Iowa Department of Transportation. He went on to explain that the bill would bring a package of projects to the City of Pittsburg Port Authority for consideration. Bonds will be issued, and the Port will begin paying for the projects as they progress. He said that the tax credit portion of the bill is basically an implied guaranteed reimbursement for as long as the K&O makes the bond payment. The guarantee allows the K&O approximately \$1 million in interest costs over the life of the bond. He emphasized that the refundability clause is not a guarantee as the company will not receive any dollars from the state unless track improvements are made and the bonds are paid. Mr. McKechnie requested that the bill be amended to avoid the payment of federal income taxes by allowing the tax credit to be converted to a capital contribution, which is not taxable under the IRS code. (Attachment 3) Committee questions followed at which time Mr. McKechnie stated that Watco would be willing to accept a non-refundable tax credit and that the possibility of deferring the tax credit for one year was also acceptable.

Doug Wareham, representing the Kansas Grain and Feed Association and the Kansas Agribusiness Retailers Association, testified in support of **HB 2586**, although he could not endorse the refundable guarantee provision. He emphasized that, while the refundable language should be reviewed, there is a need for a commitment from the state with respect to the rail lines presently operated by the K&O Railroad. He noted that the income tax credit will benefit both the K&O Railroad and the numerous rural communities that depend upon the rail lines for shipping and receiving products. He called attention to a list of agricultural shippers located on lines currently operated by the K&O Railroad, noting that the significant number of rail users clearly demonstrates the need for continued rail service for the firms and their farmer customers who depend upon them as markets for their raw commodities. (Attachment 4)

Charlie Swayze, representing the Farmers Coop Equity Company of Isabel and the Kansas Rail Users Association, testified in support of **HB 2586**. He informed the Committee that the Central Kansas Railway did not properly maintain the tracks in the ten-year period it owned the lines. As a result, the speed on the tracks was reduced from 30 miles per hour to 5 miles per hour in most cases. He noted that Watco has consistently demonstrated its commitment to rural communities and agricultural shippers since taking over the lines on June 30, 2001. He emphasized that the bill is a step to ensure that essential rail service will be maintained in rural Kansas. (Attachment 5)

Leslie Kaufman, Kansas Farm Bureau, testified in support of **HB 2586**. She pointed out that maintaining efficient and effective rail service in Kansas is extremely critical to the Kansas agriculture industry. She noted the abandonment of several miles of rail corridor over the past several years has reduced the agricultural producers' transportation options and diminished competition within the transportation industry. The Kansas Farm Bureau is encouraged by Watco's plans for maintaining service to a significant portion of the state. The Bureau supports tax incentives to railroad companies that agree to upgrade lines and provide long-term service to shippers. (Attachment 6)

Marlee Carpenter, Kansas Chamber of Commerce and Industry, testified in support of **HB 2586**. She noted that short line rail service is very important to many Kansas communities as short line rail not only carries grain but also chemicals, rocks, and other products important to Kansas' economy. (Attachment 7)

Senator Corbin called the Committee's attention to copies of written testimony in support of **HB 2586** submitted by Joe Lieber, Kansas Cooperative Council. Mr. Lieber notes that the K&O Railroad has more than 900 miles of track and will provide service to 50 of his members. He also notes that the Council is pleased that Watco issued a moratorium on the abandonment of tracks for 18 months to allow the railroad, its customers, and key public policy makers an opportunity to join together to preserve rail transportation in central and western Kansas. (Attachment 8)

Tom Whitaker, Kansas Motor Carriers Association (KMCA), testified in opposition to **HB 2586**. In his opinion, it is bad public policy for the state to invest in a private transportation company without any guarantee of a return on the investment of a total of \$10 million in tax credits. In addition, he believes that the bill is an end-run around the internal improvement section of the Kansas Constitution which prohibits the

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state from using general property tax revenues or general obligation bonds to fund internal improvements for economic development purposes. He noted that Kansas would not be issuing bonds but would be providing unencumbered revenue for the retirement of such bonds. He pointed out that KMCA supported **HCR 5032**, which allowed the creation of the port authority to help in the development of a portion of the former Central Kansas and that authorization of the port authority will provide \$3.677 million in capitol improvements through property tax abatements. In addition, the Department of Transportation has offered a \$11.5 million grant from the short line railroad revolving loan fund for capitol improvements. In conclusion, he commented that, with anywhere from \$200 million to \$400 million in proposed budget cuts and a significant proposed cut in the Comprehensive Transportation Plan, this is not the time to further reduce available general fund dollars by granting a \$10 million refundable income tax credit. (Attachment 9)

Don Lindsey, Untied Transportation Union, testified in opposition to **HB 2586**. He contended that the loss in revenue resulting from the provisions in the bill and from the 20-year exemption from property taxes for the newly created City of Pittsburg Port Authority will have to be made up by taxpayers in various local communities. He noted that any increase in property taxes caused by a loss in revenue would work a hardship on many Kansas citizens who are living on fixed incomes. Furthermore, he believes any erosion in the tax base would be ill advised at a time when the state is facing budget constraints. In his opinion, Watco should have no problem obtaining investment capital from the federal or private sector if its operating plan is sound. In conclusion, Mr. Lindsey called attention to a statement attached to his written testimony regarding rail infrastructure needs which was prepared by the acting deputy administrator for the Federal Railroad Administration, S. Mark Lindsey, for the federal Transportation and Infrastructure Committee Subcommittee on Railroads. (Attachment 10)

There being no others wishing to testify, the hearing on **HB 2586** was closed.

The meeting was adjourned at 11:25 a.m.

The next meeting is scheduled for January 30, 2002.

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