

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE

The meeting was called to order by Chairperson David Corbin at 10:45 a.m. on February 13, 2003, in Room 519-S of the Capitol.

All members were present except: Senator Haley

Committee staff present: Chris Courtwright, Legislative Research Department  
Gordon Self, Revisor of Statutes Office  
Shirley Higgins, Committee Secretary

Conferees appearing before the committee: Nancy Schmidt Roush, Attorney at Law  
Martin Dickinson, Professor of Law  
Jim Weisberger, Kansas Department of Revenue  
T.C. Anderson, Kansas Society of Certified Public Accountants  
Allie Devine, Kansas Livestock Association  
Richard Cram, Kansas Department of Revenue  
Senator Derek Schmidt

Others attending: See attached list.

Senator Corbin called the Committee's attention to the minutes of the February 11 meeting. Senator Goodwin moved to approve the minutes of the February 11, 2003, meeting, seconded by Senator Buhler. The motion carried.

**SB 94—Repealing inheritance or succession tax**

**SB 148—Enacting the Kansas Estate Tax Act**

Nancy Schmidt Roush, an attorney from Overland Park, testified in support of **SB 148**, noting that she was a member of the group which drafted the proposed Kansas Estate Tax Act. She discussed the following concerns regarding the existing death taxes in Kansas, including the existing Kansas estate tax and Kansas succession tax: (1) Increased cost, complication, and confusion to Kansans who are planning their estates dealing with the death of a family member, and (2) Difficulty for the Department of Revenue to effectively enforce and collect the taxes. She contended that the proposed Kansas Estate Tax Act would solve significant problems and give Kansas a workable and enforceable death tax. She went on to discuss related information under the headings in her written testimony, "Summary of Kansas Estate Tax Act" and "Problem Areas in Kansas Death Taxes." (Attachment 1)

In response to a question from Senator Clark regarding the significant difference in the fiscal note for **SB 148** and **SB 94**, Richard Cram, Kansas Department of Revenue, explained that the Department discovered after **SB 148** was published that the rate schedule was too low. The Department's intent is to develop a fiscally

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neutral, stand-alone estate tax. Ms. Roush added that **SB 148** would retroactively repeal the succession tax back to June 6, 2002, and the new Kansas estate tax would be in effect from January 1, 2003.

Martin Dickinson, a professor of law at the University of Kansas, testified in support of **SB 94** and **SB 148**, noting that he worked with Ms. Roush and others to draft the proposed Kansas Estate Tax. He discussed the problem inherent in basing Kansas taxation on federal law, emphasizing that Kansas must “decouple” and move to a free standing Kansas estate tax that can operate efficiently and assure adequate revenue, regardless of what Congress may do in the future. He noted that the tax rate structure in Section 3 of **SB 148** can be modified to produce whatever revenue is desired. (Attachment 2)

Jim Weisberger, Kansas Department of Revenue, testified in support of **SB 148**. He said, currently, the Department has two separate tax structures in the estate tax and in the succession tax which it cannot administer. The Department’s primary focus is to develop a tax structure that works and is revenue neutral. The bill replaces both the current “pick-up” tax and the succession tax and creates a stand-alone Kansas estate tax which is workable. For the Committee’s information, he called attention to a brief outline of the sections of the bill attached to his written testimony. (Attachment 3)

T.C. Anderson, Kansas Society of Certified Public Accountants (KSCPA), stood in support of **SB 148** and the testimony given by previous conferees. He explained that a KSCPA task force reviewed the proposed Kansas Estate Tax Act and adopted it as part of its legislative platform for 2003. (Attachment 4)

Mr. Cram informed the Committee that the Department of Revenue will recommend technical amendments to **SB 148** in the near future. In this regard, he called attention to a suggested amendment to the rate schedule outlined in the written testimony provided by Mr. Weisberger. He went on to explain data in the tables entitled, “Comparison of Adjusted Kansas Estate Tax Rates,” for years 2003 through 2006 and the data in a table on the estimate for the Kansas Estate Tax for fiscal years 2003 through 2010. He also noted that the Department recommends that Section 54 be amended to provide that any refunds of previously paid Kansas succession tax shall be paid without interest.

Allie Devine, Kansas Livestock Association (KLA), testified in opposition to **SB 148** and in support of **SB 94**. With regard to **SB 148**, she explained that KLA members are adamantly apposed because they view death taxes as an obstacle to the survival of ranching and farming operations, small businesses, and the preservation of a family legacy. She pointed out that, while the federal government is moving away from estate taxes, the bill resurrects them in Kansas. Although KLA members understand that the bill seeks to address administrative problems with the current Kansas law tied to the federal law, they are not convinced that a free standing estate tax will decrease the complications. She urged the Committee to take the time to develop good information on the issues before proceeding. With regard to **SB 94**, Ms. Devine stated that KLA members philosophically support the bill because they want to assure that no one is precluded from continuing the family business operation. (Attachment 5)

Senator Corbin called the Committee’s attention to written testimony in support of **SB 94** and **SB 148** submitted by Marlee Carpenter, Kansas Chamber of Commerce and Industry, (Attachment 6) and written testimony in support of **SB 94** but questioning the benefits of **SB 148** submitted by Leslie Kaufman, Kansas

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Farm Bureau (Attachment 7). There being no other persons wishing to testify on **SB 148**, Senator Corbin closed the hearing and called upon the sponsor of **SB 94**, Senator Derek Schmidt, for further testimony.

Senator Schmidt discussed the following reasons he believes that the succession tax enacted last year should be repealed retroactively: (1) It is not significantly helping to balance the state budget, (2) It constitutes triple taxation by the state, (3) It is unfair on its face, (4) It is exceptionally confusing, and (5) It is a tax on honesty. He emphasized the succession tax was bad public policy when it was enacted, and it has proven to be worse public policy in practice. In conclusion, he strongly recommended that the succession tax be abolished before it does any more harm. (Attachment 8) With this, the hearing on **SB 94** was closed.

Chris Courtwright, Kansas Legislative Research Department, distributed a memorandum to the Committee regarding the fiscal impact of various death tax provisions (Attachment 9) and a report on the extent to which the 50 states conform to the estate tax provision of the new federal law (Attachment 10).

The meeting was adjourned at 11:40 a.m.

The next meeting is scheduled for February 14, 2003.