Approved: February 25, 1993
Date

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION.

The meeting was called to order by Chairperson Audrey Langworthy at 11:08 a.m. on February 15, 1993 in Room 519-S of the Capitol.

Members present: Senator Langworthy, Senator Tiahrt, Senator Martin, Senator Bond, Senator Hardenburger, Senator Lee, Senator Reynolds, Senator Sallee, Senator Wisdom

Committee staff present: Tom Severn, Legislative Research Department
Chris Courtwright, Legislative Research Department
Bill Edds, Revisor of Statutes
Don Hayward, Revisor of Statutes
Elizabeth Carlson, Committee Secretary

Conferees appearing before the committee: Ed Peterson, Kansas City Consensus
Marlene Nagel, Mid-American Regional Council
Chris Beal, Chamber of Commerce of Greater KC

Others attending: See attached list

Introduction of bills

Senator Hardenburger requested a bill be introduced which has been requested by the Kansas Appraisers Association to change the language to refer to the electronic funds transfer of completed real and personal property appraisals to the county clerk, when this is done and the contents thereof. These changes amend KSA 1992 Supp. 79-1455 and KSA 1992 Supp. 79-1467 and repeal existing sections.

Senator Hardenburger moved the introduction of this bill. The motion was seconded by Senator Bond. Motion carried.

SB 203--Economic development promotion; various tax adjustments

Senator Langworthy introduced discussion on this bill by explaining the need to address the issue of the incongruity of taxes between oil and gas; to reinstate the sales tax exemption for utilities in production; and to reinstate the exemption on labor services -- original construction. She said these three areas of the economy are suffering due to tax laws that add an extra heavy burden to them. Several studies have pointed this out. In 1990 Kansas Inc., commissioned a study of the overall tax burden on the oil and gas industry. It concluded the overall tax burden on the oil and gas industry was higher in Kansas than surrounding states. Since then, several recommendations have been made to lower the rates. This past year, the resultant studies again reinforced the need to lower, at the very least, the rate of gas. (Attachment 1) Included in their study was the problem of utilities used in production. Thus we have **SB 4** before us. However, hearings were never held on the issue of utilities used in production. There was no question that we heard from many sectors of the manufacturing industry having been negatively impacted by this tax. We have also heard loudly and clearly that the construction industry has been negatively impacted which has slowed construction and cost jobs. In sum total, there has been no long range tax planning, only knee jerk reaction to funding pressures. Economic stimulus and job development have not been considered. Impact studies have not been made. There was no testimony in defense of these taxes--only negatives. She stated that passage of this bill will encourage business investment and promote economic development. Jobs would be created and the economy will be stimulated by this bill. She said there have been adequate hearings on these subjects and the committee is ready to discuss these issues. To leave these taxes at current levels will have a chilling effect on the state economy.

Senator Bond said Kansas tax policy can either promote or deter business growth. All testimony indicated that these taxes have adversely impacted jobs and therefore, the economy. Long term this translates into a decline in tax collection. Removing the exemptions and imposing the taxes on construction and utilities was done without any hearings and absolutely no perception of the negative economic impact this state would experience. The passage of this bill will stimulate not only the gas industry, manufacturing and construction but the whole economy of Kansas. He said this bill translates into jobs, jobs, jobs.

There were questions and discussion from the committee about how the revenue was to be raised and how the difference was to be made up. There was agreement on a need for a long term fiscal policy.

Senator Bond moved to pass favorably **SB 203**. The motion was seconded by Senator Hardenburger. Motion carried.

SB 200--Mo-Kan cultural district compact; issuance of bonds; district size; advisory committee role

Ed Peterson, Kansas City Consensus, gave some background information about the compact and said this is an effort to try to do something across the state line. The Mo-Kansas cultural district compact passed in 1991 and now this is an attempt to reconcile the bill with the state of Missouri's bill which passed in 1987. Certain changes have been agreed to be introduced in Missouri also.

Marlene Nagel, Mid-America Regional Council, said this compact has been worked on for the past 8 years. (Attachment 2) This bill is needed to remove the inconsistencies that might prevent the effort from moving forward. The changes in **SB 200** are minor changes. The state of Missouri is being asked to make substantial changes to bring the laws in both states into conformity.

Chris Beal, Chamber of Commerce of greater KC, said they are in support of this bill and asked the committee to pass it favorably. (Attachment 3)

The meeting adjourned at 12:00 noon.

The next meeting is scheduled for February 16, 1993.

GUEST LIST

SENATE ASSESSMENT AND TAXATION COMMITTEE

DATE: Feb 15, 1993

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Christy Young	Topeka	Topeka Chamber of Comm.
Nelsie Sweeney	Overland Park	OP Chamber
Marlene Nagel	600 Broadway KCMO	Mid America Regional Council
Ed Peterson	3100 Broadway KC MO	" "
Bill Jarrell	Wichita	Boeing
Bernie Koch	"	Wichita Chamber
Chris Beal	Greater K.C. Chamber	
Richard Rodewald	Eudora	Taxpayers
Tom Slattery	Top	AGC of Ks
Mark A. Burghart	Topeka	Revenue
Steve Stotts	"	"
Mark Barcellina	Topeka	KDOC&H
Mark Ciardullo	Topeka	KDOR
Alan Cobb	Wichita	KS Assoc. For Small Business
Elaine Frisbie	Topeka	Div. of Budget
Ken Peterson	"	KS Petroleum Council
Bob Totten	Topeka	K-C-A
Pam Wells	Topeka	KS Coop Council
Alan Steppat	Topeka	Pete McGill & Assoc
Don Schnacke	Topeka	KIOGA
Mark Tallman	Topeka	KASB

GUEST LIST (continued) DATE: February 15, 1993

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Bud Smoot	Topeka	HBA of KC
Ralph Skoog	Ks CAPU Assn	Topeka
Harry Humphries	KMHA	"
Gerry Ray	Overland Park	City of Overland Park

KANSAS inc.

Charles R. Warren
President

632 S.W. Van Buren, Suite 100
Topeka, Kansas 66603
(913) 296-1460
fax - (913) 296-1463

February 9, 1993

Senator Paul Burke
President of the Senate
The Kansas Legislature
The Statehouse
Topeka, Kansas

Dear Senator Burke:

At your request, Kansas Inc. convened a meeting of informed and expert individuals to analyze the potential fiscal impact of Senate Bill 240 now pending before the Senate Assessments and Taxation Committee. The three legislative measures considered are: restoring the exemption of utilities consumed in production, property tax credit for the severance tax on natural gas, and restoring the exemption on services used in original construction. The meeting took place on Monday, February 8.

The following individuals participated:

Dr. David Collins, Kansas Geological Survey, Lawrence.
Dr. Darwin Daicoff, University of Kansas, Lawrence.
Doug Davidson, CERI, Johnson County.
Shannon Green, Tax Attorney, Kansas City Power and Light, Kansas City, Missouri.
Pat Hurley, Pete McGill and Associates, Topeka.
Larry Knott and Forrest Gossett, Allen, Gibbs and Houlik, Certified Public Accountants and Consultants, Wichita.
Ed Schaub, Western Resources, Inc., Topeka.
Janet Stubbs, Kansas Home Builders Association, Topeka.
Jeff Waggaman, Administrative Assistant to the Senate President, Topeka.
Dr. Charles Warren, President, Kansas Inc.

Background

The 1993 Kansas Legislature enacted a 2.5% sales tax on utilities used in production and on services used original construction. The Interim Committee on Taxation recommended a reduction in the severance tax on natural gas from 7 percent to 4.33 percent on a phased-in basis and

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recommended the repeal of the sales tax on utilities used in production.

Estimated Fiscal Impacts

The participants reviewed the fiscal impacts that had been prepared and based on data provided and review and discussion of experience with the taxes, fiscal estimates were derived. The fiscal notes prepared by Legislative Research and the Administration are listed below in column A and the conclusions reached in our meeting are in Column B. The assumptions and conclusions reached at the meeting yesterday are provided in some detail below.

	A Current Fiscal Note	**B** Kansas Inc. Estimates
	(dollar amounts in millions)	
Utilities Tax	$17.0	$13.0
Construction Services Tax	25.0	9.0
Natural Gas Severance Tax	7.0	8.0
Totals	$49.0	$30.0

The Kansas Inc. participants concluded that the current fiscal notes over-estimate revenues from these three tax sources combined by 19 million dollars.

The assumptions and conclusions reached individually on each of the three tax measures are presented in the attached summary of the discussion.

Sincerely,

Charles R. Warren
President

attachments

SUMMARY OF DISCUSSION
KANSAS INC. MEETING ON FISCAL IMPACTS OF S.B. 240

Revenue Experience:

The participants noted that in a letter from Secretary of Revenue Nancy Parrish to James R. Cobler, Division of Accounts and Reports, the revenues collected on the new 2.5% taxes were certified as follows for the period July to December 1992:

2.5% tax on services on new construction	$1,471,000
2.5% tax on "utilities consumed in production"	$6,561,000

In FY 1992, the severance tax collections on natural gas were:

	$55,477,000
less receipts previous year's liability:	- 1,400,000
FY1992 total:	$54,077,000

Severance Tax Fiscal Impact

Legislative Research provided the following fiscal note estimates:

	Interim Note	January 26 Note
FY1994	$ 7,527,000	$ 7,000,000
FY1995	16,560,000	15,400,000
FY1996	23,109,000	21,500,000
FY1997	24,117,000	22,400,000

The estimates in the fiscal note regarding price per MCF and production levels were derived from the November revenue estimates. According to <u>The Governor's Budget Report, Volume 1</u>, p. 12: "Kansas natural gas production and price will remain stable during the forecast period. The price is expected to average $1.60 per MCF in FY 1993 and $1.55 per MCF in FY 1994. This estimate compares to an average price of $1.33 for FY 1992."

These revenue estimates are believed to assume a constant production level for fiscal years 1994 through 1997 of 630 BCF (billion cubic feet) annually with a gross value of $903 million dollars per year and an average price of $155 per MCF. These production and price levels would yield annual revenues of $63 million at a 7 percent rate and $57 million at a 6 percent rate in FY94, thus the $7 million fiscal note the first rate. The tax rate reaches 4.33 percent by FY1997.

Because of the national outlook for natural gas and the likely increased production, along with actions underway by the Kansas Corporation Commission to increase allowables and thus production in the Hugoton field, an estimate of 650 BCF was viewed as a more likely and conservative production level. Because of the trend toward rising gas prices, a $1.60 per MCF figure was viewed as most likely. This production would yield a gross value of $1,040 billion with .925 of that gross value taxable yielding $962 million subject to the 7 percent rate. This results in natural gas severance tax revenues, holding each year constant, of $67.34 million. A one percent revenue "loss" of $9.62 million is reduced due to timing of collections, therefore 10/12 of that amount, or $8.02 million would be the FY1994 fiscal note.

It should be noted that an independent estimate of the trend and projections for natural gas prices was obtained from a petroleum firm in Wichita that indicated the range in price for FY93 was $1.55 to $1.65 per MCF and that the most probable price per MCF in FY94 was an average of $1.70. This industry observer noted that natural gas is not sold on an MCF but rather on a BTU (British Thermal Unit) basis. Kansas gas has a higher BTU and the average price of $1.70 for 94 should be adjusted by a factor of 1.050 yielding an average price of $1.79 per MCF. The assumption that natural gas prices would decline from FY93 to FY94 is considered highly unlikely given the trends and prospects for natural gas. The $1.60 per MCF price used in the Kansas Inc. estimate is therefore overly conservative.

Sales Tax on Utilities Consumed in Production:

As noted earlier, actual revenues realized from the 2.5% sales tax on utilities consumed in production was $6,561,000 for the period from July to December 1992. Western Resources, Inc. provided extensive detail on the sales taxes collected on utilities in their service area on a county-by-county basis. See attachment. Western Resources, Inc. shows actual state sales tax collections for the June to December 1992 period of $3,082,942.66. On an annualized basis, they calculated the sales tax collections to be $5,944,519.00. Kansas City Power and Light estimates sales tax on utilities consumed in their service area to be approximately $750,000.00. The revenues from these two major utilities would then approximate $6.75 million annually. Other major utilities in Kansas are BPU in Wyandotte County, Sunflower, Midwest Energy and the municipal utilities. The other major consumers affected would be the Kansas oil and gas industry. The consensus of the participants was that these other utilities could produce sales ax collections of an additional $6.25 million. It should be noted that the major industrial users in Kansas lie within the Western Resources and KPL service areas. There is not considered to be any seasonal or cyclical factor that would require adjustments in estimates derived from the actual experience data.

Based on this actual data and estimates of the participants, the 2.5% sales tax on utilities can be anticipated to yield state revenues of $13 million annually. $13 million is an annualized amount based on current, actual collections. The participants do not believe a revenue estimate of $17 million is probable.

Tax on Services for Original Construction:

As previously noted, the sales tax on services for original construction has yielded $1.471 million through December 1992.

To arrive at a fiscal estimate for construction sales tax, it is first necessary to estimate the total value of taxable original construction in Kansas in Fiscal Year 1994. CERI developed a total taxable value of $1,851,000,000 based on data from F.W. Dodge, Value of Construction Contracts, for calendar year 1992. This number is arrived at by assuming that 25 percent of the value of commercial and residential construction is rehabilitation and thus already subject to sales taxation. And, that 25 percent of the non-building construction contracts were for government and not subject to taxation. Dr. Daicoff noted that the U.S. Department of Commerce data shows a total value of taxable original construction of $1.3 billion. The group agreed on a total for original construction value of $1.3 billion after considerable discussion. This amount was based on Dr. Daicoff's conclusions (See attached testimony by Dr. Daicoff before the Kansas Senate Assessment and Taxation Committee of February 2, 1993). Dr. Daicoff estimates a 5.3 percent monthly loss of taxable construction due to the imposition of the 2.5% sales tax.

After more discussion, the participants estimated that 40 percent of the value of taxable original construction would be allocated to labor and services. ($1.3 billion X .40 = $520,000,000 of labor subject to taxation.) From this amount, $20 million was subtracted because of enterprise zone exemptions of sales tax on original construction. Thus, the total value of labor and services on original construction that represents the maximum potential subject to taxation is considered to be $500,000,000. A 2.5 percent tax on this amount would yield $12.5 million.

In attempt to understand why only about $1.5 million was collected during through December 1992, several assumptions were explored. It was recognized that many contracts were exempted because they were executed prior to the effective date, and that a rush of contract execution took place. The participants also noted that several factors have mitigated against greater collections, including: confusion over the application of the tax, difficulty on the part of contractors, especially smaller businesses, in administering the tax, ability of out-of-state contractors to avoid the tax, and direct evasion of the tax. The participants also noted that the Department of Revenue apparently has only six persons to enforce sales tax collections, all of whom were engaged fully prior to the enactment of this tax.

If the potential amount subject to the 2.5 percent sales tax is $500 million, then given the above cited difficulties in collection and enforcement, it is assumed that a "slippage" rate of 28 percent would not be unreasonable, and this would produce a total taxable value of $360 million. It should be noted that one participant felt the "slippage" rate should be significantly higher and at least be estimated at 40 percent. A 28 percent slippage would yield taxable value of $360 million and that, in turn, would produce estimated annual revenues of $9 million. This amount was agreed upon by the participants as a reasonable approximation of expected revenues in FY 1994 for the sales tax on services on original construction.

Other Group Conclusions

The participants noted that there are extremely serious problems in the administration and collection of the sales tax on original construction. The Department of Revenue lacks adequate staff to enforce and administer this tax, and the costs to fully staff for its collection would be prohibitive. They also note that the construction industry and its subcontractors are extremely resentful of this new tax and can resort to very creative methods of avoidance. It was also noted that the sales tax is harmful to jobs and activity in the construction industry which will reduce the potential yield of the tax. It is estimated that approximately 1,800 jobs will be lost because of the tax and that employment loss will in turn result in additional losses to the state general fund from reduced sales and personal income tax collections. (An estimate of that loss in income tax alone is: 200 jobs X annual wages of $22,500 = $40.5 million payroll loss; and, an income tax loss of $1.6 million annually.)

It was also noted that the tax on utilities consumed will have a negative impact on economic development in Kansas causing further reductions in state general fund revenues.

If the participants' estimates on the 2.5% sales tax are approximately correct, these two taxes would yield $22 million. An increase in the general state sales tax rate from 4.9 percent to 5.0 percent would yield $24 million, or $2 million more with none of the attendant negative implications for economic development, difficulties in collection or enforcement, and related losses in state sales or income taxes due to reduced employment and economic activity.

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Shannon Green
Tax Department
Kansas City Power and Light
P. O. Box 418679
Kansas City, MO 64141-9679

Larry Knott
Allen, Gibbs and Houlik
Certified Public Accountants
301 N. Main, Suite 1700
Wichita, KS 67202-4868

Forrest Gossett
Allen, Gibbs and Houlik
Certified Public Accountants
301 N. Main, Suite 1700
Wichcita, KS 67202-5868

Ed Schaub
Vice President of Government Affairs
Western Resources, Inc.
P. O. Box 889
Topeka, KS 66601-0889

Pat Hurley
McGill & Associates
400 S. W. 8th
Topeka, KS 66603

Janet Stubbs
Home Builders Association of Kansas
816 S. W. Tyler
Topeka, KS 66612

Dennis McKee
Executive Director
Johnson County Economic
Research Institute
11111 W. 95th St., Suite 210
Overland Park, KS 66214

Doug Davidson
Senior Research Analyst
Johnson County Economic Research Institute
11111 W. 95th St., Suite 210
Overland Park, KS 66214

Dr. David Collins
Kansas Geological Survey
University of Kansas
1930 Constant Avenue - Campus West
Lawrence, KS 66047

Dr. Darwin Daicoff
Department of Public Administration
University of Kansas
318 Blake Hall
Lawrence, KS 66045

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Testimony on Missouri-Kansas Bi-State Cultural District S.B.200

Marlene Nagel, Community Development Director
Mid-America Regional Council
600 Broadway, 300 Rivergate Center
Kansas City, Missouri 64105
816/474-4240

Good Morning. I am here this morning to speak on behalf of Senate Bill 200. This bill seeks some technical corrections to the Missouri-Kansas Bi-State Cultural District law. The original law was passed by the Kansas Legislature in 1991 and allows residents of the bi-state Kansas City metropolitan area to consider establishing a special district to fund important cultural resources and amenities.

A community task force of the Mid-America Regional Council co-chaired by Overland Park City Councilmember Ailie Speer and Kansas City, Missouri, Councilman Dan Cofran, has been working over the past 8 years to build regional support for the area's cultural organizations and facilities. The task force worked closely with members of the Kansas Senate and House on the original Kansas legislation.

Over the past year, the MARC task force has been conducting a cultural needs assessment of the metropolitan area, including work on the bi-state cultural district idea. Last May, we conducted a public opinion poll of a sample of area residents. We were encouraged by the support throughout the region for the idea of metropolitan funding for cultural facilities in general and a bi-state cultural district in particular. A more recent survey by the Overland Park Chamber of Commerce showed that city's residents and business leaders to be favorable to the idea as well.

The work of the task force has concluded that changes are needed to the enabling laws in both Kansas and Missouri to remove inconsistencies that might prevent the effort from moving forward. The changes proposed in S.B. 200 make some minor changes to the current law.

Identical legislation has been introduced in Missouri by Senator Harry Wiggins. The Missouri General Assembly is being asked to make substantial changes to that state's bi-state cultural district law to conform to provisions supported by the Kansas Legislature.

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Changes to Kansas Law

* Limit the size of the district to counties within 60 miles of Johnson County, Kansas and Jackson County, Missouri

* Include ballot language to allow voters through the area to consider identical issues

* Include the advice of advisory panels in funding decisions by the bi-state cultural district commission

* Require that counties remit sales tax proceeds to the district within 60 days of their receipt from the state.

* Allow the district to issue bonds five years after the district's formation and with the approval by voters of each bond issue.

Major Changes to Missouri Law

* Repeals existing law and substitutes a law identical to the Kansas law.

* Requires that both Johnson County, Kansas, and Jackson County, Missouri, participate in the district in order for the district to be formed.

* Requires that elected officials serve as the city and county appointments to the commission.

* Does not allow recreation to be an eligible activity.

* Limits the bonding and other powers of the commission.

* Requires advisory committees in the funding decision-making process of the commission.

* Allows cities of 50,000 population to have direct representation on the commission. (Allows the addition of Olathe, Kansas, as a city with direct representation).

GREATER KANSAS CITY
CHAMBER OF COMMERCE

SENATE COMMITTEE ON ASSESSMENT AND TAXATION

SENATE BILL 200

Madam Chairman and members of the Committee

My name is Chris Beal and I am representing the Greater Kansas Chamber of Commerce and their support for technical corrections to the Bi-State Cultural District.

Since Kansas passed the original legislation in 1991, the Chamber has been working with MARC in support of putting the two bills into conformity so a measure can be placed on the ballot by those counties who choose to participate in the district.

This bill contains the necessary changes so it conforms to similar legislation which is presently being considered by the Missouri General Assembly. The Greater Kansas City Chamber of Commerce is supportive of these efforts and urges the adoption of this bill without amendments. Thank you very much for your consideration of this bill and a special thanks to those members of the area's delegation for their almost unanimous support of this legislation.

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2600 COMMERCE TOWER
911 MAIN STREET
KANSAS CITY, MISSOURI 64105-2049
816/221-2424 FAX 816/221-7440