

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 9:00 A.M. on January 18, 2007 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, Office of Revisor of Statutes
Richard Cram, Department of Revenue
Rose Marie Glatt, Committee Secretary

Conferees appearing before the committee:

HB 2044

Mike Taylor, United Government Wyandotte County
Matt Shatto, City of Lenexa
Erik Sartorius, City of Overland Park
Don Moler, Kansas League of Municipalities
Dale Goter, City of Wichita
Randall Allen, Kansas Assoc. Of Counties (written only)
Paul Welcome, Office of County Appraiser - Johnson County, (written only)

HB 2031

Ron Thornburg, Secretary of State
Charles Gregor, Leavenworth-Lansing Chamber of Commerce
Pete Schrepermann, Wichita Independent Business Association
Ken Daniels, Midway Wholesale
Marlee Carpenter, Kansas Chamber of Commerce
Alan Cobb, Americans for Prosperity
Brad Harrelson, Kansas Farm Bureau
Christy Caldwell, Topeka Chamber of Commerce
Derrick Sontag, National Federated Independent Business
Brent Haden, Kansas Livestock Association
Karl Peterjohn, Kansas Taxpayers Network
Richard Cram, Kansas Department of Revenue
April Holman, Kansas Action for Children
Mark Tallman, Kansas Association of School Boards
Leslie Kaufman, Kansas Cooperative Council (written only)
Ashley Sherard, Lenexa Chamber of Commerce (written only)
Michael Murray, Embarq Corporation (written only)
Bernie Koch, Wichita Chamber of Commerce (written only)
Duane Simpson, Kansas Grain and Feed Assoc. (written only)

Others attending:

See attached list

HB 2044 - Distributions from the business machinery and equipment tax reduction assistance fund and the telecommunications and railroad machinery and equipment tax reduction assistance fund.

Gordon Self, Office of Revisor of Statutes, briefed the Committee on the law, passed last year, which dealt with exemptions on commercial and industrial machinery and equipment. There was an accompanying provision for both the general machinery and equipment exemption and the telecommunications and railroad machinery and equipment exemption. In conjunction with the exemption provisions, there was a provision that provided a mechanism to have some state funds directed to the local level based on a distribution formula provided in the law. **HB 2044** contains changes that are technical in nature that should be made to this mechanism before it is implemented. He explained the two technical changes.

The Chairman opened the public hearing.

CONTINUATION SHEET

MINUTES OF THE House Taxation Committee at 9:00 A.M. on January 18, 2007 in Room 519-S of the Capitol.

Mike Taylor, United Government Wyandotte County, stood in support of the bill. He said the Legislature intended and thought it was creating a mechanism to reimburse a percentage of the actual losses in machinery and equipment tax revenues. Instead, the legislature devised a formula which reimburses local governments based on mill levy. Everyone admits the law needs to be fixed however, he said that the bill still has a serious problem. He suggested the comparison should be between the ad valorem taxes levied for commercial and industrial machinery and equipment in 2005 and the amount levied for commercial and industrial machinery and equipment in 2007, 2008, 2009, 2010, or 2011 (Attachment 1).

Matt Shatto, City of Lenexa, testified they understand the bill was introduced in an effort to change the distribution formula currently in place for the purpose of reimbursing municipalities for their loss related to the elimination of the personal property tax on machinery and equipment. They recommend that changes in wording related to comparison need to be made, after which they can fully support the legislation (Attachment 2).

Erik Sartorius, City of Overland Park, said a portion of the “slider” is altered by **HB 2044** to reflect legislative intent, however the law lays out a mechanism to distribute the aid within a county based on a taxing jurisdictions’ mill levy in relation to the sum of all mills levied in the county. Such a distribution formula bears no relationship to the amount of property tax revenue a city derives from business machinery and equipment. He suggested the distribution formula needs to be changed to reflect the intent of the original bill (Attachment 3).

Don Moler, Kansas League of Municipalities, said they believe that some of the language found in **HB 2044** needs to be clarified so that it is clear that the amount of money lost, as a result of the M&E exception, is based on actual dollars that could have been collected as compared to actual dollars which were collected (Attachment 4).

Dale Goter, City of Wichita, testified the details of the bill should be carefully analyzed, as there is a significant difference between the intent of the legislation and the likely outcome. He suggested the Legislature consider replacing language in Subsections 1-6 of section b reading “*total ad valorem taxes levied by*” with “*the total assessed valuation of personal property within.*” (Attachment 5).

Randall Allen, Kansas Assoc. Of Counties, submitted written testimony, stating their Association had unanimously endorsed the position that the language of the statute needed amendment to correct problems with calculating the tax reduction assistance funds and its distribution back to the counties (Attachment 6).

Paul Welcome, Office of County Appraiser - Johnson County, submitted written testimony, that stated Johnson County Board of County Commissioner’s support of **HB 2044** (Attachment 7).

Seeing no other conferees, the Chairman closed the hearing on **HB 2044**.

HB 2031 - Repealing the Kansas Franchise Tax

Chris Courtwright, Legislative Research Department, briefed the Committee on the background of the franchise tax. Corporations and associations, LLCs, limited partnerships, and business trusts are now required to file annual returns with the Director of Taxation and remit the franchise tax liability before April 15 of each year. The tax is deposited in the State General Fund (SGF) and is scheduled to produce an estimated \$44 million for FY 2008. The Secretary of State’s Office maintains a separate annual franchise fee of \$40 for for-profit and not-for-profit entities. This \$40 fee is deposited in the SGF and produces about \$4 million per year (Attachment 8).

The Chairman opened the public hearing on **HB 2031**.

PROPOSERS

Ron Thornburg, Secretary of State, offered an amendment that would eliminate the related annual report fee, which is paid by businesses when they file the report in the Secretary of State’s office. He said that at this time the franchise tax and the annual report fee amount to duplicate taxes on Kansas businesses. They are a totally fee-funded agency and their amendment would not eliminate the \$15 administrative filing

CONTINUATION SHEET

MINUTES OF THE House Taxation Committee at 9:00 A.M. on January 18, 2007 in Room 519-S of the Capitol.

fee. The amendment would create a favorable climate in Kansas by reducing costs amounting to \$4.6 million annually for Kansas businesses ([Attachment 9](#)).

Charles Gregor, Leavenworth-Lansing Chamber of Commerce, testified in support of **HB 2031**. He said the franchise tax was a severely flawed tax and is regressive. Chamber members would like to see continued reduction in the cost of doing business that would result in business and economic growth providing an increase in state revenues ([Attachment 10](#)).

Pete Schrepermann, Wichita Independent Business Association, urged the Committee members to support the passage of **HB 2031**. Kansas is in the minority as a state that employs a franchise tax and the bill would remove another impediment to economic development in Kansas ([Attachment 11](#)).

Ken Daniels, Midway Wholesale, testified the franchise tax is an aggressively anti-business tax. It is a penalty for making permanent business investments in the state. He gave reasons why the tax should be repealed, and provided a chart comparing Kansas to other states in the region ([Attachment 12](#)).

Marlee Carpenter, Kansas Chamber of Commerce, said the Kansas Chamber supports **HB 2031**. The tax is on net worth, requiring a company to pay this tax for the privilege of doing business in the state. The tax has no bearing on whether the company made money, had any new investments or created any jobs, but a tax on growing a business and the assets obtained to be successful ([Attachment 13](#)).

Alan Cobb, Americans for Prosperity, said repealing the franchise tax is an important first step in helping Kansas become more competitive. The franchise tax penalizes capital formation and business investment through taxation, two crucial aspects to a thriving economy. He urged passage of the **HB 2031** ([Attachment 14](#)).

Brad Harrelson, Kansas Farm Bureau, rose in support of **HB 2031**. He said there are a host of economic and tax policy reasons why the Legislature should act now to permanently repeal this tax. The franchise tax appears to be nothing more than an annual bill for the privilege of doing business in Kansas, unrelated to realized income, profitability, or productivity ([Attachment 15](#)).

Christy Caldwell, Topeka Chamber of Commerce, testified their business firms appreciate the introduction of this bill and asked for their support for its passage. Repeal of the franchise tax is another step forward for Kansas to be one of the best states for economic development and growth ([Attachment 16](#)).

Derrick Sontag, National Federated Independent Business, said in 2006, the elimination of the franchise tax was the second highest priority of small business, with the machinery and equipment tax phase-out being first. If repealed, Kansas will join the more than 30 states that currently, do not have a franchise tax ([Attachment 17](#)).

Brent Haden, Kansas Livestock Association, testified the franchise tax is paid by foreign and domestic corporations, associations, limited liability corporations, and limited liability partnerships and is essentially a tax on the privilege of doing business in Kansas. He urged passage of **HB 2031** ([Attachment 18](#)).

Karl Peterjohn, Kansas Taxpayers Network, said repealing the Kansas franchise tax would be a significant and important step in improving Kansas' fiscal climate and would end a double taxation on Kansas businesses ([Attachment 19](#)).

The Chairman noted that written testimony, in support of **HB 2031**, was received and distributed from the following persons: 1) Leslie Kaufman, Kansas Cooperative Council; 2) Ashley Sherard, Lenexa Chamber of Commerce; 3) Michael Murray, Embarq Corporation; 4) Bernie Koch, Wichita Chamber of Commerce; and 5) Duane Simpson, Kansas Grain and Feed Assoc ([Attachment 20](#)).

OPPONENTS

Richard Cram, Kansas Department of Revenue, testified the Department opposed the proposed bill, in that it will permanently shrink the State tax base by eliminating the corporate franchise tax entirely, causing

CONTINUATION SHEET

MINUTES OF THE House Taxation Committee at 9:00 A.M. on January 18, 2007 in Room 519-S of the Capitol.

a loss of State General Fund revenue of \$44 million for FY 2008, with total revenue loss for FY 2008 through FY 2012 of \$230 million. He explained the fiscal and administrative impact of the bill (Attachment 21).

April Holman, Kansas Action for Children, cited 2 reasons why their organization was opposed to the bill: Loss of revenue in the State General Fund; Erosion of the tax base. She suggested the Kansas tax system needs to be studied and a comprehensive modernization plan be developed (Attachment 22).

Mark Tallman, Kansas Association of School Boards, expressed concern over the direction and trends of current state tax policies. Elimination of this significant state tax could worsen those trends and this change should not be done without taking steps to address overall policy issues (Attachment 23).

Seeing no other conferees, the Chairman closed the public hearing on **HB 2031**.

The meeting was adjourned at 10:25 a.m. The next meeting is January 19, 2007.