

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 9:00 A.M. on February 20, 2008 in Room 519-S of the Capitol.

All members were present except Representatives Holland and Menghini - Excused

Committee staff present:

Chris Courtwright, Legislative Research Department

Ryan Hoffman, Legislative Research Department

Scott Wells, Office of Revisor of Statutes

Richard Cram, Department of Revenue

Rose Marie Glatt, Committee Secretary

Conferees appearing before the committee:

Mr. Mark Burghart, Attorney, Specialist in state and local taxes

Mr. Jim Bartle, General Counsel, Kansas Department of Revenue

Others attending:

See attached list.

Representative Wilk welcomed Representative Frownfelter, as an "Ad Hoc" member of the Taxation Committee. He replaced Representative Dillmore, who replaced Representative Holland, the acting Minority member of the leadership team.

Representative Crum requested a bill introduction concerning a sales tax exemption for the Douglas Senior Center. Representative Goyle seconded the motion. The motion carried.

Representative Wilk, on behalf of Representative Deanna Horst, moved a bill request concerning sales tax exemptions for the Kansas Art Education Association. Representative Frownfelter seconded. The motion carried.

HB 2640 - Income tax credit for capital investments in businesses located in a city substantially damaged by disaster. The bill would allow a 10.0 percent non-refundable tax credit for capital investment by any taxpayer who makes a capital investment in a business which is located in a city substantially damaged by disaster. The bill defines such city, as one located in a county where the President and Governor have declared a disaster emergency, and the Governor determines the city has suffered major damage to real and personal property, displacement or dislocation of residents of the city, significant economic disruption in the city, and significant cost to taxpayers of the city, all of which was the result of the disaster.

Representative King distributed a memorandum regarding language for the substitute bill. (Attachment 1) He thanked the members of the sub-committee: Representatives Schroeder, Worley, Menghini and Lukert for their hard work. Gordon Self distributed the official **Substitute for House Bill No 2640** (Attachment 2).

Representative King briefed the Committee on the report and outlined three major changes in the bill:

1. Section 1.(a) specified the nine cities that were affected by the Greensburg tornado and the southeast Kansas flooding were: Chanute, Coffeyville, Erie, Fredonia, Greensburg, Independence, Iola, Neodesha and Osawatomie.

2. To address Committee concerns regarding whether they were getting the cash quickly enough to the people that need it, they offered a choice. They may make an initial choice, whether they want a full, 10.0 percent non-refundable credit or half the amount immediately as a refundable tax credit, as stated in Section 1. (b) (1). For tax years 2007, 2008, 2009 and 2010, a taxpayer may receive a refund of tax liability in lieu of the credit provided in this act. The refund shall be in an amount up to 50% of the credits earned by the taxpayer.

3. Section 3 (d) defines "capital investment" to mean an investment in the construction, equipment, reconstruction, maintenance, repair, enlargement, furnishing or remodeling of real property, and the purchase, lease or repair, enlargement, furnishing or remodeling of real property, and the purchase, lease or repair of tangible personal property.

CONTINUATION SHEET

MINUTES OF THE House Taxation Committee at 9:00 A.M. on February 20, 2008 in Room 519-S of the Capitol.

Representative King made a motion to amend **Substitute for HB 2640** into **HB 2640**. Representative Whitham seconded. The motion carried.

Representative King made a conceptual motion to subtract any grant money earned by investors from previous grants given to Greensburg and SE Kansas. This change would decrease the fiscal note from \$14 million to \$4 million. Representative Worley seconded. The motion carried.

Representative Peck made a conceptual motion that would amend the bill making it applicable to Kansas only, and would limit coverage to within one mile of the city limit. Representative Lukert seconded the motion. Discussion followed regarding the pros and cons of distance limitation and the fiscal impact. Representative Peck closed his conceptual motion. The motion carried.

Representative Dillmore made a conceptual motion to exclude any entity that may be found liable to contributing to damages caused by a disaster. Representative Goyle seconded the motion.

Discussion followed regarding the definition of “liability” and administration of the law. Representative Dillmore closed his conceptual motion. The motion failed.

Representative King made a motion to pass out **Substitute for HB 2640**, as amended, favorable for passage. Representative Frownfelter seconded. The motion carried.

On behalf of the Committee, the Chairman thanked Representative King and the sub-committee members for their diligence in returning a good work product.

HB 2762 - Corporate income taxation changes relating to apportionment of net income, business income and surtax on corporations.

The Chairman turned the Committees attention back to **HB 2762**, a bill discussed during yesterday’s meeting. Gordon Self distributed an amendment, which contains the consensus language in balloon form (Attachment 3). Representative Wilk made the motion to adopt the balloon amendment on **HB 2762**. Representative Dillmore seconded the motion. The motion carried.

Discussion followed regarding the pros and cons on the issue of “election” and what it means to businesses and to the state. The Chairman asked Mr. Mark Burghart to brief the Committee on the issue of “election” from the perspective of a working member of the group that negotiated and drafted the consensus language.

Mr. Burghart explained what “election” does from both business and department viewpoints. He said changing it would not harm businesses and would provide more flexibility and planning opportunities, although if the election is changed, it would impact the fiscal note.

Mr. Bartle distributed a memorandum (Attachment 4) on “Business/Nonbusiness Income Scenarios” that included:

1. Two examples, based on the fact of the scenario and what happens under current law and would happen if Kansas adopts the functional test.
2. An outline showing how the election works under current law, and how this would change if the election is made annually without the functional test.

Due to time constraints, the Chairman said they would return to **HB 2762** at a later date.

The meeting was adjourned at 10:30 A.M. The next meeting is February 21, 2008.