

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 9:00 A.M. on March 21, 2005 in Room 519-S of the Capitol.

All members were present except:

Representative Edward O'Malley- excused

Committee staff present:

Chris Courtwright, Legislative Research Department

Martha Dorsey, Legislative Research Department

Gordon Self, Revisor of Statutes

Richard Cram, Department of Revenue

Rose Marie Glatt, Committee Secretary

Conferees appearing before the committee:

Senator Stephen Morris

Representative Gary Hayzlett

Representative Kathe Decker

Representative Jerry Williams

Bob Boaldin, President, KS Legislative Policy Group & Morton County Commission

Madison Traster, Grant County Commission

Neil Gillespie, Steven County Economic Development Commission

Randall Allen, Kansas Association of Counties

Ed P. Cross, Executive Vice President, KIOGA

Bernie Koch, Wichita Chamber of Commerce

Larry Baer, League of Kansas Municipalities

Marlee Carpenter, Kansas Chamber of Commerce

Mark Tallman, KS Association of School Boards

Frank Young, Neosho County Engineer

Others attending:

See attached list.

SB 128 - Creating the oil and gas valuation depletion trust fund and providing for distribution of moneys therefrom.

SB 128 would provide for a partial diversion of gas severance tax receipts from the State General Fund (SGF) beginning in FY 2009 relative to collections in those counties with severance tax receipts of at least \$100,000 in FY 2005. For such counties, an increasing portion of receipts would be diverted from the SGF beginning in FY 2009 into a new fund, the Oil and Gas Valuation Depletion Trust Fund (OGVDTF). The bill would be expected to reduce SGF receipts by the following amounts; FY 09 - \$3.572 million, FY10 - \$5,224 million, FY 11 - \$6,616 million, FY 12 - \$7.823 million.

The Chairman opened the public hearing on **SB 128**.

Senator Stephen Morris testified that **SB 128** is an economic aid measure targeted to those counties that are losing a significant portion of their tax due to rapidly declining mineral valuations (Attachment 1). Beginning in 2009, counties would be entitled to receive distributions from their accounts within the Trust Fund by January 15, when the previous tax year's gas leasehold property valuation was less than 50 percent of such valuation in tax year 2006. This distribution would be 20 percent of the moneys credited to a county trust account. Thus the damage dealt to counties losing funds from devaluation would be dulled over time instead of having the major part of the impact happen over two or three years.

Representative Gary Hayzlett appeared in support of **SB 128**. His testimony provided a brief history by decade from 1930 to 2000 (Attachment 2). He stated that the Hugoton Gas field is currently a depleting resource, and in view of a billion dollars in severance tax that has come out of the area, it appears that putting something aside to help supplement the tax base, when this resource is depleted, would be the right thing to do.

Bob Boaldin, KS Legislative Policy Group & Morton County Commission (KLPG) testified in support of

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SB 128 (Attachment 3). In 1982 when the severance tax issue was before the Kansas Legislature, a compromise with natural gas producing counties was reached, permitting 7% of the severance tax (4.33) returned back to the county where the natural gas was produced. Since then those funds have been used to support public education and local units of the government. Due to the decline of the Hugoton Gas Field, they can no longer rely on natural gas and those related industries to provide the necessary tax base of their governments and schools. **SB 128** would simply provide a portion of the severance tax currently remitted to the state to be held in a trust for the benefit of local governments.

Madison Traster, Grant County Commission, rose in support of **SB 128** (Attachment 4). He stated that asking for a trust fund to be set up is not without precedent, and has been done in Alaska and Wyoming. The proud people of Grant County do not want to become dependent on the state in the future and SB 128 would alleviate, at least partially, the shock of the depletion as they apply their energies, ingenuity and resourcefulness to create a new economy.

Neil Gillespie, Steven County Economic Development Commission appeared in support of **SB 128** (no written testimony). He stated that when a great source of money has been derived from natural resources, it is best to set aside a percent for investments to supplement future obligations when that natural resource is depleted.

Randall Allen, Kansas Association of Counties expressed support for **SB 128**, a forward looking bill (Attachment 5). At their annual conference, November 2004, their membership unanimously adopted the following statement: "*The Kansas Association of Counties supports the establishment of a depletion trust fund using funds from the severance tax collected by the state in order to offset revenues that will be lost after the depletion of natural resources.*"

Six letters of written testimony (Attachment 6) were submitted from (1) Ray Brown, Haskell County Commission, (2) John Crump, Kearney County Commission, (3) Richard Veach, Pioneer Communications (4) Jane C.W. Brubaker, Andy Beikman, Ray Lee, Cheyenne County Board of Commissioners, (5) Randall C. Braddock, Dave Schwieterman, Gano Schmidt, Nikki Schwerdfeger, and Keith Puckett, Hamilton County Commissioners, (6) C. Shannon Dimitt, Martie Floyd, and John S. Smith, Stanton County Commissioners.

Staff from the Research Department distributed data regarding the 2004 average mill levy for each county in response to a Committee member's request (Attachment 7).

Ed Cross, KIOGA, rose in opposition to **SB 128** (Attachment 8). He stated that although the intent of the bill was noble, the bill had serious implications for the state of Kansas. He quoted the rationale behind the Governor's veto of **SB 487** which dealt with the same issue last year.

SB 128 ignores oil and gas ad valorem tax collections and further ignores the fact that oil and gas ad valorem taxes have increased statewide by 45.5% since 1999 and by 29.64% for the 14 county region mostly affected by **SB 128**, with a majority of ad valorem taxes go straight to the counties. **SB 128** is trying to address problems that are decades away and he urged the Committee not to pass

The Chairman requested that staff provide a ten year trend report on severance, ad valorem taxes and production data for all counties that would qualify under **SB 128**. That data was distributed on March 22, 2005, (Attachment 9). In response to a question regarding the rationale behind KIOGA's policy that opposed SB 128, Mr. Cross stated the main reason they opposed the bill was the fear of severance taxes or any taxes being raised. He added that **SB 128** has the potential to create regional tax fights across the state.

The Chairman acknowledged Representative Bill Light, a supporter of **SB 128**, that was in attendance. The Chairman closed the hearing on **SB 128**.

HB 2525 - Retailers' sales tax in Neosho county

Mr. Courtwright stated that **HB 2525** is a local sales tax bill that would authorize Neosho county to have an additional ½ cent sales tax authority for the purpose of roadway construction and improvement. They would

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place this on a ballot within the next year.

The Chairman opened the public hearing on **HB 2525**. He introduced Representative Jerry Williams, who in turn introduced the three Neosho County Commissioners; Donne G. Yarnell, Royce Edwards and Scott Parish, as well as Mr. Frank Young, the engineer who rose to testify on HB 2525.

Mr. Frank Young, offered the following testimony in support of **HB 2525**, a bill concerning a dedicated sales tax for road improvement projects in Neosho County (Attachment 10). They requested permission from the Kansas Legislature to put before the voters a proposal that would create another ½ cent sales tax to replace the current ½ cent jail tax upon its expiration to fund a major road improvement project in central Neosho County. If approved by the voters, it is the County Commission's intent that the two taxes would not run concurrently, and would maintain the current tax rate as is. The bill would sunset when the projects are paid off.

There being no other conferees the Chairman closed the hearing on **HB 2525**.

HB 2527 - Property tax abatements; school district levy, limitation

Mr. Courtwright stated that **HB 2527** would relate to the ability of cities and counties to provide for property tax exemptions or abatements. **HB 2527** states that if enacted there would be no abatement of ad valorem property tax for real or personal property granted after the effective date of this act by the governing body of any city or the board of county commissioners of any county or other taxing subdivision of the state shall be deemed to abate the ad valorem property tax levied by a school district pursuant to K.S.A. 72-6431, and amendments thereto. The provisions of this section shall not be deemed to apply to any abatement granted prior to the effective date of this act for any calendar year for which any such exemption was granted. A 1997 Kansas Legislative Research Department report entitled: *Kansas Accountability Requirements fro Locally-Granted Property Tax Exemptions*” was distributed to the Committee on March 22, 2005 (Attachment 11)

Representative Decker, testified in support of **HB 2527** (Attachment 12). She stated that when **HB 2474** was debated on March 3rd, the provision in **HB 2527** was part of the package. Representative Decker was approached by KCCI and told they would like to have a chance to reach a compromise on this issue. She understands the concern and have reintroduced the issue so the House Taxation Committee, KCCI and other interested parties can have a chance to reach the promised compromise.

She added that several attorneys have stated that they don't know if this faced a court challenge whether it would stand up, because they were uncertain if cities or counties had the right to abate statewide taxes. That should be clarified to assure the process is being done correctly and if there is some compromise that can be reached.

Bernie Koch, Wichita Chamber of Commerce, rose in opposition to **HB 2527** (Attachment 13). They are interested in the bill because about half of all tax abatements in Kansas are in Sedgwick County. They received information recently, from the County Appraiser's office that indicated 72% of the valuation is primarily manufacturing machinery and equipment. Their primary purpose in granting property tax abatements was to neutralize their high machinery and equipment property taxes in Kansas, that are the highest in the region.

He called the Committee's attention to several studies; the first indicating that 87 percent said state and local incentives were important in determining where job expansions would take place and the second stating that “the gains from raising equipment investment through tax or other incentives dwarf losses from any non-neutralities that would result.” **HB 2527** would have the effect of weakening their ability to compete with other states, and the rest of the world as well, particularly countries where manufacturing was highly subsidized. Included in his testimony was data on tax abatement percentage tables and the City of Wichita/Sedgwick County Economic Development Incentive Policy.

Larry Baer, League of Kansas Municipalities, testified in opposition to **HB 2527** (Attachment 14). It proposes to eliminate the current statutorily and constitutionally permitted abatements of ad valorem taxes on real and personal property levied by school districts. **HB 2527** is simple in its presentation but would be

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complex, confusing and detrimental to local economic development efforts in its application.

Marlee Carpenter, Kansas Chamber of Commerce, appeared in opposition to **HB 2527** (Attachment 15) It prohibits cities and counties from abating this tax and eliminates an important economic development tool that communities use to attract and retain business. Her testimony included how the bill would affect eleven Kansas communities.

Mark Tallman, KS Association of School Boards, appeared to testify against **HB 2527** (Attachment 16). The KASB Delegate Assembly had adopted the following position on property tax abatements. *KASB supports legislation to limit the authority of the state, cities and counties to grant property tax abatements to existing property valuation. KASB also believes school district input should be required before tax abatements are granted to newly created valuation and that state approval should be required before the state-imposed minimum levy is abated.* The second and most recent part of their position proposes the following: *that some form of state approval should be required in order to abate the statewide school levy. That would allow consideration of the statewide economic impact of such abatement.*

The Chairman asked if there were any communities that had abated just the 20 mill and left the remaining mill levy on. Mr. Courtwright stated they would check with the Board of Tax Appeals and get back to the Committee.

There being no other conferees, the Chairman closed the hearing on **HB 2527**.

The meeting was adjourned at 10:30 a.m. The next meeting is March 22, 2005.