Approved: March 30, 2010
Date

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Richard Carlson at 9:15 a.m. on February 24, 2010, in Room 783 of the Docking State Office Building.

All members were present except:
Representative Lisa Benlon- excused

Committee staff present:
Gordon Self, Office of the Revisor of Statutes
Scott Wells, Office of the Revisor of Statutes
Chris Courtwright, Kansas Legislative Research Department
Brandon Riffel, Kansas Legislative Research Department
Marla Morris, Committee Assistant

Conferees appearing before the Committee:
Representative Jeff King
Tony Fowler, Montgomery County Commissioner
Bradley Eilts, Montgomery County Action Council
Andy Smart, Vice President-Operations and Finance
Elizabeth Miller, Director of Investments, Pooled Money Investment Board

Others attending:
See attached list.

2/24/10

Introduction of Bills:

Representative Joe Patton requested Committee introduction of a bill to provide incentives to create new jobs and start new businesses. Representative Kleeb made a motion to introduce a bill to provide incentives to create new jobs and start new businesses, the motion was seconded by Representative Powell. The motion carried.

Representative Peck moved to introduce a bill that will go to the House Insurance Committee to dis-allow coverage for certain diseases if tobacco is determined to be the cause of those diseases. Representative King seconded the motion. The motion carried.

Representative Carlson moved to introduce a bill allowing Pottawatomie County to bring to a vote, a sales tax increase up to a half percent, to build a new jail. Representative Siegfreid seconded the motion. The motion carried.

Chairman Carlson informed the Committee the possibility exists for a motion to reconsider **HB 2519 - Amendments to sales tax law to provide conformity with streamlined sales and use tax agreement.** The Committee Report is being held until such time that a decision is made.

Chairman Carlson opened the hearing on:

HB 2578 - Authorizing pooled money investment board to loan funds to county to refund taxes paid under protest of certain taxpayers.

Representative King presented a summary of **HB 2578** (Attachment 1). He stated the loss of revenue from the recent property tax exemption for commercial and industrial machinery and equipment, and the elimination of the Slider in the 2009 Session, has forced many counties and other local governments to increase property taxes on local homeowners and small businesses. Counties and other local governments are required to repay taxes almost immediately if a tax appeal occurs and the county or local government losses the appeal. Governments involved are forced to escrow all or most of the tax payment in dispute and those funds are not available to fund county services. **HB 2578** would provide a remedy by providing a five-year interest free No-Fund Warrants for qualifying counties and local governments. He stood for questions.

Minutes of the House Taxation Committee at 9:00 a.m. on February 24, 2010, in Room 783 of the Docking State Office Building.

Proponents testifying on **HB 2578**:

Tony Fowler, Montgomery County Commissioner, testified in favor of **HB 2578**. Mr. Fowler stated passage of **HB 2578** would alleviate the necessity to estimate the loss of funds due to pending exemptions involving five percent or more of the Montgomery County tax base and eliminate these funds being levied and held in escrow until a decision is made which affects one or more tax years and reduce the burden of the increase on taxpayers (Attachment 2).

Bradley Eilts, Montgomery County Action Council, testified in support of **HB 2578.** Mr. Eilts spoke to the benefits of the elimination of property taxes on machinery and equipment, or personal property, purchased after July 1, 2006, stating it lowered costs to existing businesses and improved competitiveness on a global scale. However, the legislation has had an adverse effect on tax revenue streams for counties and municipalities (Attachment 3). He stated **HB 2578** would provide an avenue to assist Montgomery County and other counties to deal with the effects of losing an appraisal dispute when a significant percentage of the county's assessed value is affected. He stood for questions.

Andy Smart, Vice President-Operations and Finance, Coffeyville Community College, supports **HB 2578.** He testified to the loss of revenue suffered by Coffeyville Community College resulting from an appeal over appraised and assessed value of commercial/industrial property won by local oil refinery and fertilizer plant (Attachment 4). He stood for questions.

Neutral testimony on **HB 2578**:

Elizabeth Miller, Director of Investments, Pooled Money Investment Board (PMIB), stated the purpose of the agency is management of the states idle funds (Attachment 5). She stated **HB 2578** authorizes and directs the PMIB to make loans at zero percent interest for periods up to five years. The PMIB has no other loans through PMIB are at zero percent, and the maximum maturity of investments allowed by K.S.A. 75-4209 is four years (exception-agricultural and housing loans). She compared mandates in the bill to statutorily mandated programs currently in existence. She stood for questions.

There were no opponents on **HB 2578**.

Chairman Carlson closed the hearing on **HB 2578.**

Discussion and action on **HB 2549** - **Imposition of sales tax on certain goods and services, elimination of certain sales tax exemptions and fund-raising sales**, was postponed due to the lack time remaining in the meeting. The Chair proposed that due to the complexity of **HB 2549**, the Committee should consider discussion first without motions, then move to motions after discussions when working the bill.

The next meeting is scheduled for February 25, 2010.

The meeting was adjourned at 10:28 a.m.

HOUSE TAXATION COMMITTEE

DATE: February 24, 2010

NAME	REPRESENTING
Phil Wages	KEPCO
[illegible]	SKIL
[illegible]	KS Chamber of Commerce
[illegible]	Cap. Strategies
Tracy Racine	KCSL
Tony Fowler	Mont. Co. Comm.
Kendra Hanson	Hein Law Firm
D F Holthaus	KEC
Mark Schreiber	Westar
Doug [illegible]	KRPA
Wally Kearns	KSBDC
Liz Miller	PMIB
Scott Miller	PMIB
[illegible]	Girl Scouts
Mick Urban	ONEOK
Kimberly Svaty	KMU
Judith Dean	Capitol Advantage
Larry Berg	Midwest Energy
Bob Vancrum	GKCC

HOUSE TAXATION COMMITTEE

DATE: Feb 24, 2010

NAME	REPRESENTING
Jen Bruning	ND Chamber

JEFF KING
REPRESENTATIVE, 12TH DISTRICT

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TOPEKA

HOUSE OF REPRESENTATIVES

COMMITTEE ASSIGNMENTS
VICE CHAIR: TAXATION
MEMBER: TRANSPORTATION
JUDICIARY

Testimony Offering HB2578

Representative Jeff King

February 24, 2010

Chairman Carlson & Members of the House Taxation Committee;

Thank you for this opportunity to testify before you on HB 2578. HB 2578 is a vital piece of legislation for my home county of Montgomery and for other local governments that would provide real property tax relief. HB2578 has **no fiscal note** for FY2011 and a very minimal cost to the state thereafter.

HB 2578 would address one of the negative effects on local government from the 2006 enactment of the property tax exemption for commercial and industrial machinery and equipment. As this committee knows well, the M&E exemption had a devastating impact on the property tax bases of many Kansas counties. For instance, the M&E exemption eliminated over 12% of Wyandotte and Montgomery counties' property tax base. Thus, just to maintain existing revenue levels, these counties (and other local governments) had to raise property taxes by 12% on local homeowners and small businesses.

The Siegfried Slider enacted in conjunction with the M&E exemption was designed to ease this local tax burden. Unfortunately, we eliminated the Slider last session. Unsurprisingly, local property taxes (especially in Montgomery County) rose dramatically – by as much as 15% last year alone.

The M&E exemption placed another burden on local governments. This burden is less discussed than the one described previously, but in many ways equally challenging to local officials. Because machinery and equipment is now exempt from property taxes, a growing number of businesses are protesting their property taxes by claiming that their property (now classified as real) is actually machinery and equipment.

I am certainly not taking any position on whether these challenges are correct. Nor does HB 2578 address that issue. Those are questions for the Court of Tax Appeals and

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(ultimately) the Kansas Supreme Court to decide.

Instead, HB 2578 helps local governments address the dire consequences of these property tax challenges at virtually no cost to the state and with no affect whatsoever on the businesses that contest these taxes. Counties and other local governments who lose these property tax disputes are required by Kansas law to repay the taxes paid under protest almost immediately after losing the tax appeal.

In practice, this requirement forces local governments to escrow all or most of the tax payment in dispute. For Montgomery County, where one property tax dispute involves over 10% of the county's entire appraised value, that means that over 10% of the property taxes paid by homeowners and small business are used not for county services, but to fill an escrow account. That is a poor use of the hard-earned tax dollars of working Kansans.

HB 2578 would remedy this problem by providing five-year interest-free No-Fund Warrants for counties that have a property-tax dispute involving 5% or more of its tax base. These No-Fund Warrants would be available to all local governments affected by the tax dispute and are only offered if the taxpayer prevails on appeal. The amount of the No-Fund Warrant could not exceed the value of the disputed tax revenue lost on appeal.

HB 2578 would have no immediate cost to the state and very little in the future. PVD has found very few cases (concerning less than $2 million) that would have qualified under HB 2578 in the past decade. My research indicates that Montgomery County has the only current dispute that would qualify under HB 2578. That dispute has yet to be heard by the Court of Tax Appeals. Given the lengthy litigation and appeals process remaining in such cases, it will be a number of years before Montgomery County would be eligible for a No-Fund Warrant under HB 2578 (even if they lose their tax case).

Furthermore, any money paid under these No-Fund Warrants comes from the Pooled Money Investment Board ("PMIB"). The PMIB money currently earns an interest rate of 0.31%. At this rate, the state would lose only 31cents annually for every $100 issued in No-Fund Warrants. This minimal cost, which would not be incurred for years, is a small price to pay for real property tax relief.

Local taxpayers have suffered greatly in recent years with the loss of LAVTRF funds and city-county revenue sharing. By narrowing the base (and raising the rate), the M&E exemption also hurt homeowners and small businesses. By abandoning our promise to provide Slider funds, we made this property tax burden even worse last session. HB 2578 provides a low to no-cost way to compensate for these broken promises and provide vital property-tax relief.

Testimony Offering HB 2578
County Commissioner Tony Fowler for Montgomery County
February 24, 2010

Chairman Carlson & Members of the House Taxation Committee; Thank you for this opportunity to testify before you on HB 2578 and the effect it will have on Montgomery County on real property tax relief.

Because of the large tax base in Montgomery County and being required to levy taxes on the November Abstract this becomes the final valuation regardless of appeals pending with the Court of Appeals, which creates a devastating impact on all entities within the county. When we levy taxes and either do not receive the funds or the taxes must be abated and if taxes have been paid, must be repaid to the taxpayer based on the decision of the Court of Tax Appeals. This affects the mill levy for the next year being passed on to all property owners. At the present time the only avenue for the county is to, (1) estimate the decision of the Court of Tax Appeals and, (2) implement a levy for that purpose for which the appeal may meet. This becomes a huge issue as the appeal may not be final for a one or two-year period of time which could have an impact on three (3) years of levied taxes at the higher rate while we are still trying to anticipate the final decision of the Board.

The M&E exemption has greatly reduced the revenue received by the county and all taxing entities previously receiving the M&E taxes. The elimination of the Slider has been devastating along with the loss of the LAVTRF in 2003 and the loss of city-county revenue sharing. The loss of these funds had to be passed on the real property owners and personal property taxes including gas and oil. Small businesses have also received the impact of these losses.

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The 2009 tax levy for Montgomery County increased 9.801 mills. This increase is entirely due to loss of funds determined by State mandates and pending exemptions before the Court of Tax Appeals at this time.

If the county had this avenue outlined in HB 2578, this would alleviate the necessity to estimate the loss of funds due to pending exemptions involving 5% or more of our tax base and eliminate these funds being levied and held in escrow until a decision is made which affects one or more tax years and reduce the burden of the increase on the taxpayers.

Thank you for your time to allow me to present this testimony.

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Testimony Offering HB 2578

February 24, 2010

Chairman Carlson and Members of the House Taxation Committee:

Thank you for allowing me to be here today to provide this testimony regarding the value of Kansas House Bill 2578. It is an honor to be here and appreciate the invitation by Representative King. He understands the importance of this legislation to our communities and particularly Montgomery County.

The elimination of property taxes on machinery and equipment, or personal property, purchased after July 1, 2006, was significant legislation in enhancing the business recruitment efforts on the State and local level. More Importantly, It lowered costs to our existing businesses and improving their competitiveness on a global scale. It is an excellent long-term economic development strategy and that should be applauded.

However, this legislation has had a definite adverse effect on tax revenue streams for counties and municipalities. As an economic developer and formerly in city administration, I feel that I have a holistic understanding of the effects both, positively and negatively, of this legislation.

In Montgomery County, this legislation had a significantly consequence on revenues where approximately 12% of the tax base was comprised of business machinery and equipment. The Slider helped to ease the stress on the revenue stream. When it was eliminated last year, it partially contributed to a nearly ten mill increase or 23 percent.

Over the last few years, a number of businesses have protested their business valuations. Some are claiming that real property is, in fact, personal property. These facilities, in some of cases, cannot be clearly described as real or personal property. In addition, some of these facilities do not have local or even regional comparisons for ease of appraisal.

I am not making judgments on the validity of these valuation protests. Even professionals specializing in appraisals of these facilities disagree about percentage of real vs. personal property and their appraisal values. However, any adjustment in the valuation has an effect on the county assessment base.

By State law, when the County loses a property tax protest, it is required to repay the taxes paid under protest almost immediately from an escrow account established specifically for this matter. This can be a sizable amount as in the case of one of Montgomery County's tax protests accounting for 10% of its total tax base. Citizens and small businesses were taxed an additional 10%, not to pay for much needed services such as public safety, roads and bridges, but to fill an escrow account.

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Having access to No-fund Warrants described in HB 2578 would provide an avenue to assist Montgomery County and other counties to deal with the devastating effects of losing an appraisal dispute when a significant percentage of the County's assessed value is affected. The need for this would be relatively small, but would be tremendously valuable to those needing the assistance. In addition, it would be at a relatively low cost to the State.

Thank you again for allowing me to testify in support of House Bill 2578. I hope that you will support it.

Sincerely,

Bradley Eilts
Director

Testimony Offering HB2578

Presented by

Andy Smart,

Vice President for Operations and Finance-

Coffeyvillle Community College

February 24, 2010

- Appeals over appraised and assessed value of commercial/industrial property have been partly fueled by recent legislation removing machinery and equipment from the tax rolls.
- Montgomery County and Coffeyville Community College have a heavily industrialized tax base including a major oil refinery and fertilizer plant.
- Improvements to the refinery resulted in the assessed valuation increasing to $67,500,000 in 2007 and $133,500,000 assessed valuation in 2008 and 2009.
- This raised the college's assessed valuation tax base to $306,930,508 for Fiscal Year 2009.
- The refinery appealed the valuation and a settlement was reached putting the assessed value at $40,000,000 for the years 2007, 2008, and 2009, and lowering the college's tax base to $213,000,000.
- On January 15, 2009 the college received correspondence that it would be required to refund $1,219, 343 to the refinery for taxes collected from the 2007 assessment. Additionally, the college was informed the 2008 tax assessment would be reduced by $3,765,845.
- In anticipation of the 2008 reduction, the college assessed the full amount of certified valuation. To the local tax payer this appeared to be a substantial tax increase, when in fact, it was required to be able to refund the refinery and continue our operations.
- The Fertilizer Plant, initially participating in a tax abatement program, has now protested its property tax assessment of $67,500,000 for the tax years beginning 2008. For Coffeyville Community College this amounts to approximately $2.6 million per year. The potential of having to refund $2.6 million per each successive year is quite daunting.

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- The college could potentially have to refund $4.7 million during 2010 should the fertilizer plant win as much as 90% of its protest. This could leave the college with a negative ending balance that would require a substantial mill levy increase to recover. The availability to extend this repayment over a period of five years would negate this burden and offer the potential of reducing the property tax mill levy.
- The same legislation that exempted machinery and equipment from the tax rolls also included a slider provision whereby the state would offset some of the loss in local tax revenue. The state would reimburse the local taxing entity 90% of the 2008 loss, 70% for 2009 and so on to 10% for year five. This was, however, suspended. If the defense against the appraisal was based on machinery and equipment the slider could be significant, as the following table illustrates:

	Refunded/Reduced			M/E	
Year	Refinery	Fertilzer Plant	Total	Slider	
2007	$ 1,219,343		$ 1,219,343		
2008	$ 3,765,845	$ 2,625,345	$ 6,391,190	$ 5,752,071	90%
2009	$ 3,765,845	$ 2,625,345	$ 6,391,190	$ 4,473,833	70%
2010	$ 3,765,845	$ 2,625,345	$ 6,391,190	$ 3,195,595	50%
2011	$ 3,765,845	$ 2,625,345	$ 6,391,190	$ 1,917,357	30%
2012	$ 3,765,845	$ 2,625,345	$ 6,391,190	$ 639,119	10%
Total	$ 20,048,568	$ 13,126,725	$ 33,175,293	$ 15,977,975	

KANSAS
POOLED MONEY INVESTMENT BOARD
ELIZABETH B. A. MILLER, CFA, DIRECTOR OF INVESTMENTS

House Taxation Committee
February 24, 2010
Elizabeth B. A. Miller, CFA
Director of Investments, Pooled Money Investment Board
Testimony re: HB 2578

Chairman Carlson and Committee Members:

Thank you for the opportunity to talk with you this morning about House Bill 2578, which would authorize and direct the Pooled Money Investment Board (PMIB) to make loans to counties for refunds of property taxes paid under protest, when the assessed valuation of a single property exceeds 5% of the total county assessed valuation of all property located within the county. House Bill 2578 authorizes and directs the PMIB to make such loans at zero percent interest, for periods of up to five years.

It is beyond the scope of the PMIB's responsibilities to comment on whether or not loans of this type are good public policy. Therefore, my comments will be limited to the effect that the legislation would have on PMIB's responsibilities, which are to manage the State's idle funds portfolio in a prudent manner. The PMIB has been consistent and resolute in following a strict asset/liability matching approach to portfolio management, structuring the portfolio so that securities mature to meet cash flow requirements.

Any moneys loaned under the requirements of House Bill 2578 would remove state moneys from the Pooled Money Investment Portfolio (PMIP), so that the moneys loaned would be converted from interest earning assets to non-interest earning assets. The amount of interest lost to the State General Fund would depend on the amount of money loaned to counties, the time it takes the counties to repay the loans, and the yield on the PMIP over the life of the loan.

Several statutorily mandated loan programs currently exist, each of which requires the borrower to pay the PMIB interest at some level, typically tied to the earnings rate of the portfolio. (For example, the $5 million in loans currently outstanding to the Kansas Racing and Gaming Commission carry an interest rate of the net earnings rate of the PMIP at the time of the loan plus 3%.) The loans to county treasurers mandated by HB 2578 would be the *only* current statutorily mandated loan program with no interest required.

K.S.A. 75-4209(d) caps the total cumulative amount that may be loaned for all statutorily mandated loan programs at the lesser of 10% of the state moneys invested, or $140,000,000. (10% of the state moneys in the PMIP is currently $143.8 million.) Additionally, every other statutorily mandated loan program contains a cap for that individual program. HB 2578 would be the *only* loan program without a maximum for the total loans under the program. Leaving this program uncapped would allow it to potentially consume a disproportionate share of the total cap on all statutorily mandated loans. Setting a cap for this program would allow legislators to

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balance the need for this program against the need for the other statutorily mandated loan programs.

The five year maximum life of the loans mandated by HB 2578 exceeds the maximum maturity of investments allowed by K.S.A. 75-4209, which is four years (except for linked deposits, which support agricultural and housing loans). Additionally, the PMIB has established an investment policy which limits maturities to a maximum of four years for all investments except corporate bonds and commercial paper. Investments in corporate bonds may not exceed two years in maturity, and investments in commercial paper may not exceed 270 days in maturity. These maturity limits reflect the PMIB's investment objectives, which are to invest the PMIP in a manner which will provide a reasonable rate of return with the maximum security while meeting the daily cash flow demands of the State of Kansas and conforming to all statutes governing the investment of state moneys.

The current weighted average maturity for the PMIP is 86 days, and the longest current investment in the portfolio matures in August, 2011. This portfolio structure reflects the State's negative cash flow situation, as well as the extremely low level of current interest rates on short-term, high quality fixed income investments. Given that our cash flow projections indicate further declines in state moneys available for investment during FY11, and that we expect a rising interest rate environment beginning in late 2010, it is prudent to keep investment maturities short at this time.

Thank you for your consideration of my testimony on this matter.