

Approved On: _____

Minutes of the House Committee on Assessment and Taxation. The meeting was called to order by E. C. Rolfs, Chairman, at 9:00 a.m. on March 27, 1986 in room 519 South at the Capitol of the State of Kansas.

All members of the Committee were present.

Committee staff present:

Tom Severn, Legislative Research
Melinda Hanson, Legislative Research
Don Hayward, Reviser of Statutes
Millie Foose, Committee Secretary

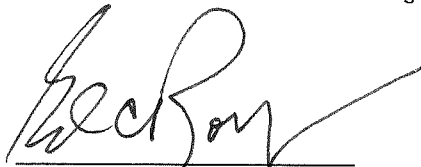
Mr. Bill Edds, representing the Department of Revenue, spoke as a proponent of SB-689, an act relating to the enforcement and collection of Kansas retailers' sales and compensating tax; imposing personal liability for the tax on individuals responsible for collection. (Attachment 1) Mr. Edds explained the bill and answered questions from committee members. This concluded the public hearing on SB-689.

Representative James Braden explained HCR-5047, a proposition to amend article 11 of the constitution of the state of Kansas by adding a new section thereto, relating to the exemption of property for economic development purposes. (Attachment 2) Mr. Jamie Schwartz also testified in support of this amendment. He said that 32 states already have this ability and he believes it is important for Kansas when competing with other states. Leroy Jones, representing the Brotherhood of Locomotive Engineers and Kansas Federation of Labor, AFL-CIO, testified as an opponent. He said that even if some jobs are created, the firms usually stay only until the tax exemption expires. (Attachment 3) Gerry Ray, representing Johnson County, testified as a proponent.

SB-488, an act amending the Kansas inheritance tax act; relating to liens imposed thereunder, was considered. Representative Leach moved, second by Representative Aylward, that SB-488 be reported favorably. The motion carried.

The minutes of March 26 were approved by the committee.

There being no further business, the chairman adjourned the meeting.



Ed C. Rolfs, Chairman

MEMORANDUM

TO: The Honorable Fred A. Kerr, Chairman
Senate Committee on Assessment and Taxation

FROM: Harley T. Duncan
Secretary of Revenue

RE: Senate Bill 689

DATE: March 3, 1986

Thank you for the opportunity to appear before you today on Senate Bill 689. The Department of Revenue supports this measure.

Senate Bill 689 provides that any individual who is responsible for the collection of the retail sales tax and who willfully fails to collect or pay the tax can be held individually liable for the tax and any associated penalty and interest. It also provides that such liability exists regardless of the form of organization used by the retailer. The purpose of the bill is to allow the Department to hold the appropriate officers of a corporation individually liable for the payment of delinquent sales taxes.

Senate Bill 689 will be a very important addition to the tools available to the Department to collect delinquent taxes. Under current law, no corporate officer or employee can be held individually liable for the payment of sales tax. This makes it extremely difficult to collect delinquent taxes, particularly if the business is closed. About all we can do is to file a tax warrant attaching a lien to any real estate owned by the corporation and collect our tax at the time the property is sold. Very often, however, the corporation will own no real estate and our tax warrant is effectively worthless. In these cases, the Department's only recourse for collection is to go against any bond the retailer would have on file. These are often of an insufficient amount, particularly if the retailer has been a problem account.

With Senate Bill 689, we would be able to attach a lien to the appropriate individual's property and be in a position to collect our tax at such time as he/she attempts to transfer the property. Also, we could levy on an individual's bank accounts, wages or other assets with the bill. In short, the bill gives us the ability to collect from the individual who was responsible for collecting the tax in the first place, rather than having us chase a defunct corporation with no assets where the State all too often gets left holding the bag.

In considering this legislation, the Committee should keep in mind several points.

1. The Department currently has this authority when dealing with sole proprietorships and partnerships. The bill will just give us the same tools for corporations.
2. Current law holds corporate officers individually liable for the collection and payment of withholding taxes. This bill will just do the same for the retail sales tax.
3. From July 1982 to July 1985, the Department filed sales tax warrants totalling more than \$6.0 million against corporations. Thus, it is a sizeable problem that we are attempting to address.
4. A recent Legislative Post Audit report on delinquent sales taxes identified over 10,000 businesses which had closed while still owing sales tax to the State. The total liability for these retailers exceeded \$11.0 million. That report recommended legislation such as SB 689 as a means of improving our collection of delinquent sales taxes.
5. While these sanctions may seem severe, it should be remembered that under current law, the Department can hold a person who buys a business responsible for the delinquent sales tax liability of his/her predecessor.

In summary, the collection of delinquent taxes is one of the most difficult and important functions performed by the Department. Experience has proven that our current tools simply are not as effective as they could be when we are attempting to collect sales taxes from corporations. SB 689 will go a long way toward improving our efforts in this area.

Thank you for the opportunity to appear. I would be glad to answer any questions.

House Concurrent Resolution No. 5047

By Representatives Hayden, Braden, Acheson, Apt, Aylward, Baker, Barr, Bideau, Brown, Bryant, Buehler, Bunten, C. Campbell, K. Campbell, Cloud, Crowell, Crumbaker, Dyck, Erne, Foster, Fox, Freeman, Friedeman, Fuller, Goossen, Graeber, Harper, Hassler, Hoy, Jenkins, King, Kline, Knopp, Littlejohn, Long, Louis, Lowther, R. D. Miller, Mollenkamp, Nichols, O'Neal, B. Ott, K. Ott, Patrick, Polson, Pottorff, Ramirez, Reardon, Roe, Rolfs, Runnels, Sand, Sifers, Smith, Snowbarger, Solbach, Sughrue, Vancrum, Wagnon, Walker, Whiteman, Williams and Wunsch

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Attachment 2

3/27/86
Hs. A&T

0026 A PROPOSITION to amend article 11 of the constitution of the
 0027 state of Kansas by adding a new section thereto, relating to the
 0028 exemption of property for economic development purposes.

0029 *Be it resolved by the Legislature of the State of Kansas, two-*
 0030 *thirds of the members elected (or appointed) and qualified to*
 0031 *the House of Representatives and two-thirds of the members*
 0032 *elected (or appointed) and qualified to the Senate concurring*
 0033 *therein:*

0034 Section 1. The following proposition to amend the constitu-
 0035 tion of the state of Kansas shall be submitted to the qualified
 0036 electors of the state for their approval or rejection: Article 11 of
 0037 the constitution of the state of Kansas is amended by adding a
 0038 new section thereto to read as follows:

0039 “§ 13. Exemption of property for economic development
 0040 purposes; procedure; limitations. (a) The board of county
 0041 commissioners of any county or the governing body of any city
 0042 may, by resolution or ordinance, as the case requires, exempt
 0043 from ad valorem taxation all or any portion of the appraised
 0044 valuation of: (1) All buildings, together with the land upon
 0045 which such buildings are located, and all tangible personal
 0046 property associated therewith used exclusively by a business

for the purpose of: (A) Manufacturing, fabri-
 cating, assembling, processing or finishing
 articles of commerce; or (B) research and
 development; or (C) warehousing goods which
 are sold or traded in interstate commerce,
 and which

0047 ~~commencing~~ operations after the date on which this amend-
 0048 ment is approved by the electors of this state; or (2) all
 0049 buildings, or added improvements to buildings constructed
 0050 after the date on which this amendment is approved by the
 0051 electors of this state, together with the land upon which such
 0052 buildings or added improvements are located, and all tangible
 0053 personal property purchased after such date ~~and associated~~
 0054 ~~therewith,~~ necessary to facilitate the expansion of an existing
 0055 business.

0056 (b) Any ad valorem tax exemption granted pursuant to
 0057 subsection (b) shall be in effect for not more than 10 calendar
 0058 years after the calendar year in which the business com-
 0059 mences its operations or the calendar year in which expansion
 0060 of an existing business is completed, as the case requires.

0061 (c) The legislature may limit or prohibit the application of
 0062 this section by enactment uniformly applicable to all cities or
 0063 counties.

0064 (d) The provisions of this section shall not be construed to
 0065 affect exemptions of property from ad valorem taxation
 0066 granted by this constitution or by enactment of the legislature,
 0067 or to affect the authority of the legislature to enact additional
 0068 exemptions of property from ad valorem taxation found to
 0069 have a public purpose and promote the general welfare.”

0070 Sec. 2. The following statement shall be printed on the bal-
 0071 lot with the amendment as a whole:

0072 “*Explanatory statement.* This proposed amendment would
 0073 authorize cities and counties to grant property tax exemptions
 0074 for economic development purposes.

0075 .“A vote for the proposed amendment would allow the gov-
 0076 erning body of a city or county to exempt property of a new
 0077 business or property necessary to facilitate the expansion of an
 0078 existing business from property taxation for a period not to
 0079 exceed 10 years.

0080 A vote against the proposed amendment will continue the
 0081 existing law that the legislature is the only authority to grant
 0082 property tax exemptions.”

0083 Sec. 3. This resolution, if approved by two-thirds of the

commences

and which is a primary, job creating indus
or business

for the purpose of: (A) Manufacturing,
fabricating, assembling, processing or finishing
articles of commerce; or (B) research and
development; or (C) warehousing goods which
are sold or traded in interstate commerce
which is

primary, job creating industry or

0084 members elected (or appointed) and qualified to the house of
0085 representatives and two-thirds of the members elected (or ap-
0086 pointed) and qualified to the senate, shall be entered on the
0087 journals, together with the yeas and nays. The secretary of state
0088 shall cause this resolution to be published as provided by law
0089 and shall cause the proposed amendment to be submitted to the
0090 electors of the state at ~~the general election in the year 1986~~
0091 ~~unless a special election is called at a sooner date by concurrent~~
0092 ~~resolution of the legislature, in which case it shall be submitted~~
0093 ~~to the electors of the state at the special election.~~

a special election, which is hereby called,
to be held on August 5, 1986, pursuant to
section 1 of article 14
of the constitution of the state of Kansas,
for the purpose of submitting such
proposition

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March 26, 1986
House Assessment and Taxation Committee

Testimony in opposition to the passage
of House Concurrent Resolution 5047.

Mr. Chairman and members of the Committee. I am Leroy Jones, Chairman of the Kansas Legislative Board for the Brotherhood of Locomotive Engineers. I am here today to testify in opposition to the passage of House Concurrent Resolution 5047. I am also authorized to represent the Kansas Federation of Labor, AFL-CIO.

This proposition to amend Article 11 of the constitution of the state of Kansas relating to the exemption of property for economic development purposes, is another in a long line of bills that have been introduced this year to give tax breaks for businesses in disguise of economical development. I ask you who is going to make up for these taxes that are going to be exempted? The home owners and other property tax payers will make up the difference. When you exempt property, someone else has to pick up the bill.

This resolution has no guide lines as to what is required of a business in order to receive the exemption. In other words, the resolution gives business and industries a blank check as far as this tax exemption is concerned.

If you are going to give an exemption to businesses, why not give the new home owner an exemption. New home owners have just as much of a hard time when they are getting started as a new business has. They are both in the same boat. What about a worker who just gets a new job. Why not give him a tax break on his automobile until he can get on his feet. Both will have spent proportionally a large sum of money in order to get started.

Now I know that a resolution to help the home owner or automobile owner in this fashion would never pass this legislature. So why should the legislature try to pass a resolution so open as this one?

With all the tax breaks that have been passed and is being considered, businesses are having less of a tax liability than ever. With passage of HCR 5047, which will allow property tax exemptions, one of the last remaining taxes that a business pays, can be eliminated.

What does economic development mean? I believe that it means creating jobs and creating a larger tax base. This resolution does not have the requirement of creating a certain number of jobs per a certain amount of tax exempted dollars. Nor does it broaden the tax base. Actually it narrows the tax base. It really is a tax break mechanism for businesses.

This resolution, HCR 5047, is too open. Therefore, I urge the committee to vote against the passage of HCR 5047.

I would like to thank the committee for your time and would be happy to answer any questions.

INITIATIVE NO. 6: PROPERTY TAX ABATEMENT FOR ECONOMIC DEVELOPMENT

REDWOOD/KRIDER REC. NO.: 5

BILL NO.: HCR 5047

A. Statement of Need:

Local government plays a vital role in economic development. Recommendation No. five of the Interim Kansas Economic Development Study provides that county and municipal governments should continue to encourage economic development in their jurisdictions by granting property tax abatements to enterprises that have the potential for primary job creation. These abatements have, in the past, been limited to improvements funded by industrial revenue bonds. With the phasing out federally taxed exempt, IRB's, local Kansas governments will lose the authority to grant property tax abatements.

B. Mission Statement

The purpose of this constitutional amendment is to encourage local economic development efforts for by giving municipal and county governments the option to grant property tax exemptions for new and expanding manufacturing facilities, research and development facilities, equipment and machinery, and other activity having the potential for job creation.

This is a highly targeted exemption only for wealth and job creating new economic activity.

C. Provisions of HCR 5047

1. HCR 5047 proposes to amend the constitution to create a targeted property tax exemption.
 - a. The board of county commissioners or governing body of a city may exempt from ad valorem taxation:
 1. Buildings, land and tangible personal property of a business for the purpose of manufacturing, fabricating, assembling, processing, or finishing articles of commerce, research and development, and warehousing engaged in interstate commerce in this state and which is starting operations after approval of this act.
 2. Modifications made to existing business for the purpose of manufacturing, fabricating, assembling, processing or finishing articles of commerce, research and development, and warehousing engaged in interstate commerce in this state which is expanding operations after approval of this act.
 - b. An exemption or partial exemption is allowed for up to 10 years after commencement of operations.
 - c. The legislature may limit or prohibit the application of this section by enactment uniformly applicable to all cities or counties.

D. Other States:

At least 32 other states now offer such an option.