

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION

The meeting was called to order by SENATOR DAN THIESSEN at
Chairperson

11:00 a.m./p.m. on Saturday, April 28, 1990 in room 519-S of the Capitol.

All members were present except:

Committee staff present:

Don Hayward, Revisor's Office
Chris Courtwright, Research Department
Tom Severn, Research Department
Marion Anzek, Committee Secretary

Conferees appearing before the committee:

NONE APPEARING

Chairman Thiessen called the meeting to order and said we have had extensive hearings on the topic we are looking at today, HB3114 and he said we are going to go into committee discussion and if any conferees have vital new information they would like to submit, you will have that opportunity. He then asked staff to brief the committee on HB3114.

HB3114: AN ACT relating to taxation; providing means to increase revenue producing state tax sources for distribution to unified school districts to reduce their reliance on revenue produced from the levy of property taxes; amending K.S.A. 79-2959, 79-2964, 79-32,110, 79-34,147, 79-3603 and 79-3703, 79-3606 and 79-3703 and repealing the existing sections.

Chris Courtwright said HB3114 is the House version of property tax relief, and what is in the bill is, $\frac{1}{4}$ % sales tax and use tax increase from 4.25% to 4.5%, and also there are a number of sales tax exemptions that would be repealed, and there are some individual income tax rate increases by increasing top brackets, based on simulation runs from the Department of Revenue, in the top brackets, it only hits the people above \$100,000 of taxable income, also the corporation income tax base rate and the surtax. Under current law the base rate is 4.5% to be raised to 4.75%, and under current law, the surtax is 2.25% raised to 2.5%. The sales tax provisions in this bill the increase in rate and repealing exemptions would be effective July 1st, 1990 and the income tax changes would be effective, retro-active through the tax year of 1990, for both corporate and individual.

The bill also would create a new fund, the School District Ad Valorem Tax Reduction Fund, into which demand transfers would be made from the State General Fund in the amounts determined by the Secretary of Revenue as being attributable to all additional revenues raised under this bill. The transfers would be made on December 15, 1990, and on each June 15 and December 15 thereafter. Since school district budgets is on the 18 month cycle, they will be getting a payment in December of 1990 and June of 1991, they would get 3 payments all of which would be credited on the dollar for dollar roll back in property taxes for 1990. The distribution formula for the school districts is a dollar for dollar in an amount proportional to each school districts general fund, levy amount divided by the total amount of all school districts. For example, if one school district levied 1% of all general fund dollars levied by all school districts statewide, that school district would get 1% of the total money. He said, briefly getting into the sales tax provisions to be repealed, most are similar to senate bill in this committee, Admissions to events sponsored by political subdivisions, Coin-operated laundry services, Elementary/secondary textbook rental, Purchases of groundwater management districts, Purchases to prevent soil erosion on agricultural land in CRP, Purchases of nonprofit museums, historical societies, and cosmopheres, purchases within enterprise zones not otherwise exempt as manufacturing machinery or equipment, Imposition of tax on noncommercial long-distance services, Lottery tickets, Hotel rooms rented for more than 28 days, Purchases of community groups for repair of low-income housing, Property which admits purchasers to annual events sponsored by not-for-profits, Contractors' materials for construction of nonprofit hospitals and educational institutions. He said, the tax also would be imposed on all cleaning and janitorial services.

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He said, if you keep all this new money from the sales tax, and use tax increase and sales tax exemption removals to go back to school districts for property tax relief, the transfers to the local level in tax reduction fund, county and city revenue tax funds, and State highway funds, would be reduced to the extent that all those funds would be held harmless in dollar terms as a result of the other sales tax changes. Assuming a one-month lag in collections, all sales and use tax changes would be expected to increase FY 1991 receipts by about \$62.5M.

The income tax provisions would raise about \$47.3M, based on simulation runs provided by the Department of Revenue. Of this amount, \$39.7M of additional liability would be attributable to married resident filers, \$4.1M to single resident filers, and \$3.5M to nonresidents.

The corporation income tax increase is estimated to raise about \$9.6M annually.

Senator Lee asked how much of the \$62.5M, is for exemptions? Chris Courtwright said in the neighborhood of \$22.M to \$24.M.

Senator Lee said we are not dealing with this exemption today, but it is one that was in the Senate Bill, and she said, she is extremely concerned about the accuracy of the numbers on these exemptions, as an example on the Senate Bill we worked with the Port Authority was given an exemption of \$.6M, and having no Port Authority in her district, she asked The Director of PVD, "Where do you get that figure of \$.6M for Port Authority, and he told her, from the Port Authority in Wichita, and Kansas City, and both of the Port Authority's turns out, have not been in existence since the earlier to mid 80's, and she was told that they would look into it, then she received a letter from him saying "the estimated fiscal impact is \$.3M for the Port Authority sales tax, it is based on 1981 fiscal note which estimated the fiscal impact of the exemption to be about \$.3M. The impact has been updated for sales tax rate increase and inflation. It is now estimated at \$.6M, further research reveals there is currently only one Port Authority in the State of Kansas, which is located in Phillipsburg, the Port Authority in K.C. and Wichita are believed to be defunct, mid-state had one large project from '84 to '86 which cost \$13.M, they have spent no money since 1986, based on the above information, the crosspoint \$6.M fiscal impact is obviously too large, in fact the fiscal impact is minimal to zero".

The Senator said this is the quality of information that we are working with, when we are looking at exemptions. Certainly some of these exemptions are more accurate than this, but this was \$600,000. that the Senate Committee had approved for property tax relief, and she said, she thought the committee had to have an understanding before talking about the accuracy of this bill.

Senator Karr said there was a technical amendment put on the House floor, and he asked Chris Courtwright if he could clarify this? Chris Courtwright said the way the bill was originally written, there was going to be an exact dollar amount of transfer going out on December 15, 1990 and then a transfer of \$62.M each June 15th and December 15th thereafter, and that was their best guess on the monies that would be available, because of all the different components of this, and adjusting for the transfers, it all gets amazingly complicated. He said, on the House floor the amendment was put on to assure that every single nickle of this money would be ear-marked for property tax relief, and they struck the dollar amount, and the Secretary of Revenue is charged with determining exactly how much money is raised under this bill, and he would have to then, after making this certification, see that the money would go out on December 15th and June 15th to the SDAVTRF, but he said, he is not really sure how that requirement would fit into the existing changes that we have made in transfers.

Senator Karr said he thought in the bill we had before, we indicated a dollar amount, and here they are indicating some type of certification process, the Department may even have internal problems, a minor detail.

Tom Severn said one other minor detail, was because of income tax increase, about \$10.5M of the total would be going back to school districts in the form of an extra individual income tax rebate, above what it would be under current law. So about \$10.M of the money that was going back would go through the income tax rebate, rather than through the school district fund, 24% of the income tax.

Senator Martin said the 3 largest items on the exemption, are Imposition of tax on noncommercial long-distance services and that is \$5.M, Lottery tickets is \$2.M, and imposed on all cleaning and janitorial services would be about \$2.5M to \$3.M and the

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rest of the exemptions are probably below \$.5M, is this right Chris? Chris Courtwright said he thought this is correct, except the hotels rooms might be about \$1.M.

Senator Langworthy said she sees some real problems with the House Bill, as it came to us, and she said she would move to amend.

Senator Audrey Langworthy moved to amend HB3114 by changing the sales tax increase to 3/4% beginning October 1, 1990 and striking the rest of the language, 2nd by Senator Kerr.

Senator Kerr said he would like to explain his 2nd to the above motion, he said, the House passed both a resolution and a roll back bill, and we really need to get something into conference committee so we can sit down with them, because we can't start to negotiate on the constitutional amendment until we have the roll back bill HB3114 in conference also, because they are related and he said, we put together a bill in this committee about a week ago SB794 and we sent it to the floor, and the Senators were polled on the floor, and this bill does not have a chance, so we need to do something else, and the House obviously has a bill here that has a lot of income tax in it, 1/2% sales tax, but it doesn't have enough of property tax relief, but if we could pass the motion made by Senator Langworthy, 3/4% sales tax, that gives us the position to start with, and negotiate with the House over the week-end and hopefully we would have something on Monday on both issues for the chambers to look at, and if we can't get anything through the Senate today, then the process is pushed back 2 more days and even then, he said, he did not know where we would go, this suggestion of 3/4% sales tax, straight across, seem to have the most support after visiting with the members of this committee and the Senator's in general, whether we have enough to support it, he said, he did not know, but it appears in order for the committee to have a chance, and the process move forward, this seems to be the proposal that has a chance.

Senator Langworthy said she forgot to mention in her motion, that this would be tied to the constitutional amendment, a package in the constitutional amendment.

Senator Francisco said the other day he supported the 3/4% proposal that this committee sent out, but that proposal also had the income tax proposal in it, and he would like to know if the committee is planning on doing that in this bill or are you going to leave that out. He said, as he understands it, the House only has 3 Democrats to vote on the 3/4% sales tax, and he thought, if the committee wants to solve this they should change, because they are not going to get 3/4% passed.

Senator Lee asked how many dollars 3/4% sales would bring, about \$150.M?

Chairman Thiessen said about \$150.M to \$160.M

Senator Lee asked what percentage of that are we supposedly lowering? Tom Severn said, he did not know the figure for all school districts, it is estimated and this is a very rough approximate preliminary figure, that general fund levies, districts will be about \$716.M, so this would be in excess of 20% of the general fund levies of districts. Senator Lee, then when we talked about a full cent, \$210.M we talked about 28%. Chairman Thiessen said this would actually be 3/4th's of that. Senator Lee said we are not taking into consideration what we have done with the School Finance Bill, that we have already passed, and that is anywhere from a 5% to 7% increase. So we are not coming up with a net \$18.M we are coming up with a net of 10% over what was in the budget, is this correct? Senator Fred Kerr said it could be, but if we don't do anything, we come up with a minus of 5% or 10%. Senator Lee said then put in income tax. Senator Kerr said we tried that and we got 7 votes.

Senator Francisco said he really would like to help get something out of this committee, and he thought, we should consider a higher sales tax, and exempt food. He does not think the House will consider a 3/4% sales tax increase, and he said it takes 1/2 mill increase to reduce the sales tax off schools.

Senator Francisco made a substitute motion to consider 1.25% increase, to replace the present 4.25% to 5.5% and exempt food.

Chairman Thiessen asked staff if the 1/2 cent, would cover food?

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Chris Courtwright said if you exempt food under the current law, it is worth about \$120.M on the fiscal note, so for what it would be worth at the 5.5% rate, we are trying to come up with some numbers.

Senator Martin said he thought one thing that should be cleared up right away, that is the problem of a poll taken yesterday, with the sales tax, and not the income tax. It was the fact that we were raising the sales tax and most thought it was regressive because of tax on food, on our side of the aisle were not opposed to the income tax increase, but the significant increase in the 3/4% sales tax relief.

Chairman Thiessen said one thing you forget when you talk about that, is the 105,000 people we totally exempted from income tax, so that should have some bearing on the overall tax load.

Senator Montgomery said he thought we were trying to take care of the concern of the regression by supporting the increase in the amount of refunds on income tax, and I assume that we would continue to want to do that. One of the things to think about if you raise that to a 1 1/4%, you put it so far out of line with the surrounding States' and their sales tax rates, you are only going to prohibit anything on the State Line. Kansans will just go across the line, where the tax will probably be 1¢ under us.

Senator Oleen said she knows it has been a difficult situation for some states on sales tax exemption for food, because your decisions become choices to look at as far as the food is prepared, and has been cooked, and a can of peas on the bottom shelf, and we don't tax that kind of thing, so when we get these numbers we are waiting for, I think they are really going to need to be interpreted, because there are many items in grocery stores that do not fit under the classification of food and we could be sending a message to our citizens that once you go to the grocery store you are not going to pay taxes, and that is not how it works.

Chairman Thiessen said it is a bit hard to come up with the statistic that was requested because if you are going to make that exemption, then you are not going to get as much money as you were getting, and I think staff is trying to be very careful, after the experience with an earlier estimate, that they want to be accurate on this, and it is a little hard to arrive at that.

Tom Severn said by raising the rate to 5 1/2% and exempting food would raise about \$100.M.

Senator Lee said she would like to explain that in her earlier statements she was not criticizing our legislative staff, because they received their information from another source.

Chairman Thiessen said we have the statistic now, and we have a motion but we do not have a 2nd on Senator Francisco's motion.

The above motion by Senator Francisco to raise the rate by 1 1/4% and exempt food, was 2nd by Senator Lee.

Senator Fred Kerr said it would cause some problems, although the idea of it has merit, to try to address, especially for the lower-middle and lower income people, that would have a problem with increased sales tax on food, and he said, he thought this is the problem that Senator Francisco is trying to arrive at. The trouble with it this way is it does cause the state wide sales tax and everything else to be so high, plus you have problems in the food stores with so many items that are not food and are sold. In the law already, there is a refund for food, and he thought, the motion by Senator Langworthy on food, pro-rating that higher, at \$40.00 for the 1st person in the house, and then \$30.00, under current law and her motion would raise that higher and we could also address raising that threshold to people who make a somewhat higher income to include them, and he thought that has merit, and if Senator Langworthy's motion were to pass, then I would be glad to work with any member on the idea of making those thresholds a little higher in a floor amendment, and prepare that for the Senate Floor so that more people will be able to take advantage of the refund. This would address some of what Senator Francisco is trying to do without going so far as to cause these other problems.

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Senator Francisco said a number of State's do exempt food and he thought we could see how they work and design our language like them by asking our Staff to do that, and he does not see a reason for not doing this, and again, he said he believes a $\frac{1}{4}\%$ is all that will get through the House, and if you want more sales tax through the House, he said, he tried to show the committee how to do it.

Senator Lee said she understands that the Republicans have the votes to pass this out of committee, but at least they had a forum, and as far as the grocery stores having a problem, they way they have their scanners now, each product can be easily marked as to whether or not it has sales tax, and that is all done without any individual being involved, but again, as we deal with this issue, we are only looking at one part of the whole problem that we are dealing with, we are not looking at the other side of the coin, and that is the budget cut, we are not even addressing that issue and we will have to come back in January and do a \$50.M or \$60.M supplemental form, she said she knows that the leadership position, is that we will come back and increase income tax, but we on the minority side, have no guarantee that we in fact, will address income tax when it comes to that point in time in January. We are raising one tax now, and not addressing the whole budget issue, and the lack of revenue for the State.

Senator Oleen before we were talking about raising the lower income on rebates, is that in addition to the non-taxation of food stamps, and is it in addition to the non-taxation of women and children's programs, and do some of these people have both exemptions?

Chairman Thiessen said we cannot touch food stamps, and have not been able to for several years.

Senator Oleen asked, but does that figure in? We do have foods that are not taxed now, those are with the food stamp program, and with the women and children, they are Federal programs but they are not taxed, and then do we kick in with this 4th, that we are talking about?

Chris Courtwright said if you have total household income of below \$13,000. then you are eligible for Federal food stamps, you could also get up to \$40.00 per person in your household back from the State program as well, with no adjustment in the State food sales tax rebate program.

Senator Oleen said she would like to see figures on how many Kansans are affected by that.

Chairman Thiessen called for a vote on the substitute motion by Senator Francisco.

The substitute motion by Senator Francisco, 2nd by Senator Lee failed.

Senator Francisco asked for a division on the vote, the motion lost by a show of hands.

Chairman Thiessen said we are back to the original motion by Senator Langworthy.

Senator Petty said she would like some clarification on Senator Langworthy's motion, in relation to the threshold and the increase that was suggested by staff.

Senator Langworthy said she did not have this in front of her, but she would like to see the threshold raised.

Senator Kerr said the amounts increased in the bill that we had before SB794, those were pro-rated, but he doesn't remember what they were, and that is what is in Senator Langworthy's motion. He said, the thresholds should be re-visited and perhaps raised, and we were talking about doing that in a floor amendment.

Tom Severn said he had the dollar amounts in which the refunds would be increased, based on adjusting from the 4% rate which was in effect the last time we changed the rate, to the 5%, and the two top rates for the poorest claimants would increase by \$10.00 from \$40. and \$30. to \$50. and \$40., all the rest refund amounts would increase by \$5.00 from \$25. to \$30., \$20. to \$25., and \$15. to \$20. and that is based by rounding off an exact pro-ration from 4 up to 5, but he didn't do thresholds, and if the committee wanted him to, he said he would do it.

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Senator Karr said there are 2 issues that are outstanding in the committee in general that are going to have to be confronted on the Floor, and he said, he thought that is probably where we are going to have to address them and that is to further flush out what ever we are going to do in the food issue, beyond just a simple adjustment of the rate, and the other issue is certainly on the minds of a number of individuals on the Floor and certainly committee members that the actual usage of any monies for any statment, the Senate would want to make in a bill in regard to the general fund problems, so we have the food problem and the general fund issue, we can bring the bill out of committee, but those issues need to be considered.

Chairman Thiessen said he thought Senator Karr was right, and it can be done at that level and give more time to get this information together, and he called for a vote on the motion.

The motion by Senator Langworthy to amend HB3114 and be tied to the constitutional amendment, carried.

Chairman Thiessen said we would plan to meet sometime on Monday, and he would announce it on the floor, and he adjourned the meeting at 11:58 a.m.