

Approved: April 1, 1997
Date

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION.

The meeting was called to order by Chairperson Audrey Langworthy at 11:00 a.m. on March 26, 1997, in Room 519--S of the Capitol.

Members present: Senator Langworthy, Senator Corbin, Senator Lee, Senator Bond, Senator Donovan, Senator Goodwin, Senator Hardenburger, Senator Karr, Senator Praeger, Senator Steffes and Senator Steineger.

Committee staff present: Tom Severn, Legislative Research Department
Chris Courtwright, Legislative Research Department
Bob Nugent, Revisor of Statutes
Shirley Higgins, Secretary to the Committee

Conferees appearing before the committee: None

Others attending: See attached list

Senator Langworthy called upon Senator Steffes to give the final subcommittee report on **HB 2082** concerning insurance premium tax reduction.

Senator Steffes explained that sometime in the distant past, perhaps 20 to 30 years ago, a variation in the insurance premium tax was installed wherein insurance companies domiciled outside the state (foreign) were asked to pay a 2 percent premium tax, and the domestic companies were required to pay a 1 percent premium tax. In 1985, the foreign companies began paying their taxes under protest, arguing that it was unfair and unconstitutional to be treated differently than domestic companies. The Kansas Insurance Department advised that the amount of taxes that have been paid under protest is approximately \$500 million, a potential liability. The State of Kansas is responsible for eliminating the dilemma. Senator Steffes noted that Kansas is not the only state where this situation occurred, but Kansas is one of the last states which has not resolved the problem.

Senator Steffes explained further that **HB 2082**, as introduced by the Kansas Insurance Department early in the session, would have raised all premium taxes to 2 percent. Since the effort was designed to not discriminate against domestic companies, there was a provision in the bill to provide credits to domestics for employees in Kansas, which would, in effect, lower domestics' taxes so that they would be held harmless. Senator Steffes added that, of \$90 million in premium taxes collected each year, domestic companies pay approximately 10 percent. Obviously, elimination of the discrepancy would reduce premium taxes collected for the State of Kansas.

Senator Steffes reminded the committee that every state has its own insurance laws and regulations. States retaliate against each other for discriminations, and this complicates the issue to a large degree. To illustrate the diversity in state premium tax provisions, he called attention to a handout (also distributed at the hearing on **HB 2082**) comparing premium taxes throughout the nation.

Next, he distributed a handout prepared by the Insurance Department comparing the dollar amounts for **HB 2082** as introduced with the House and Senate versions. (Attachment 1) He pointed out the total fiscal impact of the insurance premium proposals over an eleven year period: (1) as introduced, \$68.2 million, (2) for the House version, \$165.65 million, and (3) for the Senate subcommittee proposal, \$95.35 million. Senator Steffes noted that the bill as introduced did not resolve the two constitutional problems (foreign fire fighters relief credit and the Kansas investment tax credit). The fiscal notes for the House and Senate versions are significantly more because both address constitutional compliance. Senator Steffes explained that the subcommittee proposal provides a 2 percent across-the-board premium tax for both foreigners and domestics with the credit going back to the domestics and the foreigners that have operations in Kansas because it is an employee credit. The proposal also repeals the fire fighter relief credit and the investment tax credit.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION, Room 519-S
Statehouse, at 11:00 a.m. on March 26, 1997.

Senator Steffes has requested that the Department of Administration provide information on the anticipated growth rate of premiums, a factor not available to be included in the figures compiled by the Insurance Department. He explained that, currently, approximately \$90 million premium taxes are paid each year, and the growth rate is approximately 4 1/2 percent. Four and a half percent compounded on \$90 million is roughly \$65 million to \$75 million.

He said the adoption of the Senate version of **HB 2082** will address the constitutional compliance problems. The fiscal impact for the first year has already been calculated in the Governor's budget. The foreign fire fighters relief credit would be phased in over a ten year period, and the investment tax credit would not be phased in until the year 2000. Kansas would suffer a loss of income in 1999 in the range of \$2 million; in 2000 in the range of \$3 million.

Senator Bond asked who would receive the benefit of the \$95.35 million loss of revenue as proposed by the Senate subcommittee's version. Senator Steffes answered that the foreign companies would benefit because the domestic companies would be held harmless. Marty Kennedy, Kansas Insurance Department, confirmed that the foreign companies would be the greatest beneficiaries of the changes to the extent of at least 90 percent.

Senator Bond questioned why the Insurance Commissioner did not address the constitutional compliance issues in the original bill. Bob Kennedy, Assistant Insurance Commissioner, responded that his department's position has been that the constitutional challenge revolves around the 1 or 2 percent premium tax with regard to payments under protest, and it does not necessarily agree that the other two items (fire fighters relief credit and investment tax credit) are a constitutional infirmity. Senator Steffes commented that the subcommittee was not strongly convinced that the two items were unconstitutional; however, the consensus of the committee was that it was best to clean up all insurance discrepancies at one time. Senator Lee added that the Insurance Department gave the subcommittee the impression that it was necessary to address the two constitutional issues because foreign companies had indicated they would continue to pay under protest if the two credits were not brought into constitutional compliance. Mr. Kennedy acknowledged that members of the industry indicated both before and after the Commissioner's original bill was introduced that they definitely believed the two items were constitutional problems, but he reiterated that the Commissioner did not necessarily agree with them. However, in the interest of elimination the possibility of companies continuing to pay taxes under protest and threatening to sue the state, the Commissioner was more than willing to view the two constitutional items as being a part of the problem for the sake of argument.

Senator Steffes began an explanation of the balloon amendments distributed at the hearing on **HB 2082**. He noted the most difficult amendment to explain regarded the payment of annuity premiums. He explained that insurance companies sell annuities and pay a premium tax. Some of them pay the tax on the front end and some of them are back end loaded. For ease of bookkeeping by all companies, a cut off date for payment of premium taxes is necessary. Therefore, a cutoff date of January 1, 1997, was put in the bill with regard to domestic companies, foreign mutual companies and foreign stock companies. He clarified that companies which have paid the premium tax on the front end will get no credit, and companies whose practice it is to pay on the back end will not be required to pay in the future. Without the cutoff date, the companies would have to re-issue every policy which would be a bookkeeping nightmare.

Senator Bond moved to adopt the subcommittee report and the Senate balloon amendments.

Senator Steffes felt it was necessary to explain further balloon amendments. He discussed the provisions on page 26 of the balloon concerning special assessments that the insurance departments of each state makes on foreign companies of other states, noting that every time such assessments are made, there is a retaliation tax. He commented that the retaliation cost cannot be calculated because the figure differs each year.

As to Section 8, the final section which concerns tax credits, the subcommittee recommended that it be stricken. With foreign and domestic companies being treated equally, the fiscal impact of the changes in Section 8 is not fully understood at this time and should be the subject to be addressed by the 1998 Legislature. Senator Langworthy added that another reason for not adopting Section 8 at this time was that the privilege tax will not be repealed until 1998.

Senator Bond withdrew his motion.

Senator Steffes moved to recommend favorably the Senate version of **HB 2082** with the balloon amendments except Section 8 and that it be drafted as a substitute bill, seconded by Senator Corbin.

For clarification, Senator Karr asked for the effective date of the bill. Although there are multiple effective dates in the bill, the entire act will be effective July 1, 1997. Copies of a handout prepared by the Kansas

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION, Room 519-S
Statehouse, at 11:00 a.m. on March 26, 1997.

Insurance Department were distributed, indicating the effective dates of the proposed Senate amendments. (Attachment 2) Senator Langworthy noted the following effective dates: The premium tax equalization is implemented in tax year 1998; the privilege tax is repealed January 1, 1998; the repeal of premium tax on annuities is effective January 1, 1997; the fire fighter tax credit is phased out over ten years; and the investment tax credit is repealed effective tax year 1999.

Upon a call for a vote on Senator Steffes' motion, the motion carried.

The meeting was adjourned at 11:50 a.m.

Senator Langworthy announced that the subcommittee on **HB 2105** scheduled to meet upon adjournment of the meeting was rescheduled to March 27 at 11:00 a.m.

The next meeting time is to be announced.

SENATE ASSESSMENT & TAXATION COMMITTEE
GUEST LIST

DATE: March 26, 1997

NAME	REPRESENTING
Richard Wilkerson	Farmers Alliance
Bill Mitchell	Alliance
MARIL BECK	KDOR
Jana Johnson	KDOR
David Hanson	Ks Insur Assoc
Jim Hall	American Council of Life Ins.
John ENSKY	Ks. Domestic Preference
DAD KRAMER	SECURIM BENEFIT
Brenda Kramer	SBG
Jill Bridges	DOIB
Dorothy Hunter	Co Treasurer (Ford Co)
Bill Sneed	Am Vestors
Danielle Nee	Governors Office
Kathy Taylor	KBA
Kita Chiu	Shawnee County
Ashley Snerard	Overland Park Chamber
Mary E. Furkington	Kansas Motor Carriers Assn.
Christy Caldwell	Export Chamber of Commerce
Leslie Schneider	KLA

SENATE ASSESSMENT & TAXATION COMMITTEE
GUEST LIST

DATE: March 24, 1997

NAME	REPRESENTING
Alan Steppat	Pete McGinn & Associates
Leslie Kautman	Ks Farm Bureau
Ed Spiess	Peterson Public Affairs
DONALD SNOODGRASS	Ks FOOD DEALERS ASSOC
Lee Wright	Farmers Ins. Group
Gary Robbins	Ks Opt Assn
MARK BURGHART	WESTERN ASSN.
James Almond	Hallmark Cards, Inc.
Jackie Clark	Hallmark
Art Brown	Mid-Sm Lumberman Assn
Bob Corkins	KCCI
Martin Haaver	Haaver's Capitol Reports
Dona Shelet	Pratt Co. Treasurer
Eileen King	Riley Co. Treas & KOTA
Judy Koler	Ks. Assn of Counties
Billy Peterson	Prudential Insurance
Bob Kennedy	Ks Ins Dept
Marty Kennedy	" " "

DRAFT

Comparison of Insurance Tax Provisions
 Impacts on State General Fund Receipts
 Ten Year Estimate Based on 1995 Receipts

Introduced HB 2082	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	Total Introduced HB 2082
Premium Tax Equalization/Salary Credits	(\$3,700,000)	(\$3,700,000)	(\$3,700,000)	(\$3,700,000)	(\$3,700,000)	(\$3,700,000)	(\$3,700,000)	(\$3,700,000)	(\$3,700,000)	(\$3,700,000)	(\$3,700,000)	(\$3,700,000)
Repeal Privilege Tax	(\$1,000,000)	(\$1,000,000)	(\$1,000,000)	(\$1,000,000)	(\$1,000,000)	(\$1,000,000)	(\$1,000,000)	(\$1,000,000)	(\$1,000,000)	(\$1,000,000)	(\$1,000,000)	(\$1,000,000)
Remove Tax on Annuities	(\$1,500,000)	(\$1,500,000)	(\$1,500,000)	(\$1,500,000)	(\$1,500,000)	(\$1,500,000)	(\$1,500,000)	(\$1,500,000)	(\$1,500,000)	(\$1,500,000)	(\$1,500,000)	(\$1,500,000)
Other Amendments												
Foreign Fire Fighters Relief Credit	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Repeal Kansas Investment Tax Credit	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total Fiscal Impact	(\$6,200,000)	(\$6,200,000)	(\$6,200,000)	(\$6,200,000)	(\$6,200,000)	(\$6,200,000)	(\$6,200,000)	(\$6,200,000)	(\$6,200,000)	(\$6,200,000)	(\$6,200,000)	(\$6,200,000)
House Version												Total House Version HB 2082
Premium Tax Equalization/Salary Credits	0	(6,000,000)	(7,400,000)	(9,300,000)	(11,200,000)	(13,000,000)	(14,800,000)	(16,600,000)	(18,400,000)	(20,200,000)	(22,000,000)	(\$22,000,000)
Repeal Privilege Tax	(1,000,000)	(1,000,000)	(1,000,000)	(1,000,000)	(1,000,000)	(1,000,000)	(1,000,000)	(1,000,000)	(1,000,000)	(1,000,000)	(1,000,000)	(\$1,000,000)
Remove Tax on Annuities	(1,500,000)	(1,500,000)	(1,500,000)	(1,500,000)	(1,500,000)	(1,500,000)	(1,500,000)	(1,500,000)	(1,500,000)	(1,500,000)	(1,500,000)	(\$1,500,000)
Other Amendments												
Foreign Fire Fighters Relief Credit	0	(350,000)	(700,000)	(1,050,000)	(\$1,400,000)	(\$1,750,000)	(\$2,100,000)	(\$2,450,000)	(\$2,800,000)	(\$3,150,000)	(\$3,500,000)	(\$3,500,000)
Repeal Kansas Investment Tax Credit	0	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000	\$2,000,000
Total Fiscal Impact	(\$2,500,000)	(\$6,850,000)	(\$8,600,000)	(\$10,850,000)	(\$13,100,000)	(\$15,250,000)	(\$17,400,000)	(\$19,550,000)	(\$21,700,000)	(\$23,850,000)	(\$26,000,000)	(\$26,000,000)
Senate Version												Total Senate Version HB 2082
Premium Tax Equalization/Salary Credits	0	(3,700,000)	(7,100,000)	(7,100,000)	(\$7,100,000)	(\$7,100,000)	(\$7,100,000)	(\$7,100,000)	(\$7,100,000)	(\$7,100,000)	(\$7,100,000)	(\$7,100,000)
Repeal Privilege Tax	0	(1,000,000)	(1,000,000)	(1,000,000)	(\$1,000,000)	(\$1,000,000)	(\$1,000,000)	(\$1,000,000)	(\$1,000,000)	(\$1,000,000)	(\$1,000,000)	(\$1,000,000)
Remove Tax on Annuities	(1,500,000)	(1,500,000)	(1,500,000)	(1,500,000)	(\$1,500,000)	(\$1,500,000)	(\$1,500,000)	(\$1,500,000)	(\$1,500,000)	(\$1,500,000)	(\$1,500,000)	(\$1,500,000)
Other Amendments												
Foreign Fire Fighters Relief Credit	0	(350,000)	(700,000)	(1,050,000)	(\$1,400,000)	(\$1,750,000)	(\$2,100,000)	(\$2,450,000)	(\$2,800,000)	(\$3,150,000)	(\$3,500,000)	(\$3,500,000)
Repeal Kansas Investment Tax Credit	0	0	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000	\$2,000,000
Total Fiscal Impact	(\$1,500,000)	(\$6,550,000)	(\$8,300,000)	(\$8,650,000)	(\$9,000,000)	(\$9,350,000)	(\$9,700,000)	(\$10,050,000)	(\$10,400,000)	(\$10,750,000)	(\$11,100,000)	(\$11,100,000)

Senate Assessment & Taxation
 3-24-97
 Attachment 1

Total Fiscal Impact - Tax Law Provisions

The following information gives the "total" fiscal impact of the three insurance premium tax proposals (HB 2082 as introduced, the House version and the Senate proposal). The impact is spread over 11 years (FY 1998 - FY 2008) because the various proposals phase in the changes over that time period. The "totals" are the cumulative impact of the revisions.

HB 2082 as introduced - \$68.2 million

House version - \$165.65 million

Senate proposal - \$95.35 million

TJW/Kansas Insurance Department (3/26/97)

24-97

Bill Provisions

Comparison of Insurance Tax Bills			
Key Provisions	HB 2082 As Introduced	HB 2082 As Amended	Proposed Senate Amendments
Premium Tax	Equalize at 2%, with Salary Credit up to 50% of Tax. Begins in Tax Year 1997.	Equalize at 1% on a phased in basis for 10 years beginning Tax Year 1998.	Same as Introduced Version, but implement in Tax Year 1998.
Privilege Tax	Repeal.	Repeal.	Repeal. <i>effective Jan. 1, 98</i>
Premium Tax on Annuities	Repeal effective Jan. 1, 1997.	Repeal effective Jan. 1, 1997.	Repeal effective Jan. 1, 1997.
Fire Fighter Tax Credit	Current Law.	Extend to Foreign Companies on a phased-in basis beginning Tax Year 1998.	Same as Amended Version.
Kansas Investment Tax Credit	Extend provisions of credit to include foreign companies.	Repeal Effective Tax Year 1998. Credit would be replaced with a Salary Credit of up to .25% of taxable premiums.	Same as Amended Version, but effective Tax Year 1999.

Senate Assessment + Taxation
3-26-97
Attachment 2

Comparison of Insurance Tax Provisions
Impacts on State General Fund Receipts
 Estimate Based on 1995 Receipts

	Introduced HB 2082	Phased Implementation of Amended Bill			Total Amended HB 2082
		FY 1998	FY 1999	FY 2000	
Premium Tax Equalization & Salary Credits	(\$3,700,000) *	0	(6,000,000)	(7,400,000)	(\$22,000,000) **
Repeal Privilege Tax	(\$1,000,000)	(1,000,000)	(1,000,000)	(1,000,000)	(\$1,000,000)
Remove Tax on Annuities	(\$1,500,000)	(1,500,000)	(1,500,000)	(1,500,000)	(\$1,500,000)
Other Amendments					
Foreign Fire Fighters Relief Credit	\$0	0	(350,000)	(700,000)	(\$3,500,000)
Repeal Kansas Investment Tax Credit	\$0	0	2,000,000	2,000,000	\$2,000,000 ***
Total Fiscal Impact	(\$6,200,000)	(\$2,500,000)	(\$6,850,000)	(\$8,600,000)	(\$26,000,000)

Proposed Senate Amendments

	Phased Implementation			Total Option A HB 2082
	FY 1998	FY 1999	FY 2000	
Premium Tax Equalization & Salary Credits	0	(3,700,000)	(7,100,000)	(\$7,100,000) ****
Repeal Privilege Tax	0	(1,000,000)	(1,000,000)	(\$1,000,000)
Remove Tax on Annuities	(1,500,000)	(1,500,000)	(1,500,000)	(\$1,500,000)
Other Amendments				
Foreign Fire Fighters Relief Credit	0	(350,000)	(700,000)	(\$3,500,000)
Repeal Kansas Investment Tax Credit	0	0	2,000,000	\$2,000,000 ***
Total Fiscal Impact	(\$1,500,000)	(\$6,550,000)	(\$8,300,000)	(\$11,100,000)

- * This amount includes a revenue increase of \$8.6 million to increase the domestic Premium Tax Rate to 2.0 percent, the same as foreign companies. This increase on domestic companies is offset by a salary tax credit of \$12.3 million, to allow companies doing business in the state to reduce their rate from 2.0 percent to 1.0 percent. Of this amount, \$8.8 million goes to domestic companies to hold them harmless from the tax rate increase, and \$3.7 million goes to foreign companies with Kansas employees.
- ** Includes \$18.6 million to reduce the Premium Tax Rate to 1.0 percent, and \$3.4 million for a salary tax credit of 1/4 percent. This credit offsets the tax increase related to the repeal of the Kansas Investment Tax Credit described below. Of the total tax reduction, \$2.0 million goes to Kansas companies and \$20.0 million goes to out of state insurance companies.
- *** The repeal of this investment credit is an increase in the taxes of domestic companies that is offset by a salary tax credit shown above.
- **** This amount includes the Premium Tax Rate equalization at 2.0 percent, as included in the Introduced Version of HB 2062. Also includes the salary tax credit proposed as an offset to the repeal of the Kansas Investment Tax Credit, as included in the amended version by the House Insurance Committee.

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